Quotas for public bodies? A comparative study of the effectiveness of gender quotas for public boards and committees in Finland and Norway

by

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Abstract

From the 1970s onwards, in the Nordic countries there were adopted various types of mechanisms to achieve a better gender balance in different types of indirectly elected or appointed public bodies. Today, three of these countries (Norway, Finland and Iceland) have legal gender quotas for public commissions and boards; Denmark has a gender balance law with no numerical requirement whereas Sweden has successful resorted to voluntary methods. Drawing from findings concerning electoral gender quotas, this comparative study of Finland and Norway investigates how the committee quotas have been implemented in practice in these countries and , and what kinds of factors aid or hinder their effectiveness.
INTRODUCTION

From the 1970s onwards, in the Nordic countries there were adopted various types of mechanisms to achieve a better gender balance in different types of indirectly elected or nominated public bodies. Today, three of these countries (Norway, Finland and Iceland) have legal gender quotas for public commissions and boards; Denmark has a gender balance law with no numerical requirement whereas Sweden has successful resorted to voluntary methods.

Whereas there has been a proliferation of studies concerning electoral quotas, similar measures targeting bodies whose members are not chosen by democratic elections have attracted little if any attention. Drawing from insights of feminist theorising of democracy and representation (Phillips 1995; Mansbridge 1999; Young 2002), we should however pose the following question: If the descriptive representation of women is considered to be beneficial for the quality and legitimacy of decision-making in political assemblies, does this also apply to other political organs which are appointed or elected indirectly, such as policy preparatory organs and various executive and administrative bodies?

Drawing from previous findings concerning electoral gender quotas, this comparative study of Finland and Norway investigates how the quotas for public bodies have been implemented in practice in these countries and what kinds of factors aid or hinder their effectiveness. Notably, both of these Western democracies display very egalitarian attitudes, a high representation of women in politics and a strong commitment to both democratic ideals and the rule of law. The ‘second generation’ type (Holli 2011, see later) quota in question was also adopted in a form that is generally thought as the strongest and the most effective type, namely by laws decreeing a minimum percentage (40%) of representatives of each sex in the organs they target. Nevertheless, our investigation reveals problems in their implementation and an erosion of their effectiveness in two highly egalitarian Nordic countries.

The study seeks to analyze this eroding implementation, on the one hand, by drawing from results concerning electoral quotas (strength, scope, dispensation rules, sanctions and monitoring arrangements in the laws), but, on the other hand, also other factors linked to the ways these types of gender quotas are embedded in cultural and political traditions as well as some additional contextual factors relating to the field in question.

Our exploration of these topics is linked to a series of more profound questions in the study of gender quotas, namely: Do the same factors that have been proposed to explain the effectiveness of electoral quotas also account for the success or failure of these kinds of 'different' quotas - or, rather, are there other factors that should be taken into account instead or in addition to them? Notably, answers to these questions may also help us in discovering some taken-for-granted assumptions in quota studies, the focus of which have so far almost solely been on electoral quotas. The pertinent query here then becomes: how much are our current hypotheses and results concerning explanatory factors actually related to the specific field of quota application, not effectiveness as such?
The paper is structured as follows: First, we present an overview of our endeavour and its links to theoretical issues and debates as well the factors that we tentatively consider as beneficial or detrimental to implementation of these types of quotas. The empirical analysis proceeds from outlining the results concerning our dependent variable, namely, the status of implementing the quotas for public bodies in Finland and in Norway. After that, we will investigate each of the independent variables in turn. Finally, we conclude by a preliminary analysis of our results.

THEORETICAL CONSIDERATIONS FOR CONSTRUCTING A FRAMEWORK FOR ANALYSIS

Definitions: a more comprehensive perspective on gender quotas

For the purpose of this study, we endorse Dahlerup's definition of quotas, expressed as follows: “Quotas in politics involve setting up a percentage or number for the representation of a specific group, here women, most often in the form of a minimum percentage...” (Dahlerup 2006, 19) Notably, Dahlerup's continued discussion shows that what she means by 'quotas in politics' is actually electoral quotas. Adopting such a narrow conceptualization of gender quotas, or, political quotas, as many scholars today do, is however not an option available to us. Namely, such an understanding of quotas would actually exclude precisely those quota arrangements which we wish to target. Moreover, it may also lead to mistaken classifications of countries (“there are no political quotas in Finland”) and sometimes to serious errors of analysis or interpretation of results especially in comparative studies.

We wish to draw attention to the fact that electoral gender quotas are just one particular form of this type of affirmative action, that is, quotas, the intention of which is to remedy the under-representation of women in political or other decision-making bodies and remove barriers to their participation (Holli 2011). From a more comprehensive perspective, Holli’s (2011) categorization of three types of gender quotas is useful to us. She criticizes the fact that the study of gender quotas in feminist political science has almost solely concentrated on various types of electoral quotas, what she calls the first generation of gender quotas. They target in various forms (legislative electoral quotas, reserved seats, party electoral quotas) electoral politics and those institutions (parliaments, parties) which are involved in it. Elected bodies are however not the only decision-making arena in society. The second and third generation quotas attempt to address the problems of women’s underrepresentation beyond elected bodies. The arena of applying second generation quotas is also the public sphere consisting of politics and administration, but unlike the first generation quotas, the quota rules are applied to appointed or indirectly elected bodies and institutions, such as, for example, commissions of inquiry, public boards, advisory bodies or executive organs. Third generation gender quotas (‘corporate quotas’) on their side extend the quotas outside the public arena to the economic field, such as the decision-making boards of private companies.

This study is, then, about second generation quotas in Finland and Norway. Today, second generation quotas in the narrow sense of the latter term (numerical, legal quotas) exist at least in Norway, Finland, Iceland and Belgium. Norway was the forerunner, as it adopted a Royal Decree in 1973 which required all authorities to nominate two candidates, one of each gender, to public bodies. The nominating authority was then responsible for the final gender-balanced composition of the organization in question (Dahlerup 1989; Haavio-Mannila et al 1985: 129–130). Because of problems in implementation, the statute was strengthened
several times over the years. From 1988 onwards, all publicly appointed boards and committees had to be comprised of at least 40 per cent men and women (Bergqvist et al. 1999: 198). In 1992, a similar clause about a minimum 40 per cent gender quota was also adopted for application to municipal executive boards and committees (Guldvik 2005: 7). This regulation has been enacted since the 1995 municipal elections.

Other Nordic countries soon followed Norway’s lead, albeit with considerable variety in form (whether there was an explicit numerical quota requirement or not), strength, scope and monitoring arrangements. The legislation pertaining to second generation gender quotas has also been substantially modified and strengthened since their adoption. Denmark, for example, adopted a law mandating a gender-balanced representation in public boards and committees in 1985 after several recommendations had failed to remedy the problem; however, there was no numerical quota requirement. More recently, in 2009, Denmark adopted stronger legal sanctions for non-compliance: if the gender balance requirement is not implemented, the seat in question remains vacant (Fiig 2009). Similarly, while Iceland initially followed the Danish example (Bergqvist et al. 1999: 198–199) it however consolidated the gender quota law in 2008 to decree a numerical 40 per cent minimum representation of both sexes in boards and committees (Styrkársdóttir 2009). In turn, Finland instigated a Gender Equality Act in 1986 which was strengthened in 1995 to equal and in some respects even surpass the scope of the Norwegian law. In contrast, Sweden has continued its tradition of ‘voluntary’ approaches to accommodating gender quality with the Swedish government requiring public authorities to observe the goal of gender balanced representation on public boards and committees (no legal or numerical quota requirement) with very successful outcomes (Bergqvist et al. 1999: 199; Alnevall 2009).

Across the Nordic countries the most critical difference in terms of second generation gender quotas is whether the laws include just policy preparatory and other such bodies or whether they also apply to bodies wielding executive power (Holli 2011). Since the mid-1990s only Norway and Finland have explicitly legislated to include municipal (and regional) executive bodies within the strict 40 per cent numerical quota requirement. As far as we are aware, Norway and Finland are the only countries in the world that have explicitly extended quota legislation also to apply to executive bodies (cf. Holli 2011). This makes these two countries somewhat exceptional not only among quota regimes in general but also among countries utilising second generation quotas.

