

Understanding Board Processes

Learning Outcomes-

- ▶ Learn the Roles of Board and Office Bearers
- ▶ Learn about Board Processes
- ▶ Understand Role of staff in the Board
- ▶ Get to know the process of Documentation of Meeting Minutes

1. Statutory or De Jure Overview of Governance

Technical Overview of Governance in an NPO

*Adrian Cadbury Committee Report*¹ defined governance as a system which directs and controls an organisation. An NPO is an artificial legal person and therefore, it is governed by various groups of people having a very clearly defined role to play.

All registered voluntary organisations are a distinct legal entity and therefore an artificial legal person. It may be noted that a trust is not considered as legal person under the general law and the trustees collectively are recognized. However, for income tax and FCRA purposes a trust is also considered as a legal entity. The legal status of an organisation comes with legal obligations such as:

- i. Statutory audit of accounts
- ii. General & Board Meetings
- iii. Filing of Returns
- iv. Adhering to the Bye-laws/ MOA/ AOA/ Trust deed
- v. Area of operation
- vi. Election of office bearers etc.
- vii. Working only for the definite objectives

The above mentioned are some of the *de jure* aspects of the governance system of a voluntary organisation. An organisation has to complement and add upon these aspects to build a sound governance system, keeping in view the size and the nature of the activities. The flow chart on the next page depicts an overall picture of various person/

¹ In 1992 Adrian Cadbury Committee submitted a report on Corporate Governance and the social responsibilities of corporate organisations. In this report the issue of effective and fair governance was raised internationally. Consequently, raising the quality and standards of corporate governance has been taken as a very serious issue throughout the world and lot of legal and managerial changes have come in order to ensure that the governance of organisations is just and fair to all stakeholders. In the NPOs sector similar efforts for reform are also underway.

committees which go on to build an effective governance system.

All NPOs are accountable to the laws under which they are enacted and avail subsequent registration. Some of such statutes in India are:

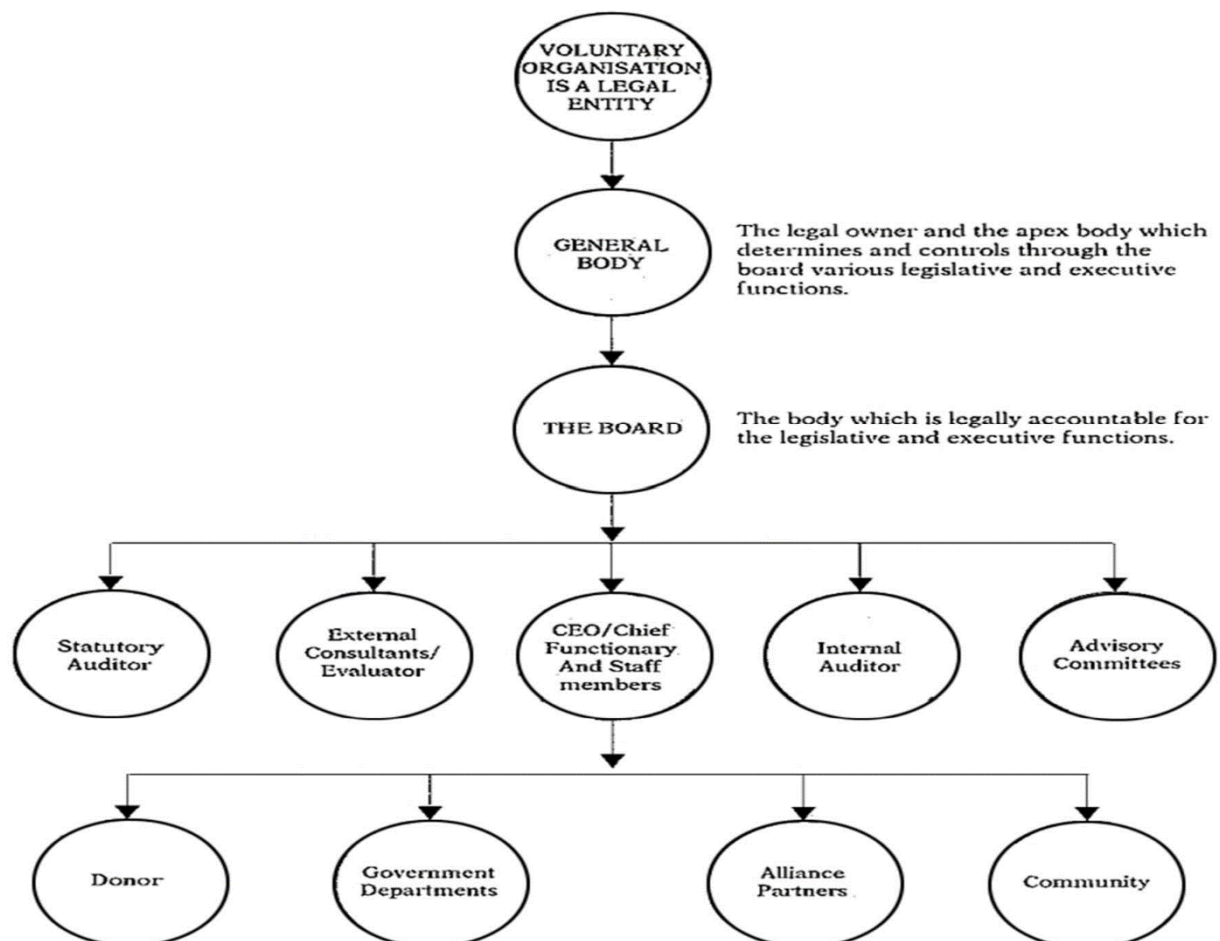
- i. Societies Registration Act, 1860 (along with state enactment)
- ii. The Companies Act, 2013 (for Section 8 company)
- iii. Income Tax Act, 1961
- iv. Foreign Contribution Regulation Act, 2010
- v. Various others statues as and when applicable.

