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The differential approach to gender quotas in Spain:
regulated politics and self-regulated corporate boards

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**THE DIFFERENTIAL APPROACH TO GENDER QUOTAS IN SPAIN:
REGULATED POLITICS AND SELF-REGULATED CORPORATE
BOARDS**

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Legal Struggles and Political Mobilization around Gender Quotas

This paper is part of a case study series stemming from a project, "Gender quotas in Europe: Towards European Parity Citizenship?" funded by the European University Institute Research Council and Jean Monnet Life Long Learning Programme under the scientific coordination of Professors Ruth Rubio-Marín and Eléonore Lépinard. Gender quotas are part of a global trend to improve women's representation in decision-making bodies. In the past decade they have often been extended in terms of the numbers to be reached (40 or 50% instead of 30%), and in terms of the social field they should apply to (from politics to the economy to the administration). The aim of the project is to assess and analyse this global trend in the European context, comparing the adoption (or resistance to) gender quotas in 13 European countries in the fields of electoral politics, corporate boards and public bodies.

The case-studies in this series consider the legal struggles and political mobilization around Gender Quotas in Austria, Belgium, Denmark, France, Germany, Italy, Norway, Poland, Portugal, Slovenia, Spain, Sweden, and the U.K. They were presented and discussed in earlier versions at a workshop held in September 2014 at the EUI. Based on the workshop method, all working papers have reflected on similar aspects raised by their country case, concerning: 1) domestic/national preconditions and processes of adoption of gender quotas; 2) transnational factors; 3) legal and constitutional challenges raised by gender quotas in both the political and economic spheres; and 4) new frontiers in the field.

The working papers will be also made available on the blog of the workshop, where additional information on the experts and country information sheets can be found, and new developments can be shared. <https://blogs.eui.eu/genderquotas>.

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Abstract

In 2007 Spain introduced statutory electoral and corporate board gender quotas as part of a broader gender equality programme. These quotas greatly differ with regard to the parity criteria in use, the period of application, and the measures for promoting compliance or sanctioning non-compliance. Electoral quotas are by far the most successful ones. This paper seeks to tease out why corporate board quotas lag behind electoral gender quotas. To explain this differential approach to gender quotas we assess the broader institutional configuration affecting these reform processes by looking at the obstacles and enabling (national and international) factors, the actors and networks pushing for or resisting each of the quota reforms as well as their framing strategies. We conclude that most of the enabling factors that exercised pressure in favour of gender quotas in politics were weak or missing in the economic sector and, thus, could not counteract the strong oppositional factors.

Keywords

Gender quotas, parity, feminist institutionalism, political parties, corporate boards.

Table of Contents

INTRODUCTION..... 1

INSTITUTIONAL CONFIGURATIONS, ENABLING FACTORS AND ACTORS IN QUOTA ADOPTION 1

ELECTORAL QUOTAS 3

QUOTAS FOR CORPORATE BOARDS 6

CONTINUITIES, DISCONTINUITIES AND NEW FRONTIERS OF GENDER QUOTAS..... 8

 Quotas in politics..... 8

 Quotas in corporate boards..... 9

 New frontiers..... 10

CONCLUSIONS 10

REFERENCES..... 12

Introduction

The way to women's citizenship as full members of a political community includes, together with civil and social rights, the enjoyment of equal political rights. In the past few decades, the use of state power to promote gender equality in politics through the introduction of gender quotas has expanded (Franceschet and Piscopo, 2013: 301). This expansion affects the number of countries where gender quotas are in use, the proportion of either sex representation mandated by quotas, and the type of institutions in which these measures are implemented. Women and politics scholars have identified different "generations" of gender quotas. The first generation aimed at addressing the gender imbalance of parliaments, the second generation sought to promote women's presence in public administration advisory boards and the last generation targeted the boards of listed and state-owned companies (Holli 2011). While gender quotas are a global phenomenon (Dahlerup 2006; Krook 2009), countries with legislated gender quotas do not necessarily apply them to all spheres (political, administrative and economic). Lack of comprehensive and comparative studies prevent us from knowing whether groups of gender quotas within country are more similar than different types of quotas across countries (Meier 2014).

This paper adapts and expands Krook's (2009) feminist institutionalist framework to assess the introduction of gender quotas in the Spanish case. Indeed, each of these types of quota reforms faces a different institutional configuration with a particular set of interactions between systemic, normative and practical institutions, which may result in either good fit or conflict (Krook 2009). Also, the political opportunities structure opened up to equality activists and networks of gender advocates to pass these quotas might significantly vary as it might differ the degree of international pressures that stimulate countries to pass new legislation. Spain is one of the few countries where the three types of quotas have been adopted, although they present large dissimilarities with regard to the parity criteria in use, the timing of application and the measures seeking to incentivize compliance or sanctioning non-compliance. Electoral quotas are by far the most successful ones.