In the following sections, we will outline our preliminary ideas concerning the links between second generation quotas with other societal phenomena as well as relevant theoretical debates. Firstly, we will outline its very obvious link to corporatism; secondly, we sketch its implications from the point of view of theories of representation; and finally, we briefly describe the factors contributing to effective implementation as suggested by earlier research on first generation quotas, with some modifications.

**Nordic corporatism**

One of the reasons for why these two Nordic countries have adopted second generation quotas is probably linked to corporatism. Both Finland and Norway display a relatively strong form of ‘state corporatism’ (as opposed to neo-corporatism). In these countries, as well in the other Nordic countries, it has been typical that women fare much better in the
'democratic channel' than the 'corporatist channel' as far as political representation is concerned.

A corporatist system typically consists of structural arrangements for expertise exchange, involvement and negotiations between the representative system, public administration, the social partners and other key organizations. Woldendorp (2011) concludes that in spite of recent reforms and attempts to dismantle the system it remains “business as usual” in many North-West European countries. In the Nordic context, corporatist structures are particularly strong in Finland and Norway, somewhat weaker in Denmark and weakest in Sweden (Woldendorp 2011).

Whereas Finland’s committee system originates in its common history with Sweden and dates back to the 17th century, in Norway the committee-system emerged in the middle of 1800s (Christensen et al. 2007:138; Rainio-Niemi 2010:245). In both countries, state boards, councils and committees are appointed by the Government or by the ministries themselves, although the state commission system in Norway comprises a diverse system of organization (Nordby 1999:7). The most important distinction can be drawn between temporary and permanent commissions (Christensen et al. 2007:138). The committee system, comprising a major part of the corporatist system in both countries, can be considered as a permanent element of state government, although it is not constitutionally enshrined (Nordby 1999:7). The representation of key organizations and in particular the social partners has been strong in these corporatist bodies. The relationship between the corporatist system and the representative system is a continuous matter of disagreement in particular in Norway, and focuses on the question whether the representative system exercises sufficient control over the corporatist system (Nordby 1999) or whether the latter tends to dictate the terms of the parliamentary representative system (Hernes 1987:74).

In Finland, the state corporatist system of policy making with its hundreds of commissions of inquiry and other bodies, with a strong representation of the social partners but also other NGOs, had its heyday in the 1970s and 1980s along with the expansion of the welfare state. The commission system in regard to policy preparation was practically dissolved during a few years in the early 1990s, when, in the name of New Public Management and the need for a more effective and rapid policy preparation system suitable for a period of deep economic recession, these tasks were mostly transferred to ministries and ‘one-man-investigators’ (Rainio-Niemi 2009; Helander 1997; Helander and Johansson 1998). The dismantling mostly affected policy preparatory organs, with other corporatist structures (councils, boards) left relatively intact. Notably, the partial dismantling of the commission system, which is nowadays criticised, does not necessarily mean that the strong corporatist influence on public policy-making has disappeared. Instead, we can argue that, nowadays, the influence is just as strong as earlier but it does take place via similar institutionalised structures of cooperation between the social partners and the State.

The Norwegian corporatist system was largely reformed in the 1980s, due to criticism of its power and extent, among other things for the strong alliances between key organizations, the social partners, the ministries and parliamentary committees (Nordby 1999:10). Although the corporatist system has been somewhat dismantled, also there there still continues a strong cooperation between organized interests, the government and parliamentary system (Christensen 2007:138).
Feminist theorising on representation and quotas

Gender quotas in general, as many scholars remind us (Zetterberg 2009; Squires 2007; Krook 2009), are basically mechanisms for amending the gender imbalance in various areas and ensuring the descriptive representation of women (or in case of gender neutral quota arrangements, as is the case here, for ensuring the descriptive representation of both genders in a balanced manner). If, as many feminist researchers argue, there are indeed compelling arguments for a descriptive representation of both genders per se in regard to democratically elected organs, why would not the same justifications also apply to other kinds of decision-making and/or politico-administrative bodies? Such as organs the members of which are chosen by other mechanisms than direct elections, such as appointment or indirect elections? Or, why should they not apply to multi-member bodies wielding executive powers as well, not only legislative powers?

Let us linger on these questions for a moment. Anne Phillips and Jane Mansbridge are the two scholars (in addition to Iris Marion Young) whose thinking on the benefits and problems of fair representation and the need for a ‘politics of presence’ as well is very much referred to and supported by the feminist scholarly community today.

Phillips (1995: 31-56) elaborates on the fundamental justifications for a fair system of representation and any politics of presence with four arguments. The first one deals with the importance attached to the symbolic recognition that political presence entails. The second one points out the need to tackle also those exclusions that are embedded in the current party packaging of political ideas and conflicts; a more diverse selection of representatives may bring something new to this by being able to see ‘outside the box’ because of their different lived experiences and structural situations (cf. Young 2000). Phillips’ third argument speaks for a need for a more vigorous advocacy on behalf of disadvantaged groups. And finally, she refers to the importance of a politics of transformation via an opening up of a fuller range of policy options to choose from.

Jane Mansbridge (1999) on her side has provided a theoretical basis for a politics of presence by arguing that the descriptive representation of disadvantaged groups, such as women or Blacks, enhances, in addition to other democratic goods (the symbolic recognition of a disadvantaged group’s ability to rule, and an increased de facto legitimacy of the polity among its members it and among the citizenry more generally), also their substantive representation by improving the quality of deliberations. That is, it improves the quality of communication and aids the articulation of previously uncrystallized interests by the disadvantaged groups.

In spite of their partly very similar arguments for an increased descriptive representation of disadvantaged groups, Phillips and Mansbridge however reach very different conclusions concerning the adoption of gender quotas as a solution and amendment to gender imbalance: Phillips is in favour, Mansbridge against them, the latter favouring instead what she regards as ‘less rigid’ measures. Notably, both present their arguments in context to democratic representative structures (legislative assemblies), but Phillips briefly extends her viewpoint also to other kinds of decision-making bodies and arenas. Pointing out that a

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1 'Indirect elections' means: elected representatives select among themselves or from other, external candidates, one or several representatives to be members of another decision-making assembly or other political body.
realist may think that legislative arenas are not as powerful as these institutions themselves (as well as we political scientists...) like to think, Phillips (1995, 182-187) reflects on the possibility of extending the politics of presence to non-elected institutions. Taking the corporatist policy preparatory structures, such as commissions of inquiry, in the Nordic countries as one of her examples, Phillips concludes (1995: 183): ‘The politics of presence seems self-evidently appropriate to these further institutions of governmental power.’

This brief foray into the fundamental justifications for women’s political presence - or indeed, for a balanced or fair representation of both genders and all politically relevant groups in society - raises a series of questions relevant to our study of second generation quotas in Finland and Norway. As was evident from Phillips’s recognition regarding them as well, these Nordic second generation quota arrangements are attempts to remedy the gender imbalance in powerful decision-making structures in those corporatist societies, the idea of which has gradually been extended to include some executive bodies as well. However, the development towards second generation quotas and other, less binding, arrangements to improve the gender balance in non-elected organs in the Nordic countries did not grow forth from international examples or international feminist literature but was more of a Nordic home-grown solution to a home-grown problem, with many feminist scholars and activists in Nordic countries reflecting on its significance and possible solutions, in particular during the 1980s. 3

To sum up: On the basis on the compelling justifications for political presence and following in Phillips’s footsteps here, should we not ask: if legislative assemblies benefit by improving the quality of decision-making, communicative function and legitimacy in the eyes of disadvantaged groups and the citizenry as a whole, should we not wish for same benefits for other political (and perhaps even administrative?) bodies, such as governments, policy preparatory organs and other multi-member organs in the politico-administrative arena? If, for women as a group, attaining the status of political representatives is a sign and a testimony of symbolic recognition and an improvement of their chances for substantive representation, should we not wish for the same for women also in organs that often are more decisive for policy outcomes than democratic assemblies an sich? We as authors to this paper do not see why we should not ask these questions; indeed, why we have not asked them more often?

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2 E.g. the concept ‘representative bureaucracy’ (e.g. Stevens 2009) appears as useful for elaborating further on these theoretical issues, but unfortunately, it was not possible to include it here.