Flow Chart Showing the Organisational Structure

A flow chart showing the organizational structure is provided in **diagram 2**.

DIAGRAM 2

FLOW CHART SHOWING THE ORGANISATIONAL STRUCTURE



General Body and Its Importance

General Body is the ultimate body which regulates and controls the entity through the Board. A General Body is like the people of a democratic country who can determine or replace the parliament, but cannot assume the functions of the parliament. General Body constitutes and reconstitutes the Board and keeps control over certain statutory issues and key functions of the Board. Major legislative and statutory decisions are taken by the General Body, however, all key issues are normally recommended by the Board for the approval of the General Body.

Important and statutory nature decisions are taken at the General Body level. Some of such decisions could be as under:

- i. Appointment of Auditor
- ii. Election of Office Bearers
- iii. Amendment of bye-laws
- iv. Purchase of large properties, etc.
- v. Approval of Annual Activity Report.
- vi. Such other decision as may be provided in the Memorandum of Association

The general members play a very effective role in the governance of an organisation. A large and empowered General Body can only ensure that the organisation functions on democratic principles. Many organisations have a very small General Body or even a co-terminus committee i.e. both the Board and the General Body comprise same set of persons. Such organisations do not reflect sound democratic structure of governance.

General Members

The NPOs registered under the Societies Registration Act or under the Companies Act or any other law which prescribes both the General Body and the Board, should ensure that there is a transparent & appropriate policy regarding general members and general meetings.

The General Body should be the body of general members with equal voting rights. The membership should be open to all section of stakeholders. The size of the General Body is determined by the nature of NPOs work e.g. generally movement based NPOs have larger General Body. However, normally the size of General Body should vary between 15 to 50 members. The General Body should always be larger than the Board, ideally 3 times or more the size of the Board.

Legislative & Executive Functions

A legislative body or function generally pertains to something legal or statutory in nature. In a country, the parliament is the legislative body and the bureaucracy generally implements or executes the legislations passed by the parliament. However, in context of a NPO a legislative body does not imply creating statutory legislations

which in any case are binding on everybody. The legislative functions imply creating legislations and policies for the organisations which may or may not be statutorily required by the law of the land. Some legislative documents of an NPO are:

- Memorandum of Association
- Articles of Association
- Various policy documents
- Various resolutions passed by the General Body and Board etc.

The General Body is the highest body for legislative decisions and the Board is the highest body for executive decision making. However, for all practical purposes both the Board & Executive decision making body functions are held by the Board, though certain key and statutory legislative decisions are approved by the general members only. The legislative functions cannot be delegated, they include:

- Legal compliances
- Custodian of assets and functions
- Amendment and Compliance with the stated Memorandum of Association, Trust Deed etc.
- Compliance with the stated Articles of Association, By-laws etc.
- Laying down policies and norms of execution.

The Board is also responsible for effective and optimum execution of all the activities and responsibilities of the NPO. Normally the management team headed by the CEO is delegated the executive functions. The Board plays an oversight role in the execution. The Board delegates the executive functions depending on the size of the NPO and operations. In very small organisations, the Board may play a more proactive role in the execution/ implementation. However, it is generally expected that the Board should play the role of controlling and directing the various activities and processes without itself being involved in the direct execution.

Grievance & Judicial Function

The governance structure, as per the incorporation law, provides the legislative and executive powers to the Board. However, inherently the Board also possesses judicial or conflict resolution powers which are generally not very well articulated in the statute or bye laws.

All accountable NPOs should have a conflict resolution and grievance mechanism within the organisation. It could be through constitution of 'grievance committees'. However, it has to be ensured that all employees and stakeholders have an equal opportunity before such committees. For example, if the complaints are against the CEO or any Board member then there should be a mechanism in place to ensure a fair

trial to the complainant.

Closely & Widely Held NPO

When an organisation has a Board of less than 7 members and General Body of less than 12 members for long periods, (say 7 years) it can be considered as a closely held organisation. A closely held organisation is legally permissible, However, such structures are generally created when a corporate, family or group of people create a NPO for public purposes from their internal properties and funds. A NPO which accesses donations and grants from organisations and public at large should not be closely held by a small group of people.

Executive Leadership & Legislative Leadership

A good governance structure should maintain a clear distinction between executive leadership and legislative leadership. The examples of such distinctions are:

- The Chairman should not be the Executive Director or CEO
- The employees should not have an influencing impact on the Board decision making.

Difference between a CEO & General Secretary

A General Secretary of a NPO is the legal representative of the Board as far as its legislative functions are concerned. The General Secretary may or may not retain the executive functions. A CEO is the highest executive position and it does not possess legislative powers.

The General Secretary is an integral part of the Board of a NPO. A CEO may or may not be provided an *ex-officio* position on the Board as the representative of the employees responsible for execution and implementation.

Advisory Committees

The Board is normally supported by advisory committees which consist of members possessing specialised expertise and mandate. An organisation may have, for example, committees on finance, purchase, specific programme, etc. Certain NPOs also have advisory Boards which are independent and external.

