Agenda of Women Empowerment at the Boards – Amendment to Companies Act

Yogesh Patel*, Charul Patel**

*Head, Dept. of Accountancy , S.K. Somaiya College of Arts, Science and Commerce, Vidhyavihar, Mumbai, India.
**Asst. Prof., Department of Accountancy, SIES College of Commerce and Economics, Sion, Mumbai, India.
Email: yogy_patel@yahoo.co.in, charulyp@yahoo.co.in

Abstract: India has a brand new company law that's more appropriate for the 21st century and its challenges. The new Companies Act is a landmark in the history of Corporate India. The 1956 Act was passed in the first decade of Free India; the business landscape has changed radically in the last 60 years. The Act replaces the existing Companies Act, 1956, which has been amended at least 25 times in the past 57 years, with many of its provisions found to be outdated and inadequate.

The new Act introduces a new provision relating to Women Directors**.** It stipulates at least one woman director's appointment on the Board of a company. This is a step in the right direction. The world over, many women professionals have succeeded in eliminating the invisible glass ceiling — and Indian women are not far behind.

Women constitute 24 per cent of the Indian workforce. The 1980s and 90s witnessed increasing number of women enrolling in engineering and management institutions in India. Many of these graduates find employment in software, banking, consulting, telecom, hospitality, even entertainment. In some B-schools, women outnumber men in class strength.

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1. The Backdrop

The status of women in India has been subject to tremendous changes over the past few millennia. From equal status with men in ancient times, through the low points of the medieval period, to the promotion of equal rights by many reformers, the history of women in India has been eventful.

In modern India, women have held high offices in India including that of the President, Prime Minister, Speaker of the Lok Sabha and Leader of the Opposition. As of 2011, the Speaker of the Lok Sabha and the Leader of the Opposition in the Lok Sabha (Lower House of the parliament) were women.

However, women in India continue to face atrocities such as rape, acid throwing, and dowry killings while young girls are forced into prostitution. According to a global poll conducted by Thomson Reuters, India is the "fourth most dangerous country" in the world for women and the worst country for women among the G20 countries.

The Economic Times, Aug 13, 2013 [1], GMI Ratings' Women on Boards Survey 2013, even on the world's best-known companies, women account for only 11 percent of total directorships. In India, a sample of 89 companies with more than \$1 billion in market valuation, the women percentage is less than 7 percent. And we are talking only about the biggest companies here.

According to The Economic Times, Aug 13, 2013 [1], though we have women CEOs in banking, IT, media and hospitality industries — and yet this is more the exception than the rule. The number of women reaching top management positions is still low. Women constitute only 14 per cent of senior management positions in India, against the global average of 24 per cent. This number falls to a paltry 5 per cent when it comes to top management or board positions.

2. Workforce participation

Contrary to common perception, a large percentage of women in India work. National data collection agencies accept that statistics seriously understates women's contribution as workers. However, there are far fewer women than men in the paid workforce. In urban India, women participate in the workforce in impressive numbers. For example, in the software industry

30% of the workforce is female. In some of the workplace women enjoy parity with their male counterparts in terms of wages and roles.

In rural India in the agriculture and allied industrial sectors, females account for as much as 89.5% of the labour force. In overall farm production, women's average contribution is estimated at 55% to 66% of the total labour. According to a 1991 World Bank report, women accounted for 94% of total employment in dairy production in India. Women constitute 51% of the total employed in forest-based small-scale enterprises.

One of the most famous female business success stories is the Shri Mahila Griha Udyog Lijjat Papad. In 2006, Kiran Mazumdar-Shaw, who founded Biocon, one of India's first biotech companies, was rated India's richest woman. Lalita D. Gupte and Kalpana Morparia were the only businesswomen in India who made the list of the Forbes World's Most Powerful Women in 2006. Gupte ran ICICI Bank, India's second-largest bank, until October 2006 and Morparia is CEO of JP Morgan India.

On the brighter side of our nation where the developed society resides names like Chanda Kochhar, Naina Lal Kidwai, Indra Krishnamurthy Nooyi, Shikha Sharma, Ekta Kapoor, Sunita Narain, Neelam Dhawan, Sulajja Firodia Motwani, Vinita Balli, Mallika Srinivasan, Sara Mathews, Aruna Jayanthi ……dominate the Corporate Sector. These names are few and can be counted on hands.

