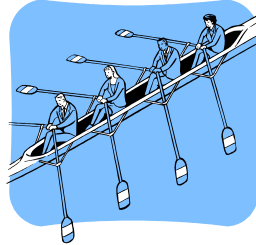


Family Constitutions

This article has been specially written for Minerva by Strategic Consultants Limited.

"A boat doesn't go forward if each one is rowing their own way."

Swahili proverb



Human society is unique in the degree to which it is regulated. It comprises innumerable organisations or structures, each of which operates on a set of rules or guidelines. Companies have rules in the form of memoranda and articles, clubs have members' rules, states have laws and councils have by-laws, religious institutions have doctrines. The development of these structures has played a large role in our sustained growth as a society.

Yet when it comes to the very first institution that a human being becomes part of, things are a little different. The very first institution is of course one's family. The family institution tends to operate on the basis of unwritten rules and principles that are passed from parents to children and from generation to generation. Rarely are these rules formalised or documented.

In our work with families around the world over the past 25 years, we have found there is initially significant resistance to the idea of having written rules or guidelines for a family. The phrase "Family Constitution" sounds very formal and legalistic and thus seems daunting and even unnecessary to many. There is also usually a fear that arises – the fear that by subscribing to a formal set of guidelines one is giving up the right to independent thought and action or that certain family members will use take undue advantage of these rules. Yet these fears are largely unfounded as people are constantly adhering to rules and guidelines in all other aspects of their lives. To the contrary, our experience is that unless a family develops certain rules and guidelines, adhering to certain family values and goals becomes a real challenge which ultimately lead to disputes and squabbles that threaten to break families apart.

Formalising family values, goals and clearly defining rules or guidelines – into a Constitution, Creed, Code or any other similar document – has a number of benefits for many families. This is particularly so for those families which also operate family businesses, and where the lines between family and business relationships are necessarily blurred.

Some of the major benefits of having a constitution are:

- In the process of formulating the constitution, family relationships become clearer and their value – often taken for granted – better understood;
- The family's position on various issues is clearer and thus reduces the scope for misunderstanding;
- It clarifies the family philosophy and values for all family members to subscribe to;

- Many conflicts can be avoided before they arise, and those that do arise can be addressed through an agreed process that is acceptable to all parties;
- Future decision making is improved through structured and objective discussions rather than purely emotional responses;
- Increased chance of longer term success and prosperity of the family and its business.



So how does one get the “buy-in” from family members to have a set of guidelines that will work for that family? The key challenge is to make family members feel comfortable that the guidelines will help and benefit all the individuals in the family and to build a stronger institution without necessarily taking away their independence. One question that often comes at an early stage is whether the Constitution should be legally binding. It can be, although most families take the view that it is a “guiding” document, and try to build strong values amongst family members so that its principles become a way of life.

What should the Family Constitution contain? The contents can and should of course be tailored to meet each family’s particular circumstances. Generally, the Constitution can provide specific guidance on how the family conducts its affairs on issues such as:

- Defining the family – what is the composition of the family
- The objectives of the family
- The family’s values
- Procedures for appointment of a family council
- Procedures for resolving conflict in the family
- Family expectations from individuals
- What the individual can expect from family
- The do’s and don’ts that will apply
- Policies on education, housing and medical costs for family members
- Ownership of the business
- Procedures for family members to enter into and exit from the business
- The links between family and its business

In this article we comment only on a some of these issues is a little more detail.

Quite often we get a response to the first point – but the **composition of the family** is obvious! Well is it? Step back to think about it, “family” can be interpreted in so many ways. Does it mean immediate family only? What about including the wider family including in-laws, or daughters who have married and have gone into another family, or daughters who may have divorced and their children, or adopted children and so on? You will now probably appreciate why it is so important to deal with the composition of the family for the purposes of the constitution.

The **family's values** are very useful to write down on paper. Those can then form the basis of a code of conduct by which each family member strives to live by. If practised effectively, these values and codes of conduct can be passed on down to subsequent generations as children will be brought up in an environment where such values and code of conduct are the 'natural' order. If the values are not codified then each family member will make differing assumptions about what the values are and how they are practised – thus planting the seeds for conflict. Phrases like "but I thought it meant such and such" become the norm and excuse for every breach of protocols.

