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Gender Quotas on Corporate Boards in Norway: Ten Years Later and Lessons Learned

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Introduction

When the Conservative Minister of Trade and Industry, Ansgar Gabrielsen, proposed the introduction of gender representation regulations for boards in Norway in 2002, claiming to be "sick and tired of the *old boys'* club dominating the Norwegian private sector" (VG 2002), few could imagine that this would be the start of a global trend to address the lack of women on boards (WoB), diversity on boards and the use

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of policies or instruments (both voluntary and compulsory). The proposed legal requirements for gender balance on boards in public limited companies (PLCs) were ratified by the Parliament (Stortinget) in 2003 and were implemented in January 2006 with a two-year grace period, which ended in January 2008. The law, although considered controversial when introduced, had significant repercussions beyond the Norwegian context.[1] The case of Norway is often presented and/or referred to as an "example to follow", and similar policies have been introduced in several other countries around the world. Moreover, a wide range of other countries have introduced softer initiatives and/or targets with the aim of increasing the share of WoB and in senior positions. Hence, it is evident that there has been a diffusion of corporate board legislation with the aim of increasing the share of WoB both within Europe and beyond (Teigen 2012). The Norwegian quota law can therefore be said to have had a "snowball" effect (Machold et al. 2013).

Ten years after its introduction, it is possible to comment on some of the (early) effects of the quota law in Norway. It has been extremely effective in terms of creating gender balance in the boardroom after the introduction of the law with sanctioning for non-compliance. Moreover, women are recruited in the same way as men, that is, through professional and social networks. In particular, after the introduction of the law, recruitment involves a more systematic search within the networks for directors, indicating that a wider pool of candidates are now utilised on boards (Heidenreich 2010). Nevertheless, despite the achievement in Norway of increasing the share of women on PLC boards from approximately 7% in 2002 to 41% in 2016, leading the country to often be highlighted as a "success story" and an exemplar, we are cautious of presenting the case of Norway as a recipe for how to increase gender diversity in senior positions in the private sector. Although it was not directly stated in the quota law, it has been indicated in political, academic, and private sector circles that one desired and expected consequence of the law would be the further increase in the number of women in senior positions in the private sector. In fact, however, the results have so far been more modest in terms of observing more women in chair, deputy chair, executive and CEO positions and on other types of boards not affected by the law. Actually, despite Norway's general position,

which is currently ranked as among the most gender-equal countries in the world, patterns of vertical sex segregation in the private sector have been sustained. This is a point often ignored when discussing the case of Norway and their experience with quotas on boards.

In this chapter, we set out to describe some of the contextual factors and processes that were important leading up to the introduction of the quota law in Norway. Moreover, we discuss some of the effects, consequences, and lessons learned from the introduction of the law a decade after its introduction, building on the voluminous body of research that has emerged in the post-quota period.

The rest of this chapter is organised as follows. First, we present a general discussion of Norway, including a focus on gender equality and the current status of women in the labour market. In addition, the section includes a description of the corporate governance system. Next, we present the development of the quota law in Norway and discuss some of the effects of the law. The next section offers a discussion of enabling and hindering forces and critical actors in the Norwegian context. This is followed by a reflection from Valgerd Svarstad Haugland, one of the actors most heavily involved in the political process of introducing the quota law in Norway. Finally, we present our concluding remarks.

General Background

It is important to understand history, the contextual setting, and preconditions within countries that might affect the introduction, suitability, and acceptance of specific policies. Norway is a small country in northern Europe. By the end of 2016, it had 5.3 million inhabitants (Worldometers 2016). Norway is a monarchy, and although it is not a member of the European Union (EU), its European Economic Area (EEA) membership involves a close relationship with the EU. This includes following initiatives and regulations through the single market and the four freedoms (i.e., free movement of goods, people, services, and capital). Norway has close historical ties and similarities with the neighbouring Scandinavian countries Denmark and Sweden.[2] Norway's employment rate was 79.1% in 2015, and the unemployment rate was less than 5%

(Eurostat 2016).[3] Norway was, in comparison with most other OECD countries, relatively unaffected by the 2008–2009 financial crisis, and the country has experienced a strong growth in average income as well as low income inequality in the post-recession years (OECD 2014).

This section presents some of the national preconditions that are important to understand in order to make sense of the introduction of the quota law and how it fits with the history and contextual setting in Norway. In particular, it presents two key areas that are important in understanding the introduction of the quota law: the current status of women in the labour market and the corporate governance system in Norway.

Status of Women in the Labour Market

Norway is considered to be one of the most gender-equal countries in the world. According to the Global Gender Gap 2016, it is the third most gender-equal country globally, beaten only by Iceland and Finland (WEF 2016). In fact, Norway has been ranked among the three most gender-equal countries every year since 2006 (WEF 2015). With regard to educational attainment, it is evident that 60% of the students at the university level (bachelor's and master's degrees) are women—a figure that has been relatively stable for the last 15 years (SSB 2015). In 2014/2015, for the first time, more women than men obtained PhD degrees (SSB 2015). Norwegian women gained the right to vote in 1913, and the first female prime minister, Gro Harlem Brundtland, was elected in 1981. Since the mid-1980s, the share of women in the Parliament has been greater than 35%, and more than 40% of the members of the Cabinet have been women. Since 2009, the share of women among Cabinet members has ranged between 47% and 53%, and as of 2016 the share of women is 47%, with the prime minister also being female (Regjeringen 2013, 2016). This progress is largely a result of the use of voluntary quotas in the majority of the political parties since the 1980s. Nevertheless, despite Norway's position as a gender-equal country, it has been characterised by strong patterns of both vertical and horizontal sex segregation (Seierstad 2011). In fact, by looking beyond the overall Gender Gap ranking and looking specifically at the country score in relation to

legislators, senior officials and managers, Norway is ranked only 39th (WEF 2016).

