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THREE IS NOT A CROWD: CRITICAL ANALYSIS OF PRESENCE OF WOMEN ON CORPORATE BOARDS

- Prety Priya & Mansi Mathur[1]

"One woman in the boardroom is a token, two is a presence, three is a voice."

ABSTRACT

The 2013's Companies Act was a landmark legislation with extensive reverberations. The Act makes efficient attempts to synchronize a branch of Indian corporate law with International conditions as well as financially liberal western standards. Despite the well-intentioned law, *arguably* the most welcomed yet critically debated aspect of the progressive legislation is the amendment to Section 149. It necessitates specific Companies to include a woman in the Board of Directors. The affirmative action stems from Constitutional values of gender equality and equal opportunity (Article 14 and 15) and Directive Principles *directing* a framework for equal possibilities for women in the workplace as well as other necessities such as maternity leave and fair wage (Article 39(a), 39(d) and 42). However, the point of contention arises when the requirement is a mere formality the Company needs to tick as opposed to serving its underlying purpose of women empowerment. According to Forbes, women only account for 17% of Board positions in India with only 11% filling leadership positions, consequentially, India ranks among the bottom 10 countries with one of the lowest number of women in senior management(Shekhar)(Deloitte).The primary tenet of this paper centres around critically analysing Section 149 of the Companies Act, 2013. The Authors aim to postulate that the mandate is an inadequate response to the paucity of women on Corporate Boards. Further, the paper intends to engage in discussions regarding need for more women in executive positions, working women and their interconnectedness with family and societal

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obligations as well as a comparative analysis of India and New Zealand's affirmative actions in the Corporate Sphere.

CONTENTIOUS QUESTION OF QUOTAS: "TOKENISM" *VERSUS* MERIT

The most evident failure of the mandate, which originates from the lacuna in the law is established conglomerates appointing female family members on the board. According to Harvard Law Review, "most boards fulfilled the quota by appointing female directors who were independent (outsiders/ kins), rather than insiders — 70.4% of women appointed to previously all-male boards were classified as independent"(Aguilera, Kuppuswamy and Anand). The term 'director[2]' is not comprehensively defined in the definition clause, and only a holistic understanding of the Act would explain the roles and responsibilities bestowed on Directors. Section 149[3] discusses the heterogeneity in the Board where the second proviso states that, "companies as may be prescribed[4], shall have at least one-woman director". The Section or any rule neither mentionsany kind of "qualifications" required by woman directors nor does it mention any restriction on their appointment. In all fairness, the Companies Act is completely silent about any professional or academic qualification requirements for Directors, male or female. However, considering that the Legislature took cognizance of the stagnant career trajectory of women employees due to patriarchy or societal conceptions that deprive women from top level leadership roles, it can be argued that further measures safeguarding their position could have also been included. The present mandate creates a "check the box attitude" where a single women director is appointed to comply with the law so, the decision-making power still rests with the remaining male directors. An obligatory appointment of a woman director which is either a family member or has no qualifications to participate in commercial decision makingfurnishes no benefits for the female employees in the corporate. This postulation can be elucidated by the Social Identity Theory that proponents' individuals who are in *ingroup* or majority hegemonize members of the *outgroup*

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[2] Section 2(34) states that, "director means a director appointed to the Board of a company".

[3] Section 149(1) states, "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".

[4] According to Rule 3 of the Companies (Appointment and Qualification of Directors) Rules, 2014, "the following class of companies shall appoint at least one-woman director- every listed company; every other public company having – paid–up share capital of one hundred crore rupees or more; or turnover of three hundred crore rupees or more".

(minority)(Mathisen, Marnburg and Øgaard). In a corporate set-up, men constitute the ingroup whereas women make up the outgroup hence, a single woman in a board full of men would be empowering only on paper and hold no productive value(M. M and Faisal). Studies suggests that there must be at least three-woman board directors to establish a "critical mass" and actually voice opinions and contribute to the policy making process(Konrad, Kramer and Erkut).

In the context, Critical mass is the"number or percentage that represents a considerable minority instead of a few *tokens*on the board". In comparison to India, Germany has a 40% reservation whereas Italy and Belgium mandate a 1/3rd quota. The authors contend that, in addition to the mandate acting like an obligation, Companies need to fulfil (that according to Ministry of Corporate Affairs, 21% company do not comply with) it also serves no financial, moral, or social purpose since, a single woman director cannot meet "critical mass[5]" criteria. A formative study by Prof. Kanter discusses that Corporates with fewer woman in comparison to men tend to identify women as symbols or "tokens" as opposed to capable decision makers. Organisations observing women as tokens are more likely to discriminate and create a male dominated work environment. Tokenism is defined as "a policy or practice that is mainly symbolic and involves attempting to fulfil one's obligations concerning established targets, such as voluntary or mandated gender quotas, with limited efforts or gestures, especially towards minority groups and women, in ways that will not change men-dominated power and/or organizational arrangements"[6](Kanter).The existent research focusing on gender diversity in the board room and inclusion of women divert their attention to presence of women but, not their roles and responsibilities(Kesner). Women appointed as symbols due to the mandatory requirement are often not elected in committees with strategic importance. Hence, in a Corporate Sphere, any type of affirmative action must warrant socio-economic development and not only social upliftment. (Afsharipour)(O'Reilly and Main)

