Abstract

In a previous study we developed a taxonomy proposal to classify models and governance mechanisms used by the Nongovernmental Organizations (NGO) in Brazil, considering the collective decision making process, strategic decision instances, management and control system. This taxonomy was based on the governance related information available in the bylaws of the NGO. In this study, we investigate the real situation of governance in the NGO based on multiple case studies, interviews with managers and experts, and selected academic papers and media publications. The analysis of this information allowed us to observe a distance between the formalism expressed in the documents and the actual configuration of its governance. In fact, this analysis reflects the fact that the governance of companies and other organizations has been developed based on cross sectional approaches, when solutions and guidelines are proposed to deal with specific problems in a given context and balance of power among stakeholders. Over time the governance tends to get away from this formal governance of the bylaws. This detachment is much more meaningful to NGO than for companies, given the weakness or absence of regulatory framework, in addition to the wide variety of size, scope and purposes of these organizations. This study discusses the results of a research about the actual practices of governance of the Brazilian NGOs, in order to verify how historical and contingent factors have changed these governance practices, and the impacts of internal and external factors on their choices.

Keywords: Nongovernmental Organization; governance; bylaws; development of governance.

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1. **Introduction**

In a previous study, we sought to identify the state of governance of non-governmental organizations (NGOs) operating in Brazil, based on formal descriptions and rules laid out in its bylaws. They considered the guidelines for five aspects, defined as building blocks of governance (Fontes-Filho, 2013), in order to target the focus of comparative governance analysis between organizations and especially between sectors. They considered the creation and incorporation of the organization, collective decision-making processes, the organs and mechanisms of strategic direction, organs and management environments, and internal and external control systems.

The use of bylaws, although identifies unequivocally the governance structures of NGOs and does not require a relationship or research within the organization, shows only the formal aspects of governance, and these over time can acquire other forms and modify. The informal nature of NGOs – due to factors and usual characteristics such as the small size, personal nature of the relationships, the absence of formal workers, and the high variability of funding sources – leads to emerging pressures of practice that can shape the behavior of NGOs sometimes far from set in bylaws.

In this sense, the purpose of this article is to identify and analyze the differences between formal governance structures, as described in the bylaws, and its operation in practice. For this, we first retrieve the evidence of the previous study, according to the analytical categories used, and conducted a series of interviews with NGOs managers and directors. Thus, it was possible to identify the main differences between the formal structure and practice, and assess the consequences and motivations of these differences.

2. **Theoretical Background**

The academic literature relating to governance of the NGO has expanded significantly since the criticisms made by Cornforth (2003). However, despite this progress, there are still many gaps to be exploited, certainly due to a lack of standardization in the definition of what are NGOs, especially when considering the differences between the various countries, their tax regulations, involvement of civil society, access to resources and relations of NGOs with governments.
Study the governance of NGOs requires recognizing the differences between nonprofits and businesses organizations that reflect in their governance choices. Speckbacher (2008) addresses three main differences, related (a) to the ends nonprofits seek, while companies (for profit) are oriented to short- and long-run objectives; (b) the existence of a clear principal of the organization, as the NGO usually have to be accountable to multiple stakeholders such as clients, donors, taxpayers, the governing board, the government, and employees, and so on; and (c) the performance indicators are relatively established in companies, but there is no agreement in terms of how to measure nonprofit efficiency. For Glaeser (2002), these differences must also include that not-for-profit firms have tax privileges, the non-distribution constraint on profit or results, and the absence of market controls like takeovers that put pressure on the management performance.

Based on the distinctions between nonprofits and businesses in terms of management and governance, Nikolova (2014) considers that agency theory is not directly applicable to charities and NGOs, especially because the existence of multiple principal-stakeholder relationships.

