

Exchange of good practices on gender equality

Women in economic Decision-making

Norway, 10-11 May 2012

Discussion paper - Norway

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Gender Quotas on Corporate Boards

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1. Introduction

The Norwegian parliament adopted in 2003 mandatory gender quotas on corporate boards. The law regulates a minimum representation of at least 40 per cent of each gender in the boards of public limited companies, inter-municipal companies and state-owned companies, and was extended to apply for cooperative companies in 2008 and for municipal companies in 2009.

The Norwegian law has infused a revitalisation of a debate over the presence of women in economic decision making. At the time the Norwegian quota law was introduced, it was unique. No other country had implemented similar regulations. Since then parallel laws have spread. In recent years the parliaments of Spain (2007), Iceland (2010), France (2011), the Netherlands (2011), Belgium (2011), Italy (2011) and Malaysia (2011) have adopted similar quota laws that will regulate the gender composition of corporate boards (see Teigen 2012a).

This paper focuses some main aspects of the Norwegian quota law. I will commence with some basic information about the emergence of the legislation and its context, especially concerned with gender disparity in top positions in Norwegian economic life and the Norwegian gender quota tradition. I will then provide documentation about the Norwegian corporate board legislation and about its direct effects after implementation. Finally I will discuss some challenges and implication of the corporate board quota law, with a focus on (lack of) spill-over effects.

Gender disparity in the Norwegian context

For Norway gender equality success is reflected in Norway's high level of employment among men and women (72/67%) and by women's participation in politics, in parliament (40%), government (50%) and municipal councils (38%). Nonetheless, the representation of women in parliament varies along party lines, and women are only represented with 22% women among mayors of municipal councils. Furthermore, the Norwegian labour market is strongly and prevalently gender segregated (Jensberg, Mandal & Solheim 2012). The relatively strong domination of women in the public sector and men in the private sector in Norway, together with stability in the concentration of men and women in occupations and industry are key-factors to explain the lack of changes in patterns of gender segregation.

In sum, the Norwegian gender equality situation is compound. Considerable progress has been made in some areas, while in others gender differences remain pronounced. Nonetheless, gender equality is considered a matter of course and a highly praised value among most and changes in direction of gender equality features the daily life of many Norwegian families (Hansen & Slagsvold 2011).

In this connection economic life comes for as a particular exception. In Norway male dominance in management and ownership of private businesses is a persistent feature (Niskanen 2011). A “hands-off” policy towards business life has been predominant simultaneously as the business life has distanced itself from the gender equality discourse. Gender equality has been considered as something that should be the effect of a natural, gradual evolution. Little progress has been made, however, in the development of the presence of women in the higher echelons of business life. To some extent, the quota law can be viewed as a reaction to the lack of initiatives within business to increase the recruitment of women to top positions. A principle of self-regulation of private business and ownership has set limits on the scope of politics, and has to a large extent dictated the terms as to what action should be taken and which measures to implement. These terms constitute a line of demarcation that the new, Norwegian quota law breaches with. Simultaneously, however, the law can be placed in line with a long tradition in Norway for applying quota measures to promote gender equality (Teigen 2011).

Thus, the introduction of quotas in Norway mainly come for as a response to the disparity between virtual gender parity in political decision-making and the strong male dominance in top management in a country that prides itself at being the international leader in gender equality.

The Norwegian gender quota tradition

Quotas and positive action have played a particularly prominent role in Norwegian gender equality politics, much more so than in other Nordic countries (Teigen 2011). Quota procedures exist almost within all fields of the society: education, employment, political and economic decision making and even for the family sphere through the parental leave system (the daddy quota).

The existing positive action and quota arrangements can be divided into three main types: preferential treatment, promoting procedures and minimum representation rules:

Preferential treatment is the most widely used in recruitment and promotions in the state and municipal sectors, in some private companies, and in connection with admission to gender-skewed types of education; thus, applicants from the underrepresented gender are given priority when qualifications are equal or about equal. Following from the limited formulation of these procedures, they have proved to have only minor direct effects. In spite of their relative efficiency, studies indicate, however, that they have an indirect positive impact on organisations’ prioritising and legitimizing of gender equality actions (Teigen 2002).