But when we look at the overall picture, we find that in India the presence of women in board rooms is worse than the globally bad ones. The presence of women in board rooms and their contributions has been rather rare case in India. Considering the fact that Indian corporate sector is the world's second fastest growing economy, it has no reassuring numbers of women as boards of directors. Business Today, September 2011 edition [2] says that, Women constitute only 5.3% of the total number of board members in the top 100 companies by market capitalization on the Bombay Stock Exchange (Report by Standard Chartered Bank, 2010).

The IPOs issued in India since 2002 and listed on Bombay Stock Exchange were investigated for the women presence on board of directors. The sample for gender diversity of boards includes 404 IPO issuing companies during the period April 2002 to March 2012 [5]. The issues which were delisted or listed on NSE or on which complete information could not be gathered were dropped out from the final sample. The study reveals the following:

Table 1: Gender wise categorization of board positions

Gender	No. of directors	Percentage (%)
Male	2991	95.16 % %
Female	152	4.84 %
Total	3143	100 %

From Table 1, we can see that the percentage of women directors on the board was only 4.84% as compared to that of the men directors who comprised 95.16 %. This clearly reflects low representation of women on the boards.

Table 2. Designation of women directors as Chairperson/MD

Designation	Number of women	Percentage
CHAIRPERSON	7	4.61%
MD	5	3.29 %
Chairperson & MD	1	0.65 %
Other Positions	139	91.45 %
Total	152	100%

From Table 2, we can see that the percentage of women directors as Chairperson was 4.61%, as MD was 3.29% and as Chairperson and MD was a meager 0.65%. Therefore the percentage of women director occupying other positions was 91.45 %.

Table 3. Gender wise status of board members

STATUS	MALE	%	FEMALE	%	TOTAL
EXECUTIVE	1062	33.92	68	2.17	36.09 %
NON-EXECUTIVE	403	12.87	51	1.63	14.50 %
NON-EXCEUTIVE INDEPENDENT	1516	48.42	31	0.99	49.41 %
TOTAL	2981	95.21	150	4.79	100 %

The Table 3 shows the representation of men on various board positions as executive, non-executive and non-executive and independent was 95.21 % whereas that of women was merely 4.79 %.

These results show that there is yet a lot of work to be in the direction of empowering women on the board of directors of corporate in India.

3. The Beginning of a Change – The New Companies Act, 2013

On 29 August 2013 the new Companies Bill finally received the President's assent that made it into a law, thereby replacing the six decade old regulations under the Companies Act, 1956.

The Companies Act, 2013 [4] allows for a contemporary legislation for regulation of the corporate sector in India. The Act, amongst other aspects, provides for business friendly corporate regulations, better corporate governance, focus on corporate social responsibility, enhanced disclosure norms, investor protection, introduction of class action suits, one-person companies, capped auditors' tenures and increased the number of independent directors on the boards of listed companies in an effort to improve governance etc.

One of the most interesting features of the law is that, it seeks to ensure more female oversight on how companies are run in the world's largest democracy that is battling the worst sex ratio since independence in 1947.

Corporate leaders in India have been watching the new Companies Bill's passage through the houses of parliament closely. The bill mandates at least one woman on the board of a certain class of companies — to be determined by the rules that are being framed potentially based on market cap. While there are murmurings of quotas, in reality, this is a progressive step that continues the move to increased discipline in governance and an innovation orientation.

Almost half of the top 100 companies traded on BSE Ltd., including the biggest two by market value, don't have a single female member, according to data compiled by Bloomberg. As many as 6,000 women directors will be needed as firms look to fill the seats, estimates Ms. Preeti Malhotra, who helped draft the law.

Firms that don't have a female board member include billionaire Mukesh Ambani's Reliance Industries Ltd., Dilip Shanghvi's Sun Pharmaceutical Industries Ltd., Asia's largest generic drug maker, and Tata Consultancy Services Ltd., the continent's No. 1 software exporter by value.

Table 4. Country wise presence of females as directors on board

Country	Percentage of women
Norway	36.3
Finland	26.4
Sweden	26.4
South Africa	17.4
France	16.6
Denmark	15.6
Australia	13.8
Germany	12.9
US	12.6
China	8.5
India	**5.2**
Brazil	4.5
Japan	1.1

Source: *GMI Ratings' 2012 Women on Boards Survey, March 2012*

The Table 4 shows the presence of females as directors on board in various countries and the huge variation from the highest 36.3% in Norway to the lowest 1.1%T in Japan is observed.