This is a particularly important observation, since the agency theory is the basis for discussions on corporate governance and definition of proposals and guidelines (Daily, Dalton and Cannella 2003; Aguilera and Jackson 2003; Lynall, Golden and Hillman 2003). Corporate governance has been defined as "the ways in which suppliers of finance to corporations assure themselves of getting a return on their investment" (Shleifer & Vishny, 1997, p.737). In the absence of supplier of finance, in other words the shareholder, the classic definition is weakened because decharacterizes the agency problem between principal and agent, making diffuse the role of principal. It also leaves unanswered questions such as who has incentives to control the company, who controls the managers, how to avoid investment in bad projects.

More than beneficiary of the organization's results, the existence of a principal allows the definition, unequivocally, of its goals and who should decide on events not disciplined ex ante. This means that a key aspect in the differentiation between Nonprofit and for profit corporate governance refers to the existence and allocation of right of control.

The residual right of control includes at least three rights: the right to determine the primary objectives of the firm, the right to specify how these objectives should be
realized, and the right to management decisions. Besides, these rights can be sold or delegated (Speckbacher, 2008). Thus, the ownership is associated with the capacity of allocating the residual rights, which brings additional incentives of control for the owners and creates a separation between principal and agent.

As Chaddad and Cook (2004), residual rights of control can be defined as “the rights to make any decision regarding the use of an asset that is not explicitly attenuated by law or assigned to other” (p. 349). Grossman and Hart (1986) consider that when it is not possible or too costly to distribute between the parties the residual rights on the assets involved in a contract, the optimal solution may be to allow one party to acquire the residual rights not specified in the contract, and in that sense "ownership is the purchase of these residual rights".

Zingales (2008) defines a governance system as “the complex set of constraints that shape the ex post bargaining over the quasi-rents generated in the course of a relationship”, so that ownership matters because it allocates the right to make decisions in the unspecified contingencies.

Ownership is related to the idea of a right of a natural or legal person over a particular good; a right which gives the owner the power to dispose of this asset can transform it, consume it or alienate it. According to Jeggers (2009), NGOs are characterized by nondistribution constraints, which mean that founders or participants are not entitled to a part of the organization’s profits or results. In NGOs there is, by definition, no residual rights to be allocated to external stakeholders, so that the founding members have no residual rights under any investments in the form of material goods and purchased or contracted on behalf of the entity. Besides, the lack of residual rights contributes to expanding the agency problems to many stakeholders and increases the imbalances in the ex post bargains.

This theoretical synthesis allows indicating that the characteristics of NGO makes it difficult to define and monitor the implementation of the objectives by management, create incentives for controllers (or board), and perform the control processes. There is also another issue that should be directed in governance structures: the costs representing and potential conflicts that brings, which is the collective decision process.

According to Hansmann (2000), the exercise of ownership involves, in addition to the agency costs, the collective decision costs (resulting from the heterogeneity of interests
between the owners) and support business risks. Collective decision-making costs can be inflated by diverging preferences and objectives of the “owners”, the heterogeneity in objectives and inter-temporal discount rate, the presence of coalitions, coordination problems, among others.

Based on these issues, Fontes-Filho (2013) defines a set of six elements or building blocks that lead to the definition of a governance structure, regardless of the nature of the organization, whether public, private or third sector: identify who can participate in the property; define the distribution of property rights or equivalent; establish collective decision-making processes of stakeholders with property rights (or residual rights of control); set strategic directions for the organization; perform management activities; and establish external and internal control systems.

3. CONTEXT OF NGOs IN BRAZIL AND EVIDENCE OF GOVERNANCE

Organizations in Brazil are classified by the Federal Revenue with regard to their legal nature which distinguishes public sector organizations, business organizations and non-profit organizations, or third sector organizations (TSO) in a broad sense. More specifically, the non-profit are classified in 14 categories, like registry office, residential condominium, private foundation, independent social service, private association, political party, union entity, among others. Important to say that different from many other countries, cooperatives are not considered non-profit, as they distribute financial surplus to their members.