3 For example, the Norwegian scholar Helga Maria Hernes was one of the major actors in the 1980s to bring the problem of corporatist structures to Nordic feminists’ attention. She saw the development of the corporate system implying that an increasing amount of what can be considered public interests is expressed through the corporatist system. She observed that the latter has a very limited democratic element, and thus it is uncertain whether it can be characterized as a representative system at all (Hernes 1987:74). She argued that the corporatist system is a mixed system which has grown out of the strong position of organized interests, and in particular, that of social partners in Nordic societies. Further, her argument was that the corporatist system exists side by side with the parliamentarian system, and to some extent dictates its terms in Nordic societies. The main point in her discussions is that the corporatist system is basically about the representation of interests, but that the corporatist system is based on the representation of collective interests to an even stronger extent than popularly elected assemblies (Hernes 1987:75). Consequently, Hernes's point was to make visible and analyse the underrepresentation of women in these corporatist structures and argue for women's increased inclusion to this very significant decision-making arena. (see also Hernes 1982; Haavio-Mannila et al. 1985; Bergqvist 1994; and many others).
When are second generation quotas successful?

After these more profound questions, we turn to the task at hand, namely our empirical question of whether second generation quotas are effective and successfully implemented and which factors explain their potential success or failure? Notably, as there is very little research on this type of quotas, it might be important as such to illustrate the breadth and scope of this societal measure for a fairer gender representation. In addition, however, from the perspective of cross-national comparative research we are more interested in analysing the factors that may explain variations in implementation patterns concerning these measures in Finland and in Norway. Notably, from the perspective of comparative research design, this study applies a ‘most similar system design’ (e.g. Landman 2003).

Because of a dearth of earlier results on such explanatory variables, we will draw from studies concerning electoral gender quotas for which the question of explanatory factors has been relatively prominent. Notably, from our specific viewpoint such studies often highlight explanatory factors that are not relevant or are slightly off-key for our purpose. Such explanations as offered by Htun and Jones (2002) for instance, concerning the significance of district magnitude or list placement for the implementation and success of electoral quotas, are clearly out of question to the task at hand.

For example: Paxton and Hughes (2007, 151-166) outline four factors as crucial for the success of electoral gender quotas, namely: how the regulations are put in place; which level they target (aspirants, nominees or elected members; again, this is not very relevant for the task at hand); the threshold for representation (quota percentage) and whether there are sanctions in existence for non-compliance. Krook (2009) on her side takes a more comprehensive perspective, outlining four broader groups of explanatory factors for variations in implementing (legislative electoral) quotas. The first one concerns the details of quota measures in themselves: their wording, requirements, sanctions and perceived legitimacy. The second type of explanations is related to the ‘fit’ between quota measures and other political institutions, whereas the third type links effectiveness to the characteristics of which actors support or oppose quota implementation. Importantly for our task here, Baldez (2004, see also Htun and Jones 2002) in addition observes that a crucial element for the effectiveness of electoral quotas is support from other political institutions; such as the courts, for example.

In this study, we have in a preliminary manner decided to focus on the following independent variables in order to analyze the variations in our dependent variable, namely, the success or failure of second generation quotas in various areas of their application:

1. The process of adopting quotas for public bodies: how did the process commence and proceed; who were the actors; who were the supporters/opponents; how did international influences affect the adoption of such measures; as well as existing quota tradition more generally (whether there were other types of quotas in place before or after the adoption of quotas for public bodies) and how these other quotas are in general implemented and respected.

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4 As far as we know, all the studies available on these second generation quotas are single-country studies (see Holli 2004, 2011; Holli et al. 2006, 2007; Parviainen 2005; Guldvik 2005; Woodward 2004).
2. The details of legislative regulation: level of norm, quota percentage, scope of quotas, rules for dispensation; sanctions and monitoring and follow-up arrangements,

Notably, this endeavour is a first tentative effort for the purpose. The information on the success or failure of implementation in particular is very much based on (scarce) secondary evaluations. There was also some new empirical data gathered specifically for this study on the Finnish case in a related project analyzing the representation of gender and minorities in Finnish policy preparatory institutions.

The rest of this paper is structured as follows: Next, we outline our preliminary results on the success and failure of implementing the quotas for public bodies in Finland and Norway, respectively. Then, we discuss their adoption processes and quota traditions and their potential implications for implementation. The main body of analysis consists of comparing the legislation and surrounding contexts.

DEPENDENT VARIABLE: IMPLEMENTATION OR NON-IMPLEMENTATION OF QUOTAS FOR PUBLIC BODIES

In this section, we describe and analyze the current state of implementation concerning committee quotas in Finland and Norway, respectively.

Finland

In Finland, the gender quota statute is applied to a variety of public bodies. The implementation of gender quotas also seems to vary greatly across these institutions.

When it comes to municipal executive boards and committees, results from previous research (Holli 2011; Holli et al. 2007; Parviainen 2006) indicate a nearly perfect compliance with the law.

Figure 1 about here

In case of regional assemblies (subject to quota regulation), statistics from 2009 show that they have in average 44 per cent women members and 43 per cent women as vice-members. Regional executive boards have 46 per cent of women as both members and vice-members. (Vallan tasa-arvoa 2009, 18-19.) Thus, they seem to fulfil the letter of the quota law.

In addition, every Finnish municipality participates in a series of inter-municipal/regional organs and alliances charged with the tasks of decision-making or implementation of specific horizontal issues, such as organisation of education and health services. Such organs can be organised in different ways, ranging from municipally owned business companies to indirectly elected assemblies with the representation of councillors of participating municipalities. In the latter case, these organs are included in the scope of quota legislation.

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5 Notably, in their detailed study of seven municipalities in the early 2000s Holli et al. (2007) found out that the quota statute was implemented almost perfectly in the municipalities they studied. The only exception from full compliance concerned one municipal body in one municipality which had one man too much – and this man had a first name that can be used by either female or male persons, which made the deviation from the quota statute not very visible to outsiders.

6 To be checked as to variation and compliance.
However, no centralized data on their composition is available (see also Holli et al. 2007, 65-66).

At the state level, the status of implementation changes drastically. Interestingly, the Government’s Report to the Parliament on Gender Equality (Valtioneuvoston selonteko 2011, 100) claimed that “since the end of the 1990s, the composition of these bodies has complied with the quota requirement”. The report refers to information provided by Statistics Finland ((Vallan tasa-arvoa 2009, 26-27), according to which the proportion of women as members in all governmental projects (including committees, boards, councils and task forces of various kinds) was 43 per cent in 2003, and 45 per cent in March 2009. It is however noted in both reports that there is still great variation between the ministries in this respect. The highest proportion of women was in the Ministries for Education and Culture and Social Affairs and Health (50 % both), Agriculture and Forestry (47 %) and Economy and Employment (47 %). The lowest figures for women were on the other hand observed in the Ministries for Defence (23 %), Traffic and Communication (24 %) and the Ministry of the Interior (34 %).

Notably, the figures in themselves reveal that not all the ministries comply equally with the quota statute. A more serious methodological problem is however that the figures supposedly indicating quota compliance are average proportions of female members in all appointed bodies by ministerial sector, as it is the only available statistic provided directly by the HARE-register, a public database on the composition of politico-administrative organs. As such, the average proportions of women does not tell us how many organs of which kind actually do or do not comply with the quota statute by sector or in average.

In order to achieve a better picture of actual compliance with quota legislation in Finnish public administration, detailed data on two types of preparatory organs was collected for the purpose of this study. The targeted institutions consist, firstly, of commissions of inquiry (i.e. preparatory committees ) charged with preparing major domestic legislative and political reforms and, secondly, of ministerial EU-divisions which are charged with the task of preparing and coordinating Finnish standpoints on all sectors of EU-policy and legislation. Data on the composition of these public bodies were collected manually from the HARE-register and additional information received directly from the Prime Minister’s Office and ministries. The results are presented below in Tables 1 to 3.

Tables 1-3 about here

Table 1 presents a time series of the development of the average proportion of female members of commissions of inquiry and preparatory boards. Before 2002 and the repeal of the Commission Statute (after 2002 the Cabinet no more appoints commissions, but the taskt has been decentralised to ministries), committee secretaries were not regarded to be members proper of such bodies and consequently, were not included in gender balance considerations. Today, however, it appears that the ministries tend to calculate them in as members to fulfil the gender quotas accordingly, however, often without even reaching the limit of 40% set by the Gender Quota Statute. However, this table or available data does not map variation and compliance with the Quota Statute; the collection of such more detailed data is under process.

