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LEADERSHIP BEYOND TOKENISM: RECONSTRUCTING GENDER-RESPONSIVE CORPORATE GOVERNANCE THROUGH FEMINIST JURISPRUDENCE

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ABSTRACT

Reforms in corporate governance have been taking place with all parts of the world trying to increase the number of women holding leadership roles via the adoption of diversity requirements. However, these demands often end up in tokenistic inclusion. The present paper through the application of a doctrinal methodological approach questions the ongoing nature of tokenism in the field of corporate leadership. As well as questions the legal standards, such as the Companies Act, diversity provisions of the SEBI, the diversity provisions of the EU through the 2022 Women on Boards Directive, and the international standards, including CEDAW and the UNSDGs, in relation to relevant judicial rulings and other academic articles. These legislative actions have enhanced the numerical aspect of women but their transformational effectiveness is still bound by firmly rooted corporate cultures that still prefer male oriented leadership and decision-making patterns. Based on feminist legal theory, it argues that so-called impartiality of law masks the gendered dynamics of governance systems; thus, inequality is reproduced in the name of regulatory compliance and formalised rules of adherence to human-right principles. So, Substantive equality requires a shift in formal compliance to veritable change of leadership and governance systems.

Keywords: Corporate Governance, Gender Justice, Gender-Responsive Leadership, Feminist Jurisprudence, Sustainability, Tokenism

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Introduction

Gender diversity as a matter of corporate governance has become a significant issue of modern legal and policy change. The legislatures, regulators and international institutions support diversity requirements by arguing that inclusive leadership enhances corporate accountability, ethical decision making and long-term sustainability (Adams & Ferreira, 2009; Bear et al., 2010).

Diversified boards are linked with better inspection, improved stakeholder backing and lower governance catastrophe. In turn, some jurisdictions, including India, and different countries of the European Union, as well as those within the OECD, have embraced statutory quotas, disclosures, or codes of soft law governance that require and even promote the presence of women on corporate boards (National Stock Exchange of India, 2024; Seierstad & Skjeie, 2012).

Nevertheless, in spite of these reforms, there is a significant body of scholarship that indicates numerical representation is not a guarantee of meaningful participation and influence. Female directors see their appointments done in a manner that fulfils the legal stipulations, without altering the current power structures, which makes their nomination look symbolic and not structural. This is commonly understood as tokenism, which helps corporations to appear legitimate and lawfully compliant without necessarily reallocating power throughout management frameworks (Kanter, 1977; Terjesen et al., 2009).

Research Objectives and Methodology

Research Objectives

This paper pursues three objectives:

1. To examine how tokenism is produced and sustained through corporate governance laws and regulatory frameworks.
2. To analyse corporate governance norms using feminist legal theories, particularly dominance theory, intersectionality, and vulnerability theory.
3. To propose a normative framework for gender-responsive corporate governance that promotes substantive participation and sustainable leadership.

Research Methodology

The study adopts a doctrinal and feminist-theoretical research methodology. It critically analyses statutory means, regulatory frameworks, judicial doctrines, and international human-rights instruments which govern gender diversity in corporate leadership in India, with the comparative

reference to a number of foreign jurisdictions of choice. Primary sources include the Companies Act, 2013; the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015; the EU Directive 2022/2381; and relevant constitutional jurisprudence. These sources are researched alongside feminist legal studies and empiric evidence, such as corporate governance indicators which have been released by the NSE and OECD research on board diversity. It is an analysis where a normative structural orientation is taken and it focuses on the way law brings about gendered access to corporate power as opposed to primary empirical fieldwork.

Tokenism as a Structural Feature of Corporate Governance

In corporate governance, tokenism is associated with women gaining access to leadership positions mainly because of compliance, legitimacy or reputational reasons without any accompanying power to make decisions (Kanter, 1977). The legal mandate of having “at least one woman director” is a motivator and encourages low levels of compliance in the Indian context. This leads to women being isolated in boards and not being part of powerful committees that govern financial management, executive appointments and remunerations boards (National Stock Exchange of India, 2024; Seierstad & Skjeie, 2012).

Although women are represented in one-fifth of the board of listed Indian companies, they are less than 10 percent of executive directorships and a disproportionately small proportion of key committee appointments (NSE, 2024). These trends are also seen in the comparative jurisdictions, which suggests that tokenism is not jurisdiction specific, but rather built into models of corporate governance (Terjesen et al., 2009).

