

# International Perspective on Gender Quota Legislation and Gender Diversity on Corporate boards

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# Three questions

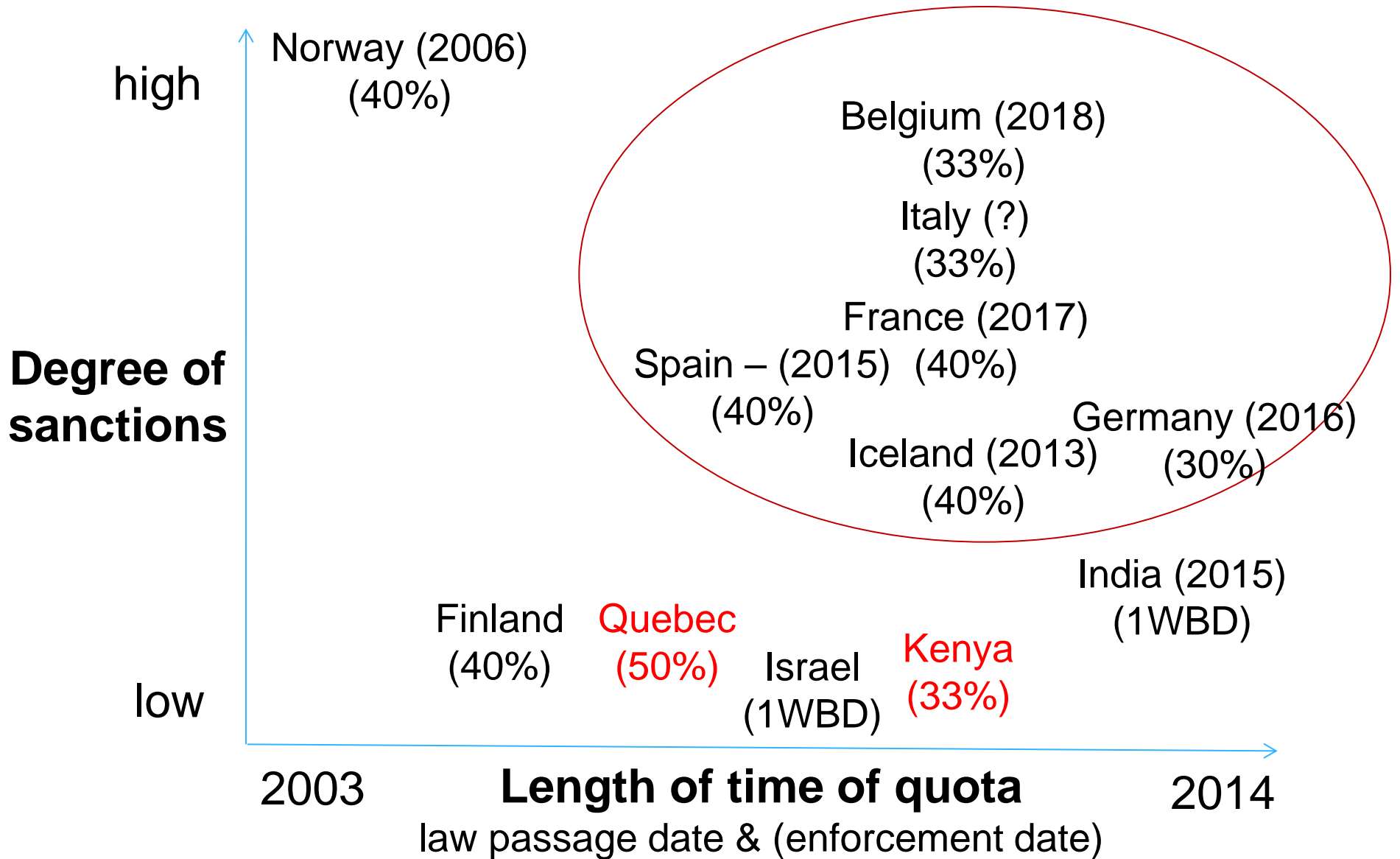
1. What countries have quotas (hard law) or voluntary 'comply or explain' codes (soft law) for female representation on boards?
2. What are the 'pre-condition' antecedents of quotas around the world?
3. What are the tensions around quotas in terms of the motivations (e.g., political ideologies), legitimacy (e.g., meritocracy and ethics), and outcomes (e.g., for society, organizations, and individuals)?