The Spanish case is intriguing since the different types of quotas steamed from a broader gender equality plan but immediate and strong measures were only applied to the political sphere. This paper seeks to tease out why corporate board quotas lag behind electoral gender quotas in the Spanish case. In doing so, we will assess the obstacles and enabling (national and international) factors, the windows of opportunity, the actors and networks pushing for or resisting each of the quota reforms as well as their framing and discursive strategies.

The paper is organized as follows. Section 2 introduces the theoretical framework that informs the paper. Sections 3 and 4 explore the institutional configurations and the enabling factors and actors for both electoral and corporate gender quotas, respectively, in the case of Spain. Section 5 discusses the continuities and discontinuities of quota reform processes as well as the challenges currently in place. Last, the paper concludes by signaling the differential sequences followed by quota reforms in politics (strong regulation) and the economic field (self-regulation).

Institutional configurations, enabling factors and actors in quota adoption

Quota reforms interact with previous institutions and may thus require multiple attempts to be adopted or to secure an effective implementation (Krook 2009: 52). This section reviews the institutional configurations that intersect in processes of quota adoption as well as the political opportunities structure opened up to equality activists and networks of gender advocates, including international pressures. We borrow Krook's (2009) feminist institutionalist approach to the study of electoral gender quotas and expand it to corporate gender quotas, as summarized in Table 1. Specifically, we identify the enabling and constraining factors for quotas in politics and corporate boards and discuss how these factors might work differently in these domains. The analysis of these institutions, be they

formal or informal rules, will also help us identify resistances to changes promoted by gender initiatives (Lombardo and Mergaert 2013).

At the political level, *systemic institutions* that shape candidate recruitment processes involve the formal features of political competition, mainly electoral rules and the type of party systems. On the one hand, PR systems facilitate women's representation and produce better fit with quotas as they are inspired by norms of group participation whereas majoritarian systems prioritize individuals over groups (Krook et al. 2009: 790). With closed party lists, women need being placed on winnable positions, whereas open lists may work to the advantage of well-known male candidates, particularly in countries with more traditional views of gender roles. Within PR systems, levels of women elected tend to be higher in large multi-member districts (Norris 2004). Yet, where district magnitude is large but many parties compete for seats, women may have just as hard a time obtaining candidacies as in systems with fewer parties and smaller district magnitudes, thus party magnitude is a very relevant variable (Matland 1993). On the other hand, contagion effects whereby parties respond to the innovations of their competitors, such as the adoption of party quotas, are mainly found in multi-party systems (Matland and Studlar 1996).

At the economic level, *systemic institutions* shaping recruitment practices are more difficult to identify. Firstly, companies do not compete in the same markets and there is a low visibility of their governing boards, thus "contagion effects" are likely to be weaker. Secondly, in the economic sphere the internal functioning of firms is largely left to industry self-regulation instruments (e.g. Corporate Governance Codes). Yet, most states regulate to some extent corporate boards, so their composition can be at least partially influenced through legal requisites such as transparency and independence of (some) board members. Thus, the higher the state intervention in the regulation of boards in a given country, the strongest fit of gender quotas in corporate boards we might expect (see Engelstad and Teigen 2012; Suk 2011).

Regarding *normative institutions*, political actors are also influenced by ideational factors. These include existing conceptions of equality (opportunities vs. results) and representation (politics of ideas vs. politics of presence). Gender quotas are more easily adopted when legislation (constitution, electoral law, etc.), party ideologies or mass beliefs support equality of results and place value in representatives' characteristics (Dahlerup 2007). Left parties are more sensitive to equality of results and to promoting women's presence (Caul Kittilson 2006), having been invested in overturning the traditional gender gap in voting behaviour that benefited the right.

In the economic sphere, conceptions of state involvement in the economy may affect whether corporate boards are the targets of quotas or not. Where acceptance of state intervention in the economy is spread, gender quotas will be considered more legitimate than where beliefs about private business freedom prevail (Tienari et al 2009; Casey et al. 2011; Fagan et al. 2012). As to conceptions of equality, in business expertise arguments might trump the plea for diversity, although there is a burgeoning literature on its advantages for firms' functioning (see Piscopo and Clark 2013). Equality of opportunities and meritocracy (expertise, efficiency, best-fit) prevail over notions of equality of outcome. Normative arguments based on equality of results and the politics of presence are usually seen with reluctance by business actors which may be more convinced instead by productivity arguments, namely the economic benefits of women's inclusion and higher diversity on corporate boards – e.g. risk management in investments, broader reach of consumption habits, etc. (Teigen 2012: 135). Political parties make the formal and informal practices or *practical institutions* that ultimately rule over candidate selection. Individual traits (resources and motivations) influence the "supply" of candidates from different groups, but candidate selection practices are also shaped by the "demands" of party selectorates (Lovenduski and Norris 1993). Gender norms in the definition of the 'ideal candidate' (Chapman 1993; Kenny 2013) are coupled with a strong gender imbalance of party selectorates (Niven 1998). Men in top positions tend to be supportive of in-group candidates (men) at the expense of out-group candidates (women).