Legal Framework Governing Gender Diversity in Corporate Governance

Indian Corporate Law Framework

1. Companies Act, 2013

The Companies Act, 2013 gives a mandatory requirement. Section 149(1) of the act requires that at least one-woman director is appointed on prescribed classes of companies. Since its inception, the provision has been a major boost in the number of women on boards in India. In 2024, it was presented that more than 20 percent of board positions in listed companies were occupied by women (NSE, 2024). But compliance is usually achieved through nominal or token appointments, that is, appointment of women who are related to the promoters and hence have reduced ability to participate and influence (Bilimoria, 2006).

The HCL Technologies Ltd. complies with the statutory provision on women-director by appointing female family members of the promoter group instead of hiring independent professionals with substantive governance experience. Though these types of appointments meet the formal legal standard, but these types of appointments do little to increase the diversity of the board (Varottil, 2016).

The formal equality approach of statutory emphasis on numerical inclusion assumes the representation as a goal itself. Nonetheless, the law does not say anything about the allocation of power in boards, such as the committee membership, agenda-setting power, and access to informal networks of decision-making.

2. SEBI LODR Regulations, 2015

Regulation 17(1)(a) of the SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015, stipulates that top listed entities have to have at least one female director who is independent and a woman. Other disclosure requirements of Regulations 26 and 34 seek to increase transparency in the composition of the board and the governance practises. Although these requirements enhance formal independence, it does not bind women to participate in other important committees like audit, risk management, or nomination and remuneration committees where substantive power is vested (Hillman et al., 2001).

3. Corporate Social Responsibility and Gender

Section 135 of the Companies Act promotes corporate engagement with social initiatives, including women's empowerment, through Corporate Social Responsibility. However, the emphasis on external gender initiatives often contrasts sharply with internal governance practices, revealing a pattern of external equality coupled with internal inequality (Terjesen et al., 2009).

Comparative and International Frameworks

Norway's mandatory 40% quota for boards of public limited companies represents one of the earliest and most robust diversity regimes. While compliance rates are high, studies highlight the emergence of the "golden skirts" phenomenon, where a small group of elite women occupy multiple board positions, limiting broader inclusion (Kanter, 1977).

The European Union's Directive 2022/2381 adopts a more procedural approach, mandating transparent nomination criteria, objective selection processes, and reporting obligations. In contrast, the United Kingdom's Corporate Governance Code relies on a "comply or explain"

model, which has improved board-level representation but failed to address gender disparities in executive leadership (Terjesen et al., 2009).

International human rights instruments including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Beijing Platform for Action, and Sustainable Development Goal 5 provide normative support for gender equality in leadership. Indian courts have recognised the relevance of such instruments in interpreting domestic law, most notably in *Vishaka v. State of Rajasthan* (1997).

Feminist Jurisprudential Analysis

A. Dominance Theory and the Illusion of Neutrality

MacKinnon (1989) explains the dominance theory, which shows how law reflects and reinforces male power structures. The norms of corporate governance defining merit, leadership, and efficiency are traditionally built around male career trajectories characterised by uninterrupted employment and aggressive competition. Diversity mandates operating within this framework enhances representation without questioning power relations underpinning it and forcing women to assimilate instead of transforming the cultures of governance.

B. Intersectionality and Elite Capture

Intersectionality explains the constraints of gendered-neutral discourse of diversity to show how gender intersects with caste, social classes, and social capital. In India, promoter networks are important with regard to appointing women directors, which leads to elite capture and marginalisation of women. Gender diversity reforms which work on the assumption that women constitute a homogenous group run the risk of reproducing existing hierarchies within gender reform itself (Crenshaw, 1989).

C. Vulnerability, Care Work, and the Myth of Merit

The theory of vulnerability questions the assumption of an equal starting point in the corporate structures. The unpaid care work responsibility of women significantly limits career advancement and their appointment to boards. Judicial recognition of care work in *Deepika Singh v. Central Administrative Tribunal* (2022) highlights the lack of correlation between constitutional equality and corporate governance practices. In the absence of institutional accommodation of non-linear career patterns, diversity requirements are superficial.

To achieve a feminist reformulation of corporate governance, the primacy of the shareholder should be replaced by the stakeholder-based model which is aware of relational responsibility

and institutional vulnerability. The legislations of corporate governance should hence consider the issues of caregiving responsibilities, disparity in network access, and structural constraints that determine the path of leadership.

The application of feminist jurisprudence within the context of corporate governance also needs the reconsideration of the enforcement mechanisms. Disclosure-based regimes should be supplemented with qualitative assessments of participation, leadership influence, and decision-making power. This would be in line with the current trends that are spreading in the world that highlight the environmental, social and governance (ESG) accountability as an indicator of corporate legitimacy (Hillman et al., 2001).