# Quotas or 'Comply or Explain' for Corporate and/or SOE Boards

- \* Hard Law: Quotas in 12 countries and 2 regions (Québec, Greenland), ranging from 33-50%, time period (~3-5 years), and penalties for non-compliance; publicly-traded, SOE, or other firms
- \* Soft law: non-binding 'comply or explain' in 15 other countries' corporate governance codes
- \* Countless other countries' leaders and policy groups are debating, developing, and approving legislation around gender quotas in boards (Slovenia, Sweden, UK, etc.)

| Country   | Quota    | PTFs | SOEs | Passage Date                             | Compliance date                               | Sanctions   |
|-----------|----------|------|------|--|---|---|
| Norway    | 40%      | Yes  | Yes  | Dec. 19, 2003                            | 2006: SOEs; 2008: PTFs (40%)                  | Refuse to register board; dissolve company; fines until compliance                        |
| Spain     | 40%      | Yes  | No   | Mar. 22, 2007                            | Mar. 1, 2015: PTFs (40%) w/ 250+ emp.         | Lack of gender diversity will impact consideration for public subsidies & state contracts |
| Finland   | 40%      | Yes  | Yes  | Apr. 15, 2005                            | Jun. 1, 2005                                  | None  |
| Québec    | 50%      | No   | Yes  | Dec. 1, 2006                             | Dec. 14, 2011                                 | None  |
| Israel    | 50%/1FBD | Yes  | Yes  | Mar. 11, 2007: SOEs; Apr. 19, 1999: PTFs | 2010: SOEs; None for PTFs                     | None  |
| Iceland   | 40%      | Yes  | Yes  | Mar. 4, 2010                             | Sept. 1, 2013: 40% for firms w/ 50+ employees | None  |
| Kenya     | 33%      | No   | Yes  | Aug. 28, 2010                            | Aug. 28, 2010                                 | None  |
| France    | 40%      | Yes  | No   | Jan. 13, 2011                            | Jan. 1, 2017: 500+ empl. or €50m rev.         | Fees will not be paid to directors  |
| Italy     | 33%      | Yes  | No   | Jun. 28, 2011                            | Interim 20% by 2012                           | Fines; directors lose office  |
| Belgium   | 33%      | Yes  | Yes  | June.30, 2011                            | 2011-2: SOEs; 2017-8: PTFs                    | Void appt. of directors who do not meet quota targets; suspend director benefits          |
| India     | 1FBD*    | Yes  | Yes  | Aug. 2013                                | August 1, 2015                                | Fines   |
| UAE       | 1FBD     | Yes  | Yes  | Dec. 2012                                | Not specified                                 | None  |
| Greenland | 50%      | Yes  | Yes  | 2013                                     | January 2014                                  |   |
| Germany   | 30%**    | Yes  | No   | De. 2014                                 | 2016  | Director seat must be left vacant   |

# Degree of Sanctions vs. Length of Time



# Soft Law: Board Gender ‘Comply or Explain’

|              |                      |  |  |
|--------------|----------------------|--|--|
| Austria      | Jan. 2012            | Austrian Code of Corporate Governance  | Furthermore, aspects of diversity of the supervisory board with respect to the internationality of the members, the representation of both genders and the age structure shall be reasonably taken into account.” (p 33)<br><br>Target: 30% WBD by 2018; Companies: SOEs; Interim Target: 25% WBD by 2013;   |
| Denmark      | Apr. 1, 2010         | Recommendations on Corporate Governance                                      | “The committee recommends that the selection and nomination of candidates for the board of directors be carried out through a thoroughly transparent process approved by the overall board of directors. When assessing its composition and nominating new candidates, the board of directors must take into consideration the need for integration of new talent and diversity in relation to age, international experience and gender” (p. 16)                   |
| Germany      | May 2010             | Corporate Governance Code  | “When appointing the Management Board, the Supervisory Board shall respect diversity, specifically an appropriate consideration of women; The Supervisory Board shall take diversity into account, establishing concrete objectives, and stipulating an appropriate degree of female representation; the concrete objectives of the Supervisory Board and the status of the implementation shall be published in the Corporate Governance Report” (p. 6, 9 and 10) |
| Ireland      | Sept. 2012           | The UK Corporate Governance Code and the Irish Corporate Governance Annex    | “When searching for board candidates, appointments should be made on merit, against objective criteria, and with due regard for the benefits of diversity on the board, including gender” (p. 12)  |
| Luxemburg    | Oct. 2009            | The Ten Principles of Corporate Governance of the Luxembourg Stock Exchange  | “Insofar as possible the board should have an appropriate representation of both genders” (p. 16)  |
| Malawi       | Jun. 2010            | The Malawi Code II: Code of Best Practice for Corporate Governance in Malawi | “Depending on the type of organization, the selection process for the appointment of new members of the board may also consider appropriate diversity of gender and/or social and economic background” (p.17)  |
| Malaysia     | Mar. 2012            | Malaysia Code of Corporate Governance  | “the board should establish a policy formalising its approach to boardroom diversity. the board through its nominating Committee should take steps to ensure that women candidates are sought as part of its recruitment exercise. the board should explicitly disclose in the annual report its gender diversity policies and targets and the measures taken to meet those targets. Target: 30% WBD by 2016.  |
| Netherlands  | Dec. 2008            | Dutch Corporate Governance Code  | “The supervisory board shall aim for a diverse composition in terms of such factors as gender and age” (p. 22)   |
| Nigeria      | Jan. 2011            | Code of Corporate Governance for Public Companies in Nigeria                 | “The criteria for the selection of directors should be written and defined to reflect the existing Board’s strengths and weaknesses, required skill and experience, its current age range and gender composition” (p. 23)  |
| Poland       | Jul. 2010            | Code of Best Practice for WSE Listed Companies                               | “The WSE recommends to public companies and their shareholder that they ensure a balanced proportion of women and men in management and supervisory functions in companies, thus reinforcing the creativity and innovation of the companies’ economic business” (p. 4)   |
| South Africa | Sept. 2009           | King Code of Governance for South Africa 2009 (King III)                     | “Every board should consider whether its size, diversity, and demographics make it effective; Diversity is defined as academic qualifications, technical expertise, relevant industry knowledge, experience, nationality, age, race, and gender.” (p. 25)  |
| Sweden       | Feb. 2010; Jan. 2007 | The Swedish Corporate Governance Code  | “When determining the size and composition of the board, the company is to strive for equal gender distribution” (p.17) Disclosures: Publicly traded companies are required to disclose the gender breakdown of the board of directors, separate from the gender breakdown of the company’s management, in their annual report   |
| UK           | Oct. 2012            | The UK Corporate Governance Code   | “The annual report should include a description of the board’s policy on diversity, including gender, any measurable objectives that it has set for implementing the policy, and progress on achieving the objectives; When undertaking its formal annual evaluation of the board, the board should consider the balance of skills, experience, independence and knowledge of the company on the board, as well as its diversity, including gender” (p.12)         |
| US           | Feb. 2010            | Report of the New York Stock Exchange Commission on Corporate Governance     | Regulation; Mechanism: Securities and Exchange Commission (SEC); ; Disclosures: Whether diversity is a consideration when directors are named; If so, how the diversity policy is implemented and how effectiveness is evaluated   |