The only data available, as far as we know, have been collected by some municipalities in their gender equality plans and surveys.
Table 2 shows that in ministerial EU-divisions the average proportion of women has increased from 30 per cent in their narrow, administrative composition (or, 26% in their broad composition (which includes representatives of the business sector and NGOs) in 1995 to 54 per cent and 47 per cent, respectively. The average figures however again conceal the fact that a great proportion of these bodies contradict the quota statute. In 1995 (before the quota statute came into force), one-fourth of the narrow composition EU-divisions\(^8\) complied with the gender quota requirement; the figure dropped to 18 per cent in 2002 (when the quota statute had been in force six years). In 2011, 57 per cent of these divisions complied with the law. Simultaneously during this time period 1995-2011, the proportion of bodies with too high a proportion of male members dropped from 72 to 14 per cent of the total number of EU-divisions. Somewhat surprisingly, in the same period the proportion of EU-divisions having too many women has risen from 3 (1995) to 30 per cent (2011). From the viewpoint of the proper implementation of the quota law, this is as much a problem as the opposite situation (too few women).

Table 3 on its side presents the situation in November 2011 by ministerial sector. The EU-divisions (narrow composition) are in accordance with the quota statute in only three ministries, that is, the Ministries of Justice and the Environment and the Prime Minister’s Office. In the other ministries lawful divisions comprise between 25 and 67 per cent of all the divisions these ministries coordinate. In average 57 per cent of these divisions across all ministerial sectors comply with the quota rule; 14 per cent have too few women and 30 per cent too few men.

**Norway**

In Norway, since 1981 legislative quotas have regulated the gender composition of publicly appointed boards, councils and committees, through section 21 in the Gender Equality Act. A regulation of representation of at least 40 per cent of each gender has been the ruling since 1988 in the Gender Equality Act and since 1992 in the Municipal Act.

The implementation of gender quotas vary to some extent, although the total distribution of men and women within the scope of the quota target has been interpreted as an indication of full compliance. Information about whether all boards, council and committees subject to quota regulations comply is scarce, however.

For the municipal level we lack detailed information about compliance and how the gender representation varies between different sectors etc. Table 4 shows the average development of women’s representation in municipal executive boards and standing committees. The figures for 2011 show that women are represented above the 40 per cent threshold in both types, and this is as the table show the result of a gradual, incremental process. The quota regulation in the Municipal Act came into effect from the municipal election in 1995, and as the table shows, it was almost full compliance from that year onward. And the

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\(^8\) Notably, the question concerning whether the quota statute applies to these EU-divisions has not ever been submitted to the Gender Equality Ombudsman (Interview 22.3.2012). However, based on the general lines of interpreting the statute, they appear – both in their narrow and in their broad compositions – to be subject to it. Notably, the question of the gender composition of the divisions and ways of improving it was discussed in the nominating authority, that is, the Committee for EU Affairs (in the Prime Minister’s Office) in the late 1990s (refs.), but as our on-going interviews reveal, many administrators have either ‘forgotten’ (cf. Holli et al. 2006) the quota rule over the years, never even heard about it or otherwise think that it does not concern these bodies.
representation of women has been somewhat stronger in municipal committees ('standing committees') than in executive boards.

The table provides us however with average numbers. Differences in the gender representation according to region and sector are not transparent. Thus, we do not have data to map variance.

Table 4 about here

Guldvik's analysis (2005) of gender representation and quota compliance in Norwegian local politics indicates that one-fourth of municipal committees were composed in contradiction with the quota legislation. For executive boards (formannskap) about a half did not comply with the 40 percent rule. However, the relevant legislation is much more complicated in case of municipal executive boards, as it takes into account their political composition and adjusts the gender requirements to synchronise with it. Thus, we cannot simply conclude that as much as a half of these bodies are in non-compliance with the quota regulations (Guldvik 2005:87).

At the state level the most recent mapping of gender representation shows that men and women are on average about equally represented. Women are represented by 47 per cent in state boards, councils and committees. Most members hold only one position. Among those with two or more positions, the gender balance is the same, 48 per cent women and 52 per cent men. This indicates that there are no real gender differences in the social capital of board representatives.

Numbers from 2011 retrieved from the Organ Base provided by the Ministry of Government Administration of the representation of men and women in state boards, committees and councils show variation according to appointing ministries (http://ft.gan.no/publikasjonen/). The time series refer to Langvasbråten 2009.

The mapping shows differences in the gender representation according to the ministerial sector (see table 5). The numbers from 2011, show that two ministries, Defence and Trade and Industry, are the only ones which do not comply with the 40 per cent demand. In 2008 five ministries did not comply with the 40 per cent rule: the Ministry of Trade and industry, Oil and Energy, Defence, Transportation and Agriculture. Women are represented by more than a half in some of the ministries, but not above the 60 per cent threshold in any of them. Women are strongest represented in the Ministry of Children and Equality, by 52 per cent. Both the ministries of Fishery and Foreign Affairs have changed the gender composition of boards, councils and committees most dramatically over the period, from, respectively, 25 to 45 per cent women and 23 to 49 per cent women from 1993 to 2011. The Ministry of Defence lags significantly behind the other ministries.

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9 In sum 4558 persons are registered as members of state boards etc., of which 2415 are men and 2143 women.
10 There are 818 of the 4558 persons who hold two or more positions in state boards etc., among these there are 423 men and 395 women.
The system to secure compliance has been intensified in recent years, as a result of the Company Act’s regulation of gender representation in certain types of company boards.\textsuperscript{11} Namely, it would be a problem for the legitimacy of the corporate board quota legislation if public authorities were not complying with their own quota regulation in a context where the Business Register for company boards conscientiously follows and implements corporate quotas.

Table 5 about here

An evaluation of the quota rule in the Gender Equality Act showed that although the 40 per cent demand is fulfilled in average, as much as one-third of the boards, committees and councils appointed by ministries do not comply with the 40 per cent demand. The ministry of Defence, in which women are poorest represented, is moreover regularly applying for dispensation from the gender quotas (McClimans & Langvasbråten 2009).\textsuperscript{12}

To sum up: The main picture we receive from official data indicates a close to full compliance with the quota demands in the Gender Equality Act and the Municipal Act. The data provided however give little information about variation on the committee-level. The one existing evaluation of the state boards and other such bodies (McClimans & Langvasbråten 2009) indicates that compliance is incomplete. Ministries often do not comply with the quota demand without making full effort or applying for dispensation. McClimans & Langvasbråten (2009) link the weaknesses in implementing quotas to the lack of an adequate sanction system. In this way, quota regulation of publicly appointed boards, councils and committees differs from the corporate board quota legislation, where non-compliance is closely supervised and the sanction system leads in the last instance to a forced dissolution of companies that do not apply with the quota demand (Teigen 2012).

Summary of results concerning implementation of quotas for public bodies

As the previous discussion on quota implementation indicates, despite high average percentages of women in many areas and a consequent belief of full compliance with the quota laws in both Finland and Norway, there is also non-compliance and gaps in quota implementation in both countries. In the following, we will draw attention to some differences between the countries in this respect.

The Finnish case displays a curious duality of results from the perspective of implementation. On the one hand, the quotas appear to be implemented in an almost perfect manner in political bodies at municipal and regional level. On the other hand, there are problems and non-compliance in at least some administrative and preparatory bodies at the state level.

\textsuperscript{11} The corporate board quota legislation regulate the gender representation (at least 40 per cent of each gender) of the boards of public limited companies, inter-municipal companies, state-owned companies, municipal companies and cooperative companies.

