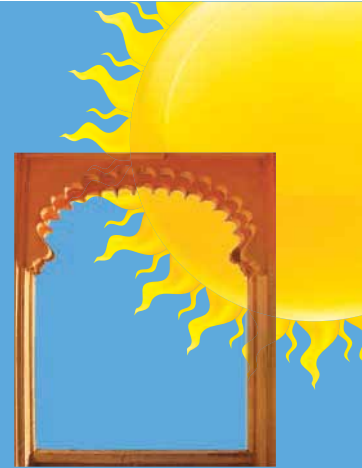


Gender Diversity on Boards

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Executive Summary

- Having women on corporate boards is a diversity measure justified on the basis of both social equity and business consideration;
- Global experience indicates that progress in the implementation of gender diversity is typically tardy unless mandated by law;
- European countries in general and Scandinavian countries in particular have progressed significantly in this field, with Norway heading the world with 35.5% representation of women on their boards;
- Effective 1 April, 2015, listed companies in India (with some limited exceptions) were required to have at least one woman director on their boards; close to 88% of the companies reportedly have complied.
- A large number of listed companies in India seem to have appointed women directors in response to the recent SEBI mandate; not surprisingly, most Indian listed companies have only one woman director, although studies have shown that companies with three or more women directors have outperformed those that have had less.
- Aside from absence of critical mass of women directors, a number of other issues have emerged; namely, independence of women directors appointed, paucity of potential independent woman directors and women directors' own perception.
- Capacity building, supportive boards and legislative action are essential for successful progress in this field.

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I. Introduction

Since directors with diverse backgrounds and experiences tend to look at problems and solutions from wider perspectives, diversity in boards has been widely considered as an important contributor to improved decision-making. True, greater diversity could potentially disrupt cohesion; but the associated cost may be worthwhile if it leads to better decision-making.¹

Gender diversity is a subset of the broader concept of diversity. Since men have historically dominated corporate boards in almost all countries, 'gender diversity' in the context of boards essentially implies getting more women on the boards.

Gender diversity in boards is predicated on two grounds. The first relates to social equity and human rights. Corporations and their boards do not operate in a vacuum. The societal prejudices do permeate organizations. Like in most other countries, the Indian society has traditionally assigned a secondary and often inferior status to women compared to men. This prejudice is reflected in the poor representation of women in corporate boards. Fortunately, significant increase in higher education, particularly in professional education for women has augmented the available resource pool of women candidates suitable for senior managerial positions. Nevertheless, the progress has been excessively slow, calling for direct action toward gender diversity at the board level.

The second ground for gender diversity is a business case. In other words, it is also in the commercial interest of companies to have greater gender diversity on their boards.² A detailed description of the 'business case' for greater gender diversity is given in the following section.

II. Business case for gender diversity

The business case for gender diversity on boards has the following five key dimensions:

a) *Augmenting board effectiveness*

Several research studies have discovered that better gender diversity augments the effectiveness of board in the form of better monitoring, improved decision-making and more balanced policies. Furthermore, it appears that a negative association exists between female directors and insolvency risk.³ For instance, a Leeds University Business School study showed that having one female director on the board appears to cut a company's chances of going bust by about 20%.⁴

b) *Positive relationship between gender diversity and company performance*

A report by Credit Suisse⁵, covering the performance of 2,360 global companies for six years up to 2012, has discovered that companies having female representation on their boards had superior financial performance (average return on equity of companies with at least one woman on the board was 16% compared to the average ROE of 12% for companies with no female board representation).

c) *Demand for gender diversity from institutional investors*

Institutional investors are increasingly seeing gender diversity as being important for board effectiveness and long-term shareholder value creation. For example, a major institutional investor, CalPERS has included gender diversity as one of the investment criteria.

¹ Dallas, Lynn L (2002), The New Managerialism and Diversity on Corporate Boards of Directors, University of San Diego School of Law, Working Paper 38, pp. 18-29

² Cadbury, Adrian (1992), Report on the Financial Aspects of Corporate Governance, Gee & Co.

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31480/11-745-women-on-boards.pdf

⁴ Ibid.

⁵ 'Gender Diversity and Corporate Performance', Credit Suisse; available at: <https://publications.credit-suisse.com/tasks/render/file/index.cfm?fileid=88EC32A9-83E8-EB92-9D5A40FF69E66808>

d) To leverage on the talent pool

In comparison to the share of global talent pool that women constitute, they are certainly underrepresented on the boards. It is thus clear that they should have greater representation on boards, not out of a sense of fairness but to ensure that the very best minds are brought together to address business challenges.

e) Being responsive to customer needs

Having women on boards, who in many cases would represent customers of the companies' products and services, could improve understanding of customer needs, leading to more informed decision making.

