
THE DEARTH OF WOMEN DIRECTORS IN THE CORPORATE BOARD ROOMS

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ABSTRACT

The Companies Act, 2013 for the first time made it compulsory for the companies at a certain threshold to appoint at least one-woman director in the Board of Directors. Although the Indian Constitution has guaranteed both men and women with equal fundamental rights, but unfortunately, we still find gender discrimination deep rooted in the corporate field. Even when women are well-educated, qualified, and skilled, they are denied the top positions in the corporate boards. Today the corporate sector faces a dearth of women directors. No doubt women have entered the Board Rooms of many companies but still the number is scarce. Unfortunately, to fulfill the compliance set up by the Companies Act, 2013, the corporate houses appoint female members as directors from their own kith and kin. The female directors so appointed are mere puppets and have no actual role in corporate governance or decision making. The Act made a very welcoming move towards gender equality but the rationale behind such provision is defeated by the corporate houses through tokenism. A lot must be done in the field of empowering women in top positions in corporate sector. Corporate houses should not hesitate while employing women or promoting them and should take the presence of women as a boon and not a bane. This paper focuses on the practical application of the provision of the Act regarding the appointment of women as director, focuses upon the problem of tokenism, aims to highlight the benefits of having women as director in the corporate board and provides suggestion to ensure more gender diversity in corporate board.

Keywords: women director, corporate boards, tokenism, gender equality, corporate governance, gender diversity.

INTRODUCTION

The conventional and traditional Indian society prevented women to enter into public domain for long and also subjected them to inferior positions in the society. Gender Bias which is a result of patriarchal society and male supremacy ensured that women's condition always remained pitiful. Absence of women from leadership positions also depicts their unequal status in the society.¹ Gender bias by discrimination against women haunts the society till this day; and corporate sector is not an exception to it². Even though the Indian constitution guarantees the fundamental right to equality to all its citizens and further provides the right to equality in public employment, it is hardly practiced in corporate sector. The laws governing the corporate sector seldom give chance to women to ensure utilization of their full potential. A casual study of the list of the top executives in Indian companies is enough to depict the strong gender bias against the women. Most of the boards of the companies have an opinion to keep the women contended with soft jobs and uncomplicated tasks³. In such a system, it becomes very difficult for the women to work their way to the top of the corporate ladder i.e., the corporate boards of directors.

Traditionally also corporate boards constitute a cozy club of insiders, friends and are mostly male dominated. Our boardrooms have always been filled by men thus denying the chance to qualified women to enter the boardrooms. It is a sheer waste of talent as well as human resources. But now gender diversity in corporate boards is a very important concept and is widely gaining momentum. Women directors can contribute to excellence in corporate governance. Greater board diversity leads to better performance. This tends to remove the gender discrimination and other bias from the society and gives equal representation and opportunities to women. It diminishes the notion that directorship can be held only by typical male stereotypes. In the words of Hilary Clinton, "Women are the largest reservoir of untapped talent in the world. A company's performance is drastically impacted when a woman is on the Board. On similar lines, Jingdong Hua, IFC, VP and Treasurer observed that– "Empowering woman is not only the right thing to do. It is also the smart thing to do. It can add trillions of

¹ Women And Leadership: The State of Play and Strategies for Change (Deborah L. Rhode & Barbara Kellerman eds., 1st ed. 2007)

² Dr. E. Raju, Gender Discrimination in India, 2(5) IOSR J. E. F. 55, 55-65 (2014)

³ Siri Terjesen, Ruth Sealy & Val Singh, Women Directors on Corporate Boards: A review and Research Agenda, 17(3) Corporate Governance: An International Review, 320-337, (2009).

dollars to global GDP, boost productivity, generate higher returns on investment and promote greater organizational effectiveness.

Getting women on boards is not the game of numbers and is not about women's rights. Instead it is about the society as a whole and the companies and what they are losing by not involving women in the corporate boards. It is also about ensuring that the decision taken by the board is reflects the realities of societies and the markets.