A **family council** can be an important forum for dealing with family issues, particularly in larger families. Just as in a business where you can have a Board of Directors to run the business on behalf of the shareholders, you can have a Family Council to provide guidance to the family. We have seen this body work very effectively in larger families by bringing focus to family decision making. Typically the family council would be responsible for the development of the Family Constitution, for fostering sound relationship in the family, for being a sounding board, for providing a forum for conflict resolution and for the maintenance of the family registry and archives. A well functioning family council will comprise of both senior and junior family members of both genders and possibly also trusted external advisors. The council may be elected or nominated.

The **do's and don'ts** are important to define so that all family members are clear on their boundaries. Just as in certain members' clubs there may be a dress code or a code of behaviour, so a family can define codes of conduct and standards that are acceptable and those that are not. One family that we work with has a policy that if any member of the family is found to have engaged in the use of illegal drugs, that member will be suspended from receiving the family benefits until the member undergoes a rehabilitation programme. In another family situation it is forbidden for any family member to give personal guarantees without the approval of the family council. An example of "do" is that every family member shall contribute a certain amount of their time and income to a family fund to promote worthy charitable causes.

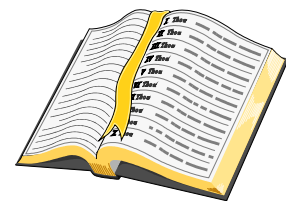
So when does one think of drawing up a family constitution and how do you go about creating a document that is suitable for your family? The "when" depends on the circumstances of the family – but doing it when family relationships are strong is a good starting point. However trying to set up a constitution without first having established some commonality of goals amongst family members and defining family values is likely to meet resistance and will be viewed with suspicion by some. If the need for a constitution emerges as a result of a wider family business review process, then it is likely that there will be a greater acceptance of the concept. The family council can take the lead, with help from family advisors who are familiar with the process, to prepare a draft constitution which should be subjected to review and comment by all family stakeholders. A constitution that is developed through a participative process is likely to have a greater chance of being adopted and implemented with success.

There are many benefits of having a family constitution. The constitution codifies the family values and objective and becomes a very useful reference point when conflict arises in family. Conflict within any family is inevitable but the true success of a family is how effectively it deals with conflicts. The ability to fall back on clearly

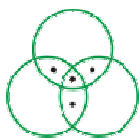
defined family values and codes of conduct greatly increases the chances that a conflict will be resolved in an amicable manner and to the satisfaction of all concerned through a fair process. A well crafted constitution will also create a sense of pride and belonging to a family that has a vision. As a family grows in numbers, and in today's world, in increased cultural diversity, having a constitution helps preserve and pass on family values. The constitution should however be reviewed regularly to recognize changing family circumstances and dynamics.

One family with over 30 adult members in the family was going through a rough period in family relationships as the family had grown and there were new family members through marriage. The core values of the family had been passed down by the elders through example. Many of younger generation of the family were educated in the west and sometimes their values appeared to be in conflict with the traditional values. When some members of the family realised that the tensions were increasing, they sought help to identify the key issues that were causing the tensions. One of the recommendations was that the family should formalise its values and philosophy by drawing up a family constitution. In the process of creating the document, the family members realised that they had much more in common than they initially thought and in fact they shared the same basic values, only that the interpretations were somewhat different. When the process was completed, the family came out as a stronger unit, with greater appreciation by all family members of its core values and a better recognition of the individual aspirations within the family framework. The family focus then changed to building stronger relationships between family members. As regards the business, the focus changed to what the family should be doing to meet the challenges of the market place as opposed to spending time on dealing with internal family politics.

As an example from one Constitution, the preamble reads, "*This document focuses on the family core values based on the family's religious faith to promote integrity, responsibility, humility, modesty, selflessness, perseverance, self-esteem, love, respect, harmony and unity. The creed sets out principles and practices to be observed by the family to promote continuity and growth, through unity. The family wishes to retain a sound relationship within itself, with employees, customers, suppliers, competitors and the community.*"



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