Michaels III, E. G [11] in his study clearly says that the case for diversity is proven. A group comprising people with different mind wiring and experiences can deliver intellectually superior and innovative outcomes on any issue compared to a group which is homogeneous.

Fernandez, J. P [8] says that this argument applies to gender diversity on corporate boards . In addition, effective corporate boards are about 'balance'. They must be fierce watchdogs yet supportive mentors of the management; they must ask tough, detailed questions on business and management performance - even while respecting the management's freedom to perform. They need to ensure the balance of long- and short-term orientation, and the good of all stakeholders - investors, employees, business partners and society at large, and ensure the right company values and talent pool.

Apart from the famous McKinsey study of 2007, multiple studies in diverse countries have made the case for women on boards. For example, the 2011 study of Dutch companies by M Luckerath-

Rovers of Nyenrode University [7], showed that companies with female directors performed better, financially, than those that did not. The research argues that besides governance roles, Boards are a critical linkage mechanism to the broader environment, and to that extent diversity is important for all four linking features they establish - understanding otherwise illusive information, communicating to the environment, getting commitments of support from key external stakeholders and legitimizing in the eyes of partners and current/future employees. This last feature is a critical one in the Indian context, where firms struggle with the retention of key talent.

A recent study by Booz & Company estimates that if Indian women could achieve employment rates equal to men, the country's GDP would increase by 27 percent.

In addition, emerging research from the Center for Talent Innovation has strongly correlated diverse boards and diverse leadership with innovation and growth in market share. The research will be public shortly, but we're talking double digit deltas when compared with companies with non-diverse leadership.

A 2007 study by McKinsey & Co. found that European companies with women in senior management reported higher return on equity, better earnings and steeper stock price gains than their peers.

This not only makes the case for balancing intellectual, life and career experiences and skills on boards, but also for balancing masculine and feminine traits. Researcher Sandra Bem [9], a Stanford University psychologist, developed the concept of 'androgynous' behaviour. "Androgynous people can be aggressive or yielding, forceful or gentle, sensitive or assertive as the particular situation demands," she says. Given a board's job description, androgynous individuals would make great board members. But we know that while masculine and feminine traits are present in all human beings, the process of socialisation causes one set of traits to dull. So perhaps, the best way to create androgynous boards is by having a good mix of men and women on them.

But why are there are so few women on Corporate India's boards, and how do we change that? One key constraint in India is that of supply. We just don't have enough board-ready women [executives]. There is need for a talent pool to be identified and prepared for serving on boards. Companies complain that they cannot find enough of them. This is partly true. But the whole truth also includes the way the nominations committee process works in most boards. All too often the short listing is done by asking 'Is there anyone we know who will be good for this board'. Given the skewed ratio of men and women in visible senior positions, the default option usually is a man.

There are several qualified women out there, and the way to find them is for nomination committees to spend some money and advertise, or ask a headhunter to systematically create a database from which to choose. If nominations committees were to follow more formal search processes and adopt affirmative action, there will be a quantum jump in the number of women on Indian boards, without lowering entry standards in any way.

At Wipro's recent annual general meeting, Chairman Mr. Azim Premji told shareholders that the company would have a woman on its board before the next such gathering. "We are working actively to induct a women director," he said. According to media reports, Wipro has been on this task for quite some time now. In February last year, in an interview with business daily *The Economic Times*, Mr. Ashok Ganguly, an independent director and chairman of the nominations committee of Wipro's board, had said that the company was talking to several women candidates. Mr. Ganguly noted: "The discussions so far have been very encouraging…. Women leaders come in with a lot of experience and they bring different perspectives…. We are actively searching."

Ms. Vasanthi Srinivasan, associate professor of organizational behavior and human resources management, and Ms. Rejie George Pallathitta, associate professor of corporate strategy and policy, at the Indian Institute of Management Bangalore, recently presented a study on women directors on corporate boards in India. According to them, "In most organizations, the process of identifying and grooming potential women directors is not a structured or formal one. The talent management process must work toward developing the required skills and competencies and create a pipeline of potential women directors."