Recruitment processes in corporate boards are also shaped by gender norms and stereotypes in the assessment of curriculums and by the pervasiveness of male-dominated business networks and opaque and endogamic practices that exclude women and show a preference for homogeneous boards (Mateos Gimeno and Escot 2010; Castaño 2009; Villiers 2010; Branson 2007). Since the election of the members of corporate boards proportionally reflects participation in capital, the size of the board is crucial: the greater the number of posts stakeholders have, the larger room for diversity there is (see Bianco, Ciavarella and Signoretti 2011), which might be correlated with firm size (Hillman et al 2007; Miller and Triana 2009).

Table 1: Institutional Configurations of Gender Quotas

	Quota type	
	Electoral quotas	Corporate board quotas
Systemic institutions	<ul style="list-style-type: none"> • Electoral rules • Party competition 	<ul style="list-style-type: none"> • Self-regulation code prevails although most states also impose some regulation of corporate boards • Companies do not compete in the same markets and low visibility of corporate boards • Structure of firm ownership • Degree of state intervention in the economy
Normative institutions	<ul style="list-style-type: none"> • Conceptions of equality: equality of results and politics of presence defended by a variety of actors 	<ul style="list-style-type: none"> • Conceptions of equality: equality of opportunity and meritocracy (expertise) prevail • Conceptions of state involvement in the economy
Practical institutions	<ul style="list-style-type: none"> • Local power monopolies • Informal networks • The ideal (male) candidate 	<ul style="list-style-type: none"> • Opacity and endogamy • Informal networks • The ideal (male) candidate

The successful adoption of gender quotas also depends on the political and discursive context and opportunities existing for feminist advocates to make their gender equality claims resonate within existing political institutions (Ferree 2012). Critical actors (Celis 2006), such as women within political parties, have a crucial role in devising strategies to put these claims on the agenda (Kunovich and Paxton 2005; Caul Kittilson 2006; Freidenvall 2013). Last, pressures by international organisations, especially the European Union (EU), need to be considered too. Although the EU has not adopted legally binding directives on gender quotas yet, its endorsement of positive actions in the Treaties and the development of soft policy measures on women’s political representation have contributed to promote social learning on this issue in the member states (Lombardo 2008; Beveridge 2012). Europeanization entails not only the downloading of EU legislation at the member state level and the discursive usage of the EU to legitimise gender change at the national level, but also the uploading of policy measures from member states to the EU level as well as the horizontal cross-loading or policy transfer that implies learning from other European countries (Howell 2004).

Electoral quotas

The institutional configuration for the adoption of electoral gender quotas through the 2007 Equality Law presented a highly harmonizing sequence (Verge 2013). Left-wing political parties had already adopted voluntary quotas in the late 1980s, for both electoral lists and party executive boards, due to

lobbying by party feminist activists with strong ties with the women's movement and with other European parties where quotas had already been passed, as well as with the International Socialist Women (Valiente 2005; Verge 2006). As suggested by Krook (2006: 316), emulation is easier among countries that share historical ties. In the Spanish case, among the Socialist party family, the French *Parti Socialiste* was the most influential. This favoured a cross-loading of quota measures. In 1979 it invited sister parties to the launch of its quota campaign for the European elections, thereby inspiring Spanish feminists to fight for a similar measure in their own parties.

In 1982, the PSC, a party that substitutes organically for the Spanish Socialist Workers' Party (PSOE) in the region of Catalonia, introduced a quota of 12 per cent of party and elected offices for women – the party's female membership at the time. Party feminists, supported by the party leader, convinced (male) conference delegates (there was only one woman) to have a floor vote on the quota proposal, arguing it did not stand a good chance of passing but it would constitute a great opportunity to raise the party's awareness about equal representation. Surprisingly, the quota was backed by 52 per cent of the delegates. In 1987, male mid-level cadres, headed by the very same secretary of the organisation, opposed raising the quota to 25 per cent; therefore it was just updated to the increase in women's membership (15 per cent). In the mid-1980s the women's caucuses in both the Communist Party (PCE) and the PSOE lobbied their respective party leaders and launched intra-party campaigns to have a quota approved. Both parties introduced a 25 per cent quota for women in 1987 and 1988, respectively. This very same quota was introduced by United Left (IU) in 1989, the new political platform founded by the PCE in coalition with other left-wing minor parties.

The PR electoral system coupled with closed party lists allowed these self-reformed parties to significantly increase the proportion of female candidates as well as the levels of elected women MPs. This especially occurred once the quotas were effectively enforced by the party leadership to winnable positions on party lists – which was easier for the PSOE than for the IU due to higher party magnitude. In 1997, the concerted effort of party feminists and women's organizations along with international calls for gender equality in representation – UN Beijing Platform of Action (1995), EU IV Plan of Action on Equality of Opportunities (1996-2000), Socialist International Women – pushed left-wing parties to assume a gender-neutral quota which stipulates that each sex shall be represented at no lower proportion than 40 per cent or more than 60 per cent. The rest of parties of the Spanish party system adopted similar measures in the following decade and even the Popular Party (*Partido Popular*, PP), which strongly rejects quotas, adopted a vague goal for gender balance (Verge 2006). This paved the way for normative-legal reform.