III. The Indian Scenario

The Companies Act of 2013, Section 149 (1) requires every company of a prescribed class to have "at least one woman director"; the prescribed class comprises all listed companies (with some exceptions; see Box 1) and every other public company having a paid up share capital of INR 100 crore or more, or, turnover of INR 300 crore or more. As regards listed companies, this provision is reflected in the Clause 49 (II) (A) (1) of the Listing Agreement. Also, SEBI had mandated that the appointment of woman directors to the board must happen no later than 1 April, 2015.⁶ If the listed companies remain non-compliant after 1 April, 2015, stock exchanges have been mandated by SEBI to levy monetary penalties starting June 30, 2015, while additional penal measures would be taken for those continuing to stay in default.

Box 1: Which listed companies are not mandated to have women directors?

Listed companies having paid up equity share capital not exceeding Rs 10 crore and net worth not exceeding Rs 25 crore, as on the last day of the previous financial year are not obliged to comply with Clause 49 of the Listing agreement. These listed companies are not required to have women directors, since the mandate to have 'at least one woman director' holds only for those listed companies in respect of which the Clause 49 is applicable. Following this criteria, as on 1 April 2015, out of all active (i.e., not suspended from trading) listed companies of NSE, it was not mandatory for 21 companies (source: Prime Database) to adhere to the provisions of Clause 49 and therefore to the provision of 'at least one woman director in the board'.

Corporate sector's response to the mandate

Our analysis is based on Prime Database data on woman directors as on April 1, 2015. These data are available for 1,451 NSE-listed companies.⁷ Out of these 1451 companies, 147 companies (10.1 %) did not have any woman on their board. Overall, women represented an estimated 12.3 % of total directorships. Exhibit 1 and Figure 1 set out the statistics relating to women directors.

⁶SEBI Circular letter of 15 September, 2014 to all Stock Exchanges, CIR/CFD/POLICY CELL/7/2014; Clause 2 in the Annexure of Amendments

⁷These 1451 companies are those NSE listed companies as on April 1, 2015 for which Clause 49 is applicable excluding all the 193 suspended companies (i.e., companies whose stock trading is suspended) and 5 active (i.e., not suspended) companies; these companies have been excluded because data on women directors for these companies are not available. Note however that even suspended companies are required to have 'at least one woman director', so long as Clause 49 is applicable to them.

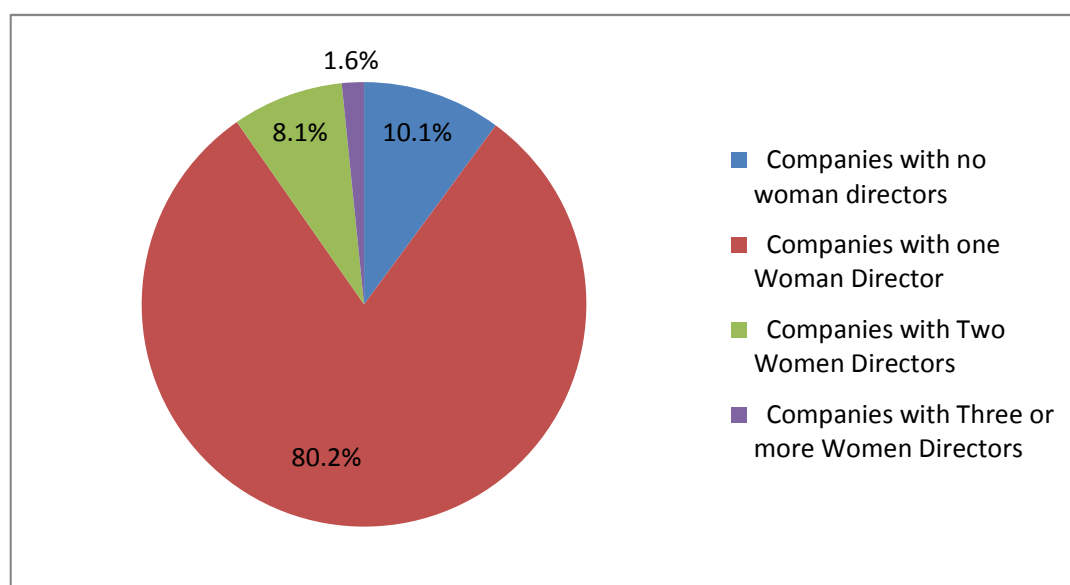
Exhibit 1: Women on Indian Boards as on April 1, 2015

Sr No.	Number of	Total
1	Covered companies (See Note below)	1,451
2	All directors in covered companies	9,384
2-A	Women Directors in covered companies	1,186
3	All directorships in covered companies	11,917
3-A	Women Directorships in covered companies	1,470
4	% Women Directors out of total Directors (2-A/2)	12.6%
5	% Women Directorships out of total Directorships	12.3%

Note: Covered companies are those NSE listed companies as on April 1, 2015 which were mandated to have woman directors and for which 'woman director' data is available with Prime Database.

