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From Tokenism-Driven Compliance to Value-Driven Governance: The Need for Gender Diversity in Indian Corporates

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Abstract

A decade after the landmark mandate for at least one woman director on corporate boards, Indian corporate governance stands at a critical juncture. Regulatory interventions under Section 149 of the Companies Act, 2013, and SEBI's Listing Obligations and Disclosure Requirements (LODR) Regulations have successfully moved the needle on quantitative representation. However, a growing body of evidence reveals a pervasive "check-the-box" compliance mindset, where the appointment of a solitary woman director often serves as a token gesture rather than a step towards substantive inclusion. This research article argues that India's journey from tokenism-driven compliance to genuine value-driven governance is imperative for sustainable corporate success. It analyses the current landscape, where despite near-universal compliance, women remain significantly underrepresented in influential roles such as board chairs, executive directors, and CEOs.

The article critiques the limitations of the current quota-based approach, highlighting issues like the concentration of appointments within promoter families, the "golden skirt" phenomenon, and persistent cultural biases that marginalize women's voices in the boardroom. Drawing on, legal analysis, and comparative governance models, the paper makes a compelling business case for gender-diverse boards, linking them to enhanced financial performance, robust risk management, and superior stakeholder trust.

The conclusion presents a multi-stakeholder framework for action, urging regulators to move beyond binary mandates, companies to embrace strategic inclusion, and the ecosystem to build a robust pipeline of women leaders. The central thesis is that true governance value is unlocked not by mere presence, but by the authentic participation and influence of women in corporate decision-making.

Keywords*:* Gender Diversity, Corporate Governance, Tokenism, Companies Act 2013, SEBI LODR, Women Directors, India.

Introduction: The Promise and the Paradox

The narrative of gender diversity in Indian boardrooms is one of remarkable progress shadowed by a stubborn paradox. In 2013, India joined a select group of nations by legislating boardroom gender diversity through the Companies Act, mandating at least one woman director for specified classes of companies. This was further bolstered by market regulator SEBI, which extended and clarified this requirement for listed entities. The regulatory push yielded undeniable results: the percentage of women on boards of NIFTY 500 companies surged from approximately 6% in 2014 to around 21% in 2024. Today, over 98% of BSE 200 companies boast at least one woman director, creating an illusion of achieved diversity.

Beneath this veneer of compliance, however, lies a more complex and less celebratory reality. The mandate, while successful in opening doors, has often resulted in **tokenism**—the practice of making a symbolic effort towards inclusion without enabling real authority or influence. As a 2024 report starkly put it, "Women have finally entered the boardroom, yet the boardroom has not opened its doors to them". The data reveals a landscape of minimalism: 77% of BSE 200 boards have only one or two women, regardless of board size. Their presence is concentrated in non-executive, non-chairperson roles, severing the link between representation and real power. Only 11% of women directors are executive directors, and a mere 5% of NIFTY 500 board chairs are women.

This paradox is rooted in a unique confluence of India's socio-cultural fabric and its corporate ownership structures. The prevalence of family-owned businesses, deeply entrenched patriarchal norms, and a historically weak pipeline of women in senior operational roles have all contributed to a form of "reluctant compliance." The appointment is often viewed as a regulatory tax rather than a strategic investment. This article posits that Indian corporate governance is trapped in a phase of tokenism-driven compliance.

The regulatory "stick" has ensured presence but has failed to catalyse a deeper cultural shift towards value-driven governance, where diversity is sought not as a legal obligation but as a strategic imperative for better decision-making, innovation, and long-term value creation. The journey ahead requires a fundamental reorientation from viewing women directors as a compliance cost to recognizing them as critical governance assets. This paper will deconstruct the legal framework, analyse the empirical evidence of tokenism, build the business case for substantive inclusion, and chart a pragmatic path forward for all stakeholders.

The Legal Architecture: Mandates, Amendments, and Limitations

India's legal framework for boardroom gender diversity is a tapestry woven from company law, securities regulations, and soft-law recommendations. Its evolution reflects a growing, albeit cautious, recognition of diversity as a governance concern.