Taking this context as reference, the concept adopted for NGO in the former studies was similar to that used by Salamon and Anheier (1992) based on five characteristics: formal, private, non-profit-distributing, self-governing and voluntary. Taking this definition as a benchmark, only NGOs classified as “Private association” and “Private Foundations” were considered. According to a 2010 survey, the country had 290,700 private foundations and associations (Instituto, 2012), which were considered to be the scope for the former study.

Government databases were used to collect the bylaws from those which the principle activity were related to social welfare or advocacy and allows public access to economic and registered information about the organizations. This process permitted to reach a set of bylaws of 167 NGOs, including private associations and foundations. The use of
bylaws as source of information, a non-obstructive type of survey, permitted reduce survey time and costs, and also the sample bias or data tabulation, since there is less need to interpret the information.

The Brazilian Law No. 10,406 / 2002 (Civil Code) defines as legal entities of private law non-profit associations; foundations; religious organizations; and political parties. Excluding the last two, the main difference between associations and foundations is that on the settlor (a company, other organization or an individual) must make a donation of goods, specifying the purpose for which it is intended and, if desired, the way to manage over there. In addition, the foundation only can be for specific purposes, such as social assistance; culture, education, health, environmental protection, among others. These conditions require, of course, that the foundations have a more formal structure similar to what happens in practice.

Important to say that there is a remarkable absence of national studies that broadly and systematically assesses the configurations of governance and management profile of the NGOs in Brazil. It is likely that the lack of consensus regarding the third sector definition, a concept that covers organizations with different objectives, sizes and scopes, may become detrimental to undertaking studies of a comparative nature or with a view to classifying these organizations (Mota, Ckagnazaroff & Amaral, 2007).

In the former research, when deploying the bylaws as a tool for collecting data on governance arrangements, attention was paid to the restrictions of such a tool when achieving its objective, as they address more structural issues of the organization. Based on the framework developed by Fontes-Filho (2013), we merged two dimensions – identify who can participate in the property; define the distribution of property rights or equivalent – in a single category: the incorporation of the organization. Therefore, the categories are: a) Incorporation of the organization; b) Collective decision-making models; c) Strategic direction; d) Management organization; and e) Supervisory and control mechanism. These analytical categories were defined as follows:

(a) Incorporation of the organisation: What are the criteria for membership and how the bylaws set the conditions of membership’ rights.

(b) Collective decision models: How the heterogeneity of interests between members are treated in the collective decision-making process.
(c) Strategic Direction (deliberative body): Who is responsible for defining, on behalf of the members, the organization's goals, and how the agency problems between “owners” and managers is treated.

(d) Management: Who does the day-to-day running of the organisation, and is responsible for efficient use of its resources and pursue the NGOs’ goals.

e) Supervisory and control mechanisms: How is organized the internal and external control mechanisms.

Table 1 presents data collected, according to these categories:

