

Empowered Board for an Empowered NPO

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Not-for-profit organisations (NPOs) are an important and integral part of social development of any economy today. Given the fact that the NPOs have all the intent as well as the expertise to work at the grass root levels in the society, needless to say they have deeper infiltration and are more capable of addressing critical social issues. Though it is virtually impossible to provide boundaries to the diverse roles being played by the NPOs / NGOs in a society, Cousins William has, in “Non-Governmental Initiatives¹”, identified six areas where NPOs / NGOs have a significant role to play. The first area is upliftment of the economically weaker section of the society by being their voice before the policymakers along with helping them design and implement appropriate benefit programmes. The second role played by NPOs is in facilitation of the communication between the citizens and the Government as to their needs vis a vis plans of the Government. In addition, a strong networking among the various NPOs themselves helps in sharing information such as feasibility of various proposed projects, etc. The third

area where NPOs can help is in monitoring and keeping a tab on the performance of the various projects launched by the Government or other NPOs. The fourth area of NPOs’ contribution is providing training to others in the NPOs’ area of specialisation. On the fifth front, the NPOs can take a lead in launching pilot projects for the large-scale projects planned by the Government. And lastly, the NPOs can also help in building up the infrastructure in the society such as acquiring land for building cooperative housing societies or community schools etc. In a way, it can also be said that an increased role of NPOs in the development of the economically and / or socially backward sections of the society at the micro level, specially in a developing country like ours, would mean that the Government would have more, if not all, time and resources to devote to macro development issues. Further, as the concept of corporate social responsibility gains more and more ground, a large number of corporates are also setting up separate NPOs as vehicles of their corporate social responsibilities.

Need for Good Governance in NPOs

To help an NPO successfully move forward further and play an increased role in the development of a society, it is essential that its affairs are managed on the basis of sound governance principles not withstanding the fact that it is not a commercial entity. The need

¹ Cousins William, “Non Governmental Initiatives” in ADB, The Urban Poor and Basic Infrastructure Services in Asia and the Pacific”. Asian Development Bank, Manila, 1991.

for having a sound governance system in an NPO is, also necessitated by certain factors peculiar to the philanthropy sector. First, NPOs sustain largely on the funds raised from donors, implying thereby that it has a number of and more often than not, changing face of financiers to which it is answerable. Add to this the fact that the major fund providers and other stakeholder normally do not have a say in the management of the NPO. Thus, NPOs are not per se owned by a defined set of shareholders or investors but a wide array of stakeholders, including the target beneficiaries. Second, NPOs are not expected to generate any profits from the activities undertaken by them nor do they normally have any steady income and as such predictable source of funds. Thus, it is extremely important that NPOs exercise a greater degree of financial probity, propriety and as well as financial controls with respect to the funds garnered by it. An NPO would, however, be required to balance this out against employing funds to provide the intended benefits to the target people. Third, the management, especially, the top management such as the Board of directors or governors, is normally constituted informally in the sense that there is hardly any legal or regulatory framework in respect of the appointment of board members, their appointment, qualifications, tenure, removal, rotation, remuneration, mix of whole time and part time directors/ governors etc. The top management, therefore, constitutes of like-minded people or friends or family members, the latter being specially the case where the charity is being run by corporates. The problem is aggravated by the fact that most of the directors/ governors join the NPO board work on a voluntary and/ or a part time basis and are not really aware of their duties

and responsibilities as the top brass of the NPO. Fourth, a well-defined governance system is also quintessential on account of the fact that those managing the affairs as well as the grass root workers are not per se management experts and more so have either no or very limited management or financial expertise. Another facet of this aspect is the fact that those charged with the management and governance of the NPO might fail to appreciate that governing an NPO is different from governing any commercial or for-profit entity. Added to this is the reality that most NPOs normally work in an open and flexible kind of organisational environment that encourages freedom in decision-making, enthusiasm and malleability to the staff so vital for the working of an NPO. Fifth, NPOs normally also fail to appreciate the necessity for providing reliable, relevant and timely financial and other information to stakeholders. It has been observed that the information provided by NPOs is normally missed out on the "relevance" criteria. Further, since as mentioned above, there are per se no shareholders of an NPO but a wide array of stakeholders, the latter is also not able to properly identify the target audience and their information needs. Therefore, the general public perception of an NPO is that its operations are more often than not shrouded in a mystery. Sixth, legal proceedings against NPOs is a growing reality. The upshot of some decided cases is that the fact that the NPO did not charge anything for the services provided by it does not exonerate the accountability and the fiduciary responsibilities of its board of directors / governors etc. In this context, it would be relevant to note that the Charity Commission² of the United Kingdom has identified the following six as the hallmarks of an effective charity:

- (1) Focus on impacts and outcomes – a charity should be clear as to its purpose, mission, values and the vision for the future as well as its strategies for realising the same. A charity should evaluate the intended impact of the activities undertaken vis a vis actual impact on the beneficiaries.
- (2) Fit for purpose – a charity should have a well laid out structure, policies and procedures, which would enable it to achieve its missions and efficiently deliver its services.
- (3) Sound governance – one of the important hallmarks of an effective charity is that it is governed by a clearly identifiable trustee body. Such trustee body should represent an appropriate balance in terms of skills and experience to manage the charity, understand its fiduciary duties and responsibilities towards the charity - act in the best interests of the charity and its beneficiaries- and should put in place a system to discharge those responsibilities.
- (4) Maximises potential – an effective charity manages its resources in a manner that extracts maximum benefits therefrom.
- (5) Accountable and transparent – an effective charity understands its accountability to the various stakeholders, including the public in a transparent manner
- (6) Flexible – an effective charity is flexible enough to understand and evaluate to keep pace with the changes in the environment in which it operates so as to be able to meet the ever changing needs of the target beneficiaries for whom it works.