\textsuperscript{12} The quota legislation applies to international delegations both in Finland and in Norway, but it is not analyzed in detail here. For example, in Norway, the gender representation in international parliamentarian delegation varies. This partly reflects the restricted number of persons included. NATO parliamentarian delegation, 20 per cent (N=5), The European Council, 20 per cent (N=5), OSSE, 17 per cent (N=6), the Nordic Council, 40 per cent (N=20), EFTA/EEA, 50 per cent (N=6), delegation for European Parliament relations, 50 per cent (N=12).
These results on Finland are counter-intuitive in several ways. Firstly, one would expect that there is more compliance at the centralised level of the state but not so much at the municipal or regional level. Secondly, one would expect more compliance in case of bodies that are not regarded as 'important' as those wielding decision-making and especially executive powers, such as municipal executive boards. Notably, this dual pattern of both success and failure of quota implementation in Finland is an outcome of the very same paragraph in the Finnish Gender Equality Act.

Whether the same tendency applies for Norway than Finland is more uncertain. Average percentages of women’s representation in municipal executive boards and committees have indeed exceeded 40 percent since 2007. However, there exists no recent detailed mapping of variations in gender representation and quota compliance at the municipal and regional levels. Guldvik (2005) found in her study, however, that there were such variations in compliance with the quota regulation at the municipal level. On the state level as well, the situation is very similar in its uncertainty and invisible features: average percentages indicate good compliance, but the one existing evaluation (Langvasbråten) however discovered that one third of the bodies in question were not complying with the 40 percent requirement.

INDEPENDENT VARIABLES

ADOPTION PROCESS AND QUOTA TRADITION IN FINLAND AND NORWAY

In this section, we describe and analyze the impact of the process of how quotas were adopted in the two countries and discuss their consequences for the willingness of various actors and institutions to implement them.

Finland

In Finland, the proportion of women in the Parliament has been consistently high by international standards. Instead, feminist concern over women’s underrepresentation has since the 1970s targeted various corporatist bodies involved in policy preparation, such as commissions of inquiry, as well as indirectly elected municipal bodies, in which women’s representation used to lag considerably behind their share of councillor posts. (See Holli & Kantola 2005; Holli 2004)

The question concerning numerical quotas was first discussed in preparing the Gender Equality Act in the early 1980s, but rejected. Instead, following the example of the neighbouring Norway (without a numerical quota at that time), there was added a clause in the Act (Law 609/1986) which stated that ‘there shall be both women and men’ in state inquiry commissions and other similar public bodies. However, its implementation proved difficult because municipal authorities in particular insisted on interpreting the law in a minimal manner. Even after the law was slightly modified in 1988, the Gender Equality Ombudsman repeatedly had to remind authorities that "women" and "men" were written in plural terms in the law. When the Supreme Administrative Court decided in 1990 that it did not consider the presence of only one woman or man in a public body to be in breach of the Equality Act, women lost patience with non-specified rules of composing public bodies. (See e.g. Holli et al. 2007; Holli & Kantola 2005; Nousiainen et al. (forthcoming))

The conflict exacerbated in the early 1990s in the reform of the Gender Equality Act. Initially, the right-centre government proposed a very similar clause than earlier, without specified
numerical quotas (Gov. prop. 90/1994). At the beginning of the 1990s the right wing and the left wing parties, women included, were still at odds about gender quotas: the right wing women favoured a Swedish type solution with political targets only whereas the left wing women put their weight behind the Norwegian model with numerical quotas. The growing disillusionment about the willingness of the political system to improve the democratic deficit by "voluntary means" spread among the right wing women, too, who increasingly started to join the ranks of the proponents of numerical quotas. By 1994, the majority of all women MPs across the party divide were quota supporters. When the government's bill for a modified Gender Equality Act was discussed in the parliamentary standing committee, women MPs across the party lines joined their numbers and replaced the mild paragraph by one of their own, which set the 40 percent numerical gender quota. Support from the left-wing opposition parties' men ensured the success of this modification in the plenary (Holli & Kantola, 2005; Holli 2004; Raevaara 2005).

Consequently, in Finland, it was women MPs and various women's organisations that in a very concrete manner inserted the numerical quota in the law, despite the Government's unwillingness to resort to such measures and strong objections by public administration, the ministries and organised management. This history also explains some of the radical characteristic and curious gaps in the law: the Government had made no provisions in the law for diluting the effects of a gender quota that it did not propose in the first hand. It also explains why the original law from 1995 lacked a formal sanction or monitoring system or, at least, governmental motivations as to why such were not needed at all (sic!). Preparatory works to laws generally act as guidelines to the legal interpretation of positive statute law in the Finnish system. Lacking much of such, the legal interpretation of the quota statute thus leans on the wording of the law and the standing committee's statement, which expresses the legally significant 'intent of the law-maker'.

The gender quota statute in question is the sole legal quota in Finland. There are no electoral quotas (concerning the composition of electoral lists) of any kind either. The only other political quotas in existence are similar 40% rules (at least 40% of both women and men) concerning the composition of (mostly) executive bodies of political parties. Notably, these party quotas were adopted in two different periods of time. In the 1980s, prior to the legal quota statute, the Greens (1983) adopted quotas as partly due to an international contagion effect from the German Green Party; and in the second case, the extreme Left-wing party (1987) was influenced by the preceding debate concerning quotas in relation to the drawing up of the Gender Equality Act and adopted the gender quota to its executive bodies as a means of reforming the party image and increase its electoral attraction. (Holli & Kantola 2005) From the 1996 onwards, that is, after the adoption of the quota statute, all major parties except the National Coalition Party, the Centre Party and the recently rising populist True Finns have adopted party quotas targeted at their internal decision-making bodies only.

Note, two state committees had however proposed including numerical quotas in the law in 1991-92. (Holli & Kantola 2005)

This was made possible by the fact that the Finnish parliament had a world record of women at the time, 39%.

Such gender quotas to the party executive were adopted by the Greens in 1983 (1988); the Finnish People's Democratic League (nowadays the Left-Wing Alliance) in 1987; the Social Democrats in 1996; and the Swedish People's Party in 2001. Moreover, the Christian Democrats have since 1997 a similar regulation applicable to the party assembly (=decision-making body).
Formal quotas are not applied to their electoral lists. Information on party executive bodies also reveals that the party quotas seem to be implemented very well (e.g. Hart et al 2009).

In conclusion, taking into account the ‘contrariness’ of the adoption process of Finnish gender quotas and the strong resistance to them by powerful actors, one would have expected an extremely weak implementation of the quotas overall. This was however not the case, as pointed out earlier in this paper.

**Norway**

In Norway the proportion of women in political decision-making assemblies increased rapidly throughout the 1970s and the 1980s. After the middle of the 1980s the representation of women in Norwegian politics stagnated right below the 40 per cent target, however. Nonetheless, the representation of women in the Norwegian parliament have in an international perspective been relatively strong, although more countries have recently reached close to gender balanced representation, and several outnumbered Norway.

In Norway the issue of gender balance in the corporatist channel – the publicly appointed commissions – emerged relatively early on the political agenda. In fact, the political debate about gender balance in public commissions proceeded simultaneously with the debate on lack of women in political decision-making assemblies. The parallel developments of these debates addressing the representation of women in political decision-making assemblies and in the corporatist channel, reflect the importance attached to the corporatist system as an important part of the democratic system and policy-making in Norway.

Two Government Resolutions (Royal Decree) from 1973 and 1976 established an expectation of gender balance in the composition of publicly appointed commissions. In 1978 an inter-ministerial committee was established to evaluate a possible legal regulation of gender representation demands for publicly appointed boards, councils and commissions. The reason for this evaluation was that the appeal in the Government Resolutions for gender balance was not obeyed.

Regulation of gender balance of publicly appointed boards, councils and committees was first included in the Gender Equality Act in 1981, demanding a representation of at least two members of each gender in commissions of four or more members. Furthermore, this demand was strengthened from 1988, from when the Gender Equality Act has stated that at least 40 per cent of each gender has to be represented in public commission constituted of four or more members. There is a right to exemption/dispensation included in the legislation. It appears to be a recognition of an assessment that there are areas where there is a lack of expertise among both genders, thus it would be manifestly unreasonable to demand gender balanced representation. In 1995 the scope of the legal regulation of gender composition of publicly appointed boards, councils and commissions was enlarged to include municipal and county municipal commissions, simultaneously as the quota requirement was strengthened for all commissions consisting of less than four members.