[5] Within the broader conversations of gender politics and collective action to enhance gender parity, the 'critical mass theory' precisely explains why women's representation on board needs to go beyond symbolism. The critical mass theory is defined as the "critical number of personnel needed to affect policy and make a change not as the token but as an influential body."

[6] Definition by "The European Institute for Gender Equality (2021)".

THEORETICAL ARGUMENTS FOR APPOINTMENT OF WOMEN EXECUTIVES

Although the discussion on board diversity and firm performance has been mostly descriptive, it can be examined in terms of three key theories in every corporate setup- Agency theory,Social capital theory, and Human Capital theory.

Agency theory assumes that “managers and shareholders are expected to have potentially conflicting interests.”[7](Eisenhardt) Simply put, the agents (managers or directors) of the principals (shareholders) are therefore, responsible to ensure that the interests across groups are aligned.Nekhili and Gatfaoui suggest that gender diversity in the boardroom in this regard, has a significant impact on corporate governance to the extent that female directors would be stringent and more meticulous in monitoring the relationship between shareholders and directors/managers.(Nekhili M) The agency theory in this case, is employed on the assumption that women directors are more likely to bring fresh perspectives on complex issues which can potentially lead to resolving informational biases in formulation of strategies and other functional and administrative issues. Further, according to Carter, Simkins and Simpson, women directors are expected to ask more questions in the boardroom than male directors which enhances their decision-making process.(Carter) The global economic system is continuously changing, with corporate governance mechanisms becoming essential determinants of companies’ present and future performance. Moreover, ‘monitoring’ as of one the essential responsibilities of the board has attracted global attention post the *Enron* and *WorldCom* scandal with greater emphasis on managing information biases and agency conflicts. As Adams and Ferreiraconcluded, female directors have better attendance than their male colleagues adding to the hypothesis of women influencing a sincerer monitoring approach.(D) Moreover, board diversity in terms of gender effectively furthers the idea of equity-based compensation which is one of the significant challenges in the broader conversation of equality.

“Social Capital” is a product of 19th century classical school of Sociology. Ronald Burt an American Sociologist has worked extensively on the concept, articulates social capital as the relationship an individual shares with others(Burt). In a corporate set-up, *Social Capital Theory* manifests as Director’s linkage and connection with other organisations; internal relationship with the members in their organisation and their social standing. There is an

[7]Available at: https://www.jstor.org/stable/258191?seq=1

evident correlation between effective governance and Board of Directors. Social Capital Theory helps in selection of Directors that would contribute to the effective governance primarily by focusing on Corporate Governance issues of Board Composition, social connections to stakeholders and independence. Research in Social Contract Theory propagate a positive relationship between women and firms' performance. In contemporary Corporate Governance, social capital is more essential than traditional managerial and leadership skills. It is not the stereotypical warm or maternal nature that is analogous to woman but, the ability to maintain strong social bonds with stakeholders that is the very foundation of efficient corporate governance(Kawachi, Kennedy and Lochner). A study based in China held that, "specific benefits that flow from the trust, reciprocity, information, and cooperation associated with social networks" are associated more with women than men(Ren and Wang). Another theory that is auxiliary to Social Capital Theory and posits towards the presence of more females' executives is Human Capital Theory. Becker's approach to Human Capital Theory argues that human capital in terms of education, training, skills, experience, or productive capability of any individual holds a stronger value than physical capital(Becker). There is a conspicuous gender disparity in all spheres of live, especially the Corporate Environment. Men more than women are appointed in more leadership and promotional chairs, where they are the deciding parties in who advances to top-level management. According to a McKinsey & Co. report, for every 100 men that are promoted to a managerial role, only 85 are selected for the same role. In furtherance, to every 17 male CEO there is one woman CEO. Men outnumber women in every business sector hence, for women with same qualifications its thrice as hard to get the same position as their male counterpart. Only a minority of women break the "glass ceiling[8]", and the primary contributor to that is existence of more human capital in the selected woman executives than men; since, women competing with men continuously strive to increase their qualifications and abilities. Additionally, even if the human capital is the same, the characteristics of human capital in woman is critically distinct in terms of mindsets and strategic decisions from men. Therefore, women executives increase the cumulative human capital in a board that has a positive resonance with firm's performance. (Smith, Smith and Verner)(Kesner)

[8] "The term *glass ceiling* is a metaphor for the barriers preventing women and other marginalized people from reaching higher levels of professional success."