Promoting procedure is a slightly different kind of positive action, which implies that candidate’s chances are improved by being moved upwards in a prior ranked queue or row. The “additional point” system is the most commonly applied procedure to balance the gender composition of students within gender skewed fields of learning. “Earmarking” is another promoting procedure, mainly applied at universities to increase the representation of women in academic positions. “Earmarking” of university positions for women, including professor positions, played an important role as the

main gender equality strategy of Norwegian universities in the 1990s.¹

Minimum representation or, strict quotas, set requirements for gender composition in terms of fixed distributions. In the Norwegian context, such arrangements are generally formulated as a demand for at least 40 per cent of each gender. Principles of minimum representation exist as voluntary agreements in five of the major Norwegian political parties, with the exception of the Conservative Party and the right wing Progress Party. Voluntary quota arrangements are also widely used among civil society organisations. Legislative quotas regulate the gender composition of publicly appointed boards, councils and committees, and were first introduced in 1981 in section 21 in the Gender Equality Act, which for more than twenty years was the only legislative quota arrangement in Norway. However, the recent revision of the Company's Act means that a wide range of publicly and privately owned company boards are now obliged to meet the same requirements.

2. The corporate board quota law

The Norwegian quota law was passed in parliament in 2003 and stipulates a minimum 40 per cent representation of each gender on a wide spectrum of Norwegian corporate boards. The centre of attention has been on the public limited companies², especially the stock-listed companies. However, the quota requirement also applies to the boards of state- and municipality-owned companies and was recently expanded to all co-operative companies.

The quota regulation for state owned and inter-municipal companies became effective in 2004, for new public limited companies in 2006, and for all public limited companies in 2008, for municipal and cooperative companies in 2009.

All together the corporate board quota legislation comprise almost 2,000 companies. There are 315 public limited companies, 230 municipal companies, 241 inter-municipal companies, 52 state companies and 923 cooperative companies that are subject to the quota legislation.

¹ Earmarking of positions and study places has been tested as an "instant measure" in order to get more women into strongly male-dominated areas of higher education. Professorship and post-doctoral positions were earmarked for women at the most male dominated university departments. In admissions to courses in information and communication technology at the Norwegian University of Science and Technology, there is a separate quota for female applicants, where a limited number of places are reserved for female applicants who fulfil at least 90 per cent of the current admission requirements. The Norwegian system of earmarking of positions (professorships and post-doctoral) was abolished after the EFTA court decision in 2003. A parallel ruling was made earlier concerning a Swedish case, where the European Court of Justice concluded in the "Abrahamsson" case (C-407/98) <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61998J0407:EN:HTML>.

² A public limited company is a company in which none of the members are personally liable for the company's debts. Public limited companies usually have many shareholders and are governed by rather strict rules with regard to the composition of their boards and the share capital. A company must be registered as a public limited company to be listed on the Oslo Stock Exchange.

The criteria for gender representation on the boards is set in the *Norwegian Public Limited Liability Companies Act* in its article 6-11a. *Demand of representation of both genders on the board* is as follows:

1. Where there are two or three members of the board, both genders should be represented.
2. Where there are four or five members of the board: both genders should be represented with at least two members.
3. Where there are six to eight members of the board, both genders should be represented with at least three members.
4. Where there are nine or more members of the board, the membership should comprise at least 40 % of men and 40% of women.
5. Rules 1 to 4 also apply for the election of deputy members.³

There are however about 150,000 private limited liability companies that are **not** subject to the quota law, many of these rather small companies. Nonetheless, although the quota law does not include the majority of Norwegian companies, it applies to most of the central actors in Norwegian economic life.