An analysis of the consultation process and the parliamentary debate reveals a strong opposition against the gender quota regulation (Solhøy 1999). This opposition has diminished over time, and it appears as though there is a growing tendency to adapt and accept the demands of gender balance in public commissions. The employers’ organizations have been the most explicit opponents to this kind of regulation, along with the right-wing political
parties. Although, within the Conservative party and the Christian Democratic Party, the women representatives were in opposition to the party line, and voted in favour of the numerical quota for public bodies. The controversies over the legitimacy to regulate the gender composition of public commissions clearly relate to a balancing between the two functions of the commissions: they are both a means of expertise and channels of democracy, participation and influence.

In Norway the regulation of the gender composition of publicly appointed boards, councils and committees, was the only legal quota until the adoption of the corporate board quotas in the Company Act in 2003, fully implemented in 2008. Voluntary quota arrangements have been adopted by five of the seven major political parties in Norway. Quotas (at least 40 % of each gender) regulate party electoral lists and internal appointments within five of the seven major political parties: the Liberal party from 1974 (only internal appointments); the Socialist Left party from 1975; the Center Party from 1979; the Labour Party from 1983; the Christian Democratic Party from 1989. Neither the Conservative Party nor the Progress Party has adopted any kind of formal gender quotas.

In conclusion, there has been an increasing tendency to accept the legal quota concerning publicly appointed commissions. There is also a growing tendency of compliance to the rules. Nonetheless, the system is characterized by coincidences and ignorance.

Summary of results

To sum up, in both countries numerical quotas to boards and commissions were a result of gradual development over the decades and women's growing dissatisfaction concerning the gender imbalance in corporatist bodies. Whereas in Norway, an international pioneer in this respect, the process of adopting numerical quotas to public bodies was government-led throughout the process, in Finland the final step over to numerical quotas was a direct result of women's 'rebellion', in which the Norwegian quota was utilized as the model. In both countries powerful actors were however opposed to numerical quotas.

An additional difference consists of varying quota traditions. Norway has been regarded as the 'quota country' as it has both first, second and third generation quotas in place, whereas in Finland, the quota for public bodies is the only one in existence, with also internal party quotas modeled after it. In Finland, also the party quotas to internal decision-making are followed conscientiously, although there are no actual party 'sanctions' for non-compliance excepting for the control exercised by party members and delegates.

In Norway, the situation is identical in this respect concerning both internal party quotas and electoral party quotas, both voluntary in nature. They seem to be applied as they should, due to control exercised not only by membership but also potential negative publicity. The only other mandatory, legal, gender quota on corporate boards is also complied to.\(^1\)

\(^1\) In connection to corporate quotas, there is, however, systematic monitoring and supervision of compliance. There are explicit rules for dispensation, as well as a sanction system for non-compliance, supervised by the Business register. The National Business Register enforces the requirements for company boards as part of the ordinary sanction system for all types of companies. Legal sanctions may apply in cases of non-compliance and the company may be dissolved by order of the court. Dissolution has been a part of the legal system since 1977. Experience shows that companies where discrepancies are pointed out, correct these in due time. Before dissolution is considered, the state may give fines to companies not correcting the gender balance after getting a
Once again, we end with somewhat counterintuitive and surprising results. How come voluntary quotas, such as those adopted by political parties, are implemented well in Finland and Norway whereas there seem to be problems in implementing legal quotas for public bodies? Would we not have expected— in two countries that are considered to be very law-abiding – exactly the opposite result in this respect?

**COMPARING THE QUOTA LEGISLATION OF FINLAND AND NORWAY**

**Level of norm**

At a surface, Finnish and Norwegian gender quota legislation appears very similar.\(^\text{17}\) Both countries, following the legal context of positivist statute law, have established gender quotas by regulating for them in a strong normative form, as separate paragraphs in related legislation. In **Finland** the quota statute was included as an additional clause in the Act for Equality Between Women and Men in 1995 (Law 206/1995), and the paragraph was modified and strengthened in 2005 (Law 232/2005). In **Norway** the gender quotas are regulated in two separate laws: The Gender Equality Act and the Municipal Act. In both countries the laws in question set in a gender neutral manner a minimum limit of at least 40 percent of members of each sex in the targeted public institutions.\(^\text{18}\)

In **Finland**, today, 4 a § of the Gender Equality Act includes three clauses, each of which is important for its current legal and practical interpretation. The first clause decrees that ‘state committees, boards and other similar organs as well as municipal organs and organs of inter-municipal co-operation, except for municipal councils, must have at least 40 per cent of both women and men as their members, unless there are special reasons to the contrary’. The second clause regulates that organs, offices or institutions exercising public power and companies in which municipalities or the State have a majority of shares must have ‘a gender balance’ (note, without a numerical requirement) in their decision-making bodies in case they are composed of political representatives. The third clause sets out the requirement that public authorities and other instances which are asked to propose candidates for the membership of the organs mentioned above, must, as far as it is possible, to propose both a female and a male candidate for each of the posts. (Law 232/2005) In the more detailed investigation to follow, we will however exclude the latter clauses except when they are pertinent to the interpretation of the numerical quotas.

In **Norway** gender representation in public commissions was first included in the Gender Equality Act in 1981, § 21. Although the gender representation of public commissions have been regulated since 1973 through a Government resolution (Royal Decree). The first regulation in the Gender Equality Act from 1981 did not set a strict quota demand, but established the aim of equal representation of both genders, and that at least two persons of each gender should be represented in commission of four or more members. From 1983 the regulation was extended to include municipal and county municipal boards and commissions, and from 1988, section 21 in the Gender Equality Act formulates a demand of warning. Therefore it is unlikely that any company will be dissolved by the court on account of the gender balance rule. These elements have ensured a high degree of compliance.

\(^\text{17}\) Partly, the resemblance similarity is due to the fact that the Norwegian law acted as a model to the Finnish feminists which advocated legal gender quotas more than ten years after Norway had first adopted such legislation (see earlier in this paper).

\(^\text{18}\) Quota legislation for corporate boards in the Company Act.
at least 40 per cent representation of each gender. A demand of 40 per cent representation of each gender was included in the Municipal Act from 1992, and entered into force after the local election in 1995. The Municipal Act regulates the gender representation in commissions appointed by elected assemblies. This implies a tightening of legislation concerning commissions appointed by elected assemblies.

**Scope of the law and dispensation rules**

Despite the superficial similarity of gender quota legislation in public bodies in Finland and Norway, there are some characteristics of legislation which make the actual scope and implementation of gender quotas somewhat different between the compared countries. The main difference is that in Finland the scope and application of gender quotas to municipal and regional indirectly elected and executive bodies is much stricter and more extended than in Norway.

In Finland, the numerical quota for public bodies applies to three arenas and sets of bodies: (1) municipal bodies except for the election of the municipal councils; (2) intermunicipal bodies; and (3) state organs charged with various tasks in policy preparation or advisory and administrative and executive functions (e.g. boards and councils) except for e.g. parliamentary standing committees and the Cabinet (which, however, in practice has had gender balance since the early 1990s).

Municipal organs referred to in gender quota statute include municipal executive boards (i.e. the local ‘cabinets’) and municipal committees (which have both preparatory and executive functions as the ‘ministries’ of the municipality). These bodies are elected by the local councils, and mostly consist of council members. Municipal councils, on their part, are democratically elected by popular poll every fourth year. The specific electoral rules utilised for the election of local executive bodies assure that they proportionally reflect the political composition of the local council.

Originally in 1995, the Finnish quota statute was intended to include inter-municipal and regional decision-making structures in which the representatives are elected in an indirect manner by the councils of the member municipalities. Notably, it is the member municipalities that are major actors in Finnish regional decision-making structures. However, because of problems in implementing the quota statute in this arena, the statute was amended in 2005 to explicitly name these inter-municipal organs (Law 232/2005).

The final category for quota application in Finland includes practically all state multi-member administrative and policy preparatory bodies the members of which are not elected by direct democratic elections but nominated; that is, commissions of inquiry (for preparing legislation and policy initiatives), public steering councils and boards; permanent committees (often having a wider mandate for planning for policies and conducting consultations in their area of expertise) and officially appointed working groups made up by bureaucrats. The quota statute applies to international delegations and such bodies as well.