The Board & Its Importance

The Board happens to be the *de jure* most powerful body of an organisation and in the absence of an effective Board it is very difficult to ensure good governance in any organisation. The Board is legally accountable for the legislative and executive functions. The Board is responsible for determining all the policies, systems and processes. The Board is also responsible for the safe guard and optimum utilization of the funds, assets and resources. All decisions of enduring nature are taken at the Board level and the Board delegate's authority and responsibilities to the CEO and other managerial persons.

Broad Functions of the Board

The following are the broad functions of the board of an organisation:

- Being the employer
- Formulating & Monitoring the Governance Structure.
- Formulating policies.
- Securing & Safeguarding Resources
- Being the Final Point of Accountability
- Being a link between external stakeholders and environment
- Ensuring legal compliances and other contractual obligations

Roles & Responsibilities of Board

The Board should formulate the mission statement & strategic plan of the organisation and should revisit periodically in order to ensure that the programmes and resources are in consonance with them.

The Board should formulate the structure of authority and responsibility to be delegated to the CEO and other staff.

The Board should determine the procedure of electing/selecting the CEO and the compensation thereof.

The Board should formulate important policy documents and guidelines on gender, human resource, finance etc.

The Board should appoint the statutory auditor and the internal auditor if required. Both the auditors should directly report to the Board. The appointment of statutory auditor should be finally approved by General Body on recommendation of the Board.

The Board should determine and approve the annual budget and allocations.

The Board should determine and approve the bank accounts to be operated and the signatories thereof.

The Board should develop proper policy and systems regarding the title, safeguard, location and verification of fixed assets.

The Board should ensure strict adherence with all statutory compliances. It should also ensure that requirements/ obligations towards other stakeholders is diligently done.

The Board should constitute Advisory Committees for special functions or for specific purposes.

The Board should review the performance of the CEO and other senior management staff on annual basis.

The Board should prepare a position paper every three years on issues such as

- (i) Resource Mobilisation
- (ii) Financial and Institutional Sustainability,
- (iii) Programmatic relevance, reach and impact and
- (iv) Risk and contingencies

The Board should carefully position its involvement in the management of the affairs of the organisation. Generally, the Board should not be interfering in nature, however, certain powers of approval should be retained by the Board depending on the size of the NPO. A suggested list of the additional functions of Board could be as under:

- Approval of projects and activities to be undertaken
- Periodical perusal of the reports from the Secretary/ CEO and other key functionaries
- Approval of purchase of assets for large financial transactions
- Approval of project budgets and investments
- Finalising annual financial statements
- Staff capacity building measures
- Appointment of staff
- Internal control measures
- Resource mobilisation, etc.
- Control over admin. expenses
- corpus and institutional sustainability

Composition of the Board

The Board should be ideally between 5 to 13 members unless the legal requirements are different.

The Board should, normally, not have members who are permanent in nature except the case of institutional nomination. In case of a trust, normally a clause regarding permanent trustees is found. In such instances, it is desirable that the total voting right of the founder trustees is less than 50%.

The composition of the Board should be clearly defined in terms of the diversity of the skills required for discharge of the Board functions. The balance of the Board should be maintained in terms of gender, finance & other specialized skills, stakeholders, distance & availability.

Presence of Employees on the Board

Not more than 2-3 employees should be Board members with voting rights or at any point the employees participation should not exceed 40-50% of the Board members. If two

or more employees are on the Board then they should not be relatives. The main issue is to keep the Board independent of the executive functions. If people involved in execution and implementation are dominating the Board, then the Board shall cease to be an independent body.

In the context of the issue of employees on Board, it is generally misunderstood with participation of employees on Board as a stakeholder. However, this issue is much larger than inviting representatives from the employee fraternity on Board. This issue is about the presence of members who are compensated for the services rendered on whole time basis. Such members could be:

- Representatives of employees who become Board member by virtue of being an employee.
- Elected Board members who are in whole time service in terms of the bye laws.
- Pre-defined executive heads like CEO or ED who find an ex-officio position in the Board.

One or more of the above circumstances may be relevant depending on the bye laws and governance structure of the organisation.

It may be noted that the sum total of all such Board members should not have any material influence on the decision making of the Board. Further there should be a clear & written policy on conflict of interest where trustees and staff (or any stakeholder) are involved.

Election/Selection of the Board Members

There should be a clearly defined policy for recruitment, election, selection of trustees or Board members. The induction of new trustees should be through an open process providing the opportunity of being elected/ selected to a wider group of stakeholders. The process should include use of methodologies such as advertising for new trustees through various medium.

The Board members should retire and be re-elected on the basis of rotation. For instance, every two years a third of the Board can retire. Though the Board members usually get re-elected but the technical possibility of replacing the entire Board in an election process should be avoided.

Board Processes

There should be a process for orienting and sensitizing of the trustees regarding their responsibilities in particular as well as in general.

There should be a process through which clear distinction between strategic matters and operational matters should be made and a position paper should be drafted and revisited annually.

The Board should set key performance indicators for themselves.

The Board should, ideally, meet once in every quarter, However, it is recommended that the Board should meet at least twice in a year i.e. once in every six months.

An annual report on the participation and other contributions of the Board members should be prepared to assess the stakes and ownership of the Board members.

Permanent or Long Term Board Members

As discussed earlier, organisations should not have a majority of long term or permanent Board members unless it is privately funded.