There have been significant changes in the women's labour market pattern over the last 50 years. In Norway, several factors have affected women's work patterns in the development from an industrial society to a post-industrial society (Jensen 2004). These have included de-industrialisation, the expansion of the welfare state, the development of the educational system as well as cultural changes related to equality and emancipation. In Norway, it was not until the 1970s that there was a sharp growth in employment rates among women (Raaum 1999). It is apparent that since the 1970s, the position of women in the labour market has been strengthened, and today the economically active population in Norway is gender balanced. The change in the labour market participation of women has been strongly influenced by two key factors: the expansion of a social democratic welfare state with comprehensive childcare provision and parental leave and public sector employment (Ellingsæter 1995). Nevertheless, despite the increase in female labour market participation since the 1970s, the Norwegian labour market has been highly segregated, both horizontally and vertically; furthermore, typical 'male'- or 'female'-dominated areas continue to exist, women are underrepresented in senior positions, and more women than men work part time (SSB 2015). Hence, while women and men appear to have relatively equal possibilities in Norway, an assertion which is also supported by equality rankings and the share of women in higher education, Norway paradoxically has had some of Europe's most gender-segregated labour markets (Ellingsæter 2013).

The country has also seen the development of what have been referred to as "woman-friendly" policies, which affect the labour market and the status of women. This can be traced back to the ideas and influences of state feminism, which describes the political alliance between feminist groups and the political arena (Hernes 1987). As argued by Hernes (1987, p. 11), 'Scandinavian state feminism is a result of the interplay between agitation from below and integration policy from above.' There is a wide range of initiatives that can be put in place in order to challenge occupational sex segregation and increase equality. There are two key areas in which state interventions can be used to influence the status of women in

the labour market and thereby challenge the patterns of occupational sex segregation (both horizontally and vertically) (Chang 2000). The first is related to "equality of access", which means policies that focus on the public sphere, such as equal pay, anti-discrimination, equal opportunity, and affirmative action policies. The other area, "substantive benefit", focuses more on the private sphere and includes "the provision of services for working mothers that facilitate the combination of work and motherhood" (Chang 2000, p. 1663). The following section will discuss some of the specific initiatives that have been important in the case of Norway in relation to equality-of-access initiatives in the labour market as well as substantive benefits.

Equality Initiatives

Over the last four decades, a wide range of policies aiming to promoting equality in the labour market have been introduced in Norway. The Norwegian Gender Equality Act (referred to as the Equality Act hereafter) was adopted in 1978 and implemented in 1979—it has been amended several times since, with the latest amendment in 2013. The Equality Act sets out to "promote equality irrespective of gender" with a "particular objective of improving the position of women" and aim that women and men should be given equal opportunities in all sectors of society, including in education, employment, and cultural and professional advancement (Equality Act 2013). The Equality Act also provides guidelines and suggestions regarding what can—and should—be done to increase equality within both public and private sector organisations. The Equality Act states that public authorities shall make active, targeted, and systematic efforts to promote gender equality across all sectors of society (Equality Act 2013). Moreover, the Equality Act states that employers shall make active, targeted, and systematic efforts to promote gender equality within their enterprise. In addition, the Equality Act suggests that employees and employer organisations shall have a corresponding duty to make such efforts in their spheres of activity.

It is evident that the Norwegian approach to equality includes policies of what Jewson and Mason (1986) refer to as either a liberal (positive

action, focusing more on the ideas of equality of opportunity) or a radical (positive discrimination, focusing more on equality of outcome, such as quotas) nature and include examples of preferential treatment, promotion procedures, and minimum representation rules (i.e., quotas). Moreover, the policies are of both compulsory and voluntary natures. Policies in the nature of legally regulated quota arrangements (a radical approach) were first introduced in 1981. In that instance this was in relation to the regulation of the gender composition of publicly appointed boards, councils, and committees. The Equality Act states:

> When a public body appoints or elects committees, governing boards, councils, boards, delegations, etc. both genders shall be represented as follows: If the committee has two or three members, both genders shall be represented. If the committee has four or five members, each gender shall be represented by at least two members. If the committee has six to eight members, each gender shall be represented by at least three members. If the committee has nine members, each gender shall be represented by at least four members, and if the committee has a greater number of members, each gender shall be represented by at least 40 per cent of the members (Equality Act 2013, p. 3, §13)

For 25 years, the 1981 regulation for public bodies was the only kind of quota procedure that was compulsory and subject to legislation (in politics, the use of quotas in five of the seven political parties is of a voluntary nature). As will be explored further, the introduction of gender representation regulation on boards in PLCs is found in the Public Limited Companies Act, rather than the Equality Act. Nevertheless, the regulations in relation to quotas for PLC boards are very similar to the section in the Equality Act about gender composition for public boards. Moreover, the political discussion of gender balance on PLC boards was, as will be discussed later in this chapter, also developed and heavily supported within the Ministry of Children and Equality from the 1990s and until the law was introduced in 2006. In fact, before the introduction of the law, there was a political discussion about whether or not PLC board regulations should actually be implemented in the Equality Act. Hence, the introduction of the quota law for boards happened in a

context which had a strong focus on "equality-of-access" initiatives and a relatively comprehensive Equality Act with clear strategies for increasing gender balance and equality in the labour market.

Welfare/Substantive Benefits

Another key characteristic influencing the status of women in the labour market in Norway is the specific welfare approach. Like the other Scandinavian countries, Norway follows a social democratic welfare approach (Esping-Andersen 1990). One of the key aspects of the Norwegian social democratic welfare approach is the principle of an egalitarian society with universalism and decommodification of social rights for all (Esping-Andersen 1990). In fact, the idea of the Norwegian social democratic welfare state is to promote equality of the highest standard—not just the equality of minimum needs which is found in some of the welfare approaches adopted in other countries (see Esping Andersen 1990, 2002). This can be achieved by the state being committed to a social service provision to support families as well as provide women with the opportunity to work outside the family. These ideas and initiatives are also found in Hernes' (1987, p. 15) nearly 30-year-old description of what constitutes a woman-friendly state:

> A woman-friendly state would not force harder choices on women than on men, or permit unjust treatment on the basis of sex. In a woman-friendly state women will continue to have children, yet there will also be other roads to self-realization open to them. In such a state women will not have to choose futures that demand greater sacrifices from them than expected of men. It would be, in short, a state where injustice on the basis of gender would be largely eliminated without an increase in other forms of inequality, such as among groups of women.