Between 1996 and 2003, inspired by other European countries, IU and the PSOE submitted several bills on women's political representation which had been discussed with constitutional law experts in order to avoid the fate quota laws experienced in France and Italy – i.e. annulment by their respective constitutional courts – and supported by the Spanish Committee of the European Women's Lobby (Jenson and Valiente 2003: 91). All these bills failed due to the blockade of the PP majority in the lower house. The PP also boycotted normative reform at the regional level by taking the regional quota laws passed by PSOE regional governments to the Constitutional Court (Verge 2012: 402). At the discursive level, the frame analysis of official policy documents finds a highly polarised discourse between the PSOE, clearly in favour of quotas, and the PP, vocally against them. While the PSOE defended quotas as a means to improve the quality and fairness of democracy, the PP rejected them with a discourse based on individual responsibility and the denial of structural obstacles to women's equal political representation¹ (Lombardo 2008; Verge 2006). Gender experts and women's NGOs put forward broader alternative framings that problematized male domination of power

¹ The PP objection to quotas used three main arguments: (i) quotas are considered humiliating for women since qualified women do not need quotas to succeed in politics; (ii) competition for political positions should promote the most capable individuals; and, (iii) the imposition of legally-binding measures on parties is unconstitutional because it curtails their freedom of election.

positions, gender-biased political practices and the persistence of patriarchal structures hindering women's political representation, but these framings remained rather marginal in Spanish political debates.

Progress towards gender equality in politics was made in 2007, when the PSOE government, through its General Secretary for Equality guided by the feminist sociologist Soledad Murillo, drafted the Law for the Effective Equality of Women and Men, known as the Equality Law, which was approved with the sole abstention of the PP. The latter opposed precisely to the introduction of quotas, despite the fact that the law used the expression 'principle of balanced presence' to 'sweeten the pill' of quotas and so attract PP's positive vote. This principle reforms the electoral law by mandating party lists, for all elections, to include a minimum of 40 per cent and a maximum of 60 per cent of either sex, a proportion to be also respected in each stretch of five candidates. Non-compliance entails the withdrawal of party lists.

Despite the lack of extensive debate on the constitutionality of quotas, the PP lodged a new appeal, which was rejected in 2008.² The Court argued that the Constitution explicitly grants equality of outcome and its article 9.2 urges public authorities to remove the obstacles hindering citizen's political participation and to promote and facilitate the conditions so that its exercise is effective. The main arguments used by the Constitutional Court to uphold the statutory quota were that quotas did not breach the principle of equality but rather granted equality, and that the Equality Law did not discriminate against men because it established minimum and maximum proportions for either sex. The Court stated that the positive action measure established in the 3/2007 Law was reasonable and proportionate with the aim pursued. It also argued that the measure did not violate the unity of the electoral corps because candidates, irrespective of their sex, represent the whole electorate during their mandate. Further arguments in support of substantive equality and democracy that the Court put forward included reference to the obstacles women traditionally face in politics as a legitimate reason to require parties to ensure the balanced participation of both sexes, and the idea that, since women constitute half the population, the increase of their presence in public office supports the democratic principle requiring the closest identity between elected representatives and the represented. A final reason given by the Spanish Court is that the law could limit parties' freedom, as it happens with other legal ineligibility causes, because it is citizens, not parties, who enjoy the rights of passive and active suffrage (Verge 2012: 403-4).

The implementation of the statutory quota, as well as the previous party quotas, was eased by the fact that elections at all levels of government are held under proportional representation (D'Hondt system) using closed and blocked party lists, with the exception of the upper house. As a result of this measure, as shown in Graph 1, gender balance has been reached in most regional parliaments since 2007³. Significant increases have also reached local councils and the upper house, whereas stagnation is observed in the lower house – mainly due to the pervasive gender-biased allocation of safe positions and the dramatic decrease of PSOE seats share in the past two general elections. Overall, the legislative electoral quota consolidated the incremental track initiated through party quotas in the late 1980s (Verge 2013).

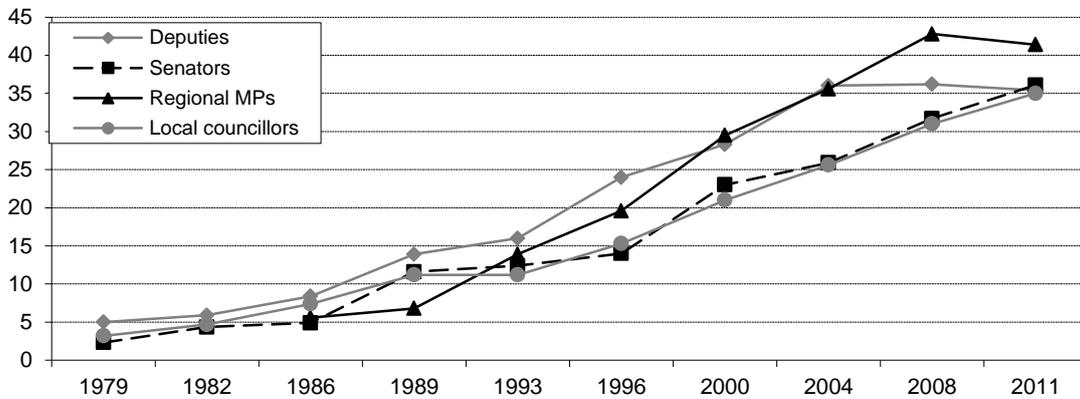
The political opportunity opened up for gender equality by Zapatero's government also affected the executive branch. Parity cabinets with an equal number of female and male ministers were appointed