Still, no rules have yet been proposed for the considerably more numerous private limited liability companies. Private limited liability companies have, in general, more lenient rules with regard to the composition of the board and the share capital than public limited companies. Most of these companies are rather small family-owned enterprises with few owners, and the owners are themselves members of the boards. There is occasional debate about whether the quota law should be extended to apply to private limited liability companies particularly the larger ones. One of the reasons presented for not extending the quota regulation to private limited liability companies concerns that it would conflict with the autonomy of private personalized ownership in small and medium sized businesses which plays a more important role than in public limited companies. There are however large differences between the private limited liability companies, and if there were to be a quota law in the future regulating the gender composition of these company boards it will probably concentrate on the largest private limited liability companies.

The quota law thus remains restricted in scope since it does not apply to the vast majority of companies. Nevertheless it comprises the largest and most central companies in terms of profits and number of employees, i.e. the pivotal areas for performance of economic power, and hence promises to improve women's access to power considerably.

3. The effectiveness of the quota law

Before the adoption of mandatory gender quotas on corporate boards men profoundly dominated corporate boards, irrespective of company type. The following presentation of data will focus on public limited company boards. Data from 2002 showed 6 per cent of company board members were women, increasing to 9 per cent in 2004, 12 per cent

³ The rules regarding representation of both sexes are to be applied separately to employee-elected and shareholder-elected representatives in order to ensure independent election processes.

in 2005, 18 per cent in 2006 and 25 per cent in 2007. By entering into force in 2008, women held 36 per cent of seats on the boards of public limited companies, in 2009 the target was reached by 40 per cent women, after that it has remained around 40 per cent (see figure 1).⁴

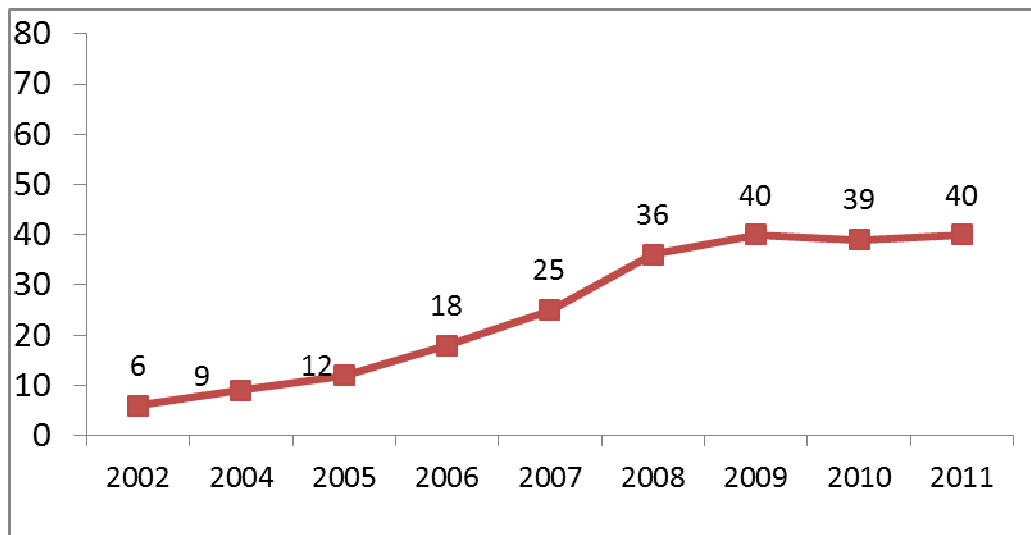


Figure 1 Proportion of women on the boards of public limited companies, Norway, 2002-2011

In consequence, many of the largest domestic companies by market value in Norwegian business life, such as Statoil, Telenor, DNB NOR, Yara International and Hydro, have changed in a few years from a situation of almost no women in decision-making positions to an almost equal number of men and women on the board.

Procedures of implementation

Legislation: The successful implementation of the quota law probably is largely due to the rather tough sanctions that were implemented for breaching the law. The National Business Register enforces the requirements for company boards as part of the ordinary sanction system for all types of companies. Legal sanctions may apply in cases of non-compliance and the company may be dissolved by order of the court. Dissolution has been a part of the legal system since 1977. Experiences show that companies where discrepancies are pointed out, correct these in due time. Before dissolution is considered, the state may give fines to companies not correcting the gender balance after getting a warning. Therefore it is unlikely that any company will be dissolved by the court on account of the gender balance rule. These elements have ensured a high degree of compliance.