COMPETENCE *VERSUS* KINSHIP: FAMILY OWNED BUSINESSES AND WOMEN REPRESENTATION IN THE BOARD

Once a year, a small group of executives who control crores in Indian companies, among several things discuss push for greater say in how companies are run. It is an elite gathering, however, commanded by men. The area of corporate governance underscores one of the many areas where men dominate. In an era where corporate governance is playing a growing role within the broader ecosystem of corporate India, representation of women in family owned businesses where ownership is concentrated primarily by the men in the family, is further limited in addition to their already unavailing representation in the Board. The power to express opinions independently, without influence, is rarely wielded to directors who are women. Expectations of economic growth and family-based workplaces are misplaced. Contrary to the belief that family owned businesses would probably foster better understanding and coordination within the board, corporate board gender quotas in such a framework, seems worthwhile only with respect to the fact that it disrupts an orthodox narrative of having only men in the boardroom. The Board of Directors in Reliance Industries Limited and Kothari Petrochemicals Ltd. are classic examples of representation of women as being symbolic rather than purposeful[9].

A material change in the tradition would be when women's voices were as accentuated and as distinguished as men in the board. In family businesses, the maintenance of socioeconomic wealth usually takes precedence over the fact that women yield significant financial advantages in corporate positions in non-family businesses.[10] The *Contingency theory of leadership* posits that in order for leaders to become effective, they must align their leadership approach or attributes with a specific setting or context. Simply put as a 'leader-match theory', leaders attempt to match their leadership attributes to specific circumstances.[11](J) The leadership approach and how women make decisions in corporate positions therefore, significantly differ in family owned businesses and non-family owned businesses. In family owned businesses, the profit and loss in 'socioemotional' wealth constitute the fundamental frame of reference for women making strategic and political

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[9] The Companies appointed Mrs. Nita M. Ambani and Mrs. Nina Bhadrashayam Kothari respectively on their Corporate Board following the legal mandate.

[10] Available at https://home.kpmg/xx/en/home/insights/2020/11/the-power-of-women-in-family-business.html

[11] Available at https://www.jstor.org/stable/pdf/resrep13849.13.pdf

decisions in the family.[12] Therefore, although board diversity is considered an effective mechanism to enhance corporate governance, in family owned businesses, women's role in the board is restricted and primarily channelled towards the family owners, who are predominantly men. Consequently, the sway of family owned businesses adversely moderates the positive correlation between women directors and the performance of a firm, and limits their representation in the board as merely being symbolic and compliance with regulations.

THE WORKPLACE PENALTY

There is a very strong narrative that most of gender inequality is based on motherhood, which to an extent is true. However, while 'motherhood penalty' for married and pregnant women are well-documented, researchers are now beginning to identify another group i.e., single women, facing obstacles which even though not the same as married women, have direct implications on the united hope of a gender diversified workforce. The pandemic underscored an overwhelming challenge for working mothers with several of them either feeling burned out or stalled in their careers while struggling to maintain a work-life balance along with child care, or quitting the workforce altogether. However, recent sociologists' arguments suggest that even women early on in their careers, without families, are disadvantaged in their workplaces as they are often stereotyped as lacking leadership abilities.[13] They are often seen as too 'masculine' for the leadership while the same characteristics seem to benefit single men. The stereotype is primarily based on the belief that women who are married and who raise children, possess 'communal, relational' leadership qualities, which single women lack.[14] Jennifer Merluzzi, and her co-author Damon J. Phillips in a recent study, found that even single women who possessed superior analytical skills, who they said could probably be future CEOs and leaders of companies, were also witnessing this penalty in their workplaces.(D.J) Women with intersectional backgrounds further face a wider range of microaggressions.[15] In a 2017 study, researchers found that "single female MBA students downplayed their ambitions and career goals in front of their classmates, presumably to appear as more palatable spouses."[16] Anecdotally, several women can be said to relate to this sense of being penalized for their gender irrespective of their marital status.

[12] *Id* note 8
[13] Available at https://journals.sagepub.com/doi/full/10.1177/01708406221081619
[14] *Id* note 11
[15] Available at https://wiw-report.s3.amazonaws.com/Women_in_the_Workplace_2021.pdf
[16] Available at https://www.aeaweb.org/articles?id=10.1257/aer.20170029

"The literature is starting to catch up to the fact that there are more family structures, and the dynamics of those opportunities and restraints need to be better understood."