Road to Good Governance in NPOs

The road to good governance in NPOs, like in any other form of enterprise, begins with

empowering the top management, the board of directors / governors / trustees, whatever the nomenclature is. The following are some of the factors that would go a long way in increasing the effectiveness of the Board of an NPO:

Getting the Right Mix

The NPO board normally comprises like-minded volunteers, drawn from various walks of life. Though this means a wide array of experience on the Board, yet in the absence of professionalism, the NPO Board generally suffers a high degree of turnover of directors. It is essential that the NPO board not only has people who have the experience of working for an NPO even at the grass root level or those who join to quench their philanthropic desires but also such individuals who have an expertise in managing organisations, especially philanthropic organisations, at the top level. Given the peculiar underlying objectives of an NPO, it may also be beneficial to have a representative of the target beneficiaries on the Board so that the latter's' perspective may also be brought in policy making. Another perspective to getting the right mix of people on the Board is to have well-charted policies in respect of qualifications, experience and other conditions for appointment as a director, the size of the Board, proportion of directors representing the stakeholders, professionals, promoters etc., term of the Board members, conditions for appointment, election, reappointment, etc.

Understanding the Duties

As has been mentioned in the preceding paragraphs, the board of directors of an NPO normally lack in terms of professional management added to it the fact that the duties

²⁴The Hallmark of an effective Charity (CC60)", The Charity Commission, UK.

and responsibilities of the Board are normally not defined by the legislature unless the NPO is an incorporated entity. It is therefore necessary that the directors appropriately understand and mutually agree to their duties. The primary duty of the directors is to lay down the missions and objectives of the NPO and to provide the basic strategy on how the NPO would achieve those missions and objectives. The directors are also responsible for putting in place a second line of management for realising the missions and objectives of the NPO as well as, among other things, deciding on its remuneration, monitoring its performance etc. However, in quite a number of cases, the NPO might not be operating at a scale that warrants a separate second line of management, the directors themselves discharging the NPO's duties as well. The Board also needs to undertake the risk management process, identifying the potential risks facing the NPO, how the NPO plans to address those risks, the risks that the NPO plans to accept and those that its plans to avoid etc. The responsibility of the second line of management in this regard notwithstanding, instituting appropriate internal controls also forms part of the primary duties of the directors. Internal controls are necessary to ensure appropriate implementation of plans and policies designed by the board and / or the second rung management to achieve the missions and objectives of the NPO. Internal controls are also necessary to safeguard the assets and other tangible resources of the NPO, reducing the risks of frauds and misappropriation. Appropriately designed and implemented internal controls also help the directors in ensuring that the NPO is compliant with the applicable laws and regulations. Communication and interaction with the various stakeholders, such as donors, government, regulators, if any, also forms an

important aspect of the duties of the Board of an NPO. The Boards, especially, those of larger NPOs are increasingly constituting committees such as the audit committees, compensation committees, of the Board to help the latter perform better. These Committees work independently of the Board and can infuse fresh perspective to the Board thinking. The Board is also duty bound to keep itself well informed in relation to the significant developments taking place in the internal as well as the external environment in which the NPO operates as also the techniques to confront those developments. Board training on a periodic basis can help the Board in honing its skills of effective management.

Ethical Environment

It is popularly said that nobody owns an NPO. Remoteness as well as multiplicity of donors leading to the absence of direct accountability to any stakeholder, in addition to the fact that flexibility and independence to the staff and workers of the NPO are quintessential for its effective functioning, makes the NPO highly susceptible to, among other things, frauds and other misappropriation of its assets and resources. NPOs, therefore, need to encourage a culture of ethics in its employees and an internal environment where unethical behaviour is simply not tolerated. The importance of ethical working by an NPO and its employees (including the directors) is also highlighted by the fact that NPOs are far too sensitive to the "reputational risk". Any blemish on their reputation on account of, say, misuse of funds or any other unethical behaviour can result in instant stoppage of flow of funds from the donors and the loss of trust of the beneficiaries as well. The Board of the NPO should, therefore, take a lead in

building up that ethical working environment within the NPO by setting the “tone at the top”. The directors need to understand that they owe certain basic duties to the NPO. One of these duties is not to use the resources of the NPO for their personal use. Another duty is to exercise care and skill in discharging their responsibilities as the directors. This implies that the directors should exercise reasonable diligence while decision making. It is also important for the directors to understand the importance of disclosure of any conflict of interest in an adequate and timely manner. The directors should understand that these duties are fundamental to their directorship of an NPO and cannot be delegated to anybody. Incidentally, some NPOs have in place a formal code of ethics for its directors.

The above are only some of the milestones in empowering the board of an NPO. There would of course be many more, including periodic board meetings with well defined agendas, a system for periodic performance appraisal of the Board, clear cut accountability of the Board, to name a few. Further, the concept of an empowered board is necessarily a dynamic one – evolving through the process of learning, unlearning and relearning by the Board, but depending heavily and necessarily on the will of the Board. Further, an empowered board is only the beginning of a road to good corporate governance in NPOs, the others include having effective internal controls, having a strong and independent audit committee, internal audit, and external audit, to name a few. □