Source: Prime Database

The data clearly shows the unflattering reality that even after the deadline for complying with the women-director mandate, women still constituted a very small part of the board make-up. The data further reveal that there was a spurt of appointments made in 2014-15 (762 women directors and 895 women directorships), clearly in response to the recent SEBI mandate. Even this compliance effort was delayed virtually until no longer avoidable; in March 2015 alone, 308 directorship positions were filled by women.⁸

Figure 1: Company-wise breakup of number of woman directors

Source: Prime Database

⁸ *Source: Prime Database*

IV. International experience

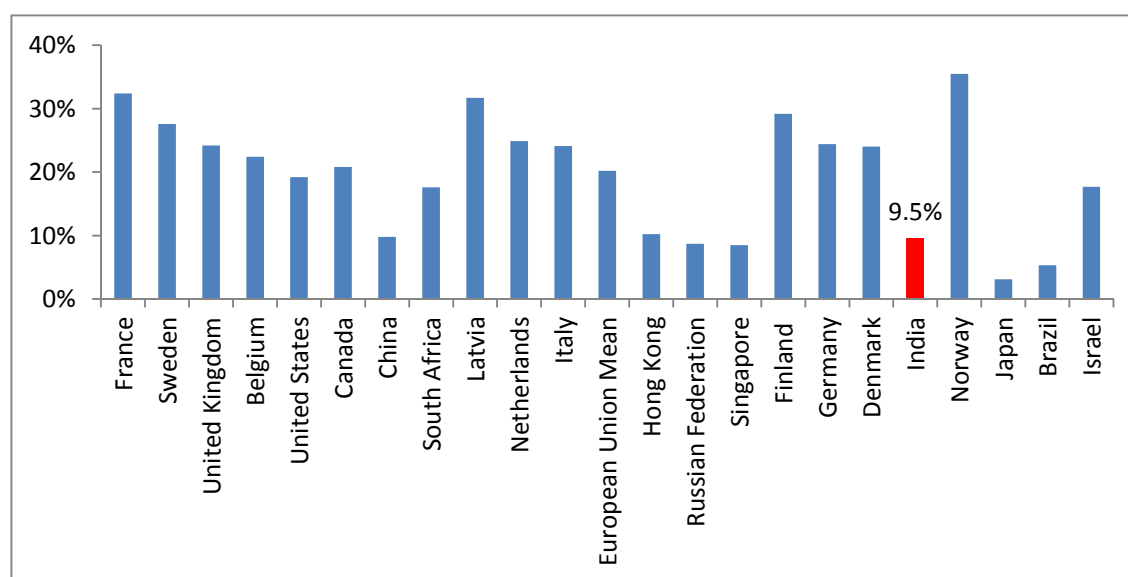
While it would have been desirable to leave all board appointments to the wisdom of the company boards, global experience has shown that without statutory or regulatory mandates, women appointment in company boards do not take off expeditiously. Norwegian boards are a case in point: from just 6.8% in 2002, the figure moved up to 24% by 2005; however it was still well short of its 40% target. Tough legislation came in 2008, and within months, the target of 40% was reached. However, women CEOs (2%) and Executive Committee members (10%) were still way behind desired levels.⁹

Similarly, dissatisfied with the tardy progress in member states in this important field of social reform, the European Commission has proposed to enact a law for setting a minimum of 40% for both sexes in corporate boards by 2020 (2018 for listed state owned enterprises). It is noteworthy that these provisions applied to both sexes and not only to the "under-represented sex". In other words, male representation on boards also cannot fall below 40% of the board strength.

Even the 'comply or explain' provisions did not lead to desired results within an acceptable timeframe. In the UK, for example, such measures initiated in 2000 led to an increase from 10.8% in 1999 to 15.6% in 2010;¹⁰ a veiled threat of legislation that the 2011 Davies Report held out has since helped the number move up to 23.5% by March 2015.¹¹

Globally, there have been accelerated pressures to improve gender diversity, especially in developed countries. From the dismal levels of female representation on corporate boards virtually in all countries, there were visible signs of change for the better in the first decade and a half of this millennium.

Exhibit 2: Women on Boards in Selected Countries as of October 2014



Source: EC-wob-factsheet_2015-01_en, Jan 2015, Catalyst and Data Morphosis

Clearly, European countries in general and Scandinavian countries in particular have progressed significantly in this field with Norway heading the league with 35.5% representation of women on their boards. India had a proportion of 9.5% women directors. Among the BRICS countries, South Africa led the group with 17.6%, while Brazil trailed last at 5.3%.