The Genesis: Companies Act, 2013

The Companies Act, 2013 marked a revolutionary shift. Section 149(1), read with Rule 3 of the Companies (Appointment and Qualification of Directors) Rules, 2014, mandated that every listed company and every other public company with a paid-up share capital of ₹100 crore or more, or a turnover of ₹300 crore or more, must have at least one woman director. This provision was embedded within a broader reform agenda aimed at improving corporate governance following major scandals. The law did not initially specify independence, leaving a loophole that allowed promoter-family appointments. The underlying philosophy aligns with constitutional ethos. The Supreme Court, in *Air India v. Nargesh Meerza* (1981), had already established that discrimination based on sex is constitutionally impermissible, a principle that provides a robust jurisprudential foundation for the mandate.

SEBI's Refinement: From Listing Agreement to LODR

SEBI first incorporated the woman director requirement into the Equity Listing Agreement in 2014, giving listed companies a transition period. This was later formalized and strengthened under the **SEBI (LODR) Regulations, 2015**. Regulation 17(1)(a) was a critical upgrade, mandating that the board of the top 500 listed entities must include at least one **independent** woman director. This aimed to ensure the director could exercise objective judgment, free from promoter influence—a direct response to the family-tokenism trend.

The **Kotak Committee on Corporate Governance (2017)** was a watershed moment. Its recommendations led to key amendments:

- **Expansion of Scope:** The mandate for an independent woman director was extended to the top 1000 listed entities by 2021.
- **Diversity Policy:** Regulation 19(4) of LODR mandated all listed entities to formulate and disclose a board diversity policy, pushing companies to think beyond a single appointment.
- **NRC Empowerment:** The committee emphasized that the Nomination and Remuneration Committee's (NRC) charter must explicitly include formulating the diversity policy and monitoring its implementation.

Table 1: Evolution of the Legal Framework for Gender Diversity in India

Year	**Instrument**	**Key Provision**	**Significance & Limitation**
2013	Companies Act, 2013	Sec 149(1): At least 1 woman director for specified companies	**Landmark mandate.** Loophole: No independence requirement.
2014	SEBI Listing Agreement Clause	At least 1 woman director for listed entities	**Interim measure.** Provided transition period.
2015	SEBI LODR Regulations	Reg 17(1)(a): Top 500 must have 1 *independent* woman director	**Critical refinement.** Addressed family-tokenism.
2017	Kotak Committee Report	Recommended diversity policy, NRC charter changes, expanding scope	**Soft-law catalyst.** Shaped subsequent amendments.
2021	SEBI LODR Amendment	Independent woman director mandate extended to Top 1000	**Broadened reach.** Increased coverage of listed universe.
Ongoing	Voluntary Governance Codes	CII, ICAI codes encourage beyond-compliance diversity	**Aspirational benchmarks.** Lack enforcement teeth.

Judicial Interpretation and Enforcement

Enforcement has been a mixed bag. The National Company Law Tribunal (NCLT) and courts have generally upheld the mandate. However, penalties under the Companies Act (fines) and SEBI actions (monetary penalties, advisories) have not been sufficiently stringent to deter habitual non-compliers. For instance, in 2020, SEBI identified over 125 non-compliant top-500 entities but major punitive action was rare. This light-touch enforcement has allowed companies to treat the deadline as flexible, undermining the law's authority. Judicial commentary, while sparse, has tended to support the spirit of the law. The *Vedanta-Cairn* case discussions, though not directly on diversity, highlighted the importance of board composition in ensuring fair and transparent governance, indirectly bolstering the diversity argument.

Critical Analysis: Structural Flaws and Unintended Consequences

The legal framework, while pioneering, has inherent design flaws:

- **The "One is Enough" Fallacy:** The single-digit mandate ignores the "critical mass" theory (Kanter, 1977). Research indicates that a lone woman is seen as a token, two represent a minority, and only at around 30% do women shift from being seen as symbols of their gender to being perceived as individuals who can influence culture and outcomes.
- **The Family-Tokenism Loophole:** The initial lack of an independence clause led to a surge in appointments of wives, daughters, and daughters-in-law of promoters. While some are highly qualified, their ability to challenge the patriarch in the boardroom is often limited, perpetuating existing power structures.
- **The Golden Skirt Syndrome:** The scarcity mindset created by the mandate led to a high demand for a small pool of "board-ready" women. This resulted in the "golden skirt" phenomenon, where a few elite women hold multiple directorships (sometimes 7-10), raising concerns about their bandwidth and effectiveness.
- **Silence on the Pipeline:** The law is silent on the broken leadership pipeline. Without concurrent mandates or incentives for developing mid-senior level women leaders (e.g., disclosures on senior management diversity), the board mandate operates in a vacuum, potentially leading to superficial appointments.