The regulation concerning dispensation rules from Finnish quota statute is expressed very shortly in the Act: the quota rule must be followed “unless there are special reasons to the contrary”. In practice, the nominating authority must give the reasons for deviating from the 40 percent rule in writing when proposing a body the composition of which does not fulfill it. According to Gender Equality Ombudsman’s interpretation, a sufficient ‘special reason’
usually is that the nominating official validates its claims that it has made a useless effort to conscientiously find or ask for members of both sexes for the organ in question (Interview 22.3.2012). However, there is no information about how often such requests are made to various appointing authorities institutions and whether their interpretation of the dispensation is the same as the Ombudsman’s.

In Norway, the numerical quota for public bodies also applies to a wide set of bodies: (1) municipal bodies; however particular rules restrict the application of quotas in case of the composition of bodies which are composed on the basis of the results of local elections, i.e. the executive municipal board; (2) intermunicipal bodies; and (3) state organs charged with various tasks in policy preparation or advisory and administrative and executive functions (e.g. boards and councils) except for e.g. parliamentary standing committees and the Cabinet (which, however, in practice has had gender balance since the early 1990s); (4) international delegations publicly appointed; non-public commissions appointed by public authorities or for the publicly appointed members of a non-public commission (McClimans & Langvasbråten 2009, p. 42-43).

The quota regulation applies to elected and appointed assemblies, and both for the so called obvious members and regular members.

Municipal organs referred to in the gender quota statute include municipal executive boards and municipal committees, which have similar tasks and functions as the ones in the Finnish case. The quota rules are however (unlike in Finland) less absolute for executive boards compared to municipal committees appointed by the municipal authorities. These bodies are elected by the local councils, and mostly consist of council members. Municipal councils, similarly to Finland, are democratically elected by popular poll every fourth year.

All state appointed bodies are subject to the 40 per cent regulation – § 21 – in the Gender Equality Act. The quotas apply to international delegations and such bodies as well.

The regulation concerning dispensation rules in the Norwegian quota statute is expressed in the second section of article 21 in the Act: “Exemption from the rule may be granted in cases where particular circumstances demonstrate that it would be unreasonable to follow the quota demand”. In practice, in Norway, too, the nominating authority must give the reasons for deviating from the 40 per cent rule in writing when proposing a body the composition of which does not fulfill it. An evaluation of all the applications for dispensations shows that applications are seldom put forth. However, the existing applications for dispensation claimed that it had proved impossible to find a woman candidate with the necessary expertise. No cases referred to difficulties in finding a male candidate with the necessary expertise. The preparatory work of the legislation (travaux préparatoires) emphasizes that only extra-ordinary circumstances should give sufficient justification for dispensation. Dispensations are however regularly granted on the basis of the submitted applications. The main problem here however appears to be that the procedure for applying for an exception is rarely used (McClimans & Langvasbråten 2009). There exists no kind of explicit sanction for public commissions not complying with the quota legislation (McClimans & Langvasbråten 2009: 8).
Sanctions, supervision and monitoring arrangements

We will next look, in turn, at the institutional framework for supervising and monitoring the implementation of quota laws; i.e. sanctions that follow from breaking the laws; the manner in which compliance is supervised; and how the overall situation concerning compliance is monitored and followed up by relevant authorities or other instances in the two countries.

In Finland, the main responsibility for supervising the quota law lies with the Gender Equality Ombudsman. This authority, however, is not a judicial authority with power to give a legally binding decision on a matter but it functions mostly by giving instructions and advice on the proper implementation of the law, or in case of individual complaints submitted to it, statements on them and to other authorities on the correct interpretation of the Gender Equality Act on the relevant issue. In case of the quota statute, in particular, its work is nowadays mostly instructive: for example bureaucrats ask for advice how they are to implement the law when considering setting up an organ. (Interview 22.3.2012) The Ombudsman also exercises some post-facto control as she contacts public authorities on the basis of active citizens' complaints concerning breaches of the quota statute. (ibid.) There are no sanctions that the Ombudsman can use in case of the breach of the quota statute – however, her instructions tend to be very well taken into account, partly also because it is the duty of bureaucrats to follow the law (ibid.; see also Holli & Rantala 2009).

The second institution playing a role in supervising the law is the Office of the Chancellor of Justice. This is one of the two highest judicial authorities in Finland, which supervises the lawfulness of the actions of Government Ministers and public officials. Supervision of the lawfulness of governmental decisions is an important part of its work, which is secured by the presence of the Chancellor in Cabinet meetings and a pre-check of governmental protocols and agenda from the judicial point of view. In case the Ministries or the Cabinet propose nominating bodies that are in contradiction with the gender quota statute, the Chancellor rejects the unlawful proposal from the Cabinet agenda and asks the appointing authority to complement its proposal by fulfilling the legal 40% rule. The supervision of public officials otherwise is done by post facto control on the basis of individual complaints submitted concerning the legality of the actions of public authorities.

Notably, this legal monitoring of the gender quota statute by the Chancellor of Justice is not mentioned anywhere in the Gender Equality Act or the legal framework concerning it. The task has probably been taken up by the Chancellor in connection with the fact that Paavo Nikula, who had been the first Gender Equality Ombudsman (1987-91), was appointed Chancellor of Justice (1998-2007) later on in his career.

A third institution playing a significant role in the supervision of the quotas concerning the municipal arena is the Administrative Courts and the Supreme Court of Administrative Justice. Again, this fact is not evident from the wording of 4 a § or the Gender Equality Act more generally. Namely, for reasons that have been discussed earlier, in the drawing of the quota statute nobody had observed its link to Municipal Law. The latter gives any individual citizen of a municipality the right to formally complain about the unlawfulness of democratic municipal organs. After the quota statute was adopted, and the municipalities tried to continue 'business as usual', disregarding the new numerical gender quota rule, active

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19 The validity of this interpretation will be checked in later interviews.
citizens utilised this right. The Supreme Court has been quite strict in its interpretation of the quota statute. In practice the courts' decisions on an unlawful composition of a municipal body means that the body in question has to be dissolved and re-selected in concordance with the law.

Thus, although there are no formal sanctions mentioned in the Gender Equality Act for those institutions or individuals which break the quota statute, in practice there are two existing mechanisms in place which function as strong sanctions per se; one for state officials involved in proposing bodies which are appointed by Cabinet decision (Chancellor of Justice) and one for municipalities (Municipal Law and its judicial control). The existence of these mechanisms seems also to have had a strong impact on the outcome of divided quota implementation in Finland. Namely, those bodies that fall outside these two specific categories display problems of non-implementation to a much higher degree.

A related problem is the state of monitoring and follow-up concerning the implementation of the quota statute at a more systematic and centralised level. The Gender Equality Ombudsman's Office produces at times, but very seldom, some reports which look at the implementation on some specified arena. The Council for Gender Equality had produced such reports concerning the composition of public appointed bodies at regular intervals from the 1970s onwards, but the last of these reports were published in the late 1990s, slightly after the adoption of the quota statute. After that, the monitoring function was supposedly taken up by the HARE-register and its 'equality reports', with the evident problems commented on earlier in this paper. In practice, this also means that there is no way for outsiders to check on the lawfulness of public bodies more generally, except by hard manual work.

In Norway, the responsibility for supervising and monitoring the quota law lies with the Ministry of Children and Equality. The different, sectoral ministries are responsible for monitoring and supervising the implementation of the quota regulation, and they apply for dispensation in cases where there are exceptional reasons. The Ministry of Children and Equality has the authority to treat the dispensation applications. Thus, enforcement of the Act rests on the system of dispensation. A comparison of the gender representation and applications of dispensation revealed that some ministries, although they do not fulfill the demand for a gender balance, do not follow this procedure although they appoint commissions which do not comply with the 40 percent demand, they do not apply for dispensations either (McClimans & Langvasbråten 2009, p. 33).

Interpretations of the quota rules and the instructions for a correct appointment of a public commissions are formulated in a governmental circular letter, which is to be found of the web sites of the Ministry of Children and Equality. The existence of this letter is however not general knowledge among the relevant actors.