-Bobbi Thomason, Pepperdine University's Graziadio Business School

Merluzzi and Phillip in their research, while commenting on how stereotypes could hurt career advancements, conducted an experiment surveying several students in a university. The survey asked about two candidates applying for the same position at an investment bank with the same resumé, where one candidate was named Anne and the other was named Tim, both being unmarried and without children. On being asked about Anne and Tim, both of who were single, the participants of the survey however, responded differently. Anne was considered to be 'too analytical' and who lacks leadership qualities, "which was going to block her ability to manage people". However, when the candidate was Tim, with the same resumé as Anne, he was considered to be an ideal candidate and was preferred to be ideal for a promotion in the job because he was 'quantitative'[17]. The results of this survey are classic examples of how 'masculinity' or 'analytical skills' are read differently relative to gender, and which results in significant career sanctions for several women.

"These women are trying harder and doing more face time and all these things thinking this is going to help, and that's the precise thing that they are then being discriminated against by acting too much like a man, because they are single."

- Jennifer Merluzzi

The awareness and acknowledgement of the fact that gendered stereotypes expand beyond motherhood is the first step to remedying the problem. The barriers women face in boardrooms or even in the process of reaching executive positions in the corporate ecosystem, keep shifting depending on age, race, marital or parental status, and so on. Therefore, women face compounded penalties in their careers early on as well as later in life. Considering the developing corporate framework, it is imperative that employers acknowledge the fact that we tend to code people differently based on their marital status which effectively maps onto gender expectations and put significant career sanctions on women.

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[17]By quantitative, they meant that Tim was articulate and could gauge perfectly as to what was required for the position in the firm

WHY WE NEED WOMAN ON BOARD: A CRITICAL ANALYSIS OF SECTION 149

The need for women on corporate boards is an open and vexed question where every logical argument incline towards appointing more women. There are multitude of reasons that substantiate the debate. The most recognized aspect is *gender diversity*,however, focusing on the superficial value of women representation[18] is deeply flawed. Studies have established that women in leadership roles contribute to governance and suitable power-sharing. Catalyst, a global non-profit group that has conducted multiple researchprojects and concluded that arguments for recruitment of women directors include- diversity of opinions in the Board; women directors deal with risk-based decisions efficiently; more suitable for addressing concerns of customers, employees, shareholders, and the local community; women on board would motivate and uplift other female employees(Catalyst).

This section of the paper aims to analyse the correlation of woman directors and their impact on the Business Environment. An instance can be theappointment ofMs. Nita Ambani, she is a non-executive and a non-independent Director on the Board of Reliance Ltd., she is involved in various philanthropic projects in association with the Reliance group[19]. Ideally, a Non-Executive Director provides guidance and participates in strategic decisions, however, there is no direct public evidence of Ms. Nita Ambani’s contribution in business management decision. She has reportedly been involved in the branding and marketing for Reliance’s Jio. However, there is extensive participation in projects such as “Reliance Foundation, Dhirubhai Ambani International School as well as in initiatives in Rural Transformation, Health, Education, Sports for Development, Disaster Response, Arts, Culture & Heritage and Urban Renewal[20]”. Nita Ambani’s work has augmented Reliance’s public image and satisfied their corporate social responsibility. The only controversial aspect of Nita Ambani’s appointment is that it was in light of the Companies Act mandate[21]. Reliance Ltd., waited till implementation of a law to appoint their first woman director. Further, they excluded skilled and educated women in Reliance’s senior management as well as external experts to recruit the wife of the Managing Director. The Authors proponent that, woman director’s role is often limited to cultural and social aspects that contribute to Corporate Social Responsibility

[18] The outer appearance of appointing women employees in pursuit of a better public image or satisfying corporate social responsibility.
[19] Available at https://www.ril.com/OurCompany/Leadership/BoardofDirectors_OLD.aspx.
[20] Available at https://www.reliancefoundation.org/.
[21]As Reported by Economic Times, 2014. https://economictimes.indiatimes.com/nita-ambani-becomes-first-woman-director-on-reliance-board/articleshow/36765126.cms?from=mdr

in comparison to strategic business management."Gender serves as a diffuse status cue on the basis of which individuals heuristically ascribe lower status to women than to men". Hence, the gendered perspective creates an institutional difference between the roles allocated to men and women. Often, men take over core committees,whereas, women are considered *communal* (social, caring, cooperative, emotional) therefore, delegated non-business/ financial operations.(Weck, Veltrop and Oehmichen)According to an Institutional Investor Advisory Services 2020 study, only 11% of the total woman directors are appointed in Executive positions with only 31% of them being professional Executive Directors[22]. As far back as 1986, a Wall Street Journal survey concluded that, "the highest-ranking women in most industries are in non-operating areas such as personnel, public relations, or, occasionally, finance specialties that seldom lead to the most powerful top-management posts", and the trend still persists (Weck, Veltrop and Oehmichen). Section 149 fails to regulate internal affairs and equity in responsibility in the Board Structure.

"The glass ceiling will go away when women help other women break through that ceiling."

