



GENDER BIAS AND EQUALITY IN CORPORATE BOARD: A CRITICAL STUDY

- *Meenakshi Rani Agarwal*

ABSTRACT

Women have traditionally been excluded from the active workforce and remain underrepresented in a leadership position. There is still unconscious gender bias being practiced in a lot of places, especially in working place. This paper has tried to evaluate the reason behind gender biases. This paper has tried to explain what impact women put on a company's performance. Despite having such strict laws for the compulsory appointment of women on the corporate board, various companies are still to comply with the law. This paper will analyze the current gender gap ratio and why it the need to have gender parity.

KEYWORDS: Women; Unconscious Gender Bias; Gender Parity; Women on Corporate Board; Gender Gap.



INTRODUCTION

The recent gender gap report had drawn attention to the importance of gender diversity on the corporate board. As India is among low representation of women in the corporate board i.e. just 13.8 percent women are part of corporate board¹. And 150 companies out of 1000 NSE- Listed entities by market capitalization are yet to appoint women independent director². This reflects that women in India are still facing so much gender discrimination and stereotype treatment. The rule for mandatory appointment of women director came way back in 2014 but till now in 2020 the compliance has not been done. This led us to have greater concern about India's economic growth and its citizen's satisfaction. It is not in 2014 when legislation has tried to eliminate gender bias but it is since 1956 when the constitution of India came into force. It is well established that there will be no discrimination based on sex. The wide gender gap in India is due to religious and historical societal linkage. The process of growth is much slower than in any other country because of attitudes prevailing in Indian societal culture.

OBJECTIVE:

1. To study gender bias and equality.
2. To analyze how gender bias affects a company's performance.
3. To evaluate the power of parity.
4. To study the law with regard to the appointment of women directors in the corporate board.
5. To analyze the power of recruitment and representation of women in the corporate sector
6. To evaluate the current gender gap report 2020 incorporate board
7. To evaluate how many companies are still left to comply with the law with regard to independent women director under the companies act 2013
8. To analyze what causes women to not play an active role in the corporate sector
9. To evaluate what companies can do to combat the gap.
10. To understand what impact women put on the company's performance.

¹ Global Gender Gap Index 2020, WEF, Drishti IAS, www.drishtias.com.

² Rica Bhattacharyya, Many NSE- Listed companies yet to appoint women independent director, The Economic Times, March 3, 2020.



HYPOTHESIS

India is lacking far behind with respect to the gender parity gap between men and women. Even after a mandatory rule to appoint a women director on the corporate board, still there are so many companies that are still left to comply with the law.

RESEARCH METHODOLOGY

1. Usage of the scientific method and descriptive method for analysis
2. Usage of secondary data for analysis

REVIEW OF LITERATURE

CONCEPTUALIZATION:

1.1 UNCONSCIOUS BIAS:

Unconscious biases are often prejudices everyone has but are not aware of. These are the mental shortcuts mostly based on societal norms and stereotypes³. It is unsupported judgments in favor of or against one thing, person, or group as compared to another in an unfair way. It occurs automatically in the mind and results in quick judgment based on past experience or background. And due to this certain people get benefits and others get penalized⁴. Bias can be based on a person's skin color, gender, age, weight, disability status, marital status, etc. The impact of unconscious bias is discouraging on the individual it makes them feel alienated, isolated, low emotional engagement, low confidence. And it also has a big impact on people at workplaces especially during recruitment, promotion, performance, management, and sharing of ideas. It can have real consequences on employee experience, their overall growth and over time, it hinders the organization's ability to execute its business. Unconscious bias can manifest itself in various ways. Some types of unconscious bias that are being practiced at the workplace are:

- a. Affinity bias: in this, preference is given to people who are somewhat similar to us in some or the other way or to those who are easier to relate to. This can happen

³ Horace McCormick, Jr., The real effects of unconscious bias in the workplace, UNC KENAN-FLAGLER BUSINESS SCHOOL, EXECUTIVE DEVELOPMENT, 2016, <http://execdev.kenan-flagler.unc.edu/hubfs/White%20Papers/Unconscious-Bias-in-the-Workplace.pdf>

⁴ Unconscious Bias, Equity, diversity and inclusion, Vanderbilt University, www.vanderbilt.edu.



because of shared characteristics such as the same class, ethnicity, or geography. At the workplace this happens when some are not eligible or right for that role but because that person is from the same university or same place we have an affinity for them and select⁵.