The social democratic welfare state has been important for women's increased participation in employment. The Scandinavian welfare states are characterised as being service intensive (Esping-Andersen 1996, p. 35), with areas such as healthcare, education, and day care either free or affordable, and hence available to all regardless of financial

circumstances. Esping-Andersen (2002, p. 13) argues that that "the Scandinavian welfare model is internationally unique in its emphasis on the government pillar. In particular, it has actively 'de-familiarised' welfare responsibilities with two aims in mind: one to strengthen families (by unburdening them of obligations) and, two, to strive for greater individual independence." There is, according to Esping-Andersen (2002, p. 94), a broad consensus that there are some specific strategies that form parts of women-friendly policies. This includes affordable daycare and paid parental leave as well as provisions for work absence when children are ill. In Norway, affordable day care and paid parental leave (including maternity, paternity, and general parental leave) as well as provisions for work absence has been part of the state's welfare support for decades. Maternity leave was introduced in 1977 and dedicated paternity leave was introduced in 1993. As of 2016, parental leave includes a potentially equal distribution of parental leave between men and women, where ten weeks are earmarked for the mother, ten for the father, and the remaining 26 or 36 weeks are to be shared based on individual preference (and with a support of 80% or 100% of salary) (Nav 2016). Some 90% of the fathers entitled to parental leave make use of it (Horne 2016). These initiatives support the ideas of dual-career/-earner families. Nevertheless, the uptake of the shared component of the parental leave is still predominantly taken by the mother. Hence, while the policies in place are considered means of promoting gender equality and the status of women in the labour market, parenting has remained largely a female responsibility, indicating that Norwegian women also experience pressures with regard to the work–life balance (Seierstad and Kirton 2015).

This section has identified that although Norway is characterised by a wide range of strategies that promote equality and the status of women in the labour market, there remains a paradox, since Norwegian women are highly underrepresented in areas of power and influence, especially in the private sector. This paradox was an important factor leading up to the introduction of the quota law.

Corporate Governance in Norway

There are certain particular features that characterise the Norwegian corporate governance system (see Rasmussen and Huse (2011) for an introduction). Corporate governance in Norway is regulated by several laws. They include Aksjeloven (Limited Liability Companies Act), Allmennaksjeloven (Public Limited Companies Act), various acts about other types of companies, and various acts about competition, accounting, employees, etc. The special Norwegian features include: (a) Norwegian traditions and particular corporate governance episodes or experiences; (b) the division between PLC and LTD companies; (c) the concentrated ownership of the Oslo Stock Exchange; (d) the importance of governmental and municipal ownership; (e) the compulsory delegation of executive tasks (a two-tier system); (f) corporate co-determination; and (g) regulations about gender balance in the boards.[4]

Norway follows the civil law corporate governance tradition, and boards are (as are most countries in Europe) regulated by *ex ante* developed laws. In Norway, as well as in most other countries, there is an increasing focus on codes of best practice for boards and corporate governance. During recent years, they have typically been developed through shareholder and investor perspectives (Huse 2007a, pp. 181–189). This is also the case for Norway. The development in Norway started with imitations of similar codes in other countries, but they were adjusted after strong criticism from Norwegian scholars in the areas of finance, management and law (Huse 2002, pp. 52–60, 2007b, pp. 59–69). The code that in Norway is adopted by and co-developed by the Oslo Stock Exchange was initiated in 2001 by the Norwegian Shareholders' Society. This initiative was during the coming years joined by various associations of owners and the Oslo Stock Exchange. This code has been labelled NUES.[5]

Boards typically consist of independent directors, and there is a compulsory delegation of executive tasks from the board to a separate management. Corporate governance recommendations from common law traditions—relating, for example, to CEO duality and increasing the

number of non-executives outsider ratio—may be of limited relevance in Norway.

In the Norwegian civil law system, there exist various forms of incorporation—for example, private limited companies (LTD), PLCs, general partnerships, sole companies, Norwegian companies registered abroad, and various other forms. The most common way to organise a business in Norway is by establishing a private limited company (LTD).

Owners

Norway is a small country that houses only a few large corporations. When understanding the Norwegian corporate governance arena, it is important to identify and understand Norwegian history and its most important actors. The actors are usually easy to identify, and the Norwegian state is clearly the main actor. The Norwegian state acts as both law makers and as owners. However, there are also various other actors in the arena that define corporate governance. Most of the largest Norwegian corporations have main-state ownership, and the main corporate governance debates in large companies have thus been related to the role of the state—often with a political overtone, shareholder activism, and discussion about women directors. Within the small Norwegian business community, there have also been strong relations (positive and negative) between business leaders and investors, where emotions and power games often take place. Such relations may be even stronger in small societies than in large ones. There are few traditional family companies, and, as a consequence, Norway has had a tradition for integrating various owners in active boards (Huse 2009). This has also been the case in small and medium-sized companies.

The Norwegian government is by far the largest shareholder on the Oslo Stock Exchange. The shares are owned directly through the Norwegian government's holdings of shares or owned indirectly through the Government Pension Fund—Norway.[6] As a large owner, the Norwegian government has the opportunity to influence corporate governance practices on national as well as international levels. The Norwegian state as an owner has generally tried to avoid direct intervention in the PLCs where

the state is the main owner, but they do influence the choice of their board members. The Norwegian Minister of Trade and Industry has recently, for example, clearly put pressure on companies to get women as board chairs in the largest companies with major state ownership, e.g., Telenor (a telecommunication company) and DnB (a bank).

Corporate Boards and Governance Structures

Norwegian companies have a governance structure that is more complex than in many other countries. One reason for this complexity is the Norwegian tradition of co-determination and the existence of the corporate assembly. Co-determination in corporate governance is typically related to board members being elected by employees. In general, the Norwegian corporate structure is built on four distinct levels of governance:

- the shareholders' meeting/general meeting;
- the corporate assembly (co-determination body);
- the board (supervisory body);
- the CEO (executive body).

The shareholders' meeting/general meeting is normally the corporate body that represents the interest of the shareholders. Through the general meeting shareholders have the authority to elect the majority of the members of the corporate assembly. The employees may generally elect one-third of the members. The corporate assembly has a long tradition in Norway, and it generally has three main tasks: electing board members, representing the core stakeholders (including shareholders, employees, and other important stakeholders), and electing board members. The election of board members is done by the corporate assembly. There are, however, only about 20 corporations in Norway that have a corporate assembly, and its future is disputed. There are various reasons for why many companies have chosen not to have a corporate assembly. These reasons include international adaptions, a reduction of bureaucracy, and an increase in shareholder supremacy philosophy. There are important

corporate governance actors that see the corporate assembly as an unnecessary formal body, while others do not see the importance of the voice of employees. Corporations have thus gained some freedom to choose to have a corporate assembly. Active shareholders often want to have more direct control of the company. If a corporate assembly does not exist, the general meeting will then, according to the Norwegian company acts, directly elect the majority of the board members.