<table>
<thead>
<tr>
<th>Incorporation of the organisation</th>
<th>Management Organisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Are there restraints on participating in the ownership?</td>
<td>Executive Board (EB) - Number of effective members</td>
</tr>
<tr>
<td>Does it admit a corporate member?</td>
<td>(EB) - Number of alternates</td>
</tr>
<tr>
<td>How many member categories are there?</td>
<td>(EB) - Who elects them?</td>
</tr>
<tr>
<td>How many member categories have voting power at the General Meeting? (%)</td>
<td>(EB) - Term of office (years)</td>
</tr>
<tr>
<td>How many member categories can stand for elected positions? (%)</td>
<td>(EB) - Is reelection allowed?</td>
</tr>
<tr>
<td>Is there a specific category of members for the beneficiaries of the institution’s actions?</td>
<td>(EB) - If so, how many?</td>
</tr>
<tr>
<td>If so, does this category have a voting right?</td>
<td>(EB) - Individual or slate election?</td>
</tr>
<tr>
<td>If so, can this category stand for any body of the institution?</td>
<td>(EB) - Frequency of meeting (months)</td>
</tr>
<tr>
<td>Is voting by proxy admissible at the General Meeting?</td>
<td>(EB) - Is remuneration to officers prohibited?</td>
</tr>
<tr>
<td>Do all voters have equal voting power?</td>
<td>(EB) - Does the president have a casting vote?</td>
</tr>
<tr>
<td>How frequent are the General Meetings? (months)</td>
<td>(EB) - To whom does the administrator render accounts?</td>
</tr>
<tr>
<td>Is there a 10-day minimum notice for calling the General Meeting?</td>
<td>(EB) - Who can dismiss the administrator?</td>
</tr>
<tr>
<td>Is there a statutory provision on the casting vote on any topic, except dissolution and amendment of the articles of association?</td>
<td>(EB) - Does the administrator require specific qualification?</td>
</tr>
<tr>
<td>What is the minimum quorum on the second call of the General Meeting? (fraction of members)</td>
<td>Supervisory and Control Mechanisms</td>
</tr>
<tr>
<td>Is there a statutory provision on preparatory or similar meetings for members before the General Meeting?</td>
<td>Audit Committee (AC) – Must it submit a report at the General Meeting?</td>
</tr>
<tr>
<td>Who should chair the General Meeting?</td>
<td>(AC) - Number of effective members</td>
</tr>
<tr>
<td>Can a new topic be proposed during the General Meeting?</td>
<td>(AC) - Number of alternates</td>
</tr>
<tr>
<td>Can members include items in the General Meeting agenda?</td>
<td>(AC) - Who elects them?</td>
</tr>
<tr>
<td>How are items on the agenda approved?</td>
<td>(AC) - Term of office (years)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Strategic Direction</th>
</tr>
</thead>
<tbody>
<tr>
<td>(AC) - Is reelection permissible?</td>
</tr>
<tr>
<td>Does it have a Deliberative Committee?</td>
</tr>
<tr>
<td>Does it have an Advisory Committee?</td>
</tr>
<tr>
<td>Board of Directors (BD) - Number of members</td>
</tr>
</tbody>
</table>
4. **Methodology**

To compare the results between the governance structures as described in the statutes of NGOs and how they work in practice, we selected a sample of eight organizations in three states in the Southeast of the country, in the states of Rio de Janeiro, Espirito Santo and Sao Paulo. These NGOs were visited to spot investigation of governance practices, and in-depth interviews were conducted with their leaders.

The script of interviews followed the definitions of the categories and basic information of each category, as shown in Appendix. For their preparation, in order to avoid a very long interview, we consider only the most critical aspects as identified in the analysis of the statutes of the previous paper, as well as those who theoretically justify a deeper qualitative analysis.

5. **Results and Analysis**

In this section we present, according to the categories of the proposed framework, the results of the survey carried out in the bylaws of NGOs and following we describe the results collected from interviews with managers of six NGOs and analyze these results, especially around the differences between the formal and the real operations.

1. Analysis of information from NGOs - from interviews

(a) incorporation of the organization and collective decision process
i. Bylaws

With regard to the forms of governance undertaken by NGOs, the incorporation of the organization becomes an important aspect in determining criteria for their establishment, identifying who can participate in the property, defining who will be the partners, which share each one has in the decisions, and what motivates the enrollment in the NGO. Although the NGOs owner figure is not set in the same terms of what happens with the for-profit organizations, it is understood by "owners", those who have voting rights in the General Meeting.

Based on the research in the incorporation bylaws, i.e., how the organization is formally constituted, data showed that the membership is free on 115 of the 161 cases that contained this information. The simplicity of NGOs structures seems to conflict with a large number of membership categories, where 45% have four or more categories (eg. Founder, associate, honorary member, etc.), not all with voting power in General Meetings (GM) or to run for an elective office. In only 16.8% is set a category related to the beneficiaries of projects and programs of the NGO. In addition, the association is free, with no restrictions or specific criteria for membership.

The analysis of the statute shows that the General Meetings occurs in all NGOs, as determined by law, but its frequency is quite varied, and in 15% of NGO occurs every two years or more. Decisions occur by majority vote, with votes allocated to each individual, regardless of their administrative position, financial contribution or participation.

