
GENDER EQAULTY - A TRIBUTE TO COMPANIES ACT, 2013
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Abstract: Equality, Equity, Justice, Discrimination and Inclusivity have been a matter of debate among jurists and philosophers from archaic times. During the pre-independence stage, Gandhi had neglected women in his campaigns but gradually felt the need to include vast proportions of the women population and to go away with the legacy prejudices of caste, creed, gender and sex. The corporate culture felt under the garb of sexism when a report of Ernst and Young and FICCI showed number of appointments of women and men at the influence positions in the organisations. There is literally a thin female population, which is the recent burning issue of corporate governance. This article praises the Companies Act, 2013 in bringing the two genders at a pro rata level and also credits the International Commitments like Norway, France etc... in closing the gender gap.

KEYWORDS: Equity, Company, Inclusion, Corporate Governance.

"In most parts of the world, when a girl is born, her wings are clipped. She is not able to fly."

----- ZIAUDDIN YOUSAFZAI

Introduction: The dichotomy of the two sexes originates itself from Hellenic Philosophical schools such as Platonism and Stoicism and dates back to the advent of Christianity. The Old Testament figure of Eve was considered as sinful as she is believed to have condemned humanity by corrupting Adam. Since, Eve was born out of Adam's rib, the link between women's physicality and debt to man was made more manifest. Gender Inequality pervades the world but a nation like India first, which in almost 70 years of its independence cannot attribute equality and is promoting sexism day by day. The first wave against this in 19th Century resulted New Zealand to extend the right to vote to women but it was year 1963, when a developed nation like U.S.A. could pass the Equal Pay Act. However, the third phase was an interesting one in which the movements drew a name of "gender" as a substitute to "woman". This epistemological shift has been phrased by **Rebecca Walker** as:

"For many of us it seems that to be a feminist in the way that we have seen or understood feminism is to conform to an identity and way of living that doesn't allow for individuality, complexity, or less than perfect personal histories. We fear that the identity will dictate and regulate our lives, instantaneously pitting us against someone, forcing us to choose inflexible and unchanging sides, female against male, black against white, oppressed against oppressor, good against bad."

Indian Society And Its Sexism - A Paradoxical Situation: The Indian Constitution in its preamble has enriched the principle of gender equality, and, the Preamble being the part of the Constitution as it was rightly held in the landmark case of *Keshavnanda Bharti v. Union of India*. Even the fundamental rights restrict discrimination on the basis of gender except for the welfare of women and children but still such unambiguous rights given to both men and women

and the basis of the equality has never been arbitrary. Indian society is always male dominated since the time of independence. When it comes to decision-making National Family Health Survey (NFHS II) described from the farm places where ladies are getting 71% choices regarding "what items to cook". 26% choices regarding having health for her and 10% within buying jewellery as well as various other major family objects. 12% choices have been consumed simply by ladies with regards to sticking with his or her moms and dads as well as littermates along with 37% about how precisely to waste funds, which received acquired. Women of ages in between 15 - 20, nearly 24% usually are not involved in almost any decision-making. 14% usually are not asked authorization to go to the market industry. In farm field 10% could happen having any decision-making along with 74% have to have authorization with regard to planning to the market industry. In urban field even so just 7% usually is not a part of any decision making along with 53% to have authorization with regard to planning to the market industry. Survey reviews that will of the 52% illiterate ladies 74% connected with urban citizen along with 55% connected with farm citizen have accessibility to funds.

The work place is a setting where gender inequalities are easily noticed. Men are always awarded with the top positions in companies whereas working women are frowned upon. The 4% Representation of women as the directors of Public listed Company in 2011, is not only embarrassing for our statistics report which has almost equal proportion of male and female population but also an evidence of male dominant society. There are many reasons for the scarce representation of women in the top positions, some say that traditional companies do not hire women; few others say that maternity leaves are a serious interruption of work and still others cite safety as an issue. The lack of women at the top in business is

now referred to as a “brain drain,” and a “crisis of talent retention.”

However, the story line can be changed by bringing revolutionary innovations to enhance the status of women in the modern era. The compulsory appointment of one women director in certain class of the company under the remarkable legislation of The Companies Act, 2013 is one such innovation. Even the Securities and Exchange Board of India [hereinafter referred to as 'SEBI'] has made it compulsory and is the advisory and adjudicatory board for the implementation of this policy. Under Section 149 the second provision of the act makes it mandatory that every listed company shall at least appoint one woman director within one year from the commencement of the second proviso to Section 149(1) of the Act. Every other public company having paid up share capital of Rs. 100 crores or more or turnover of Rs. 300 crore or more as on the last date of latest audited financial statements, shall also appoint at least one woman director within 1 year from the commencement of second proviso to Section 149(1) of the Act.

International Learnings And Experiences: Within the period of six months, the Company incorporated under the provisions of Companies Act, 2013 has to comply with this guideline. Henceforth, the existing Companies has to comply with this rule within a year and new companies incorporated under the new companies act has to comply within 6 months from the date of its incorporation. If there is a vacancy for the post of Women Director, it has to be filled within 3 months or by the next board meeting whichever is possible earlier.