WOMEN ON CORPORATE BOARDS: THE INDIAN STANDPOINT

The Companies Act, 2013 in India, provides for the appointment of a woman director in certain class or lasses of companies. Section 149 (1) of the Act provides that every listed public company shall have at least one third of the total number of directors as independent director. It says-

- Every company shall have a Board of Directors consisting of individuals as directors and shall have:
 - a. A minimum number of three directors in the case of a public company, two directors in the case of a private company and one director in the case of a One Person Company; and
 - b. A maximum of fifteen directors:
Provided that a company may appoint more than fifteen directors after passing a special resolution:

Provided further that such class or classes of companies as may be prescribed shall have at least one-woman director.

The proviso to section 149 read with Rule 3 of Companies (Appointment & Qualification of directors) Rules, 2014 states that classes of companies that are required to appoint at least one-woman director- every listed company and every other public company having-

- Paid up share capital of Rs. 100 crore or more.
- Turnover of Rs. 300 crore or more

Companies are required to appoint a woman director within a period of 6 months from date of incorporation. Existing companies were required to appoint woman director within a period of one year under section 149 (2). In case of vacancy of woman director, the same has to be filled

by the Board at the earliest but not later than the immediate board meeting or 3 months from the date of such vacancy whichever is later⁴.

This provision has been inserted in the Act to ensure that the women get reasonable opportunities to be appointed as directors in the company boards and to ensure gender diversity. The need for enacting this provision was felt due to the underrepresentation of women at the senior executive level in the corporate world.

REVIEW OF LITERATURE

The gender diversity in corporate boards and participation of women in corporate governance is a topic of heated debate and discussion. Even there are many large countries in the world that are yet to have women Board members. The report based on the survey conducted by Corporate Women Directors International (2013), shows that women occupied only 15% of Board membership of world's 200 largest companies. A board which is diverse in nature is most likely to approach corporate problem with different approach. It is also ideal for fostering creativity. There are volumes of literature and articles and reports that depict statistics about board diversity and how it can be extremely advantage for the company and its corporate governance. An attempt is made to review the concerned literature related to the present topic. As per Deloitte's⁵ analysis, women held 15% of all board seats globally in 2017. Catalyst, Quick Take: Women on Corporate Boards (December 21, 2018) publishes a report depicting various percentages of participation of women as directors and throws a light on the benefits of gender balanced boards. Many studies show that diverse Board structure has the potential to influence the actions and its subsequent performance (Carter, D'Souza, Simkins & Simpson, 2010) leading to increased market penetration, effective problem solving and corporate leadership (Jindal & Jaiswal, 2015). Gender Diversity is accepted by many as a 'performance driver' (Woman matter, 2010). Women are significantly expected to bring more international diversity to corporate boards. A Report titled Gender Diversity and corporate performance released by Credit Suisse Research Institute in August 2012 also shows how gender diversity is directly proportionate to better performance of the company. An article 'company with women board members make more money' published in the Times of India authored by

⁴ Rule 3 of Companies (Appointment & Qualification of Directors) Rules, 2014.

⁵ Deloitte Global Center for Corporate Governacne, "Women in the Boardroom: A Global Perspective, 5th edition, December, 2017.

Arundhati Ramanathan in 2014 also depicts the advantages of having women directors in corporate boards and the enhancement in the efficiency due to their presence.

STATEMENT OF THE PROBLEM

The main problem which is highlighted by this paper is that gender diversity in corporate boardrooms should not be ensured just for the sake of complying with the provision of the Act. The important question is that what is the need of mandating gender diversity in corporate boards by the law by inserting a specific provision? The companies should have awareness about the importance of gender equality on suo moto basis. They should not appoint woman director just out of the fear of disciplinary action. Basically, India's one woman quota on board of directors failed to bring the gender equality as well as gender diversity.

Another important issue faced in the way of gender diversity in the corporate board is tokenism. Most company boards appoint women director from their family, relatives and close friends and thus fulfill the criteria of appointing a female director under the provision of the Act. Thus the true essence of the provision is lost and no chance of equal representation and equal opportunity is yielded to women.

The last important issue which poses a problem for gender diversity in the corporate boards is mentality of the society. Women are not much welcomed in the executive field and in the corporate world. Men still hesitate to take commands or instructions from women directors. It is very unfortunate that even after being so skilled, talented, experienced and qualified; women in the corporate sector have to face discrimination on the basis of gender bias.