Certainly the most interesting observation about the process of collective decision of NGOs is the existence of small meetings prior to the GM in more than 80% of cases, which may indicate that this is in practice the main event of participation of members, especially by physical proximity for the members and for permitting levelling the discussion topics to specific groups.

Important to mention, in the case of foundations, created with a specific purpose and with an initial allocation of resources, there is no prediction of GMs, and the process of collective decision is made by the Board of Trustees.

ii. Interviews and analysis
Based on the interviews, the incorporation of the organization appears to be a key point, bringing the association only those who identify with their mission and wish to participate. With respect to the categories with voting power, in practice the processes the meetings that define the strategic direction of organizations rarely follow formal rites. Frequently, members, directors, officers, employees and beneficiaries gather for collective decision-making.

In less formalized organizations, the distinction between General Meetings, advice and even board tends to be vague and blurred. What works is the interest and volunteerism, and often managers and directors find themselves obliged to meet certain routines specified in the bylaws as mere formality.

The formalization of the NGO also seems to occur under the influence of the size or their links with other more formalized institutions, such as organizations of Rotarians who, although independent of Rotary, replicate the learnings and cultural procedures.

In general, the duties and functions are feebly defined in the smaller associations, approaching the model of an adhocracy. In part, this phenomenon can be understood by the strong guidance of the association to public projects, which are the basis of its operation. Thus, teams of NGO are formed to apply for a project in the public sector funding call, and usually disrupted after the completion of the project or if they lose the competition.

Or as said by a respondent, the functioning of the teams is very much based on a hands-on with all participating together. “We have two meetings or three times a year, as most have, but often NGOs create something and lay everyone to sign”. However, she recognizes that communicating this working logic to companies and financiers is not always easy.

Another interesting aspect is that, for the realization of General Meetings devoted to accountability or election of all officers, many of the beneficiaries or community members are invited to join the NGO, the day that occur many affiliations.

The collective decision process, as well as the participation of members, has also become much easier due to the internet. Several people interviewed mentioned the use of Whatsapp, an instant messaging application for mobile, as a powerful driving force of debates and information tool for members.
Analyzing the information from the interviews, we found that the incorporation of different NGOs to meet similar causes may be the cause of the excessive fragmentation of this sector. The incorporation of new NGOs seems to be based on the interest to support actions and social benefits by a philanthropist, but weighted by interest in order to guide the actions of the new NGO or have his name associated with your creation. Thus, of the approximately 300,000 NGOs operating in the country, the vast majority ends up having a weak formal and governance structure, in addition to great difficulties in accessing stable sources of funding. In fact, the statutes collection process shown, in an empirical evaluation, that most NGOs have no website or by-law available on the Internet.

It should be noted that the problem of diverging preferences among NGOs’ stakeholders can be minimized by the potential of aggregation of its Mission, since the participants of the organization, as they do not compete for profits, they tend to gather to promote social contribution and feel themselves socially included. It is interesting to say that, contrary to what occurs in for-profit companies, the profit maximization goal is not enough to reduce corporate disputes and divergences of interests in this context, while in NGOs, even with diffuse goals, what was observed in the interviews was that the problems and costs of collective decision do not seem to be statistically significant. Thus, the similarity of interests seems to contribute decisively for the construction of a share capital that brings people together and makes that they trust each other.

(c) Strategic Direction

i. Bylaws

The instance of strategic direction is one that defines the organization’s goals and deliberates on its strategies on behalf of the owners or those with residual rights of control, and afterwards supervises the management.

The research based on the bylaws showed that the typology of boards that make up the governance of these organizations covers four nomenclatures, in the absence of a legal definition, featuring structures with different rights and roles: the Board of Directors (BD), the Deliberative Board (DC), the Board of Trustees (BT) and the Executive Board (EB). The representation of EB proved to be more present in associations, where 75% had no specific organ strategic direction besides the EB. For the foundations, the
BT is the body that replaces the GM, and the executive board does the role of the BD. Based on the bylaws, the boards have many members, with a median of 15 members in the BDs.

