

## **A Comparative Analysis on Two Main Approaches to Promote Gender Diversity in the Boardroom Worldwide**



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**ABSTRACT:** In recent decades, the position of females in the boardroom has received increasing attention worldwide. It is argued that improving gender diversity in the boardroom as female directors can benefit corporate management in many ways. On the one hand, they have distinct characteristics which could make up for the shortcomings of male directors. On the other hand, females show different governance behaviours, and they can bring new ideas to corporate boards. In order to respond to social concern about gender equality in the boardroom and to encourage more females to contribute to corporate management, countries across the world have taken measures to improve the proportion of female directors on corporate boards in recent years. Worldwide, two main approaches can be seen. Some countries impose quota laws to promote gender diversity in the boardroom, while others adopt a voluntary approach. This essay will discuss development of both the quota approach and the voluntary approach and will then analyse their advantages and disadvantages, in order to illustrate their influence on improving gender diversity in the boardroom and to come up with some solutions for addressing the shortcomings of these approaches. Female directors are expected to have more opportunities to contribute professionally and meaningfully to corporate governance.

**KEYWORDS:** corporate law; corporate governance; proportion of females in the boardroom; quota approach; voluntary approach

### **A. INTRODUCTION**

In recent decades, the proportion of female directors in corporations has shown an increasing trend. This improvement should be attributed to the measures taken by various countries. Different countries choose different approaches to improve gender equality in the boardroom and the reasons for this reflect the different national conditions of countries, including principles commonly accepted by the public, traditions established by political parties, the scope of rules and related sanctions for non-compliance. Worldwide, two main approaches can be seen. Some countries impose quota laws to promote gender diversity in the boardroom, while others adopt a voluntary approach. The effectiveness of these two main approaches, in terms of improving the position of females in corporate management, has been the subject of debate. Some argue that the quota approach can achieve success in the short term, while others believe that a gentler, voluntary approach will bring benefits to corporations over the long term. This essay will discuss development of both the quota approach and the voluntary approach and will then analyse their advantages and disadvantages, in order to illustrate their influence on improving gender diversity in the boardroom and to come up with some solutions for addressing the shortcomings of these approaches.

### **B. TWO MAIN APPROACHES TO PROMOTE GENDER DIVERSITY IN THE BOARDROOM**

The quota approach is regarded as a relatively strict approach, which requires boards to have a certain percentage of women. Norway was the first country to introduce the quota approach and has been successful to some extent.<sup>1</sup> Strict requirements for a 40% quota of female directors on boards and serious sanctions for companies flouting the rule led to initial success.<sup>2</sup> Although there has been a marked increase in recent decades in terms of gender diversity at director level in both the UK and Norway, the proportion of female directors in Norway has shown more rapid growth than that in the UK.<sup>3</sup> Following Norway, in the first few months of 2011, other countries (including Finland, Iceland, Spain, France, the Netherlands, Malaysia, Italy and Belgium) announced quota-based legislation.<sup>4</sup> However, not all of these were successful. For example, in 2007, Spain passed compulsory legislation in order to balance

<sup>1</sup> B Choudhury, 'New Rationales for Women on Boards' (2014) 34 Oxford Journal of Legal Studies 511-542 at 532.

<sup>2</sup> Ibid at 533.

<sup>3</sup> J Grosvold, S Brammer and B Rayton, 'Board Diversity in the United Kingdom and Norway: An Exploratory Analysis' (2007) 16 Business Ethics: A European Review 344-357 at 347.

<sup>4</sup> T Clarke and D M Branson, 'The SAGE handbook of corporate governance' (SAGE Publications, 2012), 'Women and the Governance of Corporate Boards' at 16.

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gender diversity in the boardroom.<sup>5</sup> In the absence of vigilant sanctions for non-compliance, this did not achieve better results than the voluntary approach.<sup>6</sup> It would, therefore, seem that not only quotas but also sanctions for non-compliance are important for promoting the percentage of female company directors. Without vigilant sanctions, the effectiveness of the quota approach is likely to be reduced to a large extent.