Recruitment practices: The sanctions accompanying the corporate board quota law probably have been important for the relatively successful implementation of the law. Although more women are recruited to company boards, there is little indication of businesses investing extra resources to get hold of women candidates for corporate boards. Executive recruitment companies are seldom engaged and women candidates are seldom detected through the use of data-bases providing lists of women-

⁴ In companies with a strong gender skewed composition of employees, concessions are made to the gender requirements of the employee representatives on the board. This, together with the variation built into the detailed formulation of the law according to number of board representatives, is probably a main explanation as to why the proportion of women in company boards is just below the 40 per cent limit. Nonetheless, it also indicates that not many boards develop a representation of women above the required proportion.

candidates (Moe 2009, Heidenreich 2010, Hageland 2010). Another claim in the debate in advance of the quota regulation held that the boards would simply be filled by family and friends of the owners. This claim finds no support, the women board-members are recruited through professional networks and mainly from the same circles as the men board-members (Heidenreich 2010, Storvik 2010). Nonetheless, there are some indications of changes in the recruitment practices of most companies. Recruitment of board-members takes place through professional networks, and is increasingly being professionalized through the use of election committees (Hetland 2007, Huse 2007, Heidenreich 2010). In other words, there has been a tendency of increased professionalization of the recruitment practices to company boards. The professionalization process has speeded up as a consequence of the strengthened commitment to corporate governance, which again appear as interconnected with the corporate board quota legislation.

Gender differences in public limited company boards

An important argument made against the introduction of the quota reform was that there would not be enough competent women available to fill board positions. Available data is based on a questionnaire survey in 2009, which was sent to all members of public limited company boards. The questionnaire was sent to 1,400 persons in the autumn of 2009. We received answers from 880 respondents, a response rate of 62 per cent (see Heidenreich and Storvik 2009, Storvik 2010, Teigen 2012b).

The broader meaning of competence is not necessarily accessible through a questionnaire survey, yet differences according to age, education and occupational position give indications about whether changes in the gender composition of the boards has led to changes in the competence and experience of board members.

The survey data shows that there are more men than women in the older age-groups and more women than men in the younger age groups (see table 1). This probably reflects that the corporate board quota reform has led to the recruitment of relatively young women. In consequence, the boards tend to have a gendered age-structure comprised of older men and younger women.

Table 1 Distribution on age groups of members of PLC boards, men and women.

Age	Men (N)	%	Women (N)	%	Total (N)
Below 40	38	8	69	19	107
40 to 50 y	135	27	196	53	331
51 to 60 y	184	37	81	22	265
Above 60	144	29	23	6	167
Total	501	101	369	100	870

There is a tendency in the material that women board members more often have higher education than the men (see table 2).

Table 2 Education attainments of members of PLC boards, men and women.

Education	Men (N)	%	Women (N)	%	Total (N)
Primary/secondary education	67	13	29	8	96
University/college, less than 3 years	90	18	57	15	147
University/college, 4 to 5 y	237	47	150	41	387
University 6 y +	109	22	134	36	243
Total	503	100	370	100	873

Although the educational level of women is generally higher than that of men, there are rather small differences between men and women according to type of education (see table 3). The most common type of education among board members is business management where half of both men and women have graduated in business management. There are more men than women who have graduated in science and technology, and women are more likely to be lawyers.

Table 3 Types of education of members of PLC boards, men and women.

Education type	Men (N)	%	Women (N)	%	Total (N)
Law	40	8	45	12	85
Business management	251	50	182	49	433
Social sciences & humanities	23	5	27	7	50
Science & technology	148	29	87	24	235
Other	40	8	27	7	67
Total	502	100	368	99	870

Manager is the most common employment status for both men and women board members, however more typical for women than men. For men it is almost equally common to be owner as main occupation status, this applies to only one-fifth of women (see table 4).