² Sentence 12/2008 of 29 January 2008, accessed 12/11/2014 at <http://www.tribunalconstitucional.es/es/jurisprudencia/Paginas/Sentencia.aspx?cod=15691>

³ Regional quota laws had also been passed in five regions before the approval of the Equality Law: Andalusia (2005), Balearic Islands (2002), Basque Country (2005) and Castile La Mancha (2002). They have all introduced 'zipping', where men and women candidates must alternate throughout the list, but the Basque law which establishes 50 per cent of positions for either sex. Those regional laws passed in 2002 could not be applied to regional elections until 2007 since the PP government had lodged an appeal to the Constitutional Court that suspended their implementation. The appeal was withdrawn by the PSOE government in 2004.

from 2004 until 2011. Subsequent PP governments, despite breaking the trend with 31 per cent women’s representation, show a much higher percentage of women than former conservative governments. However, below the ministerial level, even under the PSOE governments, the percentage of women in top executive positions has not reached more than 25 per cent (CES 2011).

Graph 1. Percentage of Women in Public office, 1979-2011



Source: Own Elaboration Based on Verge (2012).

Quotas for corporate boards

While women’s presence in politics has remarkably advanced in Spain, progress has been slow and rather marginal in the economic sphere. Positive action affecting corporate boards was initially introduced in 2006 when the Stock Market’s National Committee, a supervisory governmental agency, elaborated a new industry self-regulation instrument, the Unified Good Governance Code, known as Conthe Code, of voluntary application by companies. One of the most contested parts of the Code concerned gender diversity in corporate boards. Recommendation 15 of the Code required companies with few or no women on their board to explain the reasons for it and undertake actions to correct this situation, paying special attention to the obstacles found by women in recruitment processes. This can be defined as a “soft quota” or “soft law” since improvement depends on the willingness of individual firms and their managers (Fagan et al. 2012).

Simultaneously, though, the PSOE government intended to impose further measures on corporate boards. While the Spanish government might have taken inspiration from the Norwegian reform, corporate quotas were part of a broader equality plan. As already mentioned in the previous section, the Equality Law (2007) was developed by the General Secretary for Equality Policies, located within the Ministry of Labour and Social Affairs. The law established an eight-year period for public limited companies and listed firms to achieve gender equality in their boards, namely – no sex below 40 per cent or above 60 per cent of positions (Article 75). This positive action was defined by the Minister of Labour as addressing “democratic justice, cultural transformation and societal advancement, and economic fair play”, highlighting gendered recruitment processes and stereotypes as the locus of discrimination (González and Martínez 2012: 175). Indeed, Spanish firms have been depicted as traditionally recruiting from surnames, friendship and family links through opaque procedures (usually by a president of the board or a significant shareholder); high rates of localism, endogamy and concentration of ownership; low degree of rotation and high concentration of board posts. Furthermore, gender biases and sexist attitudes privilege the ‘traditional male stereotype’ and undervalue and discriminate women and male candidates that do not fit the ‘stereotype of the aggressive, competitive, masculine and improvising Latin male’ (González and Martínez 2012: 177; 179; see also Mateos, Gimeno and Escot 2010).

As a statutory measure, it can be conceived of as a “hard quota” although its strength was watered down by the absence of sanctions for non-compliant companies. Instead, companies that have distinguished themselves in the promotion of equality receive incentives in the form of potential priority status for government contracts and a governmental ‘equality award’. Lower preference in the granting of government contracts is a weak sanction, compared to nullifying boards’ decisions in Belgium or suspension of board members’ compensation or dissolution in Norway (see Piscopo and Muntean 2013).

This measure triggered public debate before and after the adoption of the law in 2007. The main political actors in the debate were the PSOE, that defended the measure on grounds of justice and equality, and the PP, that opposed it because, from a liberal approach, quotas were seen as a restriction to companies’ freedom and that incentives should be adopted instead. The main economic actors intervening in the debate were employers’ organisations that strongly opposed the quota provision mainly on the grounds of the infringement of meritocracy, which fits more general criteria of efficiency and competitiveness. Similarly, executive women disagreed with the hard quota because they believed their merits would be put into question (González and Martínez 2012: 174). The organization of businesswomen was also against the introduction of quotas (*Organización de Mujeres Empresarias y Gerencia Activa*, OMEGA) (CM 2006). Generally, opposition stemmed from the fact that women’s underrepresentation in corporate boards was attributed to ‘supply’ factors – gender differences in qualifications, availability and willingness to integrate corporate boards – rather than to ‘demand’ factors – obstacles of the recruitment process and demands of the selectors (CES 2006: 17).