The voluntary approach is a relatively gentle method for balancing gender diversity at director level. Initially, the increase in numbers of female company directors was slow in countries which adopted the voluntary approach. Research indicates that the percentage of female FTSE-100 directors increased from 3.7% to 8.6% between 1995 and 2003, while in the US, the proportion of female directors rose to 13.6% from 4.7% in the period from 1987 to 2003.<sup>7</sup> Prior to 2004, 13.6% of directors in large corporations in the United States were female, followed by 8.6% in the United Kingdom, 11.2% in Canada, 8.6% in Australia and 7.1% in South Africa.<sup>8</sup> However, more progress has been made in recent years, for example, in the UK. In the 2017 *Hampton-Alexander Review*, it was reported that FTSE-100 companies achieved 33% female representation on boards in 2016, while FTSE-250 companies achieved the target of 33% female representation in 2017.<sup>9</sup> Furthermore, FTSE-350 companies are trying to achieve a level of 33% for females on boards.<sup>10</sup> Self-regulation in companies has clearly contributed to greater gender diversity at director level in some countries.<sup>11</sup> Hence, a voluntary approach may also have some level of success in terms of promoting corporate gender diversity.

### C. ADVANTAGES AND DISADVANTAGES OF THE TWO MAIN APPROACHES

#### 1. Short-term results and additional costs

It is undeniable that the quota approach plays an important role in improving the proportion of females at director level, and it can be considerably more successful in the short term compared to the voluntary approach. As the first country to adopt the quota approach, Norway is a good example of how positive results can be achieved in the short term.<sup>12</sup> The proportion of female directors has clearly grown over a short period. Research shows that in recent decades, although the proportion of female directors has increased substantially in both the UK and Norway, the proportion in Norway has increased more rapidly than in the UK.<sup>13</sup> It has also been found that the rapid increase in female directors has not affected company performance.<sup>14</sup> What is more, the quota approach not only promotes development of gender diversity in the boardroom but also does not lead to additional costs.<sup>15</sup> Therefore, given its advantages, the quota approach should be recognized to some extent.

#### 2. Substantial changes in the boardroom

However, the quota approach has been criticized for having various problems. Firstly, the quota approach does not lead to substantial changes in the workplace. In other words, gender inequality in the boardroom has not been resolved through the quota approach. For instance, one study found that the proportion of women on boards and the percentage of female chairs have not increased as expected.<sup>16</sup> Instead, the study found that the proportion of females holding more than one directorship has shown an increasing trend.<sup>17</sup> Quota requirements lead to small, powerful groups of females in corporations, called 'golden skirts'.<sup>18</sup> Even in Norway, substantive changes in gender diversity in the boardroom are yet to materialize.<sup>19</sup> What is worse is that the problem of gender inequality at director level may be neglected because of quotas.<sup>20</sup> If corporations only concentrate on data, the quota approach is a useful method.

On the other hand, if corporations want to attract more talented female directors, a long-term effort is needed. A voluntary approach is regarded as a more effective way to achieve success in the long term. In the UK, many companies focus on improving gender diversity through key policies. For example, BHP redesigned the functions of certain jobs and the qualifications required for specific work in order to attract talented women to such positions.<sup>21</sup> Some companies (such as Vodafone, Virgin Media and Virgin Money)

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<sup>5</sup> N Reguera-Alvarado, P Fuentes and J Laffarga, 'Does Board Gender Diversity Influence Financial Performance? Evidence from Spain' (2017) 141 *Journal of Business Ethics* 337-350 at 347.

<sup>6</sup> B Choudhury, 'New Rationales for Women on Boards' (2014) 34 *Oxford Journal of Legal Studies* 511-542 at 533.

<sup>7</sup> J Grosvold, S Brammer and B Rayton, 'Board Diversity in the United Kingdom and Norway: An Exploratory Analysis' (2007) 16 *Business Ethics: A European Review* 344-357 at 345.

<sup>8</sup> *Ibid* at 345.

<sup>9</sup> Hampton-Alexander Review, 'FTSE Women Leaders: Improving gender balance in FTSE Leadership' (2019) at 8.

<sup>10</sup> *Ibid* at 8.

<sup>11</sup> B Choudhury, 'New Rationales for Women on Boards' (2014) 34 *Oxford Journal of Legal Studies* 511-542 at 533.

<sup>12</sup> *Ibid* at 533.

<sup>13</sup> J Grosvold, S Brammer and B Rayton, 'Board Diversity in the United Kingdom and Norway: An Exploratory Analysis' (2007) 16 *Business Ethics: A European Review* 344-357 at 533.

<sup>14</sup> *Ibid* at 533.

<sup>15</sup> A Dhir, 'Challenging Boardroom Homogeneity: Corporate Law, Governance, and Diversity' (Cambridge University Press, 2015) at 148.

<sup>16</sup> B Choudhury, 'New Rationales for Women on Boards' (2014) 34 *Oxford Journal of Legal Studies* 511-542 at 535.

<sup>17</sup> *Ibid* at 535.

<sup>18</sup> *Ibid* at 535.

<sup>19</sup> *Ibid* at 535.

