

8

CODE OF GOVERNANCE FOR NGOS

In a globalised world, the role of government in economic activity is shrinking; more pronounced in so called emerging economies. The development goals of the economy are assigned to the private enterprises. Given the profit fixation of the private sector, corporates alone cannot be relied exclusively for solving the host of problems of countries like India. Be it poverty alleviation, health care provision, micro finance, food security, environmental issues, building infra ,the third sector has carved a niche for itself. The book under review discusses the code of governance for voluntary sector (**Code of Governance for NGOs**). The Committee on Corporate Governance of the Institute of Chartered Accountants of India needs to be appreciated for bringing out this publication.

Code of governance of any organization is about ethical values, accountability and transparency. This book sets out to define the concept of state and corporate governance. In the contest of state governance, good governance is one which meets the aspirations of the citizens; corporate governance deals with the decision making process and execution of the decisions for the environment of all the stateholders. The bottom line of corporate governance is not just profit maximization but sustained economic, social and environmental development. The book discusses all the issues involved in corporate governance.

NGO-Concept

Governance of an NGO is all together a different ball game. The second part of the book introduces the globally accepted concept of an NGO to the reader: A non-governmental organization (NGO) is .a group of persons or of societies, freely created by private initiative, that pursue an interest in matters that cross or transcend national borders and are not profit seeking.

In India an NGO is not necessarily transnational. All voluntary organizations are NGOs, which are private, do not return profit to the owners, are self-governing, are registered organizations or informal groups, with defined aims and objectives. In Indian context the more appropriate terminology is voluntary sector. The book classifies the voluntary sector into two: Traditional community based and Government sponsored.

Traditional sector comprises various religious and charitable schemes for certain segments of communities, such as, association for women's welfare, micro-credit societies, Muslim's interest free credit societies, wild life protection societies, charitable trusts for education, health care, orphanages and rehabilitation. Government sponsored voluntary sector comprises agencies engaged in welfare programmes (such as rural development, afforestation programmes, watershed management, health and education services as well as those engaged in research and evaluation), with funding support from the government or under Public-Private-Partnership (PPP).

According to an overview prepared by the Asian Development Bank which is based on a survey conducted by the Society for Participatory Research in Asia, India has a large chunk of NGOs (41.8%) engaged in religious, community, and social service activities, followed by 20 per cent in education, 17.9 per cent in sports and culture, 6.6 per cent in the health sector.

The book presents a picture of the sources of funding including grants-in-aid from the government and external donations are described in detail. Around 51% of the receipt was self-generated through fees/charges for the services rendered and around 29% of the share was from grants and donations. Given the chances of misuse of foreign funds which are likely cause harm to national interest, the provisions of Foreign Contribution Regulation Act and Rules, 1976 are highlighted.

At present 16,430 voluntary organizations are operating in India in different areas. Out of this 6541 voluntary organisations are operating in the area of Rural Development, 2074 are operating in the area of Human Resource and Development, 2944 are operating in the area of Social Justice and empowerment and 1343 are operating in the area of Health and Family Welfare. Other areas in which voluntary organisations are active include Environment and Forest; Culture, Youth Affairs and Sports; Labour and Non-conventional Energy Sources.

Indian NGOs- Evolution

The book traces historical development and the spirit of voluntarism in Indian ethos. All the major religions in India emphasizes on the value of charity, philanthropy and mutual help. Therefore in the initial stages of growth of voluntary sector, the motivation was provided by the religions. No wonder, even today around 42% of voluntary organizations are religion/community based. Social reformist movements of the nineteenth century and nationalist movement of the twentieth century paved the way for voluntarism in India.

Legal framework

The book discusses the Indian legal framework for the voluntary sector. NGOs in India can be registered or remain unregistered. An NGO can be registered under any of the following three acts as: (i) a charitable trust, by formulating a trust deed (ii) a society under the Societies Registration Act (iii) and as a company under section-25 of the Companies Act 1956.

Trust

The Central law governing a trust is the Trust Act 1882. State governments might enact their own law to govern trusts in the model of the Central Act. Some State governments have enacted separate trust laws. In the absence of a State law, the general set of principles of the Indian Trusts Act 1882 becomes applicable.

A trust refers to handover of property (movable as well as immovable) by the owner to another for the welfare of the third person alone or the owner and the third person or it can be said to be a declaration by the owner, to hold the property not for him and the other. In the Indian context, Trusts account for the second most popular form of registration.