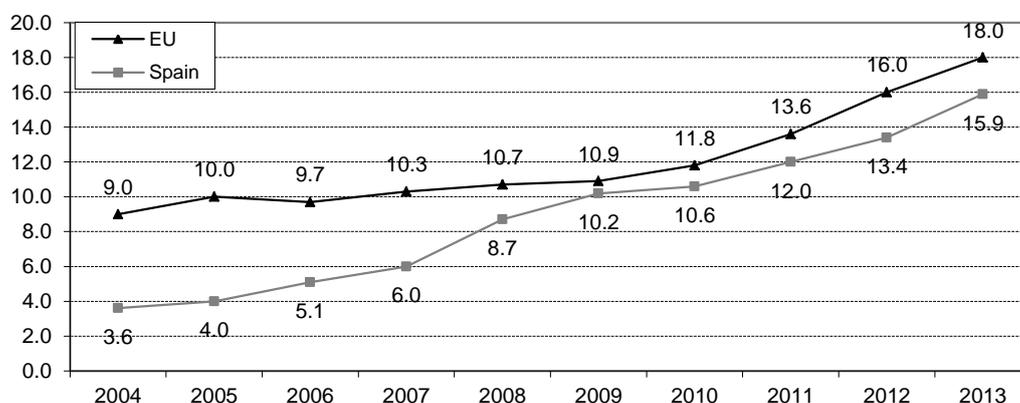
Besides the government and left-wing parties, support to quotas for corporate boards only came from feminist organizations not related to the economic field, such as the Women Lawyers’ Association *Themis* and the Federation of Progressive Women, whose arguments emphasized the legality of quotas and its relevance for removing the barriers women face in selection processes (CM 2006). In a sector such as private business where notions of equality of opportunities, individual merit and no regulation of companies’ freedom of activity predominate, equality advocates did not constitute a critical mass and alliances to promote gender quotas were not established.

In face of the strong resistances against the 2007 statutory provisions, from 2008 onwards the government shifted toward a less confrontational approach with the business community by moving back to ‘soft’ measures. In 2010 the programme *Objective15* was launched, including sensitizing measures for companies to work in partnership with the government towards the implementation of Recommendation 15 of the Conthe Code (González and Martínez 2012). The PP government elected in 2011 continued this soft approach.

As recent studies on gender studies in corporate boards have noted (Armstrong and Walby 2012; Piscopo and Clark 2013), the only policy intervention that has significantly increased the proportion of women on corporate management boards is that of legal instruments that enforce gender quotas. The use of voluntary measures has led only to small and slow increases in the proportion of women on corporate boards, as Graph 2 shows for the Spanish case. While Del Brío and Del Brío (2009) attribute the increase from 3.6 per cent to 6.0 per cent in the share of women in Spanish boards in the period 2004-2007 to the Conthe Code, our assessment of both this code and the statutory quota introduced in 2007 is less optimistic. With an average annual increase of 0.8 percentage points between 2004 and 2007 and an average annual increase of 1.7 percentage points between 2007 and 2013, progress is too slow to meet the target of 40 per cent women in boards by 2015. In 2013, women only represented 15.9 per cent of corporate members of the publicly listed companies. Furthermore, this increase is partly due to the Code’s recommendations to increase the presence of independent members’ in boards (González and Martínez 2012: 189). Although publicly owned firms or companies with state participation show a better performance with 29.5 per cent of women in their corporate boards, positive action has also had a moderate impact, with a 16.6 per cent increase rate in the 2008-2014 period (Informa 2014: 10).

On average, companies sold on stock exchange (IBEX-35) have 2.23 women, the average board counting with 13.4 members. This notwithstanding, both soft and hard quotas have managed to reduce the number of firms with no women whatsoever in their boards. In 2004, over 60 per cent of these companies had all-male boards, whereas in 2010 it had shrunk to 29 per cent. Only four companies count with over 25 per cent of women in their boards (IESE 2014). However, when all public listed companies are considered (those covered by the 40-60 legal provision included in Article 75), 58 per cent of them still have no women on their boards (Informa 2014: 11). Diversity policies have been pushed in larger Spanish firms also due to the obligation to adopt an Equality Plan in companies with more than 250 employees, as established by the 2007 Equality Law. In many cases, increases in women's presence have been achieved by recruiting female family members, which is facilitated by the fact that in Spain a large proportion of listed companies are family-owned, thereby raising doubts of tokenism. Yet, women in corporate boards are found to have more qualifications such as financial or economic educational background and international experience than their male board peers. It should also be noted that the newly appointed women are more likely to occupy the less powerful positions, mostly non-executive (independent) directors (González and Martínez 2012: 192-6).

Graph 2: Percentage of Women in Publicly Listed Companies Covered by the 2007 Law, 2004-2013



Source: IESE (2014: 11), Mateos et al. (2006), and European Commission (2014).