Co-determination is an important part of the Norwegian corporate governance model—see, for example, Hagen and Huse (2007). The Norwegian Company Acts state that in the case of both PLCs and LTDs, employees elect one board member if the company has more than 30 employees and one-third of the members if the company has more than 50 employees. These regulations are formulated in the acts about PLCs and LTDs (see Lovdata 2015). The election is by and among all employees, and all board members are formally supposed to represent the company rather any particular stakeholder group. The board of directors has the highest decision-making authority in the company, but the Norwegian corporate governance system is based on a compulsory delegation of executive charges from the board to an executive body which is in charge of daily management. The executive body can be compared to an executive board, but in most cases it consists, as in France and the other Scandinavian countries, only of the CEO. The Norwegian boards can thus formally be compared to the supervisory boards in Continental Europe, while the CEOs' charges can be compared to those of executive boards. CEOs may also be a board member in Norway, but in practice CEOs in Norwegian PLCs are almost never members of the board of the same company. Norwegian boards of PLCs have an average of between six and eight members.

Employee Participation and Co-determination

Employee-elected board members are a part of the industrial relations system in Norway. This dates back to 1935 when the Basic Agreement was concluded between the main employee federation (LO) and the main employers' federation (NAF/NHO)—see, e.g., Basic Agreement

2014–2017 (NHO 2014). This agreement laid down collaboration rules, including the rights to collective agreement at the workplace, the rights to strike and the labour peace guarantee, the rights to elect shop stewards, etc. (Hagen and Huse 2007, p. 162). This collective (basic) agreement has been considered the foundation of Norwegian working life. The notion of what corporations in reality are, and that employee participation and co-determination are important tools in business development, may be traced back to the first collective (basic) agreement.

The Norwegian company acts make it possible for a company to enter into an agreement with its employees to not have a corporate assembly. In return, the employees are given a greater representation on the board. In these circumstances, the majority of the duties of the corporate assembly are transferred to the board of directors. The experiences with employee-elected board members vary. In some companies, they make significant contributions to company value creation. They will most often have a better understanding and knowledge of the activities of the company, company resources, and the employees, but in many companies, the potential in the employee-elected board members is not properly utilised (Huse et al. 2009). Nevertheless, due to corporate governance strategising and power relations, in many cases employee-elected board members are not fully included in board decision-making and activities even though they have the same charge and responsibility as the shareholder elected board members, that is, to make decisions in the best interest of the company.

Over the last decades, we have experienced an increased focus on corporate governance in Norway. What has been the main reason for the increased board attention and development in Norway? It is not only the development of Corporate Governance Codes—these efforts may even have negative effects on some of the value-creating potential of boards—but possibly even more the discussion about women directors. The requirements and discussions have led to consideration about the qualifications of board members, and the introduction of women has led to the revitalisation of effective board practices.

The Gender Quota Law

As illustrated in the introduction of this chapter, in 2002, the Norwegian Minister of Trade and Industry announced the suggestion of a law that would require a gender balance of a minimum of 40% of each sex on boards in Norwegian PLCs. As stated earlier, the law was ratified by the Parliament (Stortinget) in 2003 and was implemented in January 2006 with a two-year grace period that ended in January 2008. Valgerd Svarstad Haugland, the previous Minister of Equality and Family, had sent out a law proposal hearing years prior to this regarding a 25% quota on boards in both private and public limited companies (Odelstingsproposisjon 97 2002–2003). Her initiative was followed up by Prime Minister Kjell Magne Bondevik in his second cabinet. Laila Dåvøy, the new Minister of Children and Family, and Ansgar Gabrielsen, the Minister of Trade and Industry, were given the task to collaborate on developing this further. Mr Gabrielsen announced the law in 2002, and on 13 June 2003, it was agreed that Norwegian companies within two years should have a gender balance (40% rule) on their boards. The proposed law was intended to be applied to all state enterprises, state-owned companies, and PLCs. The ratio of WoB in PLCs was only around 8% at that point, compared with more than 45% in the state enterprises. The law for PLC boards was controversial and heavily opposed and debated, in particular, among key actors from the business sector, including the Confederation of Norwegian Enterprise (NHO) who also reacted negatively to the proposal of the law. As a result, it was decided that there would be a proposal of a "sunset law"—a law that should never rise. The NHO established resources and created the Female Future Programme to make the Norwegian PLCs reach these requirements before a law was ratified by training and preparing women for board roles ("fixing the women").[7] The voluntary compliance was to be evaluated by 1 July 2005. At that time, the annual general shareholders' meetings including the selection of board members should have already taken place. The evaluations used figures from the public Norwegian Company Register (Foretaksregisteret), but the results of the registrations of new board data would not be finalised until approximately 15 August. The requirement were not reached by 2005,

and the law was consequently proposed again and implemented in January 2006 with a two-year grace period.

The Norwegian discussions about why and how to increase the number of women on corporate boards can be traced back more than 30 years. Several initiatives and innovations have been made to increase the number of women on boards and to achieve gender diversity in power positions in society. In Norway, policies were, as discussed earlier, introduced to increase women's representation in the public bureaucracy, governmental committees, and on the board in state-owned enterprises. Several political parties also made a commitment (in the nature of voluntary quotas) to have women in leadership positions, resulting in a relatively large ratio of women in top political positions in Norway. Yet, despite these initiatives, the share of WoB and in senior positions in the private sector have remained low, indicating a glass ceiling in the private sector. It is evident that various specific initiatives and programmes were also considered and developed over the last 30 years to increase the share of WoB. They included political discussions, the development of women's networks, the financing and dissemination of research, courses, and education for preparing women to board work, mentorship programmes, and data registers of board-ready women. Suggestions for making requirements about the number of women directors through soft as well as hard policies were also promoted. The different initiatives and share of women on boards in the period 1990–2008 are illustrated in Fig. 2.1 (building on earlier work of Huse 2011).