**ii. Interviews and analysis**

The formalism of the bylaws only occurs in large-sized associations’ or in foundations’ practices. In small-sized associations, what was observed in the interviews was that the characteristic of volunteering and the absence of remuneration of managers implies great difficulties in filling vacancies related to board members. In general, the executives and managers invite individuals, inside or outside the NGO, to become members of the board, a fact that in addition to harming the professionalization creates vulnerability in the controlling process as directors are responsible for supervising managers, aggravating the agency problems.

Subordinate to these higher levels of boards, there is a technical body formed by paid members, usually a Superintendent, an Administrative and Financial Management, as well as an operational staff. Despite the hierarchy, there is an overlap of functions between volunteers and staff that is revealed in the words of one respondent,

In one of the less formalized NGOs the strategic direction process was configured through a collective formed by members of the executive board and community leaders who directly participate in preliminary meetings and the assemblies themselves.

In the case of foundations, where the hierarchical structures are more complex, and in general from the beginning are made with adequate financial resources and defined guidance, the practice of strategic management bodies tends to reflect the formal structure. In addition, it was noted that the knowledge and implementation of good governance practices are more visible in the foundations than in associations, which can be attributed to the fact that they have assets defined since its inception and the higher volume of resources that they operate.

Although voluntary feature can be taken as a merit of organization of the NGO, it is one of the main problems, according to the respondents. As boards are unpaid, aspects such as staffing and participation in decision-making processes become challenges in practice.
The absence of cogent objectives and residual rights of control in NGOs, as happens in for profit companies, creates an orientation and gathering power of moving the associates around the Mission, but blurs the definition of goals and, consequently, their control. As it is not possible to evaluate, unequivocally, the outcomes of a NGO, the evaluations become subjective or a process of mutual support (compliments, expressions of gratitude and devotion, etc.).

The organizational model of the boards, the internal decision-making process, the plurality of stakeholders and reinforces Nikolova’s (2014) consideration about the difficulties in applying directly the agency theory to the context of the NGO, mainly by the absence of a clear principal or owner, or the critics that it is an under-socialized theory of governance that do not consider the relevance of social structural relationships (Westphal & Zajac, 2013). Moreover, the very form of the composition of the boards and GMs suggests the need of other theoretical perspective to frame this situation. In this sense, Cornforth (2003, 2004), among other authors, discusses the several theories and the paradoxes that can be considered to understand the governance issues regarding NGO. The analysis of this comparison shows the benefits of other theoretical lenses for its understanding.

Even the Mission may not be sufficient to align the stakeholders’ expectations, particularly between managers and beneficiaries. As observed by one of the interviewees, who leads an NGO dedicated to foster the work in underserved communities to generate income, for many of the associated workers what matters is not income, but social interaction and participation in a collective activity. Thus, in a NGO with effectively democratic nature, it is possible that the mission needs to be revised to give greater powers to the beneficiary stakeholders, what would not occur if a theoretical perspective based on principal-agent or stewardship theories orient the actions of the NGO.

(d) **Management**

   * **Bylaws**

In what refers to the management it was observed that the Executive Board is the main formal executive body and in most cases it is also the sole body of strategic direction.
In most of the NGOs the EB members work part time, mainly because of the lack of compensation, and the informed term of office varies between 2 and 3 years in about 80% of cases. In general re-election is permitted in more than half of the NGOs, without limitations on the number of possible re-election.

Only in seven of the 158 NGOs of the sample with this information there was an explicit mention to technical criteria for eligibility of the administrators, such as technical background, educational degree or specific experience.

The meetings of the Executive Board, even in the more formalized entities, are open to the presence of the associates, but of course not to the polls.