<sup>20</sup> Anon, 'Board diversity – Math or Merit?: Should Gender Equality Depend on Quotas?' (2013) 29 *Strategic Direction* 6-9 at 8.

<sup>21</sup> Hampton-Alexander Review, 'FTSE Women Leaders: Improving gender balance in FTSE Leadership' (2019) at 18.

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have made efforts to encourage talented women to return to the workplace.<sup>22,23</sup> Lloyds Banking Group has allowed women more flexibility.<sup>24</sup> By introducing governance ideas like these, the numbers of female directors can be increased in the long term.

### 3. Self-recognition of females

In addition, the quota approach may create a false impression that female directors are selected on the grounds of gender rather than talent. To be more specific, if there is a compulsory requirement for a particular number of female directors in the boardroom, females selected to be directors may question whether they have been chosen on merit. Newly appointed female directors may believe that they have been appointed because the corporation needs to increase the number of female directors rather than out of appreciation for their talents.<sup>25</sup> Existing female directors may feel that they were only hired because of the quota system and not because they were the best person for the job.<sup>26</sup> In cases like these, female directors may feel less credible and have little incentive to make contributions.<sup>27</sup> If female directors do not have enough motivation to engage in management and bring new ideas, board effectiveness will be influenced, thereby casting doubt on whether the quota approach is beneficial for corporate governance. In contrast, a gentler, voluntary approach may help women build confidence and contribute more fully and freely.

### 4. Increase in firm value

These two approaches both have a part to play in terms of creating a fair business environment for females, leading to an increase in firm value. Based on a sample of 125 corporations in Spain between 2005 and 2009, the number of female directors was found to have grown by more than 98% after adopting quotas.<sup>28</sup> It is argued that quota legislation in Spain provides an effective framework for corporate governance through setting fixed boardroom quotas.<sup>29</sup> Through this approach, females can bring different views to boards and serve the corporation. What is more, this sample indicated that there is a relation between gender diversity in the boardroom and economic results in corporations.<sup>30</sup> Increased numbers of female directors will create more shareholder value for corporations. Hence, the quota approach is likely to bring benefits in terms of corporate governance and firm value. A voluntary approach also does a good job in this respect.

### 5. Effects on corporate performance

However, the effect of these approaches on corporate performance has been brought into question. Although the popular press has reported a positive relationship between gender diversity in the boardroom and corporate performance, the true relation between these is likely to be more complicated.<sup>31</sup> One study found that gender diversity positively influences corporations with weak performance. In contrast, in firms that have strong governance, imposition of gender quotas ultimately leads to a decrease in shareholder value.<sup>32</sup> The reason behind this phenomenon may be that greater gender diversity can bring over-regulation to these corporations.<sup>33</sup> There is no evidence to suggest that the quota approach generally has a positive impact on firm performance.<sup>34</sup> It is also difficult to ascertain whether a voluntary approach positively influences company performance. It would, therefore, seem that neither the quota approach nor the voluntary approach can be regarded as the single most effective method to improve gender diversity in the boardroom.

## D. BETTER SOLUTIONS TO MAKE UP FOR THE SHORTCOMINGS OF EXISTING APPROACHES

### 1. Existing problems in the corporation

Despite the advances made to date, female representation on boards has not met expectations. In other words, many problems still exist in companies. Firstly, most female directors are white and middle-aged. It is argued that although considerable progress has clearly been made since various countries have taken action, the vast majority of directors are white, male and middle-aged.<sup>35</sup> Black women in particular have fewer chances of reaching board level.<sup>36</sup> In addition, there are clear differences among regions. It has been

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<sup>22</sup> Ibid at 18.

<sup>23</sup> Ibid at 19.

<sup>24</sup> Ibid at 19.

<sup>25</sup> A Durbin, 'Optimizing Board Effectiveness with Gender Diversity: Are Quotas the Answer?' (World Bank Press, Washington D.C., 2011) at 8.

<sup>26</sup> Ibid at 8.

<sup>27</sup> Ibid at 8.

<sup>28</sup> N Reguera-Alvarado, P Fuentes and J Laffarga, 'Does Board Gender Diversity Influence Financial Performance? Evidence from Spain' (2017) 141 *Journal of Business Ethics* 337-350 at 337.

<sup>29</sup> Ibid at 337.

<sup>30</sup> Ibid at 337.

<sup>31</sup> R Adams and D Ferreira, 'Women in the Boardroom and their Impact on Governance and Performance' (2009) 94 *Journal of Financial Economics* 291-309 at 308.

<sup>32</sup> Ibid at 308.

<sup>33</sup> Ibid at 308.

<sup>34</sup> Ibid at 308.

