



WORKING PAPERS

LAW 2015/19
Department of Law

The adoption and diffusion of gender quotas
in France (1982-2014)

Eléonore Lépinard

European University Institute
Department of Law

**THE ADOPTION AND DIFFUSION OF GENDER QUOTAS
IN FRANCE (1982-2014)**

Eléonore Lépinard

EUI Working Paper **LAW** 2015/19

This text may be downloaded for personal research purposes only. Any additional reproduction for other purposes, whether in hard copy or electronically, requires the consent of the author(s), editor(s). If cited or quoted, reference should be made to the full name of the author(s), editor(s), the title, the working paper or other series, the year, and the publisher.

ISSN 1725-6739

© Eléonore Lépinard, 2015

Printed in Italy
European University Institute
Badia Fiesolana
I-50014 San Domenico di Fiesole (FI)
Italy
www.eui.eu
cadmus.eui.eu

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>.

Author Contact Details

Eléonore Lépinard

Université de Lausanne
Institut des Sciences Sociales
Centre for Gender Studies

Eleonore.Lepinard@unil.ch

Abstract

Once a country allergic to any type of preferential treatment or quota measure for women, France has become a country that applies gender quotas to regulate women's presence and representation in politics, the business sector, public bodies, public administration and even some civil society organizations. This article focuses on the process by which, after constitutional battles, the principle of 'equal access of women and men' to decision-making bodies was entrenched in the French constitution, and how the institutions created to monitor its implementation provided a support structure for the extension and diffusion of gender quotas from electoral politics to other domains. In a final section the paper assess the strength and weaknesses of the tool of gender quotas in the French context and delineate the factors that can sustain or impede quotas' effectiveness.

Keywords

women policy agency, support structure, electoral quotas, corporate boards quotas, public bodies quotas

Table of contents

INTRODUCTION	1
INVENTING PARITY (1989-2006): BREAKING THE RULES AND OVERCOMING CONSTITUTIONAL OPPOSITION	1
Mobilizing Civil Society and European Norms	2
The Fight of the Constitutional Council against Gender Quotas	3
INSTITUTIONALIZING PARITY: THE CREATION OF A SUPPORT STRUCTURE (1995-2014)	5
The incremental strengthening of political parity	6
Extending parity: quotas for boards and beyond	8
Narratives of Equality, Discrimination, Democracy and Governance	10
GENDER QUOTAS: A TOOL FOR WHAT KIND OF TOOLBOX?	12
The Reasons for Success? Sanctions, Sanctions, Sanctions	13
Articulating Quotas with Gender Equality	15
CONCLUSION	16
Domestic / National Preconditions for Gender Quotas	16
Transnational Factors	17
The Legal and Constitutional Challenge	17
New Frontiers	17
REFERENCES	18

Introduction

Once a country allergic to any policy that would look like affirmative action for women or any other social group, let alone quotas with fixed targets, France has transformed in less than a decade (2006-2014) in the land of gender quotas. Since the adoption of the last round of gender equality measures under the socialist government and parliamentary majority – the *Vallaud-Belkacem* bill on ‘real equality’ adopted on July 23rd 2014 – gender quotas are now the rule in universities juries, hospital’s higher civil servants, ministry’s staffs, corporate boards of medium and large firms, supervisory boards of public institutions, professional organizations, sports federations, regional socio-economic councils and, last but not least, most of elected political bodies. How has such a change been made possible?

When the debate on gender parity in politics appeared on the French public scene in the mid-1990s, the word ‘quota’ itself was taboo. Activists were going to great lengths to deny accusation of special treatment for women or of positive action¹ and the very idea of a fixed number target to attain was dismissed as un-republican, un-French and contradictory with the principle of equality. Today the picture is exactly the opposite. In successive waves of legal reforms the French Parliament has adopted numerous measures that use specific targets (in general a 40% quota) to impose women’s presence in many decision-making bodies or functions that organize social, economic and political life. This drastic reversal was not completed without a fight. Many on the right wing of the political landscape as well as representatives of employers tried to resist the diffusion of gender quota mechanisms in social and economic life. However, the fight was more easily won this time around: the epic struggle for political parity that took place in 1999 and 2000 had definitely shaken and shifted the ground upon which political and social actors had to fight subsequently.