Continuities, discontinuities and new frontiers of gender quotas

Quotas in politics

In light of the dramatic impact of electoral misfortune on women's representation, in 2013 women's agency within the PSOE managed to reform the gender-neutral 40/60 party quota into a zipping system whereby women and men alternate throughout the party lists. This was approved in 2013 in a programmatic conference but party statutes can only be reformed by the party national conference – scheduled for 2016 (PSOE 2013). Yet, this quota has already been applied on the occasion of the 2014 European elections. The PSOE has also pledged to reform the quota law to make zipping compulsory to all parties.

The consolidation of gender quotas in the political arena has not led yet to the proposal of quotas for other underrepresented groups, although political parties are increasingly sensitive to the inclusion of ethnic minority groups (e.g. migrants) in their candidate tickets for local elections, especially since the extension of active suffrage in 2011 to non-EU citizens. Nonetheless, the percentage of migrant candidates is still very low and they tend to be located in unwinnable positions (Pérez-Nievas et al. 2014: 51). Parties with gender quotas are also adopting positive measures for other groups. The 2013 PSOE party quota reform mentioned above also aims at progressively including candidates from

ethnic and sexual minorities as well as from functionally diverse citizens. These criteria have been included as a goal, thus having a weaker status than the mandatory gender proportions (PSOE 2013).

Quotas in corporate boards

Reaching the 40/60 quota in Spanish corporate boards by 2015 is a goal that will not be achieved without stronger government sanctions coupled with more effective equality plans within companies (González and Martínez, 2012: 196). However, there are no developments towards a hard regulatory approach, rather the opposite. The new law of capital firms the PP government adopted in 2014 (Law 31/2014) skips gender quotas and includes instead the recommendation of adopting measures to include more women in boards with the aim of achieving a more balanced representation. Thus, firms' selection committees will have to set their own targets for the underrepresented sex in corporate boards, elaborate instructions on how to achieve this target and report on its progress, along the principle of 'comply or explain'. Similarly, the new Unified Good Governance Code that the National Committee of Value Market is drafting proposes in its Recommendation 14 a target of 30% – that is, a very weak interpretation of parity – and extends the deadline for implementation to 2020. Likewise, the current statewide Equality of Opportunities Plan (2013-2016) emphasizes sensitizing measures under a "framework of collaboration with companies" volunteering to meet a gender-balanced representation in their boards.

While the self-regulatory approach is in continuity with former trends, new is the PP government's shift in policy measures on gender quotas in boards from 'demand' – the gender biases corporate selectorates might sustain – back to 'supply' arguments – the characteristics of aspirant women – which halts progress in this field. While the 2008-2011 Equality of Opportunities Plan still focused on structural obstacles to women's access, in the 2013-2016 Equality of Opportunities Plan the problem is framed as women's lack of training, rather than organizational (male) resistances to women's presence in boards. Accordingly, the measures proposed include women's training in management skills, the establishment of networks of managerial positions, mentoring programmes, and exchange of best practices. This shift is in line with the business community's liberal and individual-centered ideology. The programme *Objetivo 15* is still in place but no activities have been organized since the PP assumed office in 2011⁴.

Recently, female economic actors, such as businesswomen, have organized to challenge the low supply of suitable female candidates. In February 2014 the Federation of Executive Women (*Federación de Mujeres Directivas, Ejecutivas, Profesionales y Empresarias*, FEDEPE) signed an agreement with the Spanish Employers Association to promote qualified women in decision-making positions in companies and employers' organisations⁵. In 2006 the same organisation had already launched an open directory of women candidates for corporate boards (Díaz García and González Moreno 2012: 59). Similar initiatives are taking place elsewhere in Spain. In Catalonia, the Observatory Women, Business and Economy, located within the Chamber of Commerce of Barcelona, has also set an open directory of businesswomen and designed a map of the relevant competencies required to lead a business, thus challenging the traditional opacity in the definition of merit and the gender bias of how it is often defined⁶.

⁴ <http://www.objetivo15.net/>.

⁵ <http://www.mujeresdirectivas.es/es/te-interesa/noticias/item/15-fedepe-y-ceoe>.

⁶ <http://www.donaempresaeconomia.org/>.

New frontiers

As said in the introduction, the 2007 Equality Law also mandated the application of the principle of gender-balanced presence in public administrations bodies, advisory boards, and committees for the selection of personnel and assessment of merits (Articles 52-54). The general retrenchment in Spanish gender equality institutions and policies brought by the Popular Party, a vocal opponent to gender quotas, coupled with its ‘austerity’ programme might be detrimental to progress in women’s descriptive representation. For example, regarding the representation of women in the General Council of Judicial Power, a constitutional body that governs the judiciary, increased from 11% in 2007 to 35% in 2010, and slightly decreased to 33% in 2013. As regards the Central Bank, women councillors increased from 25% in 2008 to 44% in 2011 but have since then decreased again to 25%. In the Economic and Social Council women represented 15% of members in 2007, 23% in 2010 and 18% in 2013 (Instituto de la Mujer 2014).