# Pre-conditions for Gender Board Quotas

- \* Organizations are embedded in institutional environments, and respond to regulations and structures (Hall & Soskice, 2001; North, 1990).
- \* Three key institutional factors are pre-conditions for gender board quotas (Terjesen et al., 2013):
  - (1) Female labor market and gendered welfare state provisions
  - (2) Left-leaning political government coalitions
  - (3) Path dependent policy initiatives for gender equality, both in public and corporate domains



|                    |
|--------------------|
| Country            |
| Country w<br>Quota |
| Norway             |

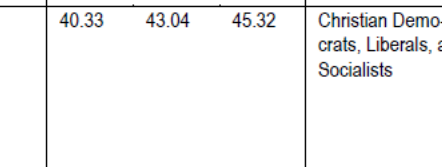
# Welfare support, political coalitions, and path-dependent initiatives



|       |       |       |       |   |             |   |
|-------|-------|-------|-------|---|-------------|---|
|       |       |       |       | Spanish Democrats, and Liberals w/support of Progress Party |             | Environment Act (working hours and employment protection), 1997: National Insurance Act; 2005: Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal   |
|       | 35.61 | 39.78 | 44.28 | Spanish Socialist Workers' Party                            | Center-left | 1931: Women's suffrage; 2007: Pension Reform Act; 2007: Gender Equality in Private Insurance Act, Law on Guaranteeing Equality between Women and Men; 2004: Integrated Protection Measures against Gender Violence; 1999: Reconciliation Law; 2006: Dependency Law  |
| and e | 47.00 | 47.76 | 47.84 | Centre Party  | Center      | 1906: Women's suffrage; 1992: Act on Equality between Women and Men, amendments in 1995, 1997, 2001, 2005; 1995: Act on the Equality Ombudsman and Equality Board, amendments in 1999, 2000; 2004: Act on Employment Contracts; State Pensions Act; Municipal Pensions Act; Act on Pensions of Members of Parliament and Their Family |



|       |                |    |  |                               |              |  |
|-------|----------------|----|--|-------------------------------|--------------|--|
|       |                |    |  | Union for an Popular Movement | Center-right | 1944: Women's European provision Authority Against discrimination, maternity pr  |
| Italy | ~20 (5 months) | 80 |  | Social Insurance              |              |  |
|       |                |    |  |                               |              | 1945: Women's decisions on the and supply of g opportunities; 2000: implementing EU Dir access to emplo 2000/1: Sustain ing, and Coordin |
|       |                |    |  | The Union                     | Center-left  |  |
|       |                |    |  |                               |              | 1919: Women's 1996: Well-Being Insurance (ees) Act concern (legislative acts Community), 19  |



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this was amended to  
men the right to vote in  
16 giving married wom-  
ights and Freedoms  
minatory provisions, and  
men and women; 1951:  
w: Human Dignity and  
Full women's suffrage;  
nder Equality Act; 2000:  
Act on Working Envi-  
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# Implications of Pre-conditions

- \* Government, political institutions, and other actors play a major role in shaping the development of corporate governance regulation specific to gender equality
- \* Important nuances between hard law (statutory legislation) versus soft law (codes of conduct)
- \* Specific tipping points in terms of support from an elite or celebrity government or business leaders

# Significant media attention



*The Atlantic, May 4, 2015*

## Gender quotas: vital for equality or mere tokenism?

*The Week, May 15, 2015*



For American women, it's been a very slow, tough road to the boardroom *Fortune, May 14, 2015*

**BUSINESS**

## What Norway Can Teach the U.S. About Getting More Women Into Boardrooms



# Quotas are deeply contentious



- \* A “last response” to an intractable problem (Fagan & González Menéndez, 2012)
- \* Norway quota: “snowball” gathering momentum (Machold, Huse, Hansen & Brogi, 2013)
- \* And a “threatening avalanche... mobilizing ideological and political resistance” (Huse & Seierstad, 2013:38).