This paper aims at retracing the process by which France has become the land of gender quotas, and the factors that may account for this unlikely outcome. In particular, what is striking in the French case is 1/ how gender quotas first presented as ‘anti-French’ are now considered the French *preferred tool* in the current policy toolbox to redress gender inequalities, and 2/ how the process of adopting gender quotas as issues has become endogenous to the policy-making process. Once a measure depicted as a foreign import, hotly debated in the public sphere and adopted thanks to pressure from civil society, gender quotas have become a legitimate and ‘obvious’ means to redress gender imbalance, and consequently receded at the margins of the public debate. Although it is not yet possible to assess if France is a case of success story for gender quotas and/or to evaluate their transformative potentials for gender relations in all spheres of social and economic life, the process by which gender quotas have become mainstream is in itself worth scrutinizing, in particular in comparative perspective with other European countries. Indeed, it calls attention to the enabling factors that might be elaborated in a context once adversarial to quotas.

Inventing Parity (1989-2006): Breaking the Rules and Overcoming Constitutional Opposition

The story of gender quotas in France goes back several decades and is full of unexpected developments, surprising twists and epic battles. However, what is striking is that since 1982, when the first gender quota bill was introduced, the grounds upon which social and political actors debate this issue has radically shifted. The initial, deeply rooted constitutional resistance to quotas expressed by male politicians as well as by the political and judicial elite and constitutional judges has faded.

¹ Its detractors referred to these measures at the time (and still today) as ‘positive discrimination’, then this term became the usual way to name these measures in the public debate. The use of the term ‘discrimination’ aimed of course at discrediting any attempt at implementing positive action measures in favor of any group.

Highly principled legal and political arguments against quotas, invoking the indivisibility of the Republic, equality and democratic freedom have disappeared and left room for more pragmatic assessments about the need to improve women's presence in decision-making bodies and all spheres of social life. This would not have been made possible without strong mobilization from civil society and, later on, the institutionalization of parity. This section details these processes and their impact on the legitimization and further implementation of gender quotas in France.

Mobilizing Civil Society and European Norms

The history of the adoption of legislative gender quotas in France is now well documented (Alwood and Wadia 2000, Bereni and Lépinard 2004, Bereni and Revillard 2007, Krook 2009, Lépinard 2007, Murray 2010, Oppello 2006, Scott 2005) The initial 1982 decision of the French Constitutional Council to declare unconstitutional the provision of a bill proposing a 25% quota of women on candidate lists for municipal elections² framed the subsequent public debate on this issue for two decades. Indeed, the Constitutional Council's (hereafter CC) decision argued its refusal of quotas on highly principled grounds invoking two Constitutional principles: the indivisibility of the sovereignty of the people and the equality principle. The use of a quota was perceived as dividing the people in different groups (men and women) and therefore incompatible with the idea that the French people is undividable and exercises its sovereignty through its representatives in a non-divided way. Secondly the quota was perceived as going against the meritocratic element present in all election and against the principle of equality as applied to electoral candidates. When the debate resurfaced in the beginning of the 1990s, in part thanks to the European network of experts on gender balance in decision-making (Bereni 2004, Lépinard 2007) and to the influence of international norms following the Beijing conference, French parity activists faced tremendous opposition as their detractors used the CC's argument that a quota in political representation was unconstitutional and un-Republican because it meant acknowledging the existence of social 'groups' rather than an undivided French people.

The context and factors that helped reverse the situation are now well-known. First, the bicentenary of the French revolution led to the publication of various historical accounts of French women's exclusion from the political sphere, and feminist academics, historians and philosophers, brought a new expertise and a new critique of French supposed universalism. In 1992 the publication of the book *Au pouvoir citoyennes! Liberté, Egalité, Parité* by female politician/academic and journalists François Gaspard, Claude Servan-Schreiber and Anne Le Gall represented a moment of crystallization of this new claim and gave it a clear name: parity. Second, at the beginning of the 1990s, female politicians from the Left who found out their party was hostile to women and inimical to the idea of voluntary quotas, and feminist activists from reformist organizations networked and coalesced around the idea of *parity*, rather than quotas. While the (weak) institutions of state feminism had not really placed the issue of women's political representation on the agenda since their creation in the mid-1970s, preferring to focus on equal pay and female work (Bereni and Revillard 2007), several reformist organizations