Table 2: Key Legal Provisions for Gender Diversity in Indian Corporates

Provision	Source	Key Requirement	Applicability
Woman Director	Companies Act, 2013 (Sec 149(1))	At least 1 woman director	Listed companies; Other public companies with paid-up capital ≥₹100cr or turnover ≥₹300cr
Independent Woman Director	SEBI LODR Reg. 17(1)(a)	At least 1 independent woman director	Top 500 (extended to Top 1000) listed entities by market cap
Diversity Policy	SEBI LODR Reg. 19(4)	Board to formulate & disclose a diversity policy	All listed entities

NRC Charter	Kotak Committee Recommendation	NRC charter to include formulation of diversity policy	Adopted by SEBI for listed entities

The Tokenism Trap: A Data-Driven Expose of Presence Versus Influence

The compliance data paints a picture of success, but a granular analysis reveals the stark contours of the tokenism trap—where presence is mistaken for participation, and headcount substitutes for influence.

The Illusion of Numbers: A Quantitative Deep Dive

- **The Solitary Figure:** As of 2024, while 59% of BSE 200 companies have two or more women directors, a telling 41% still have only one. In the NIFTY 500, approximately 35% of companies have just one woman director. This "solo status" makes the individual hyper-visible, subject to stereotyping, and often burdens them with representing an entire gender.
- **The Leadership Desert:** The disparity in power positions is glaring. An analysis of NIFTY 500 companies reveals that only 5% have a woman chairperson. Women hold merely 11% of executive directorships (key management positions), compared to 89% held by men. Furthermore, women are often pigeonholed into "softer" board committees like CSR and Stakeholder Relations, while being underrepresented in powerful committees like Audit (15% female membership) and Nominations (18%).
- **Multiple Directorships & The Talent Pool Myth:** Data shows that a cohort of about 50-60 women hold a disproportionate share of independent directorships in top companies. This concentration indicates that boards are fishing in a very small, familiar pond, rather than proactively expanding the talent pipeline.

Figure 1: The Pyramid of Power: Gender Distribution in BSE 200 Board Roles (2024)

PYRAMID OF POWER

Gender Distribution in BSE 200 Board Roles

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│ BOARD CHAIRPERSONS │

│ Men: 93% │ Women: 7% │

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│ EXECUTIVE DIRECTORS │

│ Men: 89% │ Women: 11% │

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│ NON-EXECUTIVE DIRECTORS │
│ Men: ~75% │ Women: ~25% │
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│   ALL DIRECTORS       │
│ Men: ~81.5% │Women: ~18.5%│
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Source: Compiled from Khaitan & Co. and Prime Database (2024)

Table 3: Committee Membership by Gender in NIFTY 500 (Illustrative, 2023)

Board Committee	Average % Women Members	Strategic Influence Quotient
Audit Committee	~15%	**HIGH** – Oversees financial integrity, risk, compliance
Nomination & Remuneration	~18%	**VERY HIGH** – Shapes board composition and CEO pay
Risk Management	~20%	**HIGH** – Central to strategic risk oversight
CSR/Sustainability	~35%	**MEDIUM-HIGH** – Growing in strategic importance
Stakeholder Relations	~40%	**MEDIUM**

The Lived Experience: Qualitative Evidence of Marginalization

Surveys and interviews with women directors reveal consistent themes of marginalization:

- **The Burden of Proof:** "You have to be twice as good to be thought half as competent." Women report feeling constant pressure to over-prepare to justify their seat, an invisible emotional tax not borne by their male peers.
- **Microaggressions and Stereotyping:** Being interrupted, having ideas credited to a male colleague later, or being asked to take notes or coordinate refreshments are common anecdotes. A 2023 survey found that 35% of women directors faced remarks questioning their technical expertise based on gender.
- **The Network Exclusion:** Board appointments are heavily reliant on informal networks ("old boys' clubs"). Women are often excluded from crucial pre-meeting discussions and post-meeting social

gatherings where real consensus is built. Over 97% of appointments are via networks, a system that inherently disadvantages women.

Case Study: The "Promoter-Wife Director" Phenomenon

This is a uniquely Indian manifestation of tokenism. Analysis shows that in the early years of the mandate, nearly 30% of appointments in family-run firms were of promoter family women. While some, like **Kiran Mazumdar-Shaw (Biocon)** or **Roshni Nadar Malhotra (HCL)**, are formidable leaders in their own right, many others lack operational experience or the agency to dissent. This fulfills the legal requirement but entrenches family control and does little to add independent perspective or challenge groupthink. It represents a co-option of the diversity mandate to serve traditional ownership structures.