# Why are quotas so contentious?

- \* Literature review of all published research (80+) on quotas reveals tensions (Terjesen & Sealy, 2015):
  - \* **Motivations:** What is the underlying rationale?
  - \* **Legitimacy:** Are quotas ethical? Are quotas meritocratic?
  - \* **Outcomes:** What is the measure of ‘success’?



# Tensions of Motivations



| Viewpoints opposing quotas   | Viewpoints supporting quotas  | Emerging Tensions  |
|--|---|--|
| <ul style="list-style-type: none"><li>• <b>Utility</b> emphasizes capitalism and individualism: <i>firms should be free to select the most qualified director</i></li><li>• <b>Justice</b> for the <i>individual who is the most qualified to join the board</i></li><li>• <b>National identity and public opinion</b> support <i>national law</i></li><li>• <b>Business case:</b> neoliberal capitalist perspective that <i>market forces will ensure whether more women directors are beneficial to the firm</i></li></ul> | <ul style="list-style-type: none"><li>• <b>Utility</b> emphasizes that the <i>board will benefit from more women who bring fresh perspectives and active participation</i></li><li>• <b>Justice</b> for women who <i>constitute half the population and should hold half the power</i></li><li>• <b>National identity and public opinion</b> support <i>gender equality</i></li><li>• <b>Business case:</b> society invests in <i>educating its daughters but does not allow them to reach their full potential</i></li></ul> | <ul style="list-style-type: none"><li>• Is utility (or justice) for the firm/most qualified individual or for women generally?</li><li>• Are national identity motivations stronger in protecting equality or in emphasizing individualism and opposing new legislation?</li><li>• Will the market self-correct inequalities?</li><li>• Is the business case for firms or for society?</li><li>• Are quotas remedial or progressive?</li><li>• Is the motivation to change the % of female directors and/or the underlying cultures?</li></ul> |

# Tensions of Legitimacy

| Viewpoints opposing quotas  | Viewpoints supporting quotas   | Emerging Tensions  |
|---|--|--|
| <ul style="list-style-type: none"> <li>Quotas <b>violate separation of the public and private sphere</b></li> <li>Quotas are <b>anti-meritocratic</b></li> <li>Quotas may <b>not be legitimate or necessary</b> in some national contexts</li> <li><b>Voluntary measures may be perceived as ‘real’</b> and may therefore be effective in and of themselves</li> <li><b>Post-quota women will not be perceived as legitimate</b> and competent</li> <li>Quotas <b>address discrimination with further discrimination</b></li> </ul> | <ul style="list-style-type: none"> <li>Equality of opportunity is thwarted by <b>system-wide biases that should be eliminated</b></li> <li>Most quotas are aimed at SOEs or PTFs that are in the <b>public sphere of influence</b></li> <li>Quotas are an <b>‘imperfect strategy in an imperfect world’</b></li> <li>Quotas are <b>required short-term</b> to achieve true meritocracy</li> <li>Quotas <b>are legitimate and necessary in some countries</b></li> <li>Post-quota women will <b>enhance their legitimacy over time</b></li> </ul> | <ul style="list-style-type: none"> <li>Are quotas ethical?</li> <li>Are quotas meritocratic?</li> <li>What is the perception of individuals who are affected by quotas?</li> <li>Should quotas be used to change short-term demographics and/or long-term talent strategies?</li> <li>Should quotas be a measure of last resort? Should voluntary measures be used before quotas?</li> <li>Should contextual factors be considered when determining whether a quota is appropriate?</li> </ul> |



# Tensions of Outcomes

## Viewpoints opposing quotas

- There is **inconclusive evidence of bottom line impact** of women on boards
- There are serious **costs of implementing quotas**
- **Voluntary quotas make smaller, slower differences** that are better for the business environment

## Viewpoints supporting quotas

- Quotas **achieve the goal of appointing more women on boards**, where prior policy initiatives have failed
- Post-quota **women directors contribute substantially to their boards**
- Quotas can **increase the share of women in other leadership roles**

## Emerging Tensions

- How should success be defined and measured?
- What are quotas meant to achieve? What do quotas actually achieve?
- What is the right percentage of women?
- Who should benefit?
- Do the measured outcomes reflect actual or perceived performance?
- What are the long term performance outcomes?
- Do quotas lead to changes in beliefs, policies, or systems?