The name and percentage of trustees or Board members who have served for more than 15 years on the Board either continuously or through intermittent tenures should be separately declared.

CEO and Management Staff

The CEO and staff members are responsible for the day to day management of the organisation. The CEO happens to be the focal point around which the entire organisation revolves. He is the executive head of the organisation. The CEO generally does not possess legislative powers. The CEO interacts with most of the stakeholders such as donors, alliance partners, communities and also with the Board etc.

Conflict of Interest

There should be a clearly defined policy to ensure that any conflict of interest is properly dealt with. The issues which may be regarded as material interest are as under:

- Appointment of relatives in Board or senior management.
- Ownership or partial ownership in organisations which are engaged or may seek business or consultancies.
- Payment of fees and remuneration.
- Directorship or management position in other NPOs.
- Providing consultancies in personal capacities.
- Having commercial interest in any decision or resolution.
- Having direct or indirect relationship with the donor or donee organisations.
- When contracts are awarded to relatives of the Board members.

The Board of Directors of the trustees should declare such interests. The interested trustees and directors should not participate in the decision making and voting process for that particular resolution. An annual declaration of such interests should be placed in the annual general meeting.

Independent Directors

The term 'independent director' is more relevant in the corporate world. In the

voluntary sector, most of the directors are in any case expected to be independent. Clause 49 of the listing agreements on corporate governance defines independent directors as follows: "*For the purpose of this clause the expression 'independent directors' means directors who apart from receiving director's remuneration, do not have any other material pecuniary relationship or transactions with the company, its promoters, its management or its subsidiaries, which in judgment of the Board may affect independence of judgment of the directors.*"

The non-executive independent directors are not supposed to receive any financial consideration except the sitting fees.

In case of NPOs, all the directors are not supposed to take any kind of benefit or privilege from the organisation. Therefore, in letter and spirit all the directors in case of NPOs are independent in nature. However, as a concept it needs to be ensured that the directors or trustees are not enjoying any undue benefit or are not involved in any conflict of interest transaction. One of the ways of keeping the independence of the Board is to have a well-articulated 'conflict of interest' policy.

Ex-Officio Board Members

The memorandum of association of the society can be suitably drafted so as to have provision regarding *Ex-officio* Board members. An *Ex-officio* Board member denotes the right of a particular formal position holder to participate and vote in the Board proceedings. For instance, an NPO may provide that the District Magistrate will be one of the Board members, then whoever is the District Magistrate will automatically have the right of a normal Board member.

Different Traits or Types of Board

All NPOs are created by people for human intervention in public causes. Therefore, each NPO and its board are distinct and unique. The boards of NPOs consciously or unconsciously take different forms and assume different attributes which may or may not serve the purpose of the organisation. In this chapter we will discuss the various peculiarities of board structures and the de facto reality of various boards and trustees, based on our study, experience and understanding.

Board Formed In 'Fiduciary' Capacity or Under Trusteeship

The Trust form of registration was legislated for NPOs formed in fiduciary capacity or under trusteeship. In such model an individual or entity bequeaths its property or wealth for public purposes and appoints a group of person as trustees. Some attributes of such board are as under:

- Appointment of board or trustee is discretionary in nature, at the hand of the settler,
- Boards of trustee are more like a guardian for an orphan child.
- Boards are closely held bodies and they work on the principle of loyalty towards

the settler of the trust. They work towards fulfilling the promise which they give by becoming trustees.

- Boards have a top down orientation where the trustees work on a pre-determined mandate.

Such fiduciary boards are good for specific trusts but such models have severe limitations when they start working on resources generated from society at large. Further the long term institutional sustainability and transition of leadership always remains a matter of concern in such models.

Family or Founders Board

There are organisations including trust and society which are created by a particular family or an individual. In such organisation, the board and governance is basically controlled by one family or an individual. Some peculiarities of such model is as under:

- Such organisation has a board which comprises friends and relatives.
- The board of such organisation sometimes may have eminent people from the society, who normally do not give time or interfere.
- Such organisation normally becomes successful on the basis of the charisma, expertise or contacts of one individual or a family.
- Such organisation is prone to misuse of resources and power by the board members.
- In such organisations, empowerment of staff and democratic decision making become difficult.
- In such organisations, also, the long term institutional sustainability and transition of leadership always remains a matter of concern.

Founding Members Board

There are organizations including trust and society which are created by a particular group of individuals who may have common goal and vision for public purposes. In such organizations, the board and governance is basically controlled by the founding members. Some peculiarities of such model are as under:

- Such organizations have a board which comprises the founding group of members and their friends & relatives.
- The board of such organisation sometimes may have eminent people from the society, who normally do not give time or interfere.
- Such organizations normally become successful on the basis of the charisma, expertise or contacts of the founding group of members.
- Such organizations sometimes turn out to be very effective in terms of

governance and programmatic relevance. However, such effectiveness is dependent on the individual commitment of the founding members. From a systemic point of view, such models do not reflect shared ownership of all the stakeholders.

- Such organizations are prone to infighting and power struggle within the board members.
- Such organizations are prone to misuse of resources and power by the board members.
- In such organizations, also, the long term institutional sustainability and transition of leadership always remains a matter of concern.