-Indra Nooyi

Catharine MacKinnon's theory of feminist Jurisprudence highlights that sex-based discrimination in the eyes of law is rooted in two arguments- women are same as men or women are different from men(MacKinnon). In a Corporate set-up, Companies as well as authorities often believe that gender-equality policies include placing women and men on the same level without being cognizant of the issues women face such as maternity leave, patriarchy, societal pressure about education, marriage, childcare as well as gender gap, sexual harassment at workplace, and stereotypes(Barnett). The "leaking pipeline[23]" analogy i.e., skilled and working woman have shorter career trajectory due to societal issues is the crux of the problem. Mainstream feminists believe that appointing woman as directors would facilitate other women to also break the glass ceiling and pursue a corporate career. It is argued that women leaders would advance and help other women employees since, they can connect and identify with the concerns on their side of the gender spectrum. Nita Ambani has been named in the Fortune 500's Most Powerful woman. Reliance Ltd.pioneers itself as a

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[22] Available at: https://www.iiasadvisory.com/institutional-eye/corporate-india-woman-on-boards-2020.

[23] The "leaking pipeline" metaphor is a way to describe the decline (leak) of women from their field of employment due to the work environment such as low wages, no maternity leaves, lack of promotion, sexism, etc.

champion of women rights and equality, they aspire to have 15% women employees by 2030 and according to 2021's statements, they have no reported sexual harassment cases or workplace discrimination. Nita Ambani has also significantly contributed to women empowerment by various social project. In 2021, she launched "Her Circle", and by 2022, it was India's fastest growing digital platform for women. The digital app focuses on connecting women around the nation and help them network professionally and socially as well as advancing their skills and education so, they can enter the workforce[24]. Additionally, following Ms. Nita Ambani's appointment, the Company has started multiple skill-based initiatives to encourage women leaders. "These include Jagriti and Pragati, professional and personal development programmes such as Flying Lesson and R-Aadya and a unique story sharing platform 'Her Story'. Programmes such as 'We Women Leader' aim to develop managerial skills among women employees."However, as assessment of their 2018-19 annual report [25]states,there are only 5.7% of women employees in comparison to 20.8% of women in the Indian workforce. [26]In a Board with 14 directors, only two account for woman directors. Further, the reports are silent about women employees at different levels in the Company,and the gender gap and salary issues.Appointment of a single woman director or a woman director in family firms cannot create a business environment with more women.There is a need for independent, skilled woman in executive decision-making position to advance and enable other women employees. Section 149 is a bare text law that simply mandates step one in a long process to ensure gender equality and fairness.

WOMEN IN THE BOARDROOM: COMPARATIVE ANALYSIS BETWEEN INDIA AND NEW ZEALAND

With an expanding corporate ecosystem and the realization of the need of more gender diverse boardroom, owing to the established positive correlation between women directors and firm performance, more countries have committed to advocating for greater boardroom diversity and taking meaningful actions to change the status quo. The progress, even though slow, has seen a significant improvement compared to the last decade. According to a study conducted by Deloitte on 'Women in the boardroom', only a handful countries had committed to action on boardroom diversity. A few of them had also introduced quotas,

[24] Available at: https://www.indiatvnews.com/lifestyle/people/nita-ambani-launches-popular-women-empowerment-platform-her-circle-in-hindi-2022-03-08-763266
[25] Authors prefer analysing a pre-pandemic year for a fair assessment.
[26] Available at: https://www.ril.com/ar2018-19/ril-annual-report-2019.pdf

including Norway, France, and Italy. In the span of a decade however, according to Deloitte's latest 2021 report on diversity in the boardroom, over seventy markets, nearly all of which where local organizations or governments have committed to increasing the number of women in the boardroom.[27] (Deloitte, Women in the boardroom) Further, with increasing significance of equality to be realized not just within gender but beyond that, conversations are also extending to ethnic and racial diversity. Within the broader conversations of gender politics and collective action to enhance gender parity, the 'critical mass theory' precisely explains why women representation on board needs to go beyond symbolism. The critical mass theory is defined as the "critical number of personnel needed to affect policy and make a change not as the token but as an influential body."[28] (Krook) Although 30% is the critical mass at which minority voices become heard, we are advocating to first make a representation that is not just illustrative but meaningful, and therefore, "it is the floor for what we are pushing for, not the ceiling." Even in countries with relatively diverse boards, progress at the executive level remains underwhelming, precisely because efforts to move beyond the 'critical mass' are severely lacking. Having established the inadequacy of the 'quota mechanism' for increasing women representation on the board, the authors would now delve into a comparative analysis between India, where the realization of the hope of greater gender parity is still a long road, and New Zealand, which has made exemplary efforts at increasing women representation not just in boardrooms but in almost all executive positions in the corporate framework. The purpose of the analysis is to establish the uneven progress across countries. The statistics are at turns "hopeful, encouraging but also ambivalent and frustrating."