Figure 2.1 illustrates the development of different initiatives and their effectiveness by looking at the percentage of WoB. It is evident that the percentage was almost constant at a rate of near to 5% from 1990 to 2002. However, in the period from 2002 to 2008, there was a vast increase—from about 6% to 40%. This increase is a direct effect of the introduction of the gender quota law. Hence, while many initiatives have taken place since the early 1990s, little increase occurred until the quota law was introduced with sanctions for non-compliance. The enforcement of the law began at the beginning of 2008, but by then all PLCs (with very few exceptions) had met the requirement of at least 40% of each gender. The quota law in Norway definitely achieved what other initiatives failed to

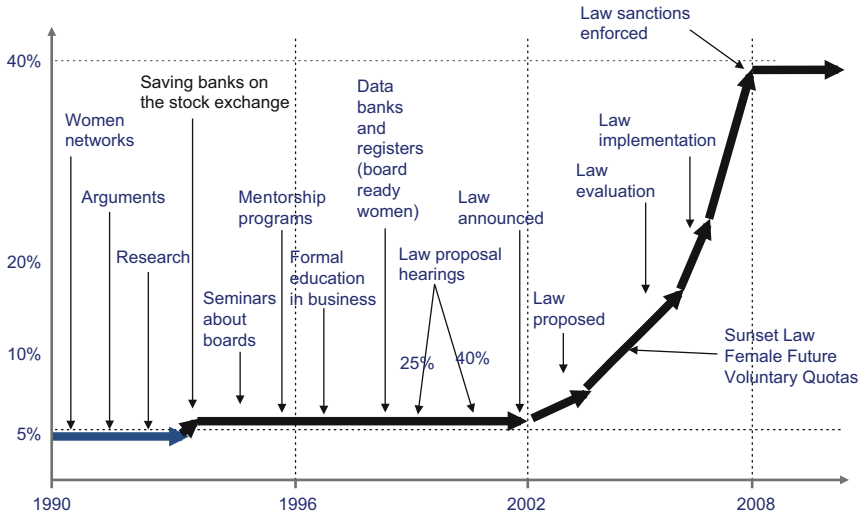

Fig. 2.1 Percentage of women on PLC boards and different initiatives and events in Norway

achieve, and as long as the law exists (with strong penalties for non-compliance), the percentage of WoB will not drop far below 40%.

Reflections on the Gender Balance Law: Ten Years After the Introduction

As the law was implemented in Norway about a decade ago, it is possible to comment on some important changes and effects that have been brought about by the law. There is now a voluminous multidisciplinary body of literature investigating the effect of the introduction of the gender quota law in Norway. In this section, we will present some of the key findings that we consider to be the most important.

Narrow Compliance

It is evident that after the law was fully implemented in 2008, PLC boards complied with the law. Nevertheless, there was a need for penalties

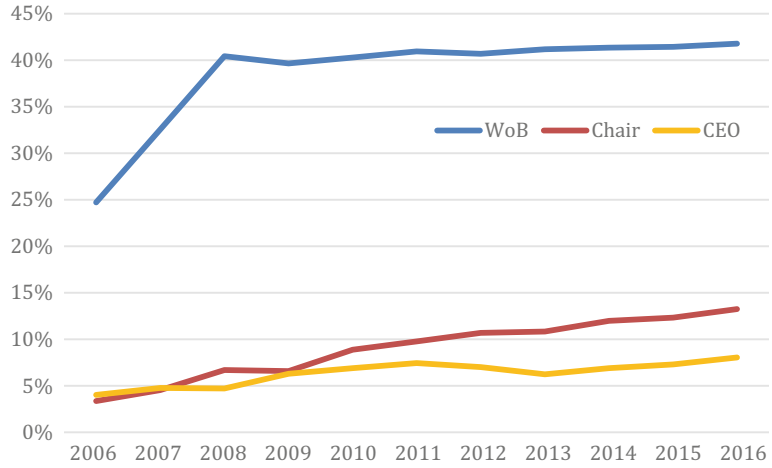

Fig. 2.2 Percentage of women on PLC board in chair and CEO positions

for non-compliance, PLC boards did not increase the share of women sufficiently during the "voluntary" period. In addition, the share of women has, since 2008, not increased beyond the required minimum. An ongoing research project by Seierstad et al. (2017b) is investigating changes on boards in the period post-introduction of the quota law. Their findings indicate that the share of WoB is still around 40%, leading them to question whether the quota target has become the new ceiling. Moreover, research indicates that there has only been a modest increase of women in chair and CEO positions, and hence, the effects and changes beyond the boardroom has been modest (Fig. 2.2).

Decline of PLCs

A factor that has received attention after the introduction of the quota law in Norway is the reduction of PLC companies. When the law was suggested in 2002, the number of PLCs were around 650. In 2006, there were around 450 PLCs, and, by 2016, this was reduced to around 200 PLCs. There are several reasons behind this reduced number of PLCs in Norway, and the gender quota law is one of them. While Bøhren and

Staubo (2014) claim that the introduction of the quota law was a key reason for PLCs re-registering to LTD, Heidenreich and Storvik (2010) argue that while 31 of the companies in their study mentioned the quota law as one reason for re-registering, only 7% of the companies listed the quota law as the only reason. Nevertheless, it is evident that some investors did not want to follow a law reducing their freedom to choose the board members, and this argument has been highlighted in the public debates. Moreover, Seierstad et al. (2017b) found, by analysing the gender balance on boards that changed form from PLC to LTD between 2006 and 2016, that the share of women among this group has actually decreased from 20% in 2006 to 15% in 2016. This is indicating little support of the law or the business case arguments presented for increasing the presence of women on boards.

Recruitment Procedure: Criteria Widening

An interesting factor in the debate leading up to the introduction of the quota law in Norway is related to whether or not there was enough qualified women interested in being directors. In particular, there was a discussion about "how to find the women". Heidenreich (2010, 2013) investigated the characteristics of male and female directors and found that women have, on average, a higher formal education than their male counterparts. Heidenreich further investigated the recruitment procedure to PLC boards after the introduction of the law. She explored whether the recruitment process for board positions has changed following the introduction of the quota law and to what extent there are gender differences in this process. Her findings indicate that after the introduction of the law, women have not been recruited through family ties, databases, or headhunters; instead, they have been recruited in the same way as men—through professional networks. In particular, this involves a more systematic search within the networks for directors, indicating that a wider pool of candidates is now utilised by boards. An interesting question has been raised after the introduction of the law: Why were these women not given board positions prior to the law (Seierstad 2016)?