CEO's Board

There are organisations including trust and society which are controlled by the CEO or the Executive Director. Such organisations generally have a strong historical precedence and are generally created by formal institutions for specific or a larger cause. For instance, an Association of NPOs may be registered for a purpose or a donor may support in creation of an organisation for definite public purposes. The board and governance is basically controlled the management and the executive head of the organisation. In such an organisation the board is initially identified by the founding institutions and later on it may be based on ex-officio position or rotation of eminent people of the society. Some peculiarities of such model is as under:

- Such organizations have a board which comprises of eminent people from the society who are invited to oversee the governance process.
- The members of board of such organizations are scattered and sometimes are ex-officio positions. Further, the CEO of the organisation is relatively stable and the board may keep on changing. Therefore, the board may lack a strong sense of ownership and authority over the management.
- Such organizations normally become successful on the basis of the charisma and expertise or contacts of the Executive Director or the CEO.
- Such organizations sometimes turn out to be very effective in terms of governance and programmatic relevance. However, such effectiveness is dependent on the individual commitment of the CEO or Executive Director. From a systemic point of view such models do not reflect shared ownership of all the stakeholders.
- In such organizations the board sometimes becomes an ineffective formal structure which mostly relies on the inputs and directions provided by the CEO or Executive Director.
- Such organizations do not have a healthy governance structure as the staff and

management become more powerful than the board.

- Such organizations are prone to misuse of resources and power by the CEO or Executive Director. Therefore, such organizations are strongly dependent on the charisma and values of the CEO or Executive Director.
- In such organizations, also, the long term institutional sustainability and transition of leadership always remains a matter of concern.

Token Board

There are organizations including trust and society which are created for public purposes but the board and governance is basically controlled by people other than the actual board members.

Case Study: An NPO claimed that 100% of its board members were women from the target communities. However, in reality all these board members depended on the management of the organisation, they were basically used to create an illusion of an accountable and participative model of governance. On verification of records it was found that the board members were entitled for bus fares and very modest accommodation in contrast to the entitlement of the staff that were entitled for travel by Air and accommodation in three star hotels. There were many other findings which made it apparent that the board members were marginalized beneficiaries only. Some peculiarities of such model is as under:

- Such organisations have a board which comprises representatives from the target community.
- The members of board of such organisations stay away from the actual functioning of the organisation and are invited only twice or thrice in a year. Further, the CEO of the organisation is relatively stable and the board may keep on changing. Therefore, the board lack a sense of ownership and authority over the management.
- The board members depend on the CEO and management for various programme and entitlements which is a strong deterrent to their empowerment.
- Such organisations have a camouflaged board and from a systemic point of view such models do not reflect shared ownership of all the stakeholders.
- In such organisations the board in an ineffective formal structure which mostly relies on the inputs and directions provided by the CEO or Executive Director.
- Such organisations do not have a healthy governance structure as the staff and management become more powerful than the board.
- Such organisations are prone to misuse of resources and power by the CEO or Executive Director.

- In such organisations, also, the long term institutional sustainability and transition of leadership always remains a matter of concern.

Interested Party Board

In corporate governance it is provided that all companies should have independent directors. However, in case of NPOs, each and every director is supposed to be independent i.e. they should not have any personal interest in the resources or functioning of a NPO. However, the directors in an NPO are permitted to take reasonable remuneration and payment against any other goods and services rendered. In a NPO, if majority the directors are taking remuneration, consultancy or have rented their premises etc., then such board is called an interested party board as most of the board members are dependent on the NPO for some monetary consideration (even if it is legitimate) which may impair their ability to govern. Some peculiarities of such model is as under:

- Such organisations have a board which comprises people who are involved in the day to day activity.
- The board of such organisations depend on the organisation for earning income for their personal purposes, therefore, if the number of such board members exceed more than 50% of the total board then the board does not remain independent
- Such organisations, sometimes, turn out to be the very effective in terms of governance and programmatic relevance. However, from a systemic point of view, such models have little distinction between the management and the board.
- Such organisations are prone to compromises between the management and the board as both have individual interest at stake.
- Such organisations are prone to ineffective or misuse of resources and power by the board members.
- In such organisations, also, the long term institutional sustainability and transition of leadership always remains a matter of concern.

Employees Board

In case of NPOs the, directors are permitted to take reasonable remuneration and payment against any services rendered. It has been seen that sometimes most of the board members draw salaries. In a NPO, if majority the directors are taking remuneration, then such board is called an employee's board as most of the board members are dependent on the NPO for salaries (even if it is legitimate) which may impair their ability to govern. Some peculiarities of such model are as under:

- Such organisations have a board which comprises people who are involved in the

day to day activity.

- The board of such organisations depend on the organisation for earning income for their personal purposes, therefore, if the number of such board members exceed more than 50% of the total board then the board does not remain independent.
- Such organisations sometimes turn out to be the very effective in terms of governance and programatic relevance. However, from a systemic point of view such models have little distinction between the management and the board.
- Such organisations are prone to compromises between the management and the board as both have individual interest at stake.
- In such organisations, an effective board does not exist and therefore it can be said that the organisation is being governed by the employees.
- Employees are one of the most important stakeholders but such models of board may result in misuse of resources and power by the board members in favour of the employees.
- In such organisations, also, the long term institutional sustainability and transition of leadership always remain a matter of concern.