Indian Trusts Act does not apply to public trusts which can be formed by any person under general law. Under the Hindu Law, any Hindu can create a Hindu endowment and under the Muslim law, any Muslim can create a public wakf. Public Trusts are essentially of charitable or religious in nature, and can be constituted by any person. The following are the constituents of a trust: (i) An author or a settler who would keep aside a significant property for the welfare of the beneficiaries. The Trust Act defines an author of the trust as the person who reposes or declares the confidence. (ii) One or more trustees who would undertake the responsibility to manage the property set aside by the author for the welfare of the beneficiaries. The Trust Act defines a trustee as the person who accepts the confidence. (iii) One or more beneficiaries for whose welfare the trust is created. The Trust Act defines the beneficial interest or interest of the beneficiary as his right against the trustee as owner of the trust-property.

A trust may be created for any lawful purpose. The purpose of a trust is lawful unless it is (a) forbidden by law, or (b) is of such a nature that, if permitted, it would defeat the provisions of any law, or (c) is fraudulent, or (d) involves or implies injury to the person or property of another, or (e) the Court regards it as immoral or opposed to public policy. Every trust of which the purpose is unlawful is void. And where a trust is created for two purposes, of which one lawful and the other unlawful and the two purposes cannot be separated, the whole trust is void. In a Trust, the trustees are the ultimate governing authority. Therefore, no separate elections are conducted to elect the governing body. Trustees can however elect the office bearer among the working members at intervals. *A Trust Deed usually mentions the rules and regulations regarding management of the trust: (i) Holding of Meetings (ii) Quorum of Meetings (iii) Chairman of Meetings (iv) Adopting a resolution (v) Delegation of Functions (vi) Fixing of Accountability (vii) Sources of Income, including receipt of grants (viii) Modes of Investment (ix) Modes of application of funds, towards attainment of the objectives (x) Prohibition on use of funds for specified purposes (xi) Treatment of unutilized funds in the event of winding up (xii) Statutory audit and other legal formalities (xiii) Opening & Operation of Bank Accounts.*

Society

An NGO can be formed as a society under the Societies Registration Act, 1860, which is a Central Act. Each State government may have its own Act for the registration of a society. Any seven or more persons associated for any literary, scientific, or charitable purpose can form a society. Any seven or more persons associated for any literary, scientific, or charitable purpose, or for any such purpose as is described in section 20 of this Act, may, by subscribing their names to a memorandum of association, and filing the same with Registrar of societies form themselves into a society under this Act.

The Societies Registration Act is applicable to the following types of societies: (i) A charitable society (ii) A military orphan fund or a society established at the several presidencies of India. (iii) A society created for the promotion of science, literature etc. The major documents of any society are (a) Memorandum of association, and (b) Rules and regulations. The governing body of the society shall be the governors, council, directors, committee, trustees, or other body to whom by the rules and regulations of the society the management of its affairs is entrusted. The Rules and Regulations provide for the appointment of members of the governing body.

Company

An NGO can also be registered as a company licensed under section 25 of the Companies Act. Under section 25 of the Companies Act, 1956 the Central Government may issue a license to an association directing that the association may be registered as a company with limited liability, without the addition to its name of the word Limited or the words Private Limited.

Funding

The book presents a picture of the sources of funding including grants-in-aid from the government and external donations. The following are the sources of financing: i) Internal resources. (ii) Donations from individuals and private institutions in the country in which the NGO is domiciled or those located in other countries. (iii) Donations/financial aid from government/government organisations.

Given the chances of misuse of foreign funds which are likely cause harm to national interest, the provisions of Foreign Contribution Regulation Act and Rules, 1976 are highlighted. Every association which receives foreign funds shall maintain, in such form and in such manner as may be prescribed, (a) An account of any foreign contribution received by it, and (b) A record as to the manner in which such contribution has been utilised by it.

Principles of Governance

The third part of the book prescribes the principles of governance, which provide the underlying philosophy. The model code of governance should be used to develop corporate governance code by policy makers. It is expected that donors and other stakeholders will evaluate quality of governance of NGOs, with reference to this code.

In May 2007, the Planning Commission of India (Government of India) issued a National Policy on the Voluntary Sector. The following principles are laid down by the policy document which form the bedrock of corporate governance for NGOs in India :

The governance framework shall promote transparent and efficient Non-governmental Organisations (NGO) within the legal and regulatory framework of the country and also within the international regulatory norms.