According to the Bloomberg Business Week, October 2013 [3], the research from the Center for Talent Innovation has shown that there has been a significant Off Ramp issue as women drop out at mid-management levels due to a combination of pull factors (societal expectations, the pressure to be the care provider to children and to parents, the lack of infrastructure for childcare and education, etc.) and push factors - unfriendly work environments play a significant role: 72% of Indian women professionals leave because their careers are not satisfying or enjoyable; 66% leave because they feel their career progression is stalled. The good news: An overwhelming 91% of Indian women want to return to work, similar to the US (89%) and significantly more than Germany (78%).However, there's bad news for employers: 72% do not want to return to their former employer. There is a stereotype of success - for example, 73% of women at multinational companies and 55% at Indian companies say they need to compromise their authenticity to conform to their company's standards of executive presence.

Hence, such an initiative can have a significant directional impact. Larry Senn first wrote about the Shadow of the Leader in 1970 [6]. It gestures at the reality of how leaders through their likes, dislikes, treatment of subordinates, language and idioms, beliefs and values tends to shape the characteristics, culture and ways of doing business in the organisation. When you have a highly male leadership, norms emerge that tacitly exclude - think of the "let's do business over a round of golf" or "over a drink" and you'll get the picture of how excluded an average Indian woman leader might be.

A cautionary word - there is much written about how difficult it can be for a single representative of a minority (be it a woman, minority, young leader or a different capability like a non-engineer in a group of engineers) to be heard. I will watch this space closely to see how the first generation of brave business leaders fare, as they make inroads into large promoter and family-controlled boards and boards that have never had a tradition of engagement with diversity.

4. Merely Tokenism and Nepotism

Heavy-handed enforcement could subvert the spirit of the law, according to Abbott, as some family-controlled companies choose to plug wives, mothers or daughters as board directors. The Indian law doesn't specify if women directors have to be independent.

"Tokenism and nepotism clearly have the potential to diminish the benefits" found in his study, Abbott said that "If the CEO's wife is appointed to the board, I can't really see too much benefit in that type of action."

Susan Stautberg, who co-founded an organization, Women Corporate Directors around her dining table 13 years ago, said that her organization nurtures "boardable women" on "everything from what questions you could ask the investment banker trying to sell a deal, to where to sit, to when to ask a question or make a comment." Woman Corporate Director (WCD) in India is headed by Ranjana Agarwal. It is building a database of qualified female candidates for board positions.

"Corporates complain they can't find women willing to be directors and our database can fill that gap," she said in an interview. "The new law is definitely a catalyst. It will make companies look beyond the old boys club while hiring board directors."

Should we women worry about whether a company including just one woman on the board is 'tokenism'? No absolutely not. Even though being the only one of a kind is daunting, we need to instead ask ourselves once on the board: do we show independent thought, and spine, or do we try desperately to belong to the male club that recruited us as tokens thereby frittering away the opportunity to demonstrate the effects of genuine diversity? Women board members should not buy the conventional wisdom of audit committees being the most powerful place to be. That is just where the money gets counted.

On the other hand, there is enormous, long-lasting value to be added to the company and society by being on the remuneration committee and implementing reward systems that look beyond financials and incentivize 'value right' business-strengthening behaviour. Nomination committees are also crucial because that is where who comes on the board and how is decided. That is where the board perpetuates itself. That is the place from which gender diversity on boards can be driven and better boards built.

5. Mentoring of Women

Mr. Arun Duggal, chairman of Shriram Capital and a veteran international banker along with Ms. Anjali Bansal, managing director of Spencer Stuart India has initiated a mentoring programme to get more women onto corporate boards and . Mr. Duggal, who is running the programme in his individual capacity, has also roped in several leaders including M Damodaran, Deepak Parekh and GM Rao, to mentor women for directorship positions in the country.

"The fundamental objective behind the programme is to have better gender balance in boardrooms and to mentor competent women who can go on to become independent directors," says Mr. Duggal, who is also a visiting faculty at the Indian Institute of Management (IIM), Ahmedabad, and is on the boards of several companies. Otherwise, a big part of a company's stakeholders — employees, customers etc. — is not adequately represented and the perspective is not broad enough to have multiplicity of views.

Ms Bansal focused on the studies of Biggins, J. V. [10] and she believes that women at all levels in corporate India can play a major role but they do require mentoring. "We have very high-quality women entering the workforce, but there is a lot of leakage at the middle management level. Having enough role models will prove that there are different ways of making it work," she says. Mr. Duggal adds: "Our goal is to mentor and place 100 women in board positions in the next one year. But there is also an issue of mindset [of other board members]. We need to ensure that these women are effective as board members. And we hope that in due time this program will no longer be needed."