The Cost of Tokenism to Corporate Governance

Tokenism is a governance liability:

- **Ineffective Boards:** A token member does not contribute to cognitive diversity. Their potential insights are lost, and the board continues to operate with homogeneous thinking, increasing strategic blind spots.
- **Reputational Damage:** Stakeholders, especially global investors, are increasingly sophisticated. They can distinguish between genuine diversity and "gender-washing," and penalize the latter through lower valuations or divestment.
- **Demotivation and Turnover:** The token woman director herself may become frustrated and disillusioned, leading to high turnover in these positions, which destabilizes board continuity.

The Value Proposition: The Irrefutable Business Case for Substantive Inclusion

Moving beyond tokenism is not an act of charity; it is a strategic imperative backed by robust global and emerging Indian evidence that links genuine gender diversity to superior corporate outcomes.

Financial Performance and Market Valuation

Multiple studies establish a positive correlation, if not causation, between gender-diverse boards and financial metrics:

- **Profitability:** A 2019 report by the **Credit Suisse Research Institute** found that companies with more than 20% women in management generated higher cash flow returns on investment and had marginally better net income growth. In the Indian context, a **S&P Global** study in 2022 indicated that Indian firms with women CEOs or CFOs were more profitable and generated higher dividend yields.
- **Stock Market Performance: MSCI** research has shown that companies with strong female leadership (defined by having a woman CEO and/or a higher proportion of women on the board) generated a Return on Equity (ROE) of 10.1% per year versus 7.4% for those without.
- **The "Critical Mass" Effect:** Research published in the *Harvard Business Review* suggests that the positive financial impact is most pronounced once boards achieve a critical mass of at least three women, who can then form a coalition and significantly influence board dynamics and decision-making quality.

Enhanced Governance and Risk Mitigation

- **Improved Board Dynamics:** Diverse groups are better at processing information. They exhibit more thorough scrutiny of issues, ask tougher questions, and are less prone to "groupthink." A study by **Corporate Board Member** found that 85% of directors agreed that boards with diverse members enhance overall performance.
- **Superior Risk Management:** Women directors often bring a more holistic, long-term perspective to risk. They tend to pay greater attention to non-financial risks such as reputational, environmental, social, and governance (ESG) risks. A 2021 study in the *Journal of Banking and Finance* found that banks with more gender-diverse boards had more conservative risk profiles and were less likely to engage in aggressive, risky lending.
- **Ethical Compass and Crisis Management:** Diverse boards are associated with higher levels of corporate social responsibility and ethical conduct. During crises, this diversity of thought leads to more resilient and adaptive responses.

Innovation, Talent, and Stakeholder Alignment

- **Driving Innovation:** A study by the **Boston Consulting Group** found that companies with more diverse management teams report 19% higher innovation revenues. Different life experiences lead to different perspectives, which is the bedrock of innovation.
- **Talent Attraction and Retention:** In an era of war for talent, a genuine commitment to diversity signals a progressive, meritocratic culture. This attracts top talent across genders, particularly Millennials and Gen Z, who prioritize inclusive workplaces.
- **Understanding the Market:** Women control or influence a massive share of consumer spending. Having their perspective in the boardroom leads to better product development, marketing strategies, and customer insights.

The Indian Evidence and the Catalyst Effect

Emerging Indian research corroborates these global trends. A notable finding is the **catalyst effect**. Companies with a woman CEO have, on average, **31% female board representation**, nearly double the 17.7% in male-led companies. This demonstrates that when women break the glass ceiling into the most powerful executive role, they act as powerful change agents, actively shaping a more inclusive governance structure. This is a powerful argument for focusing on executive leadership, not just board appointments.

Charting the Path to Value-Driven Governance: A Multi-Stakeholder Framework

Transitioning from tokenism to transformative inclusion demands coordinated, sustained action from regulators, corporations, investors, and the professional ecosystem.

For Regulators (SEBI & MCA): From Mandating Presence to Incentivizing Quality

- **Adopt a Proportional Quota:** Phase in a mandate requiring a minimum of 30% women directors for the top 500 listed entities by 2030. This aligns with the critical mass principle and global best practices (e.g., EU, UK, California).