- b. Attribution bias: this applies when we assess other people, the way we perceive ourselves and others. For example, we attribute our achievement to our skills and our failures to external factors' and when some other people achieve something good we consider them lucky rather than considering them to be talented or rather than appreciating their skills and when they fail we question their qualities rather than attributing to other factors as we do in our case⁶.
- c. Beauty bias: this means unconsciously judging someone based on their physical appearance like looks. We tend to think that an attractive individual will be the most successful. And for many looks matter more than talent which in reality should not be the case⁷.
- d. The initial opinion of someone and overlooking information that does not back up or contradicts our view⁸.
- e. Gender Bias: it is the most commonly observed form of bias in the workplace where one gender is given preference over the other. The role and work often been distributed based on personal beliefs and stereotypes, and not based on knowledge, qualification, or capability⁹. For example, we have mostly heard male- office and female- family, why not male- family and female-office. And it should be like both gender doing both why to work should be gender-specific be it at workplace or household. This stereotype or pre-conceived gender discrimination needs to vanish.
- f. Halo and horns effect: Halo effect occur when we focus more on one person's positive side only and overlook the flaws. Whereas horns effect means when we

⁵ Cathryn Newbery, What is unconscious bias in the workplace, and how can we tackle it, CIPHR All About People, August 8, 2019, www.ciphr.com.

⁶ Roger J. Davies, 7 Ways Unconscious Bias Impacts your daily interactions at work, Learnlight Insights, April 2008, <https://insights.learnlight.com/en/articles/unconscious-bias-impacts-work/>

⁷ *ibid*

⁸ *ibid*

⁹ *ibid*



focus more on persons negative feature only and ignore other good qualities in them. It is important to remember that one mistake or flaw does not represent the person as a whole and vice-versa¹⁰.

1.2 GENDER EQUALITY:

Gender equality is the process of treating men and women fairly. The historical facts need to be looked into while ensuring fairness, the social disadvantage that prevented women and men from operating the same field, all this needs to be looked into while treating them with fairness. And this should be compensated in some or the other way. Man and woman both should be entitled to equally enjoy socially valued goods, opportunities, resources, and rewards. Where gender inequality exists, it is the women who are excluded or in a disadvantaged position in relation to decision making power and access to economic and social resources. Hence the critical aspect of promoting gender equality is empowering women by giving them access to opportunities, power, or autonomy to make their own decision, not treating her in a stereotypical manner, and providing a platform to boost her confidence, knowledge without comparing it to a male individual or other past experience¹¹. Gender equality is directly linked to sustainable development and is very important for the recognition of human rights. It will lead to the country's overall growth.

LEGISLATION WITH REGARD TO APPOINTMENT OF WOMEN ON CORPORATE BOARD:

The concept of women director was introduced through the Companies act 2013. Section 149 of Companies act 2013 and companies (Appointment and qualification of the director) rules 2014 deals with provisions relating to the director on board of a company¹².

- There is a certain class of company that shall have at least one woman director on its board. It is mandatory as the word used is 'shall' under section 149 of the companies

¹⁰ ibid

¹¹ UNFPA, Frequently asked a question about gender equality, United Nations Population Fund, 2005, WWW.unfpa.org.

¹² Adv. Madhavi Lakhota, Woman Director & Independent Director Under Company Law Regism, Tax Guru, May 15, 2020, www.taxguru.in.



act 2013. Rule 3 of the companies rule, 2014 deal in detail with regard to woman director and also prescribes the class of companies as referred to in section 149 of CA, 2013. Rule 3, says it is mandatory to appoint a woman director in every listed Company. And it is mandatory for a public company that has paid-up share capital of one hundred crore rupees or more; or a public company that has a turnover of three hundred crore rupees or more¹³.