The reports issued by various Ministries also point at significant progress right after its implementation but stagnation afterwards. The Ministry of Economy 2011 report about the implementation of the Equality Law concerning advisory boards claims that the 40-60 principle is generally applied for the Ministry’s representatives in advisory boards with 42% women and 58% men. Yet, regarding board members with responsibilities as presidents or deputy-presidents, women’s presence decreases to 36%. The Ministry of Employment in its 2011 report on the equality law also claims that committees for the selection of public administration personnel have taken into account the balanced presence of women and men. Further analysis is needed to check on the actual composition of advisory boards and selection committees.

Conclusions

Spain has developed a differential approach to gender quotas, with strong regulation for electoral quotas and self-regulation and soft law for corporate boards. How to account for this difference? While in the case of quotas in politics we mainly find enabling factors and actors that led to a harmonizing sequence of quota adoption and good fit across systemic, normative and practical institutions, in the case of corporate boards the interaction of quotas with the institutional configuration in the economic field has produced conflict and yielded as a result a highly disjointed sequence, as it is summarized in Table 2.

Table 2: Sequence of quota reforms

	Electoral quotas: Harmonizing sequence and good fit	Corporate board quotas: Disjointed sequence and conflict
Systemic institutions	<ul style="list-style-type: none"> • Electoral rules of PR with closed and blocked lists. • Contagion between parties to promote party quotas. • Strong state intervention with hard quota Law 3/2007 including strong sanctions (withdrawal of party lists) • Constitutional Court 2008 sentence upheld quotas. 	<ul style="list-style-type: none"> • Self-regulation Conthe code as a soft quota. • No contagion among companies and low visibility of corporate boards. • Weak state intervention with hard quota Law 3/2007 but no sanctions –only incentives- and 8-year application. • Soft approach (Objective 15) from 2008-
Normative institutions	<ul style="list-style-type: none"> • Ideas of substantive equality and politics of presence, defended by 	<ul style="list-style-type: none"> • Ideas of individual equality of opportunity and meritocracy (expertise, competitiveness,

	<p>party feminists with international cross-loading, spread across most political parties.</p> <ul style="list-style-type: none"> • Ideas of individual equality of opportunity and quotas as restricting parties' freedom defended by the PP but rejected by the Constitutional Court. 	<p>efficiency) defended by employers' organisations and executive women to strongly oppose quotas.</p> <ul style="list-style-type: none"> • Ideas that women's underrepresentation depends on supply rather than demand factors prevail. • Liberal ideas of minimal state: quotas seen as restriction to companies' freedom
Practical institutions	<ul style="list-style-type: none"> • Parties' self-reform through prior voluntary quotas was key to the implementation of the statutory quota. • Yet, not all gendered recruitment processes have been eliminated (i.e. gendered allocation of winnable positions in party lists). 	<ul style="list-style-type: none"> • Recruitment of corporate board members unaffected by quota reforms. • Gendered recruitment processes strongly embedded in the opaque and endogamic practices of Spanish firms.

The sequential pattern of quota reforms in politics began with (left-wing) parties pursuing self-reform in their recruitment practices by adopting party quotas to only subsequently proceed with normative-legal reform(s). Critical actors within parties, namely party feminists, placed the issue on the agenda, developed strategic action and discourse based on the politics of presence and equality of results, using other European countries, parties and transnational women's organizations as a source of inspiration and legitimacy. Electoral rules of proportional representation with closed and blocked lists worked facilitated the implementation of party quotas. When the statutory quota was passed the main resistance to gender quotas came from the Popular Party, whose unconstitutionality appeal based on individual equality of opportunities and parties' freedom was rejected on grounds of substantive equality. The tough sanction imposed on non-compliant parties (i.e. the withdrawal of party lists) secured an effective implementation of the gender-balanced principle.

In sharp contrast, in the case of quotas in corporate boards, the prevalence of self-regulation at the systemic level coupled with normative institutions that prioritize liberal notions of freedom of activity and criteria of individual merit and ability have produced a heavily disjointed sequence. Whereas Europeanization acted as a cross-loading factor that enabled political actors to learn from other European countries' and parties' experiences, in the case of quotas in corporate boards the Norwegian example was inspirational but not determinant. The hard quota introduced by the PSOE government as a part of a broader equality plan failed to address informal gender-biased practices of recruitment. The business community, both women and men, rejected the imposition of sanctions for boards not meeting the stipulated target of women's representation and, with the support of the Popular Party, managed to reintroduce a soft approach and gained the discursive battle by framing lack of diversity in boards as a matter of low supply of qualified women. Indeed, the observed increases in women's representation are partially due to the fact that boards have been required to recruit independent members, then opening the door to "outsiders". In sum, most of the enabling factors – classified in the systemic and normative institutions – that exercised pressure in favour of gender quotas in politics were weak or missing in the economic sector and, thus, could not counteract the strong oppositional factors and actors. It is yet to be seen if the recent mobilization of businesswomen in favour of hard quotas will succeed in challenging the male-biased discourse of 'merit' that puts women's talents to ongoing test, while men's capacities are left unquestioned.

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