The existent sanction system for the application of the quota demand in the Gender Equality Act is considered insufficient. There is no formulation of a sanction system regarding public commissions not complying with the quota rule that have not applied for the needed dispensation. It is unclear whether the Ministry of Children and Equality has the power to dissolve publicly appointed commissions. Overall, it is also in fact unclear whether a public board, council or committee that does not comply with the quota rules is in danger of any kind of sanctions by a superior authority, which for state commissions is the Ministry of
Children and Equality and for the municipal committees and executive boards the county governor

An evaluation of the practices concerning the quota regulation revealed major weaknesses in the system (McCLimans & Langvasbråten 2009). Dispensations are seldom applied for. The restricted number of dispensation applications indicates that the possibility to apply for dispensations is little known. A survey of dispensation applications showed that all the cases asked for exception from the requirement to provide enough women (McCLimans & Langvasbråten 2009, p. 9).

A related problem concerns the lack of mapping and monitoring of the implementation of the quota statute. The Organ Base provided by the Ministry of Government Administration of the representation of men and women in state boards, committees and councils (http://ft.gan.no/publikasjonen/) show the representation of men and women according to ministerial sector. There exists however no information about variation and non-compliance.

CONCLUSIONS

In this paper, we made a first attempt to analyse the effectiveness of implementation of quotas for public bodies and explanations for their success or failure in a cross-cultural comparative framework, focusing on Finland and Norway. The analysis revealed a series of problems especially in regard to the non-transparency of existing public data and information as well a scarcity of research on compliance and non-compliance in those countries. Consequently, taken into account that our tentative answers to many of the questions we ask and variables we investigate are still relatively uncertain and not totally reliable, the following summing up of results is merely indicative.

The analysis of the implementation of quotas for public bodies revealed great variations both between the institutions and the countries studied. In Finland, implementation appears to follow a dual and divided pattern. There seems to be a very effective and successful implementation of the quota statute by those bodies whose composition is subject to some form of judicial control (municipal bodies and bodies appointed by Cabinet decision). By contrast, in bodies that fall outside these categories (i.e. are appointed by ministerial or other lower level decision-makers), a brief investigation revealed a great deal of non-compliance. However, it seems that, overall, the proportion of gender-balanced and compliant organs has increased over time from 1995. The problems of representation in some of the investigated bodies has moreover turned upside down: today, there are in some cases more appointed bodies with too few male members than vice versa.

Implementation of quotas for public bodies in Norway also reveals a dual pattern, but of anotherkind, and probably an outcome of different factors. In Norway, the duality consists of discrepancies between viewpoints concerning the success of implementation at a surface level and from a more in-depth point of view concerning actual compliance. At a surface level, it seems that most Norwegian institutions – except maybe for the Ministry of Defence, for obvious reasons (which were also taken into account in the Norwegian legislation) – mostly comply with the quota laws. The few existing in-depth analyses however indicate a relatively wide-spread non-compliance as well. However, it is difficult, if not downright impossible, to penetrate this pretty facade since data and information on actual variance and compliance do not exist. Moreover, as the Norwegian quota laws include more diluted
paragraphs and concessions to powers-that-be than the Finnish quota law, getting a fuller picture of compliance and non-compliance e.g. in case of Norwegian municipal executive boards would be difficult.

One of the major explanatory factors for the differences in implementation emerging from this analysis, is the role played by sanctions and supervision of the quota laws. In the Finnish context, there are in practice such sanctions, although they are not codified in the Gender Equality Act proper. Because of the surprising feminist intervention in the legislative process, the new numerical quota statute had to be interpreted in the prevailing legal and judicial framework – with very positive outcomes for its effectiveness in some arenas. Drawing from Baldez and Krook (see earlier), we can perhaps discern here what could be called a 'forced' support from other institutions and a 'forced' 'fit' between the gender quota and political and legal institutions. In Norway there has been insufficient sanctions and supervision in all areas of application of the quotas for public bodies. We could perhaps regard the Norwegian case as displaying some sort of institutional support and a form of 'fit' that could perhaps be called 'concessional' or 'cooptative', as the legislation itself made sufficient provisions for other institutions' interests to be respected and/or left alone when faced with the quota and there seem to have been no controls set in place since.

However, when comparing respect and implementation of the quotas for public bodies with the other existing quota provisions in the two countries some additional remarks can be offered. Both in Finland and in Norway there seems to be a perhaps better implementation of voluntary party quotas of different types than of the quotas for public bodies. This is an interesting observation and would require more investigation. Our suggestion at this stage is that public control and visibility can also in practice function as sanction/supervision/monitoring systems. This also seems to be an influential factor that is present to a much greater extent in case of political and democratic bodies of various types (cf. also our results concerning municipal bodies). By contrast, quotas for public boards, councils and committees of the politico-administrative and corporatist type are not usually subjected to such public control either by citizens, the involved actors or the media. Rather, they are very 'non-transparent' in every sense of the word unless there are special supervision, monitoring or follow-up mechanisms put in place to counter-act their presumed 'self-control'.

This observation also raises one final question concerning earlier findings in the study of electoral gender quotas – how much are results concerning effective implementation of quotas actually affected by the fact that the bodies investigated are such political and democratic bodies, subject to public control and interest and governed by their continued presence?
Bibliography


TABLES

Figure 1. The proportion of women (%) in municipal decision-making in Finland
Table 1: Number of committees and preparatory boards and percentage of female members 1991-2009 in Finland

<table>
<thead>
<tr>
<th>Year</th>
<th>Committees</th>
<th>% women</th>
<th>Preparatory boards</th>
<th>% women</th>
</tr>
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<td>241</td>
<td>33.1</td>
</tr>
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<td>12</td>
<td>40</td>
<td>19</td>
<td>37.3</td>
</tr>
<tr>
<td>1996</td>
<td>12</td>
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<td>47</td>
<td>36.1</td>
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<tr>
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<td>296</td>
<td>50</td>
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<tr>
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<td>2000</td>
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<td>219**</td>
<td>n.a.</td>
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</tr>
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<td>235**</td>
<td>n.a.</td>
</tr>
<tr>
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Table 2: Percentage of ministerial EU-divisions in Finland complying with quota legislation (\%): calculated from their narrow and broad composition (February 1995, 2002 and November 2011\textsuperscript{20})

<table>
<thead>
<tr>
<th>Year</th>
<th>Narrow composition (N=36 committees)</th>
<th>Broad composition (N=31 committees)</th>
<th>Narrow composition (N=40 committees)</th>
<th>Broad composition (N=34 committees)</th>
<th>Narrow composition (N=37 committees)</th>
<th>Broad composition (N=31 committees)</th>
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<td>17,5 (N=17)</td>
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<td>25,9 (195/752)</td>
<td>41,7 (N=248/595)</td>
<td>34,1 (N=319/936)</td>
<td>53,8 (N=335/623)</td>
<td>46,9 (N=419/893)</td>
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\textsuperscript{20} 6.2.1995; 26.2.2002; 28.11.2011
Table 3: The gender composition of ministerial EU divisions by ministry (November 2011\textsuperscript{21}) in Finland

<table>
<thead>
<tr>
<th>Ministry for Foreign Affairs</th>
<th>40-60 % of women and men (compliance with the quota legislation) (%)</th>
<th>Under 40 % women as members (%)</th>
<th>Over 60 % women as members (%)</th>
<th>Ministry Women total (%) (N=women/total)</th>
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<td>40,0 (N=14/35)</td>
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<td>Broad composition (N=3 committees)</td>
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<td>36,5 (N=23/63)</td>
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<tr>
<td>Ministry of Education and Culture</td>
<td>Narrow composition</td>
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<td>66,7 (N=2)</td>
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<td>Broad composition (N=3 committees)</td>
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<td>57,7 (N=41/77)</td>
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<td>Narrow composition</td>
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<td>46,6 (N=116/249)</td>
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\textsuperscript{21} 28.11.2011
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**Table 4 Proportion of women in local councils, committees and leader positions 1975-2011 in Norway**

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<td>*</td>
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<td>39</td>
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<td>42</td>
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* Data not available

Source: Statistics of Norway
Table 5 Representation of women in Norwegian state boards, councils and committees according to ministry, per cent.\textsuperscript{22}

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\textsuperscript{22} The table departs from the data presented in the organ base and the data from earlier years (see Langvasbråten 2009:200) is adapted to the ministry structure of 2011.

\textsuperscript{23} Employment was part of regional in the numbers for 1993 and 2000.