# How does the quota impact individual, board, firm, industry, and country?

- \* Are **younger** than pre-quota male and female directors
- \* Have **less CEO experience**
- \* Have **higher levels of education**, especially law & MBA
- \* More likely to be employed as **managers** and less likely to be owners or self-employed
- \* More likely to have **international experience**
- \* More likely to be **independent directors**
- \* Slightly more likely to come from a **foreign country**
- \* Believe they have **high levels of influence**
- \* Provide more **female role models**
- \* Include more **‘celebrities’**

# How does the quota impact individual, board, firm, industry, and country?

- \* Have **more female directors**
- \* Some **'add'** women (new seats) while others **'replace'** men (with new women) or do **both**
- \* **Speed** of implementation varies, without considering time difference between enactment and enforcement; Norwegian firms that complied earlier have **boards with more women, older directors, and directors with more CEO experience**
- \* Use **English** as the national language
- \* **Does not impact 'non-quota-affected' boards'** number of women
- \* Board processes are **more professional** and result in better quality decisions

# How does the quota impact individual, board, **firm**, industry, and country?

- \* **No consistent evidence of an impact on financial outcomes**, e.g., firm value, stock price, return on assets, or operating costs (hard to separate differences)
- \* More likely to have **short-term profits**
- \* **Inconsistent evidence on de-listing** of firms: quantitative studies indicate a link; qualitative studies don't

# How does the quota impact individual, board, firm, industry, and country?

- \* Many new **female director training programs** and **global search firm offerings**
- \* **Databases** created in regional and national areas, but no evidence that these are useful
- \* Any new quota stimulates **debate in other countries** (snowball, avalanche)
- \* Public reaction is usually some **initial shock and division**, but is followed by generally accepting and **positive atmosphere**
- \* Domestic **media coverage** is initially quite prolific but decreases after the quota

# What are the dominant theoretical perspectives? (their findings and suggested future research)

- \* Institutional theory
- \* Stakeholder theory
- \* Social identity theory
- \* Social capital theory



# Institutional Theory

| Primary Theoretical Questions  | Representative findings on tensions over quotas  | Future Research Questions on tensions over Quotas  |
|--|--|--|
| <ul style="list-style-type: none"><li>• How do organizational practices and structures become institutionalized within a field?</li><li>• How are institutions created, maintained, and changed?</li><li>• How do the institutions in a society guide organizational action?</li></ul> | <ul style="list-style-type: none"><li>• <b>Countries copy policy reform</b> (Teigen, 2012); Dhir (2014)</li><li>• <b>Quota normalizes... how a proper company should function; tokenism is a justification</b> (Torchia et al., 2011; Torchia, 2013)</li><li>• <b>Critical mass</b> is required to be self-sustaining (Kogut et al., 2014)</li></ul> | <ul style="list-style-type: none"><li>• Should society or business change first? Will changes in one arena affect the other?</li><li>• Will quotas snowball to other countries?</li><li>• Who are the institutional entrepreneurs who break the dominant institutional logics?</li><li>• What other roles does the institutional entrepreneur play?</li><li>• Is it necessary to have an institutional entrepreneur?</li><li>• Are there any common characteristics of quotas?</li><li>• How do quota characteristics impact outcomes?</li><li>• Which institutions are shrinking?</li></ul> |

# Stakeholder Theory

| Primary Theoretical Questions   | Representative findings on tensions over quotas   | Future Research Questions on tensions over Quotas  |
|---|---|--|
| <ul style="list-style-type: none"> <li>• What actors have an interest and may influence the company or be influenced?</li> <li>• What are the various stakeholders' levels of predictability, influence, and power?</li> <li>• What new stakeholder groups are emerging?</li> <li>• How should management balance the competing preferences of different stakeholder groups?</li> </ul> | <ul style="list-style-type: none"> <li>• <b>Shareholders may have multiple motivations</b> (Branson, 2012)</li> <li>• Stakeholders' demand for better corporate governance, including quotas, came in the <b>wake of the economic collapse</b> (Arnórsdóttir, 2012)</li> <li>• <b>Directors' characteristics change after the quota</b> in terms of education and background (Ahern &amp; Dittmar, 2012; Gonzalez Menéndez &amp; Martinez González, 2012; Ahern &amp; Dittmar, 2012; Heidenreich, 2013)</li> <li>• Quota <b>presents strong female role models</b> in business</li> </ul> | <ul style="list-style-type: none"> <li>• How can those pushing change make it easier for those who need to lead the change?</li> <li>• If drivers of change (government, campaigners) work on multiple external stakeholders, does it make it easier for the leaders (e.g., UK)?</li> <li>• What role do institutional investors/ headhunters/ media/ regulatory bodies/ Chairmen/ CEOs/other stakeholders play in supporting positive outcomes of quotas?</li> <li>• What are the power shifts from a quota?</li> </ul> |

# Social Identity Theory

## Primary Theoretical Questions

- Why is there a lack of substantive change in boardroom processes when a single female director is added to the board?
- How do pre- and post- quota directors form identities and impact board processes? How do expectations of success affect individuals' effort level and performance?

## Representative findings on tensions over quotas

- Women **more strongly identify with their social identities as board members after a quota** (Jonsdottir et al., 2015)
- Social identity is a **critical component of board room processes** (Dhir, 2015)
- Social identities are **increasingly important as women's participation in the labor market grows and shifts from job to career** (Teigen, 2015)

## Future Research Questions on tensions over Quotas

- Do other identities (e.g., member of another organization) decrease when individuals identify more strongly with their board member social identities?
- Do men have less negative experiences as tokens?
- How does the presence of board gender quotas affect women's propensity to engage in tournaments in their employing firms?