**ii. Interviews and analysis**

Respondents reported many difficulties in the monitoring and control of the day-to-day activities of the organization by boards or associates. The information asymmetry existent in directors’ and associates’ relationship with managers introduces flaws in basic control mechanisms of agency problems, such as monitoring and bonding (Jensen & Meckling, 1976), as the manager is not only an agent of the board but also performs a role as principal with respect to the nonprofit employees (van Puyvelde, Caers, Du Bois & Jegers, 2013).

In the case of monitoring, election processes regarding the board are not fully adequate to ensure a composition able to access the problems and the typical accounts of a NGO, and devote adequate time to follow-up its activities. The bonding is particularly hampered by the lack of remuneration of managers and the diffuse goals.

It was also observed the incidence, although less often, of a lack of interchange in the organization’s command, with managers remaining in role usually for a long time. Although this situation is regarded as good practice by respondents, pointing to the dedication and interest of those managers and the confidence of the associates, it can weaken the controlling process, inhibit the development of new leaders or even undermine the sense of ownership and belonging of the other members.

The impossibility of managers’ remuneration of foundations and associations seems to impose severe restrictions for NGOs. Although little criticism in interviews, it was often
mentioned the absence or low interest in applying for elective office. As described by one respondent, we often have to beg for an associate to become a board member.

It is also frequent the hiring in the market of non-statutory managers to meet the need for a closer role in the NGO’s day-to-day activities, especially in those larger and more formalized organizations. As a result of the legal compensation restrictions, an executive management structure is created with elected managers, but, in fact, management is carried out by hired managers. Thus, the main problem principal-agent replicates in another instance, but without the possibilities of using financial incentives to curb agency problems.

According to one respondent, he himself a hired non-associate manager, in NGOs it is the deliberative board who usually represents the role of the shareholders in a GM of companies, and the elected EB would be equivalent to the board of directors in companies. If, indeed, this setting replicates to the various NGOs, then a new theoretical approach may be needed to understand its governance. Moreover, for the same manager, "lack of financial variable incentives is not a problem because the recognition; the working environment; and the support that the institution provides are much more valued overall than the salary itself". This observation may represent an important aspect for organizations that, as well as the NGOs, have difficulties in establishing clear objectives.

(f) Instances of monitoring and control

i. Bylaws

Regarding the follow-up and control phases of NGOs research on the basis of bylaws evidenced that the Fiscal Councils (FCs) are, with absolute majority, the body responsible for monitoring the actions carried out by these organizations, leaving to the other instances the follow-up of growth targets and impacts caused by the organization’s activities on society. It is the responsibility of the FC the approval of the accounts and supervision of the management, according to over 90% of the examined bylaws, and the mandates of its members ranges from 2 to 4 years, with reelection allowed. The observations, however, indicated a possible weakness in the independence of this body, since its members may be appointed by the deliberative bodies (20% of cases), or chosen in common plate with the administrators.
The bylaws do not describe or regulate other supervisory bodies, such as the audit body or the audit committee, or about possibilities of whistle-blower or questioning by members, or even about the existence of an ombudsman. In those NGOs which use public resources, however, it is expected supervision of administrative agencies.

**ii. Interviews and analysis**

In the interviewees’ opinion, the regulatory framework that disciplines the activities of NGOs in Brazil does not meet a sense of social justice, since small NGOs are required to comply with the same rules followed by larger NGOs. As described by one of the interviewees, similar organizations like neighbourhood and voluntary associations have many difficulties to meet the proper maintenance of internal controls required for fulfilling legal requirements. Furthermore, due to the informal way of action and prevalence of trust relationship over formal controlling mechanisms, there are often accountability problems due to faults in the records or documentation of the expenses incurred.

According to another interviewee is a function of the deliberative boards of NGOs TO approve the policy and the institution's work plan, but in practice the operation varies from organization to organization.

The complexity of Brazilian law, with variations and specific laws for the country, states and municipalities, hinders the performance of organizations, especially the smaller, more informal and based on voluntarism and participation of associates with low levels of education. This difficulty also represents a significant risk to the management and oversight, as they are personally responsible for failures, which also helps to inhibit the interest to participate in these bodies.