Who Are the Women?

In the period after the introduction of the law, several studies have investigated changes among the group of directors, and we observed an increase of women having multiple directorships. By focusing on prominence (directors having more than one directorships), Seierstad and Opsahl (2011) found that there have been changes in terms of gender among the group of directors. In 2002, seven of the 91 prominent directors were women. Shortly after the end of the implementation period, in 2009, the group of prominent directors were balanced with 107 women and 117 men having multiple directorships. By redefining prominence as having a minimum of three directorships (in PLC), they found that the share of women increased to 61.4, hence more women than men had three or more PLC directorships in 2009. Looking at the small group of directors having seven or more directorships, Seierstad and Opsahl (2011) found that all were women. Hence, their study found that a consequence of the law has been the increase of women among the group of prominent directors; also, the larger the prominence, the higher the share of women. This small group of women has been referred to as the "golden skirts". There has been a lot of interest both in the media and among academics regarding the "golden skirts". Huse (2011) investigated the characteristics of the "golden skirts" and identified four key clusters of well-educated and qualified women entering the boardroom. These include the following:

- younger women with experience from consultancy, well-educated, highly knowledgeable, and with supporting mentors;
- highly experienced businesswomen without non-executive experience actively seeking directorships;
- women with broad experience from national and international politics;
- experienced women with past pre-law broad experience, both executive and non-executive.

Nevertheless, research (e.g., Seierstad et al. 2017b) indicate that we have seen a reduction of "golden skirts" over the last couple of years, and

this consequently seems to be an immediate and temporary pattern only.

Company Performance. The Effects and the Need Look Beyond the Narrow Understanding of the Business Case

In the period after the introduction of the gender quota law in Norway, there has been a wide range of quantitative studies that have focused on different aspects of financial performance who are either "(re)producing or challenging the business case" (Seierstad 2016, p. 399). The widely cited work of Ahern and Dittmar (2012) found, by investigating the 248 PLC listed companies from 2001 to 2009, that as the share of women increased on the boards, Norwegian PLC companies lost market value, their boards became younger with less experienced directors, and there was a deterioration in operating performance. The conclusions from Ahern and Dittmar's study are mainly based on reactions in the capital markets to the appointment of women and not on the performance of women as board members. By comparing the financial data of PLCs in Norway with a sample of unlisted firms and firms in Scandinavia, Matsa and Miller (2013) found that there was a decline in corporate profitability after the introduction of the quota law. In a similar vein, Bøhren and Staubo (2016) found that in addition to reduced firm value, there was an increase in board members' independence in the period after the introduction of the quota law in Norway. Nevertheless, these effects—as well as the studies investigating them—have been challenged. In fact, Ferreira (2015) evaluate two of the most highly cited papers in the field—Ahern and Dittmar (2012) and Matsa and Miller (2013)—and put forward the argument that "there are too many problems with the 'causal' evidence on the effect of quotas on performance. It's fair to say that we don't really know whether and how quotas affect the financial performance of firms" (110). This leads Ferreira to conclude that, in general, within the field of literature that have investigated the effects of quotas, the results are mixed. In fact, Ferreira (2015, p. 110) concludes that "current research does not really support a business case for board gender quotas. But it does not provide a case against quotas either...". Hence, it might be valuable to

broaden the discussion about WoB and the effects in Norway beyond the narrow focus on the business case and rather look at wider consequences for society and individuals to really capture changes and effects.

Several studies (e.g., Huse 2014; Seierstad 2016) have criticised the narrow and short-term focus on the business-case-dominated WoB research, arguing that the business case for WoB cannot properly be understood without defining value creation and understanding the characteristics of the actual board members, their identities, and the dynamics inside the boardroom. Moreover, it is also important to understand the lagged effects between the appointment of the women board members and the board and company performance as well as the wider effects beyond the boardroom.

Critical Actors and Enabling and Hindering Forces

Several authors, including Mandel and Semyonov (2006) and Melkas and Anker (1997), have identified a paradox: while Norway (and the Scandinavian countries) facilitate women's access into the labour market, they have been proportionally underrepresented in the most senior and powerful positions, especially in the private sector. The paradox of comprehensive social democratic welfare initiatives, a substantive Equality Act, and a very high position in the equality rankings while also exhibiting a strong pattern of vertical sex segregation was important in the Norwegian debate, leading up to the introduction of the gender quota law. Outlining factors and enabling and/or hindering forces are important for understanding the introduction of quotas (or other strategies) on boards and is often done by pointing to institutional factors. Terjesen et al. (2015) argue that there are three institutional factors that are important enabling factors for introducing quotas. These three enabling factors are female labour market and gendered welfare provisions, left-leaning political government coalitions, and path-dependent policy initiatives for gender equality. In the case of Norway, we see that these enabling factors were to

a large extent in place in the period leading up to the introduction of the quota law.

Seierstad et al. (2017a) argue that in addition to institutional factors, understanding political games, politicking, and the role of actors is also important for understanding strategies and initiatives in various countries. Building on the work of Krook (2007), Seierstad et al. (2017a) argue that in order to understand the introduction of quotas (or other strategies), there are often important actors at civil society, business, state, and international/transnational levels involved in the process. Moreover, they argue that the actors and motivations vary between (and within) countries. In the case of Norway, there was a wide range of actors involved in the process leading up to the introduction of the gender-balance law (Seierstad et al. 2017a).

The law in Norway was introduced before WoB was a debate at the EU/European level. Nevertheless, as mentioned earlier in this chapter, Norway has close similarities and ties with the other Scandinavian countries. Sweden had a similar debate about quotas in the late 1990s early 2000s, and the Swedish debate fuelled the Norwegian debate and eventual introduction. At the business/corporate level in Norway, actors were mainly working to increase the share of WoB, such as illustrated in Fig. 2.1 by introducing different events and training courses ("fixing the women"), and not supporting the use of quotas but providing a business case for increasing the share of WoB. In fact, in the corporate world, we observed the highest resilience to the introduction of the law in Norway. At the state level, most political parties and leaders were supporting the law and they have, in that respect, been very important. Rationales used within politics have focused on both justice and utility logics, but the law was eventually introduced based around utility and the business case for diversity. Civil society actors were highly important in pushing for the law in Norway. In particular, individual politicians, civil servants, etc. have been key, and the majority of these actors relied on justice logic and feminist values. We will in this section highlight and discuss the role of some of the core actors in greater detail as we consider these to be key for the introduction of the law.