New Zealand

A topic that continues receiving media attention and debate among the business community in New Zealand is that it does not have quotas for women's representation on boards. However, despite the lack of legislation on the same, the Prime Minister Jacinda Ardern has continually emphasized the need to have women in all decision-making positions. Consequently, the New Zealand government has made successful efforts to increase female participation in state-sector boards and committees, reaching its target of 50% female

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[27] Available here: https://www2.deloitte.com/global/en/pages/risk/articles/women-in-the-boardroom-seventh-edition.html

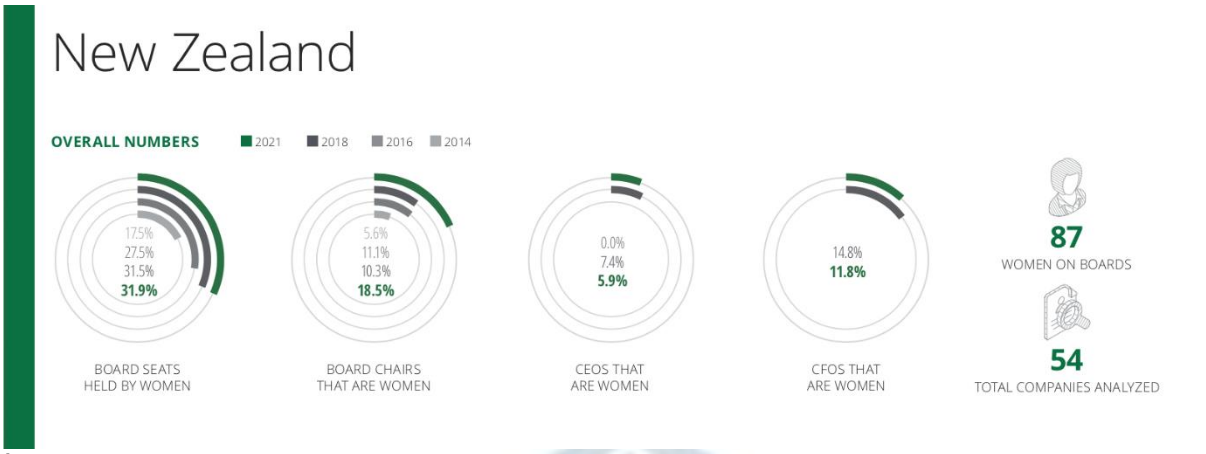
[28] Available here: https://www.jstor.org/stable/44484170?seq=1

participation by 2021.[29] Further, some of the largest New Zealand businesses have also made notable progress with women holding 31.6% of directorships across companies, which is a 4% increase from 2018.[30] With a target to achieve at least a 40% representation of women on the board, as of March 2021, they were just one woman short of achieving the target after four years of unwavering efforts.[31] Additionally, to build leadership opportunities and encourage women participation, several legislations including ones which extend paid parental leaves, training programs, rise in the minimum wage, and so on, have been enacted in order to strengthen the conduit for women moving into senior management and board positions.

The numbers	**Percentage**	**% Change**
Percentage of women directors on All S&P/NZX[32]-listed company boards	22.5%	0.1% (2019)
Percentage of women directors on S&P/NZX 50 company boards	31.6%	2.6% (2019)
Percentage of female state-sector Board and committee appointments	50.9%	5.2% (2017)

33

[29] *Id* note 25
[30] *Id* note 25
[31] *Id* note 25
[32] The main stock exchange market index of New Zealand.
[33] *Id* note 25

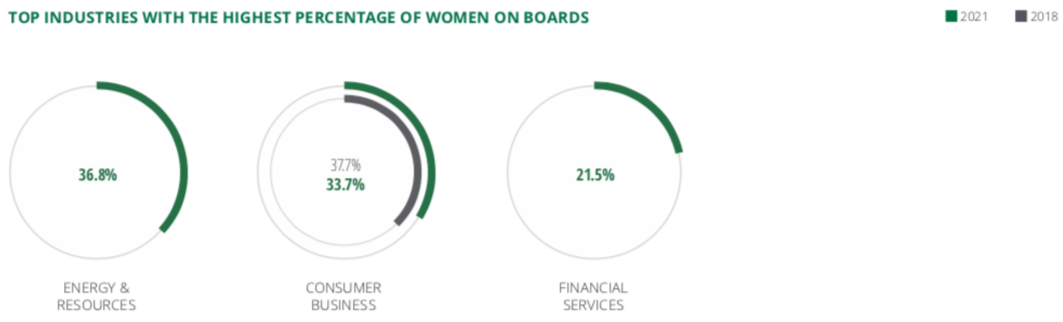


34

Average Tenure (Years)				Average Age (Years)			
Men		Women		Men		Women	
6.4	**6.7**	**4.8**	**4.5**	**62.9**	**59.6**	**56.8**	**53.0**
2021	2018	2021	2018	2021	2018	2021	2018
BOARD MEMBER				**BOARD MEMBER**			

35

[34]*Id* note 25
[35]*Id* note 25



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The data suggests that the New Zealand government as well as the corporate environment understands and acknowledges the fact that diversity of thought and variety of experience allow boards to make faster and better decisions. There is a significant difference between a board, predominantly made up of people with similar backgrounds and experience, an environment which has not been fostered to allow diversity throughout culture and operations of an organization, and one which understands the value and benefit of having a diverse set of mindsets to deliberate on important corporate decisions. The representation of women in corporate New Zealand not only fulfills the critical mass mandate even without legal mandates,but also hopes and makes active efforts to go beyond the threshold, because it is not about fulfilling the mandate but to realize the bigger dream of equal opportunities.