Analysis of the Study and Suggested Reforms for Gender-Responsive Leadership and Corporate Sustainability

In India and in similar jurisdictions, involvement may be in the form of token appointment often of relatives of the promoters or of elite women. According to the theory proposed by Kanter, this results in isolation, reinforcement of stereotypes, and exclusion, which means that the corporate culture has not changed. Their lack of inclusion in informal power networks impacts women negatively to date. Referring to the case of Vishaka, the results indicate that cultural norms are not laws that determine real results, and patriarchal approaches to corporate organisations are not weak.

Based on the dominance theory, intersectionality, care ethics, and vulnerability theory, the findings indicate that the existing reforms have not broken the corporate power of patriarchy. The symbolic inclusion is strengthened in the law by adding more people without changing the system of governance. The paper has determined some of the general findings:

- First, there is an increment in the representation of women in corporate boards in various jurisdiction, although they do not often make it to real power positions, including executive directorships or even in important committees, like in audit and nomination committees.
- Second, tokenism is still not isolated, and businesses introduce women to the company board only to meet the regulatory demands, choosing those who belong to the rich social groups instead of enhancing inclusiveness.
- Third, the culture of the corporation still upholds the norms of patriarchy by limiting accessibility of women to informal decision-making networks.

- Finally, intersectional inequalities are still unaddressed in a great extent, which leads to the marginalisation of women with deprived caste, class, and regional backgrounds.

The connection between gender-responsible leadership and corporate sustainability is an issue that has been receiving growing interest in governance literature. Decision-making diversity is closely intertwined with sustainability which is not simply the ability to act responsibly toward the environment but a long-term institutional stability, ethical leadership and trust of the stakeholders. The research shows that those boards that have a significant gender diversity show better risk oversight, social impact focus, and a high stability in long-term performance (Adams & Ferreira, 2009; Bear et al., 2010).

These advantages however only come into reality when the role of women participation is substantive as opposed to being symbolic. The tokenistic inclusion does not allow the women to take part in the strategy making regarding the risk management, compliance culture as well as sustainability programmes. Feminist jurisprudence rationalises this non accomplishment by emphasising how the corporate governance systems have been founded on shareholder-centric, profit-maximising norms throughout history which concur with masculine leadership models. Gender-responsive leadership has broken this paradigm by integrating the care ethics, relational decision making, and long-term stakeholder provisions into governance procedures (Bear et al., 2010).

On the legal note, gender-responsive leadership can be embedded in corporate governance frameworks, which make the corporate behaviour more sustainable as it complies with the constitutional equality guidelines and human rights regulations on the international level. Governance models, which do not respond to internal gender hierarchies, risk reputational damage, regulatory non-compliance, as well as, compromised institutional legitimacy. Therefore, gender-responsive leadership is not just a goal in diversity but a structural prerequisite of viable corporate governance.

To have a gender-responsive corporate governance structure, there is a need to change the formal equality to substantive equality. This involves requiring women to be part of major board committees, having transparency and objectivity in nomination and remuneration processes, and undertaking qualitative gender audits which evaluate participation, impact and access to information. The possibilities of reducing elite capture and improving fairness by using procedural safeguards are proposed by comparative evidence within the EU Directive 2022/2381.

The enforcement mechanisms should be reinforced using more severe punishment, possible fundraising ban, and ESG-rating consequences to make sure that the compliance increases gender inclusion beyond a symbolic ruling to the substantive one.

The institutional changes should also aim towards leadership pipelines through mentorship, and board-readiness programmes of women, especially women of marginalised backgrounds. Measures of performance evaluation must no longer conform to the masculine standards of uninterrupted access and reward collaborative, ethical and stakeholder-based leadership. Including these practices via human resource department, under Nomination and Remuneration Committee oversight uplifts inclusive leadership development and enhances sustainability. These reforms associate gender equality with corporate resilience through improving quality of decision-making and minimising governance risk.

Conclusion

Although the gender diversity requirements have enhanced the increase in the number of women in the corporate governance, it has not eliminated the entrenched patriarchal systems of power. The reason why tokenism continues to exist is because the corporate law envisions equality in the form of representation and not participation and influence. The idea of feminist jurisprudence shows that neutrality in corporate governance is a myth that covers gendered norms that limit women in their power.

This gap can be dealt with gender-responsive leadership. By involving women in the central decision making, risk management and strategy, corporate governance will be more balanced, transparent and futuristic. The advantages of such leadership include enhanced corporate resilience through better risk management, establishment of trust with stakeholders and long-term sustainability.

Gender equality should go beyond just a symbolic representation when it comes to corporate governance. To make corporate governance robust and competent, gender-responsive leadership is a necessary diversity objective rather than a luxury.

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