One of the interviewees, who followed several NGOs’ operation was quite critical about internal control processes of these organizations. For her, the "majority of the Fiscal Councils does not inspect anything". She also extends her criticism to organizations and companies that finance projects of NGOs: "... if there is not a professional monitoring, people put what they want in the projects, and what I realize is that who is responsible for performing the monitoring [by companies] has no knowledge of how to perform this evaluation, much less because it is the evaluation of a social project".
Another aspect to be highlighted refers to the lack of an adequate systemic structure in the industry. As already mentioned, individuals prefer to create a new NGO, or "my NGO" than join one that is already operating, what contributes to a pulverization in the industry and impacts on gaps in technical skills due to a lack of enough skilled professionals. In addition, there are few meta-organizations or federations bringing together and supporting the functioning of a group of NGOs, which could help establish appropriate behaviors and joint supervision and control processes.

6. **Final Remarks**

This study aimed to compare the formal aspects of the governance of the NGO, based on their bylaws, and how they actually works in the everyday life, based on interviews with managers and experts.

What is learned from this research is that in the case of NGOs the weakness of formal processes that define the incorporation of the organizations and its deliberative processes, management, monitoring and maintenance clash with the complexity of the regulatory environment for mission-driven organizations and usually based on proximity and personal confidence. At the end, a large gap between the norm and reality can be highlighted, where the good will and voluntarism try to develop and survive "despite" the regulatory formalities.

Moreover, in the lack of clear rules and criteria to evaluate the effectiveness of the work performed by NGOs, what is observed when evaluated their practice is that the allocation of roles to different members and bodies is configured more like a ceremonial aspect than real, to the extent that the authorities can not eliminate problems related to overlapping of paid and voluntary functions, minimize agency problems, participation, control, and collective decision-making, among others, and that many routines provided in their bylaws are fulfilled by mere formality.

This informality was evident at several moments during the study, such as the lack of standards for defining the strategic body, collective decision-making processes, in the choice of managers, and control routines, bringing challenges for the governance of these organizations. Also, the lack of certain governance rules, already widespread in the governance of companies and other organizations, such as the turnover of managers and board members, election processes, and accountability, help to put the NGO in
fragile situations. Moreover, the absence a basic taxonomy for NGOs established in the literature brings great harm to the possibility of learning and realizing benchmarks with successful experiences in other systems.

Even with regard to governance, we note that in NGOs this is a topic whose growth prospects is, still, broad. As a recommendation for future studies it is suggested the expansion of qualitative analysis including a greater volume of organizations in order to reaffirm or not the considerations made to guide in the investigation around a taxonomy that allows gathering NGOs around similar operation

It is also suggested the comparative study of organizations from different countries and with different degrees of maturity, in order to verify if cultural factors, related to different ways of life of the subjects, can influence on how NGOs are managed, as well as if the lifetime of these third sector organizations is able to contribute to the improvement of the ways of participation, their decision-making and strategic direction processes, and the allocation of rights, monitoring and control.

REFERENCES


Appendix

INTERVIEW SCRIPT WITH NGOs

Objective: To identify the governance standards of NGOs in Brazil

1. How, and by whom, the mission, vision and key objectives (annual) of the NGO defined? Who participate in the general meeting, how is it formed, and who define the priorities and agenda items? Who validates the annual balance and reports?

2. What are the existing boards, their role, how they are chosen and work?

3. How are formulated / constructed and validated the strategies of the NGO? Who chooses? How is the process of discussion and approval?

4. How is chosen and works the executive board? What is their dedication, to whom they report, who decides on executive compensation?

5. As the NGOs control processes are carried out? Who is the recipient or final approver of the results of these controls? For whom the NGO should be accountable for their actions?

6. How the NGO raises its financial resources and supports its activities? What the independence of NGOs related to public and private supporters of financial resources?

7. What are the positive aspects and aspects that should be improved in the governance of NGOs?