# Social Capital Theory

| Primary Theoretical Questions  | Representative findings on tensions over quotas   | Future Research Questions on tensions over Quotas  |
|--|---|--|
| <ul style="list-style-type: none"> <li>• What are the relationships, linkages, or ties among people?</li> <li>• Which networks are individuals or organizations strongly or weakly embedded in?</li> <li>• How does an individual's social capital explain his/her ability to access and/or be positioned in elite networks?</li> <li>• Which networks affect the individual's ability to access important resources?</li> </ul> | <ul style="list-style-type: none"> <li>• <b>Female directors' social capital increases at twice men's rates</b> (Seierstad &amp; Opsahl, 2011)</li> <li>• Immediately after the quota, some <b>Norwegian women, the "Golden Skirts" have multiple appointments and opportunities to develop social capital</b> (Huse, 2011)</li> <li>• Women's social networks are <b>more likely to bridge across firms due to their tendency to occupy independent directorships</b> (Gonzalez Menéndez &amp; Martinez González, 2012; Staubo, 2010)</li> </ul> | <ul style="list-style-type: none"> <li>• Are women gaining power seats on post-quota boards?</li> <li>• Are women conducting monitoring rather than strategic roles on post-quota boards?</li> <li>• What social networks explain women's appointment to post-quota boards?</li> <li>• How do social networks vary across pre and post-quota women?</li> <li>• Do quotas produce a new corporate elite group, i.e., an "old/new girls network"?</li> </ul> |

# Current and Future Trends

- \* In EU, North America, elsewhere: **women outnumber men as university graduates** of business, engineering, and law; young women's employment rates significantly higher than earlier generations (BLS, 2012; EC, 2012; Eurostat, 2012)
- \* **NGOs** track the presence and development of women directors
- \* **Global efforts** by Catalyst, Cranfield, and others to run initiatives in the Middle East, Hong Kong, India, etc.
- \* **Govt. commission reports**, e.g., UK: Lord Davies (2011; 2013)
- \* **Transnational/regional level**: bodies such as the European Union are shaping country policy (Pollack & Hafner-Burton, 2000); e.g., the 2012 EU Directive for Gender Balanced Boards

# Future Research Directions

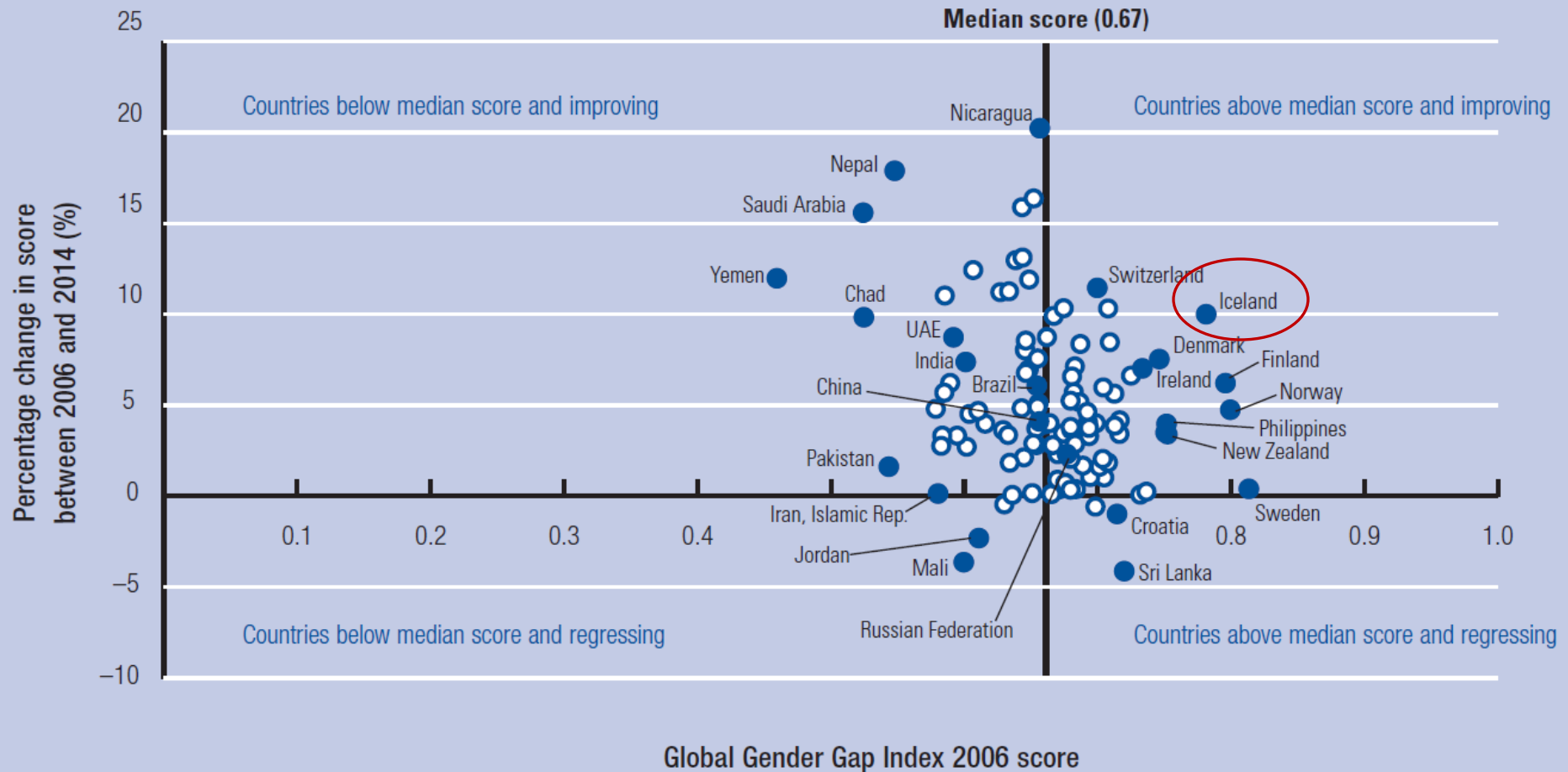
- \* Evolving nature of the issue of gender/diversity as corporate governance codes get revised and updated
- \* Broader institutional perspective (e.g., bonus/pay caps and tax)
- \* Policy debates and negotiations regarding variation in the gender quota, time period, organizations, and sanctions
- \* What factors might help countries to pass this legislation once firms have experimented with it? (bottom-up)
- \* Institutional factors in entrepreneurial and family firms
- \* Post-quota ramifications for firms (e.g., de-listing/going private or registering in another country; “Golden Skirts” of Norway)
- \* Other quotas: ethnic, age, educational background, professional background, racial minorities