The conservative Norwegian Minister of Trade and Industry, Ansgar Gabrielsen, has been presented as the most critical actor behind the

Norwegian quota law (Dysthe 2013). Gabrielsen definitely played an important instrumental role in the political game leading to the introduction of the law. However, there were many champions and important actors on the political arena working for a law to increase the share of WoB. Valgerd Svarstad Haugland (previous leader of the Christian Democratic Party and Minister of Children and Families) and Kjell Magne Bondevik (previous prime minister) were presented as the "grandparents of the law", while Laila Dåvøy (previous Minister of Children and Families) and Ansgar Gabrielsen (previous Minister of Trade and Industry) were labelled the "parents of the law" (Machold et al. 2013). Karita Bekkemellem was the person that formally introduced the gender balance law as the Minister of Children and Equality in 2005 and was also important in the process leading up to the introduction.

Kjell Magne Bondevik was prime minister in two separate periods: 1997–2000 and 2001–2005. The Bondevik I Cabinet was a centre coalition (comprising the Christian Democratic Party, the Centre Party, and the Liberal Party), while the Bondevik II Cabinet was a centre-right coalition (consisting the Christian Democratic Party, the Conservative Party, and the Liberal Party). Karita Bekkemellem from the Labour Party was Minister of Children and Equality 2000–2001 and 2005–2007 during the Stoltenberg I (Labour) and Stoltenberg II (the Labour Party, the Socialist Left Party, and the Centre Party) Cabinets.

Both Svarstad Haugland during the Bondevik I Cabinet and Bekkemellem during the Stoltenberg I Cabinet had sent out public hearings about quota law proposals, and they both prepared quota regulations. The background and results of the hearings are presented in Odelstingsproposisjon 97 (2002–2003). Both the Christian Democratic Party and the Labour Party, including the prime ministers from both parties, were positive to a quota law. However, they encountered strong opposition from the Progress Party (FRP) and, to a certain extent, from the Conservative Party and Norwegian industry with NHO (the Federation of Norwegian Enterprise) in the forefront. The political dynamics thus changed as it was the Bondevik II Cabinet Minister of Trade and Industry from the Conservative Party that made the gender balance law his crusade. It is evident how, in the case of Norway, a wide range of both politicians and political parties were heavily involved in the process

leading up to the introduction of the law. In fact, the only political party that did not provide support to the law was the Progress Party (Fremskrittspartiet).

However, while political parties and individual people in politics were publicly visible, there were also many other core actors behind the law. The Norwegian tradition of state feminism and quotas in the public sector and political parties were important, and several women and women associations were pressing for change. Their efforts were supported by research and researchers. Even NHO had women in leading positions that strongly promoted getting more women on corporate boards, and various programmes to reach this objective were developed. The state-owned development organisation Innovation Norway and the National Association of Directors (StyreAkademiet) placed it on their agenda at the end of the 1990s to get more women on boards, and, despite some negative reactions from Norwegian industry, the hearings sent out by Svarstad Haugland in 1999 and Bekkemellem in 2001 received considerable support.

The civil servants in the Ministry of Children and Family Affairs, and particularly its director general Arni Hole, had considerable impact in orchestrating the politics and process behind the quota law. She was several steps ahead of the politicians in pushing the quota agenda (Dåvøy 2013, p. 17). Arni Hole was also the main architect behind the implementation of the law, but initiatives from various other actors were important.

Female Future was the programme developed by NHO to respond to the law—both to avoid it and to fulfil it. Training programmes were developed by BI Norwegian Business School and Innovation Norway (Standal 2013). Elin Hurvenes and Turid Solvang established the Professional Board Forum as a tool to pair the demand and supply side of women for boards (Hurvenes 2013). Center for Corporate Diversity (CCD), along with Marit Hoel, was commissioned by the Ministry of Trade and Industry in 2004 to analyse the PLCs under the quota law, and CCD published the following year's detailed numbers about women on boards—they also compared figures with the other Scandinavian countries (Hoel 2008, p. 84). Since 2013 Mari Teigen and the Centre for Research on Gender Equality (CORE) has followed the long-term

consequences of the women quota law on behalf of the Ministry of Children, Equality and Inclusion (Teigen 2015).

Today, the quota law is generally accepted in business and in politics in Norway. There are, however, some exceptions. Some criticism of the law has been raised in relation to the lack of spillover effects. The increase in the number of women being board chairs and women being CEOs is insignificant, and the number of women being board members in LTDs have by far not followed the increase in women on boards in PLCs.

Reflection from an Actor

Valgerd Svarstad Haugland

Valgerd Svarstad Haugland, a previous politician with the Christian Democratic Party and the Minister of Children and Family Affairs (1997–2001) and Minister of Culture and Church Affairs (2001–2005), was one of the most important actors that worked for the gender quota law to be introduced in Norway. During her time in the former role, the Gender Equality Act was evaluated, and there was a debate as to whether there should be an amendment to the Equality Act with regulations for PLC boards. "For me, I have seen and experienced that gender balance has been important in politics and in politics we have quotas. To me, it was a good idea to introduce quotas in the private sector as well. The private sector and the NHO (Confederation of Norwegian Enterprise) was against the idea, they had for a long time claimed to be able to do this by themselves. After years of claiming this, with nothing to show for, I believed it was time for a change and using the quota tool in the private sector setting as well."

For Valgerd Svarstad Haugland, a wide range of arguments and rationales were important in her work for increasing the share of WoB and using quotas as a tool. "I believe equality and a fair society is important. Norway is proud of their work, history and ranking of equality. In addition, it makes sense. Women are half of the population and possess half of the intelligence and competencies. We need multiple voices and we need them in the private sector as well."