Although this innovative move has not been initiated by India, as these beneficial ideas has been already implemented in some of the developed countries like Norway, France, Italy, Spain, and Belgium have already gone far from implementing this policy by introducing legislation or quota which makes it mandatory to appoint women directors in a Company Board. The Board of director of a Company is not only the decision maker but unusually plays a vital governance power being ultimately responsible for stable, highly efficient and profitable running of the concerned company, safeguarding of the interests and progress of the company and its stakeholders. Section 11 of the SEBI Act talks about SEBI's duty and responsibility to protect the interests of investor and there are clear and astonishing changes to instability in an organization, if the director so appointed is found to be incompetent. Therefore, it is very important for us to analyse that the decision of the legislator of compulsory appointing a women, as director is a pathway for uplifting women group or just a mere dictatorship which could hamper the unitary structure of the organization.

The Norway's experience could serve as an example for us. Norway established a 40 percent quota for women on its boards in 2003. At the start of the initiative, women held less than seven percent of board seats but by 2010, women filled more than a quarter of those seats. Although the numbers of women were up in Norway, there was little evidence that corporate performances had been enhanced. A study conducted by the University of Michigan suggested that Norway's introduction of quotas had negatively impacted both performance and board quality. In order to obey the law the Norwegian firms appointed many women as members of the board who were less experienced.

The Implication and Impact: It is just a desire for the actual community as well as proper rights which needs to be given to the women in today's period. Women of all ages almost account for 50 percent of the population and thus they need to have a reasonable opportunity to stand for by themselves. The experience that a woman has, is utterly different in implementation as compared to adult males and thus needs to be discussed by women as a director. The framework connected with supplying magnitude for the females is simply to demonstrate of which women's tend to be handled being a homogenous team without having to be identified with regards to sociable, cost-effective and national range most notable. The experts have alerted of which in the last decade there is advance in concerns in the similar counsel connected with women and men in decision-making. As of September 2005, the global average for women in parliaments stands at 16.0 percent. Also, females have reached 30 % representation or even more in nation's parliaments in 19 international locations. Nevertheless, advance may be uneven and slower and perhaps we have seen important setbacks. Twenty-two international countries out of 167 received reversals in women's counsel in parliaments, although ten continued static. In order to ensure gender equality men and women both should be on the same footing and must try to generate effective interventions in policy and for that they must be in business office with regard to same time period.

In line with most recent Catalyst Bottom Line Report, companies with more women director's on the table encountered larger economic effectiveness. Reviews furthermore talked about stronger-than-average effectiveness by means of companies using three or more women directors. Authorities furthermore believe that woman company directors provide greatest traction pertaining to adjust with situations associated with very good effectiveness and in addition companies using girls company directors offer more effectively using risk.

The legislative action of the Indian Government has given us a great start for strengthening women of all

ages in the management and business world. There are lots of capable women of all ages all around who is able to add benefit for the panels, with this particular obligatory prerequisite these worthy women of all ages will receive a opportunity to demonstrate his or her proficiency and in addition to it the organizations will start seeing the particular advantage of women being the director and further would enhance the message that women's are better administrator in comparison to adult men.

Appointment involving independent women director could well be effective in lots of ways but the provision isn't crystal clear about employing a independent women director and there is no norms concerning this specific, firms may very well generate prospects women of all ages from the promoter's family irrespective of whether they may be qualified for the write-up or even not. This kind of being true, women of all ages not going to uplifted as the directors are made out of the family of promoters or even in Karta families, the wife of the Karta is generally made the director.

Possible Recommendations/Resolutions: The Securities & Exchange Board of India set an independent quasi judicial body vide it's round dated 17 May, 2014 and achieved its essential for the outlined businesses in order to employ one or more women director on the Board that to be administered by 31st March, 2015 within the positioning on with the dependence on Section 149 from the Companies Act, 2013, beneath the business governance norms. The SEBI being vested with the powers of a Civil Court

giving its assent to Section 149 of the Companies Act, 2013 is in a way a veracity of the benefits incorporated under this act because SEBI under its Section 11 of its act is responsible to protect the interest of investor and can invoke any decision or extend its jurisdiction for the same. Therefore SEBI's action in favour of this policy is in a way support for the ultimate consumer called as investors in case of Company Law.

SEBI's round blows that each businesses that have not necessarily yet complied with the majority nevertheless handle to take action by July 2015 will probably be levied a superb associated with INR 50,000. Additional, businesses, which conform to this specific requirement involving July and September 2015, will probably be incurred INR 50,000 and one more good associated with INR 1,000 daily right up until the particular day associated with conformity. Moreover, businesses complying with the norms about or even following July 1, 2015 have to fork out INR 1,42,000 in addition to one more demand associated with INR 5,000 daily right up until the particular day associated with conformity.

Though such legislation and quota can be effective to bring women to the top positions in the companies, its benefits will be short lived if there are no proper guidelines to implement it and if it is not properly supervised by the Government. Therefore, proper guidelines, conditions and qualifications along with work experience should be taken into consideration while appointing or even nominating a women for the post of director which is loaded with lot of responsibility and important decisions to be taken.

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