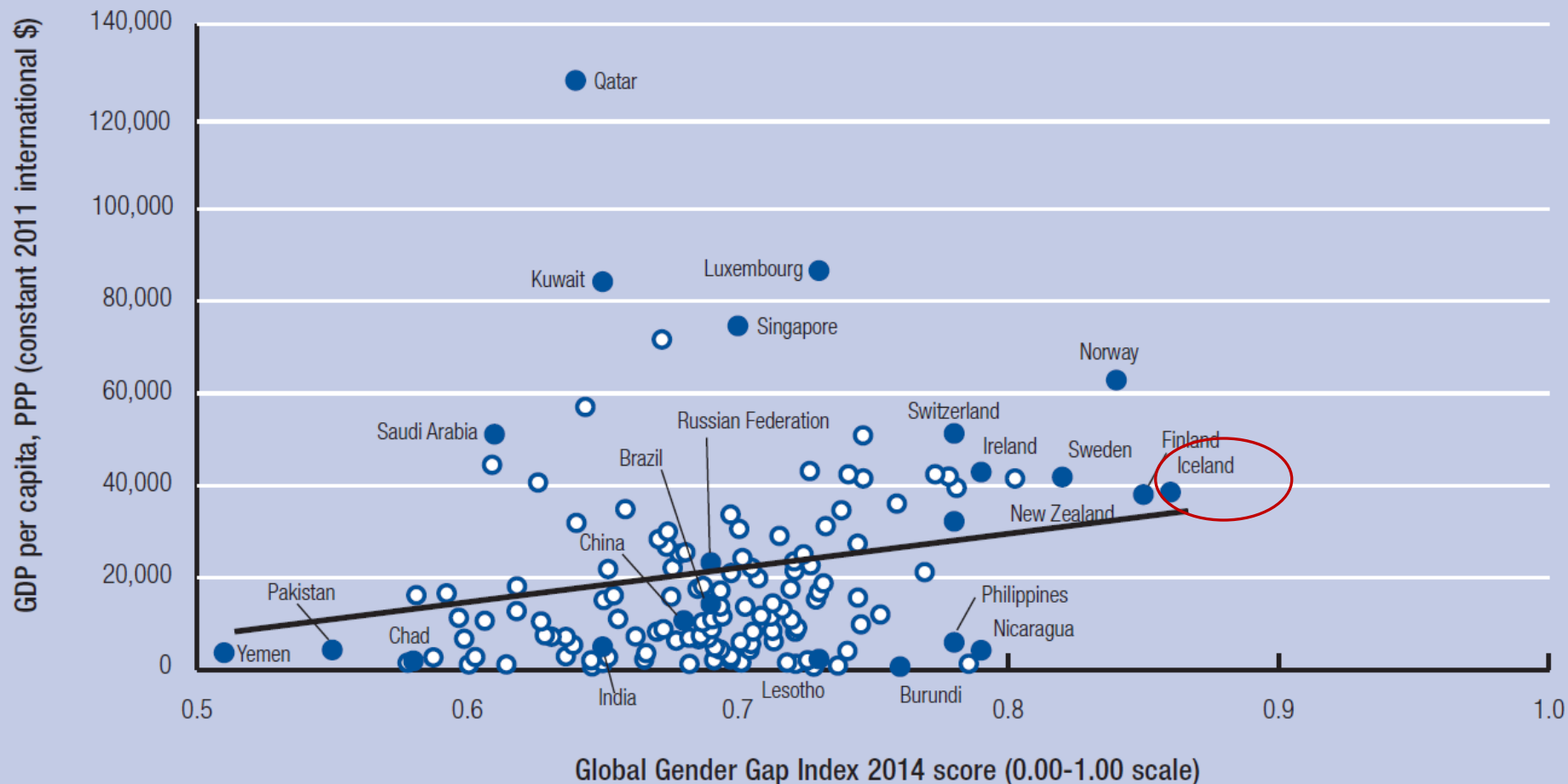
Thank you!  
More questions?