In Norway, the discussion of gender balance and quotas on boards was originally an equality discussion. Nevertheless, when introduced, it was from the Minister of Trade and Industry, and it became an amendment to the Company Act. At the time of the suggestion of the law in 2002 Valgerd Svarstad Haugland was neither the Minister of Trade and Industry nor the Minister of Equality. This indicates an important point. In the case of Norway, the introduction of the law received support from a wide range of politicians and political parties from the time of first discussions and hearings to the final proposal and introduction of the law. In fact, only two political parties were against the use of quotas for boards. One of these was, ironically, the Conservative Party, the party of Ansgar Gabrielsen, who was the Minister that proposed the law in 2002. "When Ansgar proposed the law, The Conservative Party were taken off guard. We had a meeting with the Government shortly after he proposed the law, several of his colleagues were sceptical to say the least... I was thrilled. I was the Minister for Culture and Church Affairs at this point and his bold move saved the law. The fact that Ansgar proposed the law without official support from the Conservative Party was important and brave. If he did not do so, there is a big chance the law would not have happened. The law had great support in the Christian Democratic Party and also the Labour Party, but in the Conservative Party the use of quotas for board positions was controversial. Ansgar did not do the "leg work" in terms of preparation and hearings of the law, but his role was, in addition to Laila Dåvøy (the Minister of Children and Equality) and others crucial, and I am very grateful and happy for that, the result was a much needed law. Ansgar got a lot of publicity after the law and that is ok, for me the most important is that the law was introduced, not to get the credit."

In 2016, 14 years after the law was suggested and ten years after it was introduced, it is time to reflect on the effects. "What we have seen is that we are no longer just recruiting men for board positions, the gender balance on boards is achieved. We have put in place initiatives related to increasing the share of women, made lists/ business registers where potential directors are listed—that is good. In addition, it is now more diversity in terms of background and experience in the boardroom. Looking at women in executive positions on the other hand, the change

is slow and I would have hoped we had, by now, also increased the share of women in executive and CEO positions."

To what extent there is a need for further strategies to increase the share of women in senior positions is unclear. "To introduce quotas for boards worked, we had the mandate to do so. To introduce quotas for executive/chair/CEO positions on the other hand is problematic. Nevertheless, there is a time and place for an assessment/evaluation of the law. When this happens, I believe it will be crucial to put a focus on what we didn't achieve which is an increase of women beyond the boardroom. Whether or not we will see more regulations beyond the boardroom is unsure and I am not sure this is desirable, but to evaluate the law and the effects and to continue to put the lack of women in senior positions and equality on the agenda is essential."

Concluding Remarks

In this chapter, we set out to discuss the introduction of the quota law for board positions in Norway and some of the consequences and lessons learned a decade after its introduction. We have commented on the law's "fit" with its contextual setting and discussed the process and the way in which the law was introduced. In addition, we have used a wide range of studies from the case of Norway to comment on the experience.

We argue that the law is, to a certain extent, in line with the history of equality and the use of policies in the labour market. Yet the law marked an important shift by introducing quotas also in the private sector, an area which was until 2003 not affected by radical strategies from the national level.

It is evident that institutional factors (such as the ones identified by Terjesen et al. 2015) were important enabling forces in Norway. Moreover, the importance of key actors should not be underestimated. Many actors, especially women politicians and civil servants, were important. Multiple politicians and political parties were involved, and this was also visible in terms of differences in how the law and issue was discussed. This ranged from justice and fairness to utility and the business case. Moreover, we acknowledge the importance of Ansgar Gabrielsen in the final stage of getting the law introduced. Although several female politicians did the

majority of work behind the scenes, the fact that the law was eventually introduced by a male—a conservative Minister of Trade and Industry introducing amendments to the Public Limited Companies Act—was important for the (reluctant) acceptance in the private sector. Hence, his role as the "champion of the law" was important. In the case of Norway, we now see broad support for the law from a wide range of actors, and today, it is widely accepted in politics and business.

A decade after the law's introduction, it is possible to comment on some of its (early) effects. The law is seen as being a success as it did make boards more balanced. Nevertheless, the results of creating more diversity (or equality) beyond the boardroom is more unclear. Ellingsæther (2013, p. 514) found that there has actually been a change over the last few years with Norway moving from the group of "highly segregated" to "moderately segregated" countries and that this is to a large extent due to an increase in the share of women in senior management and board positions after the introduction of the quota law.

There are a wide range of studies that have investigated different aspects, changes and consequences of the Norwegian gender balance law. Nevertheless, the results and effects are mixed, and we argue that it is still early in terms of really understanding changes both for WoB, diversity on boards, and the wider consequences beyond the boardroom as well as boardroom dynamics. Hence, there is a need for further studies within the field to really capture the effects, changes and lessons learned. Nevertheless, perhaps the most important effect of the quota law in Norway today has been the effect beyond the Norwegian border. We argue that if the law had not been introduced in Norway, we would most likely not have seen the trend we observe in Europe (and beyond), in which the use of quotas and targets has become natural in the diversity discussions at both political and organisational levels.

Notes

1. In the rest of this chapter we shall refer to the legal requirements as the quota law. Formally, they were an adjustment to an existing law.

2. There are three Scandinavian countries: Norway, Sweden and Denmark. The Nordic countries includes the Scandinavian countries as well as Finland and Iceland.
3. Among people between 20 and 64 years of age.
4. The main difference between a private limited companies (LTD—AS in Norwegian) and public limited companies (PLC—ASA in Norwegian) is that the boards in LTDs must approve the sales of shares, whereas this is not required in PLCs. Companies listed on stock exchanges thus cannot be LTDs. There are thus also stronger requirements about public information in PLCs than in LTDs.
5. The present version can be downloaded at https://www.oslobors.no/ob_eng/Oslo-Boers/Listing/Shares-equity-certificates-and-rights-to-shares/Oslo-Boers-and-Oslo-Axess/Corporate-governance-CG/The-Norwegian-Code-of-Practice-for-Corporate-Governance
6. The responsibility for the various state enterprises rests generally with the various functional ministries, direct state share ownership rests generally with the Ministry of Trade, Industry, and Fisheries, the responsibility for the Government Pension Fund—Norway rests with the Ministry of Finance, and the responsibility for Government Pension Fund—Global rests with the Norwegian Central Bank.
7. Female Future is a programme held by the NHO—Confederation of Norwegian Enterprise (the main representative body for Norwegian employers). The main goal of the Female Future programme is to mobilise female talents into leadership positions and boardrooms ("The Confederation of Norwegian Enterprise: Female Future." http://www.nho.no/ff).

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