<sup>35</sup> J Grosvold, S Brammer and B Rayton, 'Board Diversity in the United Kingdom and Norway: An Exploratory Analysis' (2007) 16 *Business Ethics: A European Review* 344-357 at 344.

<sup>36</sup> A Sule, 'Board Diversity Push Leaves Out Women of Colour' (The Financial Times, 09 January 2019) <<https://www.ft.com/content/409ae838-1040-11e9-b2f2-f4c566a4fc5f>> Accessed 09 January 2019.

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argued that the proportion of female directors in Asian countries (including mainland China and Hong Kong) is increasing much more slowly than in Europe and the US.<sup>37</sup> Finally, some female directors engage in the management of many corporations, which means that the statistics are misleading to some extent. For instance, 14.7% of female directors on FTSE-100 boards work for at least two different companies, while this is the case for only 10.8% of male directors.<sup>38</sup> In 2007, 25% of women directors held more than one board seat, and five women held even more than four positions.<sup>39</sup> Of the 100 companies listed on the Bombay Stock Exchange, 11.3% of male board members and 14.6% of females held more than one seat, and the proportion of females holding three or more seats was 6.3%, compared to only 3.2% for males.<sup>40</sup> As a result, both the quota approach and voluntary approach need further improvement in order to resolve these problems in corporations.

### 2. Alternative ways to improve the participation of females in the boardroom

It is clear that existing approaches have many disadvantages which need to be addressed. In order to make up for the shortcomings of both the quota approach and voluntary approach, other methods should be developed to improve the participation of female directors in the boardroom and redress the problems in corporations.

#### *(1) Improving women's education and creating a good competitive environment*

Firstly, it is essential to improve women's education (especially training for women leaders) and create a good competitive environment. On the one hand, more women should be allowed to receive education, especially higher education, so that they can acquire basic professional knowledge and develop work-related skills. Having gained work experience, these female employees should be provided with specific training, followed by relevant professional training and opportunities to participate in management. It is argued that women should be provided with the requisite education and training for leadership.<sup>41</sup> Furthermore, a fair corporate environment should be created for female competitors and a corporate culture that encourages females to be confident.<sup>42</sup> In this case, females are likely to have more opportunities to engage in corporate management.

#### *(2) Taking measures to select talented women and improve interaction among directors*

In addition, it is important to take some measures to select talented women and improve interaction among directors. It has been argued that the nomination process should be improved.<sup>43</sup> Female directors are usually selected through a nomination process. In order to select females with better education and skills, the nomination process should be fair. To be more specific, females should be nominated because of their talent. Furthermore, a corporation should not only establish a high proportion of female directors but should also focus on the quality of female directors. Promoting positive interaction between female and male directors has been shown to be important.<sup>44</sup> In other words, good communication between females and males in the boardroom is beneficial for making scientific decisions. Therefore, selecting talented female directors and promoting cooperation between males and females on boards are both beneficial for corporate governance.

Apart from the methods mentioned above, media attention, introduction of gender discrimination laws and many other measures could also be taken to improve gender diversity in the boardroom and relieve problems such as racial discrimination and regional variations. Board diversity clearly has a long way to go.

## E. CONCLUSION

In conclusion, in order to respond to social concern about gender equality in the boardroom and to encourage more females to contribute to corporate management, countries across the world have taken measures to improve the proportion of female directors on corporate boards in recent years. There are two main approaches, namely the quota approach and voluntary approach. The quota approach is a relatively strict method and seems to be successful in the short term, while a gentler, voluntary approach tends to benefit corporations over the longer term. However, these two approaches have some disadvantages. These problems could be relieved by introducing other methods, including improving education and training for females, creating a fair but competitive environment, encouraging media to supervise and enacting gender discrimination laws. Through the efforts mentioned above, gender diversity in the boardroom could be improved in the future, and female directors could have more opportunities to contribute professionally and meaningfully to corporate governance.

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<sup>37</sup> Deloitte China Center for Corporate Governance, 'Women in the Boardroom 2019' (2019) at 1.

<sup>38</sup> A Durbin, 'Optimizing Board Effectiveness with Gender Diversity: Are Quotas the Answer?' (World Bank Press, Washington D.C., 2011) at 9.

<sup>39</sup> Ibid at 9.

<sup>40</sup> Ibid at 9.

<sup>41</sup> Deloitte China Center for Corporate Governance, 'Women in the Boardroom 2019' (2019) at 15.

<sup>42</sup> Ibid at 15.

<sup>43</sup> A Durbin, 'Optimizing Board Effectiveness with Gender Diversity: Are Quotas the Answer?' (World Bank Press, Washington D.C., 2011) at 9.

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