MEANING OF GENDER DIVERSITY ON CORPORATE BOARDS

Gender diversity means the presence of women directors on corporate board of directors. The boardroom of a company is the place where strategic decisions related to the company are taken, corporate governance is practiced and risk analyzed. Therefore it becomes very important the corporate boards are comprised of competent and high caliber individuals who are have skills, background and experience. Diversity ensures the promotion of different skills, resources and potentials of women and gives them equal chance of representation and equal opportunity. Corporate boards perform better when they include the best people who are highly skilled, talented and well experienced.

GENDER EQUALITY AND GENDER DIVERSITY

It was expected that the gender diversity can be achieved in corporate boards as women will step up in corporate hierarchies and excel the senior executive levels with their skills, knowledge and achievements. But as this did not happen, these ratios need to be forced into new configuration at the workplace in the interest of the enterprise⁶.

Gender equality is a broad concept which includes protection from sexual harassment at workplace and right to work with dignity. The concept of glass ceiling has to be given due importance as well. This concept gives a general notion that gender disadvantages are stronger at the top of the hierarchy than at the lower levels and they prove to be quite disadvantageous in a person's career⁷.

In India it is generally considered that there is a dearth of qualified and experienced women at executive levels and this is the main reason for the male domination in the company boards. It is generally seen that women have to overcome a lot of hindrances and hurdles to make a career and so a gender diverse boardroom seem to be a distant dream. Women who sit in the boardrooms are considered as survivors⁸.

Although the Companies Act, 2013 has enacted the provision mandating it for the companies to appoint a woman director but still it fails to ensure gender equality and gender diversity. The reason behind this is that there is no harsh and specific punishment for the non compliance of this provision under the Act.

REQUIREMENT FOR GENDER DIVERSITY ON CORPORATE BOARDS

The desirability of having more women in the boardroom is propagated by both proponents of corporate governance as well as advocates of women's rights. It is a general view that companies that hire retain and promote women are better equipped to capitalize on competitive opportunities. A number of propositions exist for the business case for the diversity on boards:

- Diverse boards are more independent and possess greater ability to monitor management.

⁶ Robert Jensen, *Beyond Race, Gender and Class: Reclaiming the Radical Roots of Social Justice Movements*, 12(2) *Global Dialogue* 1, (2010).

⁷ David A. Cotter, Joan M. Hermsen, Seth Ovadia & Reeve Vanneman, *The Glass Ceiling Effect* 80(2), The University of North Carolina Press 655, (2001).

⁸ Deborah J. McLaughlin, *Running in High Heels: How to lead with influence, impact & ingenuity* (2014).

- Diversity improves the decision making capacity of the board with the help of unique perspective, increased creativity and nontraditional innovative approaches.
- Diversity improves managerial functions and provides better information due to special skill, knowledge and experience.
- Diverse corporate boards send good signals to the labor, product and financial markets.

More women on corporate boards ensure better financial health of a company. Companies with more women on corporate boards are able to reduce their debt faster. Gender diverse corporate boards lead to good corporate governance, better decision making and positive corporate image. Failure to address gender diversity can lead to serious economic consequences in future. Women are more careful and conscientious in their work of supervision and scrutiny. They do not hesitate in asking questions in case of doubts. They are not overconfident and mitigate the risks. Males mostly suffer from ego. Women are more inclusive, detail driven, patient, and prudent and have better communication skills. They are naturally good performers. They formulate better policies and procedures and are more efficient in management. In the words of Targaret Thatcher- “If you want something said, as a man. I you want something done, as a woman.” Women tend to think objectively and in a broad perspective and are more sensitive towards social concerns. They voice issues relating to implications of companies’ strategies on their employees, consumers and their stakeholders. They prove to be more competent for decision making related to Human Resources, Corporate Social Responsibility, Marketing, Advertising and other compliance related issues. Women Directors are committed to corporate governance with global vision. Professionally also women tend to work harder than men. At the same time, they are emotional, nurturing and more innovative.

Women who are directors are perceived as role models and stakeholders are greatly influenced by them. They further influence and encourage women at all levels to grow in their respective fields. Women are true assets of a company. Focus and determined, they are breaking the glass ceiling and barriers that prevent them from entering the corporate boardrooms.