- The last date of the latest audited financial statement shall be taken into consideration for paid-Up share capital or turnover as the case may be¹⁴.
- The company has to comply with the above rule and appoint a woman director within a period of six months from the date of its incorporation¹⁵.
- A woman director may leave the company for any reason such as resignation, removal, automatic vacation, retirement by rotation before her term as a director expire. The board of directors has to fulfill this vacancy within a period of three months. Also, this vacancy is known as an intermittent vacancy. And in case a company has more than one woman director and the vacancy caused by one of them, then that vacancy will not be called as intermittent vacancy as they are still complying with CA 2013 requirement with regard to women director¹⁶.
- The punishment for Non-Compliance has been stated under section 172 of the CA, 2013. The company or every officer of the company who is at default shall be punishable with a fine which shall not be less than fifty thousand rupees or which may extend to five lakh rupees¹⁷.

WOMEN ON CORPORATE BOARD: BARRIERS:

Despite having such mandatory law with respect to appoint of women director on board, women still continue to be underrepresented on boards worldwide¹⁸.

¹³ ibid

¹⁴ ibid

¹⁵ ibid

¹⁶ Revathi, Women Directors, India Filings, www.indiafilings.com.

¹⁷ CS Sunil Kumar Sharma, Appointment of Woman Director Under Companies Act, 2013, Lagalopedia, October 6, 2020, www.legal-media.in.

¹⁸ Women on Boards, International Labour Organization, www.ilo.org.



- Only nineteen percent of board seat globally are occupied by women¹⁹.
- Less than five percent of the CEOs of the world's largest corporations are women²⁰
- only thirteen percent of companies surveyed have gender-balanced boards of between forty to sixty percent women²¹.

3.1. BARRIER TO WOMEN ON CORPORATE BOARD

Globally still women face a barrier in getting into top positions.

- The ILO women in business and management report rank family responsibility, gender stereotype and masculine corporate culture as the top barrier to women's leadership²²
- Studies across Europe shows that stereotype and preconception of women's role and abilities as the most important barrier to career advancement²³.
- In Asia, 30% of business leader say, women, left job voluntary because of family commitments²⁴.
- In gulf cooperation council countries survey shows 1 in 10 selected bias against women in leadership as the top barrier to women's progression²⁵.
- In the UK, women working in the financial sector earn 55% less average gross salaries than their male colleagues²⁶.

The above report shows that reasons are still old and not new which to date is being practiced and are the reason behind hindrance to women's growth. Stereotypical treatment, biased nature, affinity bias, gender bias are still being practiced. Despite having regard to equal pay for work, most women are still being discriminated against and earn than men. Segregation by sex within management is another barrier to women's representation on board. Work allotted by considering their gender and not capability. This all makes it difficult for women to progress to the top.

¹⁹ ibid

²⁰ ibid

²¹ ibid

²² ibid

²³ ibid

²⁴ ibid

²⁵ ibid

²⁶ ibid



3.2. WHAT COMPANIES CAN DO TO COMBAT THIS BARRIER:

Companies can attract and hire more qualified, talented women by adopting various gender diversity strategies that suit their corporate culture and needs²⁷.

Other things that the company can do are:

1. Leadership commitment: active involvement and commitment of senior executives or directors for the inclusion of women in a leadership position on the board will be a great chance for combating this barrier. Not just commitment but tangible action will help the company is achieving the targeted goal. Top leaders should spread awareness among staffs especially men and gain there support to overcome this barrier²⁸.
2. Taking intelligent action: every company faces a different barrier as to what's not letting them appointing women to the board. By applying different strategies and need of the company, companies should drive intelligent action in hiring, pay, and promotion decision²⁹.
3. Encourage transparency: companies that are committed to increasing women's participation on board should promote equal opportunity at work, like allotment of work, pay, hiring, promotion, training, bonus, etc for both men and women. They should not be discriminated against based on personal experience and the basis of gender, the responsibility should be given according to post hold and not on personal wants. This will lead to higher participation, retention, and growth³⁰.
4. Flexible working arrangements: companies should consider certain conditions of women such as maternity, paternity, and childcare. They should also them to rejoin who put their career on hold due to this conditions. Companies should also not intentionally keep working hours so inflexible that women will be left with no option but to leave. Reasonable working should be kept for both men and women. In case of an emergency where working time somedays gets odd, they should provide the transport facility. This will give them psychological satisfaction and their family too³¹.
5. Training program: training for women if the work is such that is required to be learned by them. For example, Rather than simply allotting the technical work to men,

²⁷ ibid

²⁸ ibid

²⁹ ibid

³⁰ ibid

³¹ ibid



company's should put effort to make their female employees learn it through training allot them to the technical task. If they do not participate find out the reason for non-participation. As it takes time for women too to take such task as they have never done and lack of encouragement also led them to worry about the result³².