Back-Up

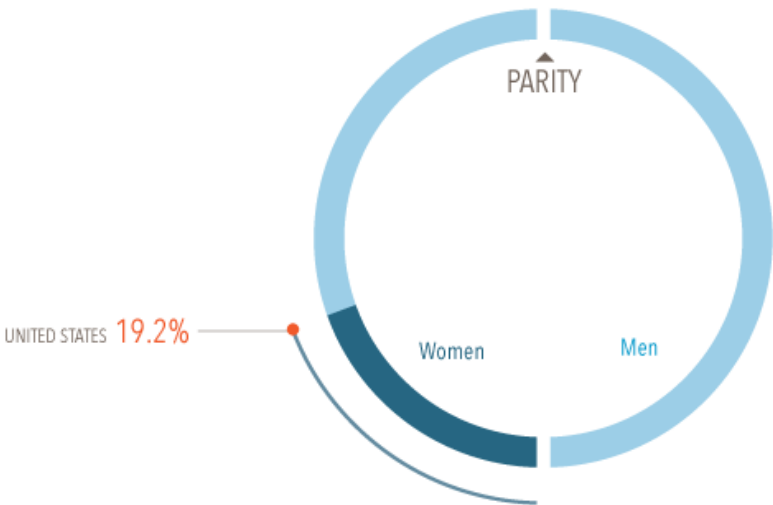
# Global Gender Gap: Performance Changes 2006 to 2014



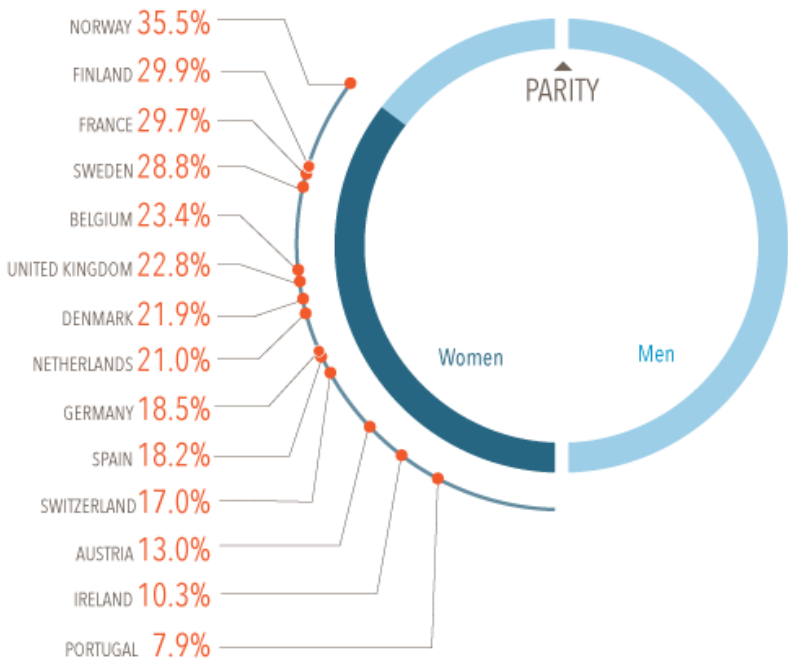
# Gap (2014)



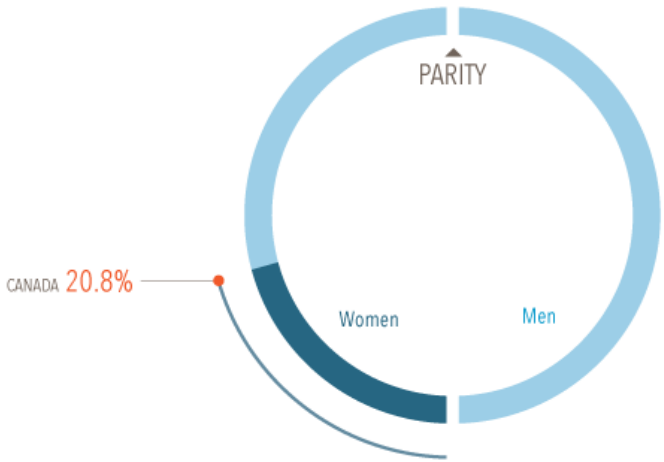
WOMEN'S SHARE OF BOARD SEATS AT US STOCK INDEX COMPANIES



WOMEN'S SHARE OF BOARD SEATS AT EUROPEAN STOCK INDEX COMPANIES



WOMEN'S SHARE OF BOARD SEATS AT CANADIAN STOCK INDEX COMPANIES



WOMEN'S SHARE OF BOARD SEATS AT ASIA-PACIFIC STOCK INDEX COMPANIES