Table 4 Employment positions of members of PLC boards, men and women.⁵

Employment position	Men (N)	%	Women (N)	%	Total (N)
Manager	217	37	204	50	421
Owner/partner	194	33	79	19	273
Employee	77	13	70	17	147
Board memberships	77	13	40	10	117
Other	28	5	6	2	34
Total	593	101	399	98	992

There are also clear differences between men and women with regard to ownership interests in the company in which they are a board member. Men are more likely to report significant or strong ownership interests in the company (see table 5).

⁵ Several options were possible, percent of number of men (503) and women (370).

Table 5 Significant ownership interests of members of PLC boards, men and women.

Significant ownership interests in company	Men (N)	%	Women (N)	%	Total (N)
Significant ownership interests	173	35	40	11	213
Represents ownership interests	104	21	45	12	149
No ownership interests	222	45	283	77	505
Total	499	101	368	100	867

On the one hand, the fewer women with company ownership interests indicate that the women newcomers to a lesser degree have vested interests in the ruling of companies they represent on the board. On the other hand, the increase of women without ownership interests in the company they represent may imply that the boards have become more independent and less governed by strong owner interests in the company.

Although the gender composition in public limited company boards has changed dramatically, the hierarchical gender division continues. There is a strong male dominance among the chairs of the boards as 93 per cent are men. Women are better represented among the deputy chairs, and there are a 60/40 per cent distribution of men and women among the deputy chairs.

4. Challenges and implications

The introduction of the corporate board quota reform has generally been successful. On the background of the legislations relatively delimited purpose, the quota demand is fulfilled: The representation of women has met the target, but not moved beyond that. The government ambition indeed reached further, and aimed for promoting gender equality in business life (Proposition to Parliament, Ot.prp. 97 (2002-2003)). In the following we will look into whether the corporate board quota legislation has contributed to promote gender equality in economic life in general.

Quota law's effect on women in top-management

Generally, the introduction of quota regulations has been successful for the corporate boards directly affected. In a few years' time, the presence of women board-members increased from less than five to forty per cent. Decision-making positions in the business sector continue to be male dominated, however.

The Norwegian corporate board quota law emerged as an attempt to change the situation of extreme male dominance in Norwegian economic life. The boards became the target of quota arrangements in Norwegian business-life not because the board room necessarily was considered the most important site for the execution of power in economic life, but because it was only here it was possible and feasible to impose measures. The quota law was clearly a part of a greater gender equality ambition. The question is whether there are signs of spill-over effects of the quota law to other parts of business-life.

First, we ask whether there has been a tendency of growth in the presence of women in top-management of the businesses affected by the law. A mapping of top-positions

of a wide spectrum of corporate companies in Norway affected by the quota law revealed that little is happening. There are still mostly men in top-management positions in the largest companies in Norway. A survey of the largest Norwegian companies indicates that less than 1 per cent of the CEOs are women, while the average presence of women in the corporate management groups in these companies are 10 per cent (Heidenreich 2009: 225-231).

A recent mapping by Burson-Marsteller 2012⁶ of “prime insiders” on the stock-exchange indicates the continuation of male dominance in Norwegian economic life. Among the wider group of prime insiders 27 per cent are women, among the most “trusted” of these women constitute only 8 per cent.

Diffusion to non-quota boards

Another indication of positive spill-over effects of the corporate board quota reform would be increase in the representation of women on company boards not subject to the quota legislation. There appears to be little evidence pointing in that direction, however. There is an almost striking stability in the gender composition of the boards of private limited liability companies (see figure 2).