HOW THE LAW FAILS TO ENSURE GENDER DIVERSITY IN CORPORATE BOARDS

While this provision introduced under section 149 of the Companies Act, encourage gender diversity in the boardroom, it also suffers from some serious lacunae. The rationale behind the introduction of this provision is to ensure better representation of the women in the corporate sector and also their social upliftment. However, like the 33% quota for women in the local

self government bodies which brought women in the political and social sphere, but made most of them mere puppets in the hands of their male relatives, this quota is also used by the promoters to ensure their domination and control of their family. Even in the companies which have female board directors the purpose of the law stands defeated as nearly 25% of the women directors on the board are family members or close friends of the owner of the company. India has the third largest number of the publicly listed family owned companies and thus creating higher chances of tokenism. Reports by SEBI suggest that tokenism is practiced by approximately 12% of the listed companies. Here the so appointed female directors just fulfill the criteria of being a woman required by the provision of the Act but they do not add any substantial value in terms of innovation and creative thinking or help in solving the problems of the organization. They do not get the opportunity of decision making or voicing their opinions. They are not independent. And law fails to achieve the desired objectives.

For example, Reliance Industries Limited appointed Neeta Ambani (wife of Chairman Mukesh Ambani) as director and other companies like Godfrey Phillips India (Bina Modi, wife of K.K. Modi), Raymond (Nawaz Gautam Singhania, wife of Gautam Singhania), Asian Paints (Amrita Amar Vakil) and Kirloskar Oil Engines (Gauri Kirloskar) also appointed their own family members as directors in order to fulfill the criteria of the Act.

Companies hesitate to appoint fresh faces to the boardroom. Even hard-working, professional, talented, well-skilled and experience holder women who are expert in handling corporate affairs, find it hard to get a berth on the senior executive levels of the company.

Lack of proper policies failed to ensure the appointment of women on corporate boards and fail to retain the women at senior executive levels. Thus this creates a grave scarcity of women directors in the corporate boards.

Women are considered to be physically weak as compared to men. Corporate platforms are not considered level playing platforms for women. Another reason why the corporate houses hesitate to employ women on corporate boards is that they have to provide maternity leave to the women directors as well as many other benefits. They regard these benefits as well as the long durations of the leave as a loss to the company.

CONCLUSION & SUGGESTIONS

The provision for women directors to be on corporate boards in the prescribed classes of

companies is no doubt a progressive step and has initiated the momentum of gender diversity in the corporate sector. But still the statistics depicting the presence of women in corporate boards is not very encouraging. Even after so many benefits of having women at senior executive positions, we notice that there is a dearth of women in corporate boards. This is due to the mindset of society, and cultural reinforces that perceive women as homemakers and men as leaders. All this lower the self confidence of women and imparts a sense of hesitation to pursue executive level jobs. It poses a question on the ability of the women.

Further the issue of tokenism should be seriously addressed by the law because this practice defeats the objective of the provision enacted under the Act mandating the appointment of one woman director. The Act should be amended to mandate and restrict the practice of tokenism and paying lip service to the law. The Act should ensure the reservation of at least three seats for women in the company boards. It is important the gender diversity is understood in spirit and not just as a matter of law. Careful scrutiny and analysis of strengths is required to appoint a woman as director.

Awareness is much needed for gender diversity on boards. We need to make company understand that the female directors are advantageous for the bottom line. A network of female leaders should be developed connecting women in senior business leadership with less experienced women and it can prove to be very useful for talent development.

Training programs should be held for the women employees. Company should hire as well as promote female employees and managers. Women should be provided equal opportunity as that of men. This will prove to be more helpful than the government mandating female hiring quota for the corporate sector. As these quotas provide short term solutions and they do not address the fundamental reason as to why women struggle to become director in a company. They just make it compulsory to appoint female director and companies just try to fulfill it like any other ordinary compliance without understanding the importance and the sensitivity of the matter. For the Act to be a success, the onus of ensuring greater representation for women primarily rests on the board members.

To work the law both in letter and in spirit not only is a more independent woman board is needed, but a conducive environment also need to be evolved which encourages the women to take up realistic positions of power. It will require a complete shift in the corporate mindset to

embrace the legislative intent and put in place the practical solutions on the round to create an environment that allows for equal opportunities of development to women.

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