Ornamental or Eminent Board

Many NPOs have a board comprising of very high profile individuals. There are NPOs whose board members are the "Who's Who" of the society. Such boards are highly impressive simply because of the quality and eminence of the board members. Some peculiarities of such model is as under:

- Such organisations have a board which comprises people who are not involved in the activity of the organisation.
- The board of such organisation does not internalize the work of the organisation because such member may not have the time to be involved in the organisation.
- Such organisations may be very effective in terms of governance and programmatic relevance. However, from a systemic point of view such models have very little *de facto* role of governance for the board.
- The board of such organisations is generally endorsive in nature. However, due to the quality of the people involved enduring and strategic decision are generally well taken.
- Such organisations may not have an effective board for the oversight function over the management.
- Such organisations rely heavily on the CEO and Executive Committee for the normal functioning of the organisation.

- Such boards do not reflect a true representation of the various stakeholders. Such boards should be balanced with people from other sections of stakeholders.
- In such organisations, also, the long term institutional sustainability and transition of leadership always remains a matter of concern, as the organisation generally survives based on the executive systems.

Political Board

Many NPOs have a board comprising of individuals from cross section of stakeholders and members. There could be NPOs where the members may come from the geographical spread, for instance one board member from each district. Or a national level NPO may have state bodies as members and board members may come from each state. When the board is formed as a result of nominations/ election based on predetermined sections whether geographical or otherwise, such board are called political boards. National association of professionals and other national bodies are examples of such NPOs. Some peculiarities of such model is as under:

- Such organisations have a board which comprises people who are not involved in the activity of the organisation at the governance level. Such people generally work at a functional or divisional level of the organisation. Therefore, the board members are prone to their individual divisional interest or the interest of the constituency they represent.
- The board of such organisation is too involved and internalizes with most of the work of the organisation because such member may be involved at various levels in the organisation.
- Such organisations may be very effective in terms of governance and programmatic relevance. However, from a systemic point of view such models have very little de facto independence in the role of governance for the board.
- The board of such organisations is generally compromising in nature. Normally members belonging to powerful groups and constituencies influence the decision making process.
- Such organisations may not have an effective board for the oversight function over the management. The board is involved in the execution and the CEO and the management staff may not be empowered enough.
- In such organisations the voting power and number game becomes important and as a result the interest of the marginal stakeholders may suffer.
- Such boards provide a true representation of the various stakeholders, however it is difficult in such model to have independent board members who do not have any interest in the decision making process.
- In such organisations, also, the long term institutional sustainability and

transition of leadership is not a matter of concern, as the organisation generally survive based on the membership and organisational structure.

Ex Officio or Nominated Board

Many NPOs have a board comprising of individuals who are nominated by various institutions. There are NPOs whose general members are mostly institutions and various government bodies. The institutional members generally nominate members to the board. In such NPOs the board members are the Ex-officio nominations from various institutions and government bodies. Such boards are artificial in nature as the board members get appointed only because of a position they are otherwise holding. Some peculiarities of such model is as under:

- Such organisations have a board which comprises people who are not involved in the activity of the organisation.
- The board of such organisation does not internalise with the work of the organisation because such member may not have the time to be involved in the organisation.
- Such organisations may be very effective in terms of governance and programmatic relevance. However, from a systemic point of view such models have very little de facto role of governance for the board.
- The board of such organisations are generally endorsive in nature and the governance is largely dependent on the executive team.
- Such organisations may not have an effective board for the oversight function over the management.
- Such organisations rely heavily on the CEO and Executive Committee for the normal functioning of the organisation.
- Such boards may reflect a true representation of the various member organisations. However, such boards should be balanced with people from other sections of stakeholders.
- In such organisations, the long term institutional sustainability and transition of leadership may not be a matter of concern, as the organisation generally survives based on the membership structure and executive systems.

2. Overview of General and Board Meetings

Sound governance largely depends on the effective interaction between the decision-making persons of the organisations. It is very important that regular meetings are conducted for various policy matters and legislative and executive decision making. The General Members and the Board/Trustees exercise the power entrusted to them as per the governing documents such as Trust Deed, Memorandum of Association and Articles

of Association. The provisions of the statute of registration also regulate the procedure for conducting Board and General Meetings.

In an NPO two types of meetings are normally held,

- (i) General meetings,
- (ii) Board meetings.

The NPOs which are formed as companies or registered under the Societies Registration Act, normally have both General Body and the Board. But NPOs registered as trusts normally do not have a General Body and therefore the Trustees happen to be the ultimate body.

General Members' Meeting

A meeting of the General Members normally should be held at least once in a year to discuss and approve important matters like approval of audited accounts, appointment of Statutory Auditors, review of activities during the year, election of the Board Members. This meeting is called Annual General Meeting (AGM). It is normally conducted within six months from the end of the financial year and all the activities and accounts for the previous financial year are placed.

Apart from the ACM, General Meetings can also be called during the year if the circumstances demand so. All General Meetings other than the ACM are normally called as Extraordinary General Meeting (EGM) or Special General Meeting (SGM). Whether it is an Annual General Meeting or Special General Meeting, all the members of the organisation have the right to participate and vote. Therefore all the decisions of enduring significance should be taken in a General Meeting.

Board Meetings & Its Frequency

The meeting of the Governing Body or the Board of an organisation should ideally be held at least once in every three months. The Board may meet more frequently if it is required.

A Board meeting in every quarter is not legally mandated under any central statute. Even a Section 8 Company registered under the Companies Act is permitted to have Board meeting only once in every six months. All other registered companies are required to hold Board meetings at least once in every three months and four meetings in a year. However, Section 8 Companies are exempted from the four meeting clause [vide Notification No. 466(E) Dated 5th June 2015] as they can have Board meetings only once in every six months.