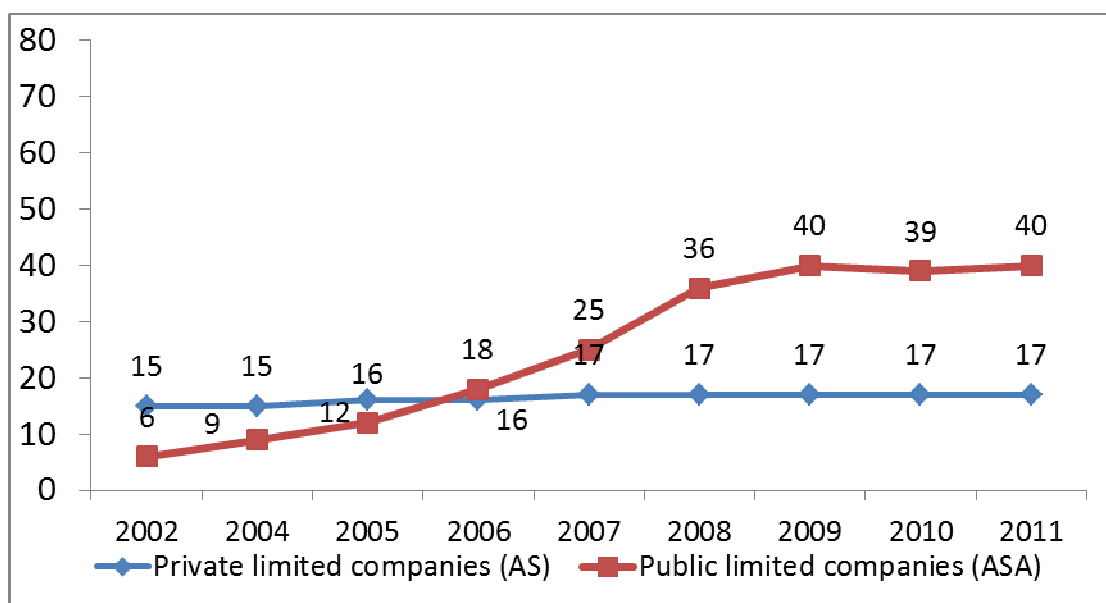


Figure 2 Proportion of women on the boards, public limited and private limited liability companies, 2004-2009, per cent.

Generally, the corporate board quota legislation has had little effect on gender equality for the parts of Norwegian business sector not subject to quota regulations. One reason why male dominated structures prevail in top-management and in the boards not subject to the quota law probably is because they do not have to.

⁶ <http://burson-marsteller.no/wp-content/uploads/2012/01/InnsideB%C3%B8rsen-Q1-2012.pdf>

Women's multiple board positions

The promotion of democracy was emphasized in the government's reasoning for the quota reform. The argument was that the quota reform contributes to women's equal participation and citizenship (Ot.prp. 97 (2002-2003)). Critics have maintained, however, that an un-intended consequence of the quota reform is that it has led to the growth of "golden skirts", that is women sitting on multiple boards. The "golden skirt" phenomenon has been viewed particularly problematic in light of the argument of democracy, as long as multiple board-memberships imply power concentration.

The increase in the numbers of women with multiple board memberships is a key concern of Cathrine Seierstad and Tore Opsahl (2011). They find that the proportion of women have increased significantly from 2002 to 2009 in public limited company boards.

Nonetheless, comparison of men and women show that more of the board members with multiple board positions continue to be men, although the proportion of women who sit on multiple boards has increased more rapidly, probably as a consequence of the corporate board quota legislation. In other words, although the presence of "golden skirts" has emerged there are still more "golden suits" in Norwegian corporate boards.

Another study, by Trond Løyning, of men and women board members finds that the corporate board quota legislation has significantly changed the centrality of women in networks. The main reason for this change is connected to the tendency of more women holding positions on multiple boards (Løyning 2011).

Løyning (2011) and Seierstad & Opsahl (2011) focus the changes in women's share of multiple board-membership. Nonetheless, although there has been a growth in the number of women with multiple board positions, there are still a majority of the members of public limited company boards that is placed on only one board. Data from Statistics Norway shows that the majority of board members sit on only one board, and that this applies for slightly more women than men (see figure 3). In other words, more men than women sit on multiple boards. A comparison of the private limited (non-quota) and the public limited (quota) boards we find that the gender differences are smaller for the public limited boards compares to the private limited boards. Probably, this difference is an effect of the corporate board quota legislation. More women have been offered more positions in public limited company boards, to fulfill the quota demands, although they have not surpassed the men.