The concept of a mentoring program came to the duo after an interaction with the New York-based Catalyst Group, which last year did a pilot project in the U.S. under which 15 women executives were mentored for board positions. "That initiative went off well and is now being done in places like the U.K., Canada and Australia. So I thought we could try something similar in India," says Mr. Duggal.

Mr. Duggal will be the programme director for the first year and will assist the mentors and the participants when required. He will initially run the programme in partnership with Ms. Anjali Bansal, MD of Spencer Stuart India, after which they will try to institutionalise the initiative and seek an industry body, management institute or a group like the Catalyst of the US to take it forward. He might take on a mentoring role at that point.

The idea, he adds, is to expand the availability for boards a pool of women who are distinguished in their own field and ambitious enough to move to the next level and contribute to improving corporate governance. "We reached out to chairpersons of BSE 100 companies and found that corporate leaders agree on the need to increase the representation of women on board. This programme is an outcome of that initiative," says Bansal.

"Indian boards need more diversity of all sorts. Gender diversity is one very important aspect," says M Damodaran, former chairman of Sebi. "Corporate boards need more women board members, who can often bring a different perspective. Initiatives such as mentoring can help identify potential directors and equip them to graduate to board positions."

Mr. Duggal and Ms. Bansal have currently recruited around 50 India Inc. leaders with board experience to act as mentors and around 100 women executives have signed up for mentoring. One batch of mentor-mentees has already been matched. The mentoring will go on for around three months and includes a prescribed reading list, weekly calls and meetings to understand the responsibility of board members. Wherever possible, mentees will get the opportunity to attend board meetings after getting the required permission from the respective boards and signing the requisite confidentiality agreements.

Women - including Mukeeta Jhaveri, a former investment banker and wife of Citi India CEO Pramit Jhaveri, Vinati Kastia, partner with AZB & Partners; SC Sharada, director of Lex Valorem India, and Mythily Ramesh, co-founder and CEO of NextWealth- have signed up so far.

Hari Bhartia, co-chairman and managing director of Jubilant, Saroj Kumar Poddar, chairman of Adventz Group, Saurabh Srivastava, chairman of CA Technologies India, DA Prasanna, chairman and managing director of Ecron Acunova, Nihal Kaviratne, chairman of Akzo Nobel India, and MS Verma, former chairman of SBI, have also signed up as mentors.

The mentoring process will start from August and take around three months during which the mentees will get first-hand experience of how things work in boardrooms and understand the roles boards play in corporate governance, policy making and strategy. The mentee will be invited to attend a few board meetings, committee meetings and the company AGMs, after signing a confidentiality agreement. After completing the programme, the mentee will be assisted in joining a suitable board with the help of the mentor, programme director and executive search firms.

6. Boards Need Diversity

Mattis, M., [12] highlights that having more women on boards can benefit companies in several ways. For companies where women are key customers, a woman board member can bring valuable insight. Women also bring a unique skill set of creative inputs, out-of-the-box thinking, collaboration and more wisdom to the table where ethical issues are concerned. "In companies where 30% to 50% of the workforce is female, a woman board member can bring into discussion aspects pertaining to women employees that men can't easily think about," says Kaviratne, whose earlier global career with Unilever spanned 40 years.

Agrees Mukeeta Jhaveri, who Kaviratne will mentor: "More women in the workplace and on boards will result in a better work-life balance for families overall." Javeri, who has a background in finance, investment and marketing and was formerly with DSP Financial Consultants in international capital markets, feels this is the ideal way for her to get back into corporate India after having a ring side seat for 18 years.

7. Conclusions

Compared to the stiff quotas in the Europe, the norm proposed in India is a modest, yet important, beginning. Research studies indicate a more representative Board enhances governance, ethical behavior and shareholder value.

The conclusion drives us to fact of the situation being grim but the ray of hope lies in the mandate provided by the provision in Companies Act, 2013 on this issue. Compulsion of appointing at least one woman as a director can prove to be the balancing act but does that happen in spirit would have to be investigated.

At the face of it, it is a corrective action to bring in the balance in board rooms in terms of gender, talent and skills. It is important for corporate boards to ensure gender diversity, but before that happens, a supply of women eligible for board positions needs to be created. Clearly, major efforts will have to be made to create more women directors, but before that there have to be more women reaching the top of the corporate hierarchy. The legislation should act as a spur to women's empowerment, but compliance could be years away.

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