IMPACT OF GENDER DIVERSITY IN COMPANY'S PERFORMANCE AND SOCIAL PERFORMANCE.

The board of directors is the most important internal driver of sustainability. They are the sole decision-makers and overseers of the corporation who take care of the wellbeing and performance of the organization. They keep on checking, changing, and modifying the management of the company, other strategies, and crucial decisions that have a direct impact on its performance and growth³³.

The modern age corporations have a more complex role in the board of directors. They play a vital role in shaping the culture and values of the organization, approving strategies, reviewing and monitoring financial performance, ensuring compliance with the law, fulfilling its social responsibility, structuring its governance process and procedure. As they have been vested with so much power in the board, determining its right composition becomes critical importance³⁴.

Board composition and the diversity on corporate board have emerged as one of the most prominent issues faced by the modern companies³⁵. Diversity refers to the certain characteristics which are visible or invisible but that makes people unique³⁶. Gender is just an aspect of diversity. The company performs better when they recruit the best people with a diverse range of perspectives, approaches, talent, etc. gender diversity in the company enhances the effectiveness of the board, facilitates better decision quality and greater innovation. Not just inclusion of gender diversity will bring benefit for the company but providing a good operating environment will lead to highlighted performance effect. Treating them fairly and with respect; making them feel valuable

³² *ibid*

³³ Silk and Puneet, Corporate Sustainability and Gender Diversity: A Study of women on board of Director of Indian Companies, Shodhganga@INFLIBNET, January 31, 2015, <http://hdl.handle.net/10603/57900>

³⁴ *ibid*

³⁵ *ibid*

³⁶ Toward Gender Parity, Women on Board Initiative, Department of communities, child safety, and disability services, office for women, Deloitte Access Economics, October 2016, <https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-toward-gender-parity-women-on-boards-initiative-041016.pdf>



and belongingness feeling will assure them of psychological safety. It can help in breaking the perception barrier among younger females that board positions are unattainable which will have a positive impact on the retention, promotion, and pay of female employees³⁷.

THE IMPACT OF BOARD GENDER DIVERSITY ON A COMPANY'S PERFORMANCE:

Organizations progress through the different stages of their life cycle in response to the change in the environment. And board composition also changes because of organizations change. Diverse board with a mix of knowledge, experience, skills generate a variety of ideas and different perspective to solve the problem. It helps in better understanding of the market, opting for different strategies, more accountability is created. But as the impact of diversity is intangible and cannot be measured, most companies do not keep this in top priority³⁸.

Gender diversity on the corporate board is an important factor for sustainable development. It provides legitimacy to an organization in view of stakeholders; it represents the organizations' culture as having a diverse board promote equity and justice. This ultimately helps the company in achieving a good reputation in the market³⁹.

IMPACT ON FINANCIAL PERFORMANCE:

In the study of 2007, catalyst found out that a company's financial performance can be measured by return on equity, return on sale, and return on investment capital. Its study and data show that, in terms of equity, companies with the highest percentage of women board directors on average outperform as compared to the companies who have less percentage of women board director by 53 percent. With regard to return on sale and return on investment, it was 42 percent and 55 percent. Another company named, McKinney and company, analyzed the financial performance of the eighty-nine European listed companies with the highest level of gender diversity in top management posts relative to the average financial performance for their sector found to be better performing in terms of return on equity, operating result and stock price growth.it shows that

³⁷ ibid

³⁸ ibid

³⁹ ibid



greater involvement of women in corporate boards leads to high performance, good management, and better decision making. It results in organizational excellence⁴⁰.