The Trust Deed or Articles of Association may specifically provide for the number and procedure of Board meetings to be held during the year.

Special Invitees to the Meeting

The Board or the Trustees may invite special invitees to some of the meetings. The

following issues are pertinent in this regard:

- A Board member should not send representative as special invitee.
- A special invitee may be a technical or a professional person who is invited for specific agenda items. In such cases the special invitee should normally participate for that particular agenda item only.
- The Statutory Auditor, advisors, donor representative etc. may be invited as special invitees. Such special invitees should participate in the discussions but should not vote against or in favor of a motion.
- As a principle, special invitees should not possess any voting right and the organisation should formulate a policy regarding the role and participation of special invitees in a meeting. Notice & Agenda for Convening General Meetings and Board Meetings

General Meetings

Authority to Convene General Meeting

The Board or the Governing Body of the NPO is the authority for convening all general meetings including the Annual General Meeting. The Board should convene a general meeting *suo moto* or on the requisition by the members. The decision for convening the general meeting should be passed in a meeting of the Board or the Governing Body or such resolution may be passed by resolution.

What If Board Fails To Convene a General Meeting?

If the Board or the Governing Body of the NPO fails to convene a general meeting even after the requisition by the members. Then the members who make the requisition may call the meeting. All NPOs should have clear bye-laws regarding the circumstances where the General Members can call a general meeting through requisition. There should be a norm of minimum number of General Members required to requisition a general meeting. The requisition should be first made to the Board or the Governing Body. If the Board or the Governing Body fails to convene a general meeting, then after a reasonable time period the General Members themselves may issue a notice for the General Meeting.

A recommended number of General Members for requisition of general meeting could be 5 members or 20% of the total members whichever is higher. The members may wait for 30 days for convening of the meeting by the Board; thereafter they may convene the meeting by issuing a notice for 21 days.

Serving Notice of a General Meeting

A notice of every meeting is required to be given in writing. Care should be taken to provide for the length of the notice while framing the bye laws of the organisation. In the absence of any time limit of notice in the bye-law, it is desirable to give 21 days' notice for a General Meeting.

The notice of a General Meeting should be given to every member of the NPO. Such notice should also be given to the Directors/Trustees. The notice should be given to the Statutory Auditors in case of Annual General Meeting.

The notice should be given by hand or by post and should also be placed on the website, if any, of the NPO.

The Notice should specify the day, date, time and venue of the Meeting with complete address. Meetings should commence during working hours, on a working day, at the Registered Office of the NPO or at some other place within the city, town or village in which the Registered Office is situated.

If the venue of the Meeting is not a prominent place, a site map of the venue should be enclosed with the Notice.

The Notice should prominently contain a statement that a Member entitled to attend and vote is entitled to appoint a Proxy to attend and vote instead of himself wherever is applicable.

Recommended Agenda for a General Meeting

A notice of every general meeting is required to be given in writing. Care should be taken to provide for the length of the notice while framing the bye laws of the organisation. In the absence of any time limit of notice in the bye-law, it is desirable to give 21 days' notice for a General Meeting and 7 days' notice for a Governing Body meeting.

Along with the notice of a meeting; it is necessary to enclose of list of items to be discussed/resolved, such list is known as AGENDA. It is very important that the agenda of a meeting is sent in advance preferably with the notice; it helps a member to prepare for the meeting. Issue of a meticulous agenda in advance shows the transparency and democratic functioning of an organisation.

Some matters which normally may form a part of the agenda are as under:

- Reading and confirming minutes of the previous meeting.
- Any matter arising out of the previous minutes.
- Issues which were deferred in the previous meeting.
- Various specific matters planned to be discussed in the meeting.
- Any matter involving related party transactions requiring confidential or restricted decision making.
- Matters requiring special or unanimous resolutions.
- Listing out the action points.
- Appointment of Auditor

- Election of Office Bearers etc.
- Date of next meeting and deadlines of documentation.
- Closure or adjournment of meeting.

It may be noted that any matter which requires special or unanimous resolutions should be supported with an explanatory statement along with the notice.

Board Meetings

Authority to Convene Board Meeting

The General Secretary, Executive Director, Chief Functionary, any Board Member/Trustee or the CEO is the authority for convening all Board meetings, unless otherwise specified in the bye laws or the trust deed.

Serving Notice of a Board Meeting

A notice of every meeting is required to be given in writing. Care should be taken to provide for the length of the notice while framing the bye laws of the organisation. In the absence of any time limit of notice in the bye-law, it is desirable to give 7 days' notice for a Board Meeting.

The notice of a Board Meeting should be given to every Director/ Trustee/ Board Member of the NPO.

The notice should be given by hand or by post and should also be placed on the website, if any, of the NPO. The notice can also be sent by email or facsimile or any other electronic mode which may have been approved or specified.

The Notice should specify the day, date, time and venue of the Meeting with complete address. Meetings should commence during working hours, on a working day, at the Registered Office of the NPO or at some other place within the city, town or village in which the Registered Office is situated.

The meeting may be held in any other venue also. Further the meeting may also be held on public holidays or Sunday's.

If the venue of the Meeting is not a prominent place, a site map of the venue should be enclosed with the Notice.

There is no need to give notice of an adjourned meeting other than a meeting that has been adjourned "sine die". However, Notice of the reconvened adjourned meeting should be given to those Directors/ Trustees who did not attend the meeting which had been adjourned.