The governance framework should facilitate participation of stakeholders in key decisions such as modification of the vision and mission, and nomination and election of trustees (or board members) and major shift in the mode of functioning.

The governance framework should promote ethical practices in transacting with donors, volunteers and beneficiaries.

The governance frame work should ensure that timely and accurate disclosure is made on all material matters regarding the organisation, including the financial position, performance, and governance of the organization.

Rights and interests of beneficiaries are protected and the activity of the organization promotes their wellbeing.

Two case studies

The fourth part of the book provides case studies of how well-governed NGOs apply the principles of governance. Organisations such as, Ramakrishna Math and Ramakrishna Mission, Belur , Child In Need Institute (CINI), Pailan.

Ramakrishna Math and Ramakrishna Mission, Belur

Ramakrishna Math, was registered as a trust under Trust Act in 1901. Ramakrishna Mission was registered under Societies Registration Act, 1860. Ramakrishna Math and Ramakrishna Mission, both the organizations are considered to be the two sides of the same coin. They are global, non-political, non-sectarian spiritual organizations. They are closely interconnected in several ways, apart from their legal and financial set up, and hence considered to be twin organizations. It constitutes the heart of worldwide spiritual movement known as Ramakrishna Movement or Vedanta Movement, which aims to render religious and communal harmony among all, harmony between the East and the West, harmony between the ancient and the modern, spiritual fulfilment, all-round development of the society, peace and equality of caste, creed, race and religion.

The main aim and objective of these twin organizations, *based on the principles of Practical Vedanta*, are: (a) To spread the idea of the potential divinity of every human being and how to reflect it through every action and thought. (b) To spread the idea of harmony of religions based on Sri Ramakrishna's experience that all religions lead to the realization of the same reality known by different names in different religions. The Mission honours and reveres the founders of all world religions such as Buddha, Christ and Mohammed. (c) To treat all work as worship, and service to man as service to God. (d) To make all possible attempts to alleviate human suffering by spreading education, rendering medical service, extending help to villagers through rural development centres, etc. (e) To work for the all-round welfare of humanity, especially for the uplift of the poor and the downtrodden. (f) To develop harmonious personalities by the combined practice of Jnana, Bhakti, Yoga and Karma.

Both Math and Mission can be basically categorized into Relief-oriented and Development oriented organizations where they are mainly oriented towards charity, relief and grants to the sufferers of various natural calamities, war, accidents, etc, in designing and promoting various development related projects like schools, hospitals etc.,

Mission undertakes basic relief and developmental service with the aim of:

1. Imparting, promoting and undertaking the study of research in the arts, sciences, technologies and industries in all their branches.
2. Training teachers in all branches of knowledge and enabling them to reach and communicate with the masses.
3. Establishing, maintaining, carrying on and assisting schools, colleges, universities, research institutions, libraries, auditoriums, orphanages, workshops, laboratories, hospitals, dispensaries, houses for the aged, the invalid and the afflicted.

Child in Need Institute (CINI), Pailan

The major areas of concentration of CINI are as under:

- (i) To give the mother a secure motherhood and the child proper care and nutrition.
- (ii) To arrange for nutrition for the weaker sections of the society especially for the weak women and children.
- (iii) To check unwanted pregnancy.

CINI is one of the leading Non-Government Organizations in India. It was established in 1974 in South 24 Parganas, West Bengal,

Among the field based activities of CINI, those projects which are worth mentioning are:

- (i) Adolescent Health Projects.
- (ii) Child Health Projects.
- (iii) CINI Asha Projects.
- (iv) CINI Bandhan Projects.
- (v) Monitoring Research and Evaluation Projects.
- (vi) RC Projects.
- (vii) Women and Health Projects.

A stakeholder of CINI is one who influences the area of work of CINI, which are health, education, nutrition and protection etc. It includes Funding agencies, Government and the community for whom CINI works. Assessments of expectations are made through formal and informal interaction with the stakeholders

This book is a practical guide to all those socially spirited people for starting an NGO. The recently formulated principles of corporate governance are elaborated. By giving a detailed account of the best run Ramakrishna Mission and CINI, the book has added to the readers' understanding of practical issues in governance of NGOs.

A must read for all social entrepreneurs.

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