IMPACT ON A COMPANY'S SOCIAL PERFORMANCE:

If we look beyond accounting records, gender-balanced boards have a greater social impact which indirectly improves the performance of a company. The social performance of the company can be measure by various corporate social responsibilities and the company's reputation. CSR offers a number of benefits. It can be a differentiating factor that leads to investors or customers paying more premium for these companies. It also improves the company's ability to attract talent, and increase in retention of staff by making them feel satisfied⁴¹. Giving leadership positions to women means expanding the talent pool as women leaders will be role models for other women and will encourage them to apply for a leadership position. They can become a mentor for younger women that will help in engaging more and more women in the corporate sector. It will also add value to the country overall growth, enhance companies reputation as it will promote justice and equality in the society⁴².

CURRENT SCENARIO – ANALYSIS OF GLOBAL GENDER GAP REPORT 2020:

World Economic Forum publishes the year Gender Gap Report since 2006. Through this, we can monitor and measure the gap between men and women. The report gives lots of insight into the gender gap in the four aspects of the human being: Economic Participation and Opportunity; Education Attainment; Health and Survival and Political Empowerment. In the year 2020, the report has taken 153 countries across eight regions of the world. It has made some shocking observation. No country in the world has ever achieved full gender parity⁴³.

India's status is worse than some of the countries like Bangladesh, Nepal. Its overall score of 0.668 is also less than the global average of 0.685, it stands at **112th** position globally in the global gender gap index⁴⁴.

⁴⁰ Lisa Warth, Gender Equality and the corporate sector, UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE GENEVA, SWITZERLAND, January 2009.

⁴¹ Towards Gender Parity: Women on boards initiative, Department of communities, child safety and disability services, office for women, Deloitte Access Economics, October 2016, <https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-toward-gender-parity-women-on-boards-initiative-041016.pdf>.

⁴² Supra note 40.

⁴³ Shashank Vikram Pratap Singh, Gender Parity- Analysis of Gender Gap Report 2020, Market Express, March 9, 2020, <http://www.marketexpress.in/2020/03/gender-parity-analysis-of-gender-gap-report-2020.html>

⁴⁴ *ibid*.



The data shows that over the last 15 years i.e., from 2006-2020, India's ranking has drastically fallen instead of rising. Its position has fallen from 98th position in the year 2006 to **112th position in the year 2020**. Over the period, its rank has slipped in every aspect except political empowerment. In political empowerment it has improved two positions. And with regard to other aspects like economic participation, Opportunity, health, and survival, the position has been dropped from 110th in 2006 to 149 in 2020 to 103rd in 2006 to 150th in 2020 (respectively)⁴⁵.

In the Economic dimension, the data shows **that India is among the countries with very low women representation on the company board (13.8%), while China was even worse its 9.7%**. Among the 153 countries studied, India is the only country where the economic gender gap (0.354) is larger than the political gap (0.411)⁴⁶.

CONCLUSION AND RECOMMENDATION

Gender diversity onboard contributes to more effective corporate governance, sustainable development, and enhance the reputation of the company. As women directors play direct roles as leader, mentor and indirect role as being a role model for other women's and inspire them to apply for a leadership position. As India is still lacking behind to comply with the appointment of women director inboard, more awareness needs to be spread regarding the benefits of having women on board as well as regarding the importance of protecting individual's human right. More surveillance on compliance needs to be observed by concerned authorities as despite having the law, implementation of them is lacking. Also, women need to raise their voices for themselves, need to take an active part in such roles, and stand for themselves. As there is full prove law, they can challenge the act of top authorities whenever they are being denied to hold such leadership positions. They now need to break the stereotype formulas applied to them. Companies need to analyze their reputation in the market and its performance by applying various strategies especially by applying metrics such as corporate social responsibility and corporate reputation. Indeed the company which has a diversified team will succeed at a faster rate as they will have diversified talent, skill, and creativity. It's sad to see the current gender gap ratio where India has even slipped at a lower-ranking despite increasing. It is very much for overall justice and equality, for sake of

⁴⁵ Ibid.

⁴⁶ GLOBAL GENDER GAP INDEX 2020:WEF, Drishti IAS, <https://www.drishtiias.com/daily-updates/daily-news-analysis/global-gender-gap-index-2020-wef>



India's economy that each individual and company should comply with the law and morals in the business and society and provide equal opportunities to all.

REFERENCE: [HTTPS://LEXFORTI.COM/LEGAL-NEWS/](https://lexforti.com/legal-news/)