⁹ Women on Boards (2011), Davies Review Annual Report, p. 26

¹⁰ Women on Boards (2011), Davies Review Annual Report, p. 20

¹¹ Women on Boards (2015), Davies Review Annual Report, p. 4

V. Some Issues

Demand related issues

There is seemingly a lack of awareness on company boards about the importance of gender diversity--particularly about the business case. Further, the typical expectation for prior board experience from candidates further limits the opportunities for new female directors to join boards.

Supply related issues

There is a perception of shortage of qualified independent directors in India in general and among women in particular. One of the reasons for paucity of women directors is that in some cases, women who are capable of serving on boards do not do so due to a mix of reasons such as family responsibilities or being uncertain of how their skill sets fit the needs of the boards.

Women Director Independence

There has been some criticism in India that a substantial proportion of women directors inducted on to boards in this compliance-driven initiative are family members related to the controlling promoters and thus they lack 'independence'. Appointment of non-independent women on corporate boards may perhaps dilute the purpose of this legislative provision, and more importantly, deprive the corporations, to some extent, of the expected benefits of greater gender diversity. While there is merit in this line of thinking, it should be remembered that a vast majority of Indian companies are family or promoter-controlled, having inherent problems relating to effective 'independence' of directors, male or female.

Critical mass

In discussions on gender diversity in boards, it is customary to refer to proportions or percentages. But absolute numbers as opposed to fractions also seem to be quite relevant. Research suggests that for full benefits to be realized, it is necessary to have a critical numerical mass of women in the group. Studies have shown that companies with three or more women directors out-performed those that had less.¹² It is also observed that beyond a point, say of a third or two-fifths of team size, beneficial impact begins to taper down.¹³

Women directors' perception

Some interview-based studies¹⁴ suggest women directors do not particularly enjoy being made to feel they owe their position to their gender; they would rather that they deserved to be there for the value they add and the expertise they bring to the table. It is also suggested that while they were usually well heard, women were unsure if their voices carried the weight they deserved. Female directors who were chief executives or executive chairpersons of the board were the exceptions; they were certainly taken seriously possibly due to the executive authority they wielded.

VI. Some suggestions for action

- *Organize training programmes.* Paucity of suitably qualified women has always been cited as the main reason for fewer women on Indian boards. Several developed countries have adopted, concurrently with women-on-boards initiatives, programmes to increase and improve the resource pool of potential women directors. Going forward, similar short-term programmes aimed at developing directorial skills should be initiated in India, to which more and more women can be nominated.

¹² Konrad, A.M., V W Kramer, and S Erkut, (2008), Critical mass: The Impact of Three or More Women on Corporate Boards, *Organizational Dynamics*, 37:2 (April-June), pp. 145-164.

¹³ Anita Woolley and Thomas Malone (2011), What makes Teams Smarter? More Women, *Harvard Business Review*, June

¹⁴ http://www.communitybusiness.org/images/cb/publications/2010/WOB_India.pdf (Standard Chartered Bank: Women on Corporate Boards in India: 2010); Building the Women Directorship Pipe line in India: An Exploratory Study, Vasanthi Srinivasan and Rejie George, NSE-IIM Bangalore CG Research Initiative, Paper 2, August 2013

- *Assistance from senior colleagues.* Qualitative research has highlighted that women on boards tend to feel intimidated and overwhelmed by their senior male colleagues, even when they were fully qualified and suitable for the role. Therefore, board chairs and other senior colleagues have a role to play in ensuring that women who come on board do not feel intimidated.
- *Going beyond the mandate.* An overwhelming majority of listed companies in India (about 80 percent) now have just one woman on their boards, as many companies appointed woman directors to comply with the recent legal mandate to have ‘at least one woman director’. Increasing the number of women on boards--preferably by encouraging more first time directors--beyond the currently (minimum) mandated level of 1 woman director, can make them more confident, assertive and effective, as evidenced by research. It may be a difficult task at this point of time because of the issues stated above, but its usefulness cannot be overstated.

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Recognizing the important role that stock exchanges play in enhancing corporate governance (CG) standards, NSE has continually endeavoured to organize new initiatives relating to CG. To encourage best standards of CG among the Indian corporates and to keep them abreast of the emerging and existing issues, NSE has set up a Centre for Excellence in Corporate Governance (NSE CECG), which is an independent expert advisory body comprising eminent domain experts, academics and practitioners. The ‘Quarterly Briefing’ which offers an analysis of emerging CG issues, is brought out by the NSE CECG as a tool for dissemination, particularly among the Directors of the listed companies.