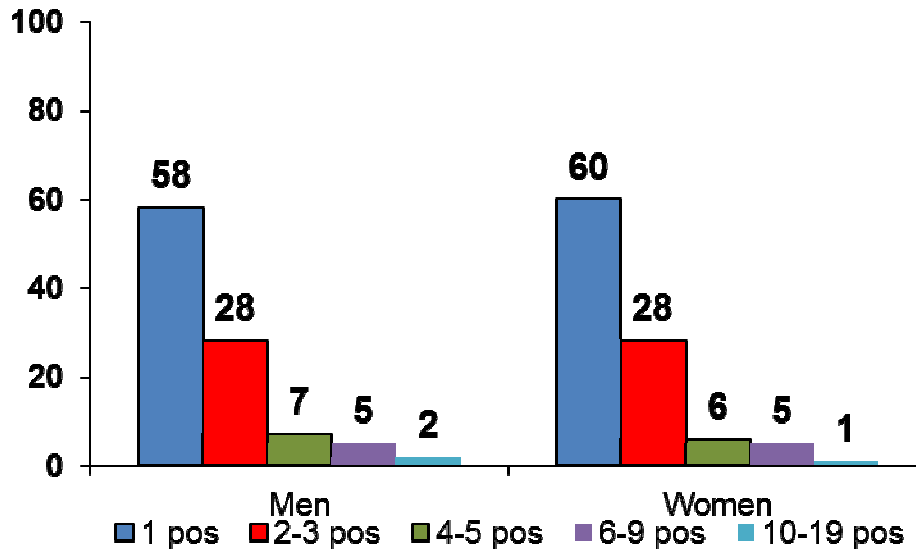


Figure 3 Proportion of men and women according to number of positions on public limited company boards.

Final remarks

Norway holds a position as international forerunner of gender equality. Strong and prevalent male dominance in the Norwegian business sector has for some time disturbed the picture of national gender equality success. For Norway stagnation in close to complete male dominated structures of economic decision-making hit a particular tender spot. The discrepancy between (almost) gender balance in political decision-making and the strong male dominance in top management created a problem that the mandatory gender quota on corporate boards aimed to solve.

The strongest argument for gender quotas on corporate boards has been the simple claim for gender balance. Quotas as a way to crash the glass-ceiling, the invisible barrier for women to reach top-positions in the business world, has stood out as the main argument for the quota reform. Voluntary efforts generally have tended only to bring about slow or no changes as ripples on the surface.

The recent international diffusion of mandatory quotas on corporate boards can be viewed as a turning point, where gender simultaneously is losing and gaining authority. On the one hand, the legitimacy to hinder women's entrance to arenas of power and influence has lost status. Simultaneously, on the global arena the promotion of gender balance in decision-making is gaining authority.

In spite of its limitations and implications, the Norwegian corporate board quota legislation comes for as a significant policy innovation. The quota reform has proved that changing the gender composition of boards within an area seemingly incapable of change is possible. Female candidates are available, but have to be "detected". Therefore the circles from which selectors normally search for candidates had to be widened. The quota reform may also prove to be important to the degree that it manages to present female role models. The reform has weakened the idea that a career in business is for "men only". Furthermore, the quota law may help to disentangle the connection between men and economic power, and by this soften strong cultural conceptions of economic power as a predominantly male concern.

Questions to be addressed

1. What are the main arguments for introduction of mandatory gender quotas on corporate boards – and not non-legislative measures?
2. What are the main alternatives – and/or supplements – to mandatory quotas to progress gender balance in corporate boards and in leadership?
3. How to promote diffusion of gender balance from corporate boards to top management?
4. How could the national contexts be taken into account when designing measures to promote gender balance in economic decision-making?

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