- **Introduce "Comply-or-Explain-Plus":** Beyond the standard comply-or-explain, require detailed, standardized disclosures in the annual report and on websites: a. Number of women in board leadership (Chair, Committee Chairs). b. Breakdown of executive vs. non-executive women directors. c. Details of the board diversity policy, including measurable objectives and annual progress.
- **Address Pipeline Reporting:** Mandate disclosure of gender diversity metrics at senior management (KMP and one level below) and in the leadership pipeline. This will force companies to build talent from within.
- **Refine Independence Criteria:** While a blanket ban on family members is impractical, SEBI could issue guidance or require enhanced disclosure on the skills and selection process for any independent director who is a relative of the promoter, ensuring their appointment is justified on merit, not just kinship.

For Corporate Boards and Promoters: From Compliance to Strategic Leadership

- **Set Ambitious Internal Targets:** The board, through the NRC, should set public, time-bound goals that exceed regulatory minimums (e.g., "40% women directors by 2030").
- **Rethink the Talent Map:** Broaden search criteria beyond traditional C-suite roles. Look for leaders from academia, legal, technology, social sector, and professional services. Use blind recruitment processes for initial longlisting.
- **Ensure Onboarding and Inclusion:** Formalize a robust onboarding and mentorship program (pairing with an experienced board member). Proactively assign women to high-impact committees like Audit and NRC. The Chair must actively moderate discussions to ensure all voices are heard.
- **Build the Internal Pipeline:** Link a portion of executive variable pay to the development, retention, and promotion of women into leadership roles. Establish formal sponsorship (not just mentorship) programs.

For Institutional Investors and Proxy Advisors: From Passive Owners to Active Stewards

- **Develop Voting Policies:** Institutional investors like LIC, mutual funds, and pension funds should publicly state and implement voting policies to vote against the re-election of NRC Chairs of companies that fail to demonstrate progress on diversity beyond the bare minimum.
- **ESG-Linked Engagement:** Make gender diversity a non-negotiable agenda item in all investor-company engagements. Ask for specific data on the pipeline and committee assignments.

For the Ecosystem: Building the Infrastructure for Change

- **Industry Associations (CII, FICCI, ASSOCHAM):** Create dedicated registries of board-ready women, offer directorship training programs, and facilitate networking opportunities.
- **Media:** Shift reportage from merely announcing appointments to critically analysing board compositions, asking tough questions about influence and inclusion.
- **Academic Institutions:** Integrate corporate governance, leadership, and ethics into curricula for women students and executives. Conduct India-specific longitudinal research on the diversity-performance link.

Conclusion

The first decade of India's mandatory gender diversity experiment has been a necessary and instructive prelude. It has successfully dismantled the most visible barrier, proving that women can and do occupy seats in the corporate boardroom. The regulatory nudge has created a new normal where an all-male board is an anomaly. However, as this comprehensive analysis reveals, the journey has stalled at the threshold. We have achieved **tokenism-driven compliance**—a state where the law's minimum requirement is met with minimal commitment, resulting in presence without power, representation without influence.

The data is unequivocal: the solitary woman director, often isolated on boards and in committees, is a symbol of unfinished business. The concentration of appointments within family circles and the persistent leadership chasm underscore that deeply ingrained structural and cultural barriers remain. The cost of this tokenism is borne not only by the women who navigate these challenging dynamics but also by the companies themselves, which forfeit the proven benefits of genuine cognitive diversity—better decision-making, enhanced innovation, robust risk management, and superior long-term financial performance.

The path forward is clear. The next decade must be dedicated to forging **value-driven governance**. This requires a paradigm shift where diversity is internalized as a source of competitive advantage, not a compliance checkbox. Regulators must evolve mandates to focus on proportionality and quality of participation. Corporate boards must exercise strategic leadership by setting ambitious internal goals, nurturing inclusive cultures, and relentlessly building the leadership pipeline. Investors must use their stewardship power to reward genuine progress and penalize stagnation.

The transformation from tokenism to transformative inclusion is the defining corporate governance challenge of this decade for India. It is a complex undertaking that demands patience, persistence, and collaboration across the ecosystem. Companies that embrace this shift will not merely be complying with the law; they will be building more resilient, innovative, and valuable enterprises for the future. For India Inc., true excellence in governance will be achieved only when its boardrooms reflect the diversity of the nation it serves, not just in count, but in voice, influence, and power.

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