India

As discussed earlier in the paper, listed companies and other public limited companies in India are required to appoint at least one woman in their boards as under Section 149 of the Companies Act, 2013. According to a listing requirement in the Securities and Exchange Board of India (SEBI), the boards of the largest thousand listed companies, as ranked by market cap, were required to have at least one female independent director by April 2020.[37] In case of non-compliance, such companies are subject to a fine of INR 5,000 each day until the listing requirement is met. In an attempt to address components of diversity beyond gender, SEBI also introduced a listing requirement for companies to disclose a matrix

[36]*Id* note 25

[37] Available here: https://www.sebi.gov.in/sebi_data/meetingfiles/apr-2018/1524031522572_1.pdf

detailing the skills, expertise and competencies of the board in their annual reports.[38] As of March 2019, companies were also required to list the skills and the measure of expertise they believe are required for every director on the board, and as of fiscal year ending 2020, boards were also required to disclose which directors fit those skills and expertise.[39]

The numbers	Percentage	% Change
Percentage of women on boards: National Stock Exchange of India (NSE)/ Bombay Stock Exchange	16.8%	-
Average percentage of women on Boards	10.3%	-

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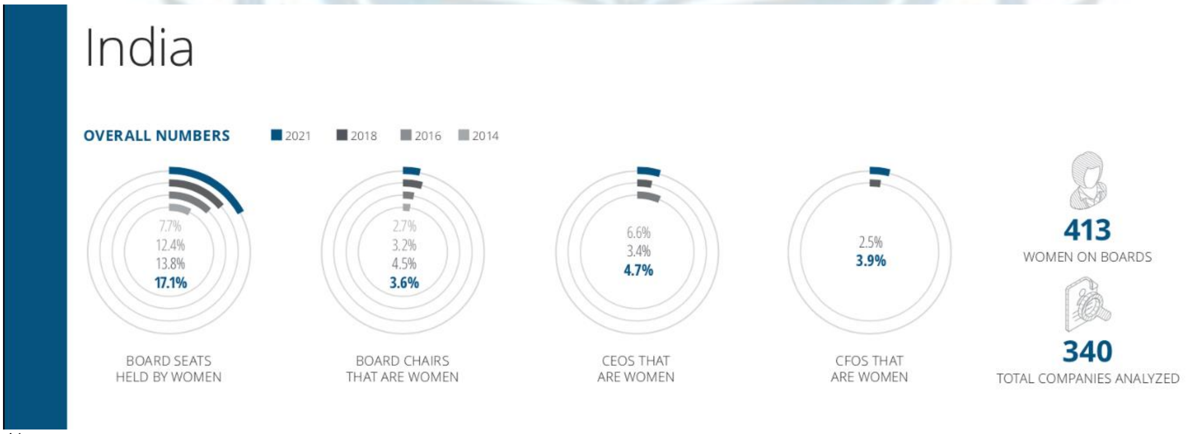

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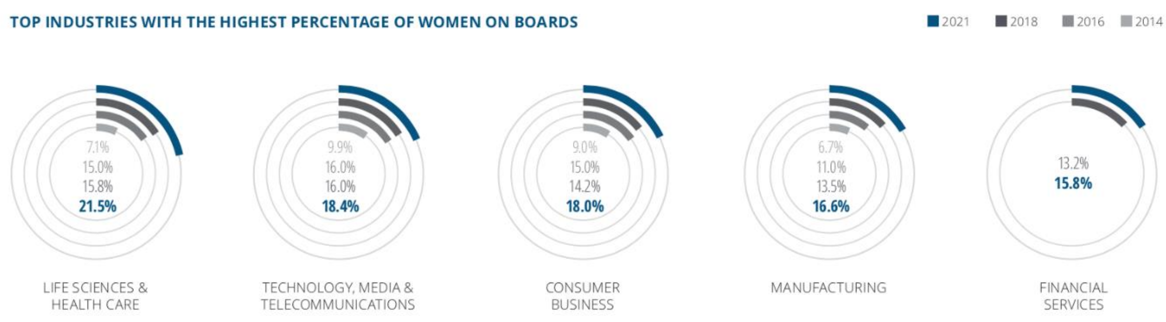
[38] *Id* note 34
[39] *Id* note 34
[40] *Id* note 25
[41] *Id* note 25