No discussion should be made or matter should be resolved in any Board meeting if proper notice has not been served as described above.

Recommended Agenda for a Board Meeting

Along with the notice of a meeting; it is necessary to enclose of list of items to be discussed/resolved, such list is known as AGENDA. It is very important that the agenda of a meeting is sent in advance preferably with the notice; it helps a member to prepare for the meeting. Issue of a meticulous agenda in advance shows the transparency and democratic functioning of an organisation.

Some matters which normally may form a part of the agenda are as under:

- Reading and confirming minutes of the previous meeting.
- Any matter arising out of the previous minutes.
- Issues which were deferred in the previous meeting.
- Various specific matters planned to be discussed in the meeting.
- Any matter involving related party transactions requiring confidential or restricted decision making.
- Matters requiring special or unanimous resolutions.
- Listing out the action points.
- Date of next meeting and deadlines of documentation.
- Closure or adjournment of meeting.

It may be noted that any matter which requires special or unanimous resolutions should be supported with an explanatory statement along with the notice.

Recommended Agenda for Quarterly Board Meetings

The Board of an organisation should perform specific task in various quarters of the year. Apart from the various mandated and discretionary functions, the Board should preferably include the following issues in the agenda for various quarters:

- In the Board meeting held during the January-March quarter the Board should include in the agenda issues such as
 - (i) Approving programmes/ budgets of forthcoming year
 - (ii) Status of statutory compliances to be done within 31st march
 - (iii) Major deviation in planned and actual activities.
- In the Board meeting held during the April-June quarter the Board should include in the agenda issues such as:
 - (i) Review of the previous year,
 - (ii) Performance appraisal
 - (iii) Pay determination for CEO/key personnel

- (iv) Status of closing and finalization of accounts and reconciliations.
- In the Board meeting held during the July-September quarter the Board should include in the agenda issues such as:
 - (i) Recommending audited accounts and annual report of previous year for the General Body for approval
 - (ii) Nominating Directors/ Board members to be approved at ACM
 - (iii) Recommending auditor for ACM to approve.
- In the Board meeting held during the October-December quarter the Board should include in the agenda issues such as midyear review of programmes, financials etc.

Agenda for Board Meetings Where Annual Accounts/Activities Are Considered

The Board/Trustees should consider various matter in specific detail in the Board meeting where annual account/ activities are considered. A recommended agenda for the Board meeting where annual account/ activities are considered is provided in *Annexure-2*.

3. Attendance, Quorum and Proxy for General and Board Meetings

Attendance at General and Board Meetings

A hard-bound attendance register should be maintained for recording the attendance of all the eligible participants to the meeting including special invitees.

If an attendance register is maintained in loose-leaf form, it should be bound at reasonable intervals and may be destroyed after eight years, with the approval of the Board.

The attendance register in case of general meetings should contains the names, address and signatures of the members and special invite present at the Meeting.

The attendance register in case of Board meetings should contains the names and signatures of the members and special invite present at the Meeting.

Leave of Absence

In case of general meetings, normally there is no need to grant a special leave of absence for the General Members.

However, in case of Board meetings leave of absence should be granted to a Director/Public Trustee only when a request for such leave has been communicated to the Secretary or to the Board or to the Chairman.

Quorum

The term quorum implies the minimum number of members that must be present to make the proceedings of a meeting valid. Normally the bye-laws of an organisation specify the quorum required for different meetings. An organisation should carefully

devise the requirement of Quorum for general and Board meetings.

In case of Board meetings if the quorum is high (example: 50% of Board members) then it may become difficult to hold valid meetings. And if it is too low (example: 2 of Board members) then important decision may be taken without the involvement of the majority. Therefore, the bye-laws may be drafted or amended accordingly.

In case of General Meetings even a small percentage of the quorum may prove to be very high (example: 25% of members in case of an organisation having 1000 members) then it may become difficult to hold valid meetings. And if it is too low (example: 3 of General Members) then important decision may be taken without the involvement of the majority. Therefore, the bye-laws may be drafted or amended keeping in view the size of the General Body.

If the bye laws or trust deed is silent then it is suggested that the quorum for General Meeting should be at least one third of the total members in case where the total members are less than 30. For NPOs with larger General Body a suitable basis quorum may be fixed depending on the size and nature of the organisation.

For Board meetings at least 33% of the Board members should be present to form the quorum. If the quorum is not present in any particular meeting then the meeting should be adjourned to a future date by the members present on that day. It is not advisable to convene a meeting without quorum on the same day after allowing an adjournment of 30 minute or 1 hour.

If on the adjourned future date again the quorum is not present then the members present (not less than 2) should be considered as valid quorum. The future date for the adjourned meeting should ideally be within 7 to 14 days.

It may be noted that proxies are not permissible for the determination of quorum both in general and Board meeting.

Proxy

Proxy refers to a person or a representative empowered to attend a meeting on behalf of a member. Any member of an organisation who is entitled to attend and vote at meetings is also entitled to appoint a proxy who can also attend & vote. A proxy has to carry an authorisation form; the member entitled to attend the meeting should authorise his/ her representative in writing in a proxy form, see *Annexure-3*. A proxy form should be deposited in advance at the registered office of the organisation at-least two days before the date of the meeting.

A proxy is not permissible for Board meetings and should be used in General Meetings only. Proxy should preferably be avoided in a voluntary organisation.