Average Tenure (Years)				Average Age (Years)			
Men		Women		Men		Women	
8.1	**8.0**	**5.1**	**5.0**	**61.1**	**61.8**	**57.4**	**57.5**
2021	2018	2021	2018	2021	2018	2021	2018
BOARD MEMBER				**BOARD MEMBER**			

42



43

Notedly, Indian regulators have constructed a holistic framework to ensure greater representation of women in key positions in corporate organizations as abovementioned, however, the same is evidently ineffective to even reach the critical mass percentage i.e., 30%, and which means that India has not even reached the ceiling to make an impact in the conversation of gender parity. The numbers suggest a significant gap between the ideated measures and ground realities. It is therefore time that Indian corporates realize the need to have a diverse boardroom not just to comply with regulations but for the greater benefit of the

[42] *Id* note 25
[43] *Id* note 25

company and for the purpose of having a seat in the table where gender parity takes precedence over the comfort of staying with orthodox narratives.

SUGGESTIONS AND CONCLUSION

There has been a discernible rise in woman in Corporate Board from 5% in 2012 to 18% in 2022(Deloitte). One may assert that the Amended Section followed by the SEBI mandate[44]is a successful approach, however, the Authors expostulate that hypothesis. This paper has highlighted several *lacunas* in the law. First, appointment of one director is an inefficient response to the lack of women in the workforce, it is more of a token or symbol. They cannot independentlytake decisions that would help other women employees or efficiently utilize their human or social capital. Gender Diversity in workplace is not about numbers and percentages. Quotas and Mandates is functional in opening doors for women and minorities to join however, disregarding their contribution and viewpoint does not add value to the organisation. While there is difficulties in changing mindsets and perceptions, it is necessary to inculcate diverse opinions in a board room to deliver to a *diverse* range of stakeholders. Being anonly woman on the Board creates a sense of isolation, two men form a minority group however, presence of three women would lead to shift from women being categorised as “female executives” to simply directors. Second, conglomerate have appointed their kins on the board to fulfil the legal obligation. A 2017 survey conducted by Uday Kotak Committee on Corporate Governance highlighted that there is a need of a women “independent” director on board. There are no stringent laws that regulate internal work environment and opportunities for women. Hence, there is a need of women with experience and expertise in the field. Appointing family members to fill the vacuum is antithetical to the purpose of the law. An independent director would not have “material or pecuniary” relation necessitating companies to appoint women other than their family members. Taking cognizance of this gap, the Securities Exchange Board stated that top 500 listed companies must have at least one independent women director. Following this, Reliance Ltd.,appointed Ms. Arundhati Bhattacharya as an independent director. She was the first woman to head State Bank of India and has suitable skills and expertise to serve on the board. Additionally, numerous studies have concluded that woman directors are restricted to non-core committees

[44] “Section 149(1)—read with clause 49 of the (Securities and Exchange Board of India) SEBI listing agreement and Rule 3 of the Companies (Appointment and Qualification of Directors) Rules 2014—provides that every listed company or public company with paid-up share capital of 100 crore rupees or turnover of 300 crore rupees or more shall appoint at least one-woman director.”

and not given the reign to important financial activities(Weck, Veltrop and Oehmichen). This is rather a product of patriarchy and societal perceptions than the law, however, the legislation fails to acknowledge that women are not same as men. There are societal and family obligations women have to satisfy before competing in the corporate sphere. Any affirmative action should cater to such struggles, and hold policies such as gender wage gap, women in senior management, maternity leaves and benefits at a higher pedestal than social responsibility.

As established in the paper and what studies have been consistently suggesting is that when diverse views come together, they are most likely to challenge their own assumptions and each other's. Therefore, a more diverse team is not just the right thing to do. It is a tangible business advantage. Although significant progress has been made in the corporate world to acknowledge gender diversity, it is important to note that the progress has been extremely slow paced. Globally, the average representation of women is just under 20% i.e., 19.7%, an increase of just 2.8% since 2019.[45] According to the report by Deloitte, if this rate of change is to continue, we could expect to reach something near parity in 2045. However, there has been a slight acceleration in the pace compared to last year, which estimated the milestone to be reached in 2052, which has now been reduced by nearly a decade.[46] Whether it is family owned corporations where there is a need to not restrict women and increase their representations by bringing independent directors who are not from the family, or by acknowledging the phenomenon of workplace penalty which is predominant regardless of a woman's marital status, there is a need for corporations across the world to address the concerns that stand in the way of women's leadership. The government and the corporations together need to make active efforts to invest in women's career trajectories in lieu of the fact that business is better when it is led by both halves of the global talent pool.

"The real work won't stop with hitting a quota. That's where it begins."

[45]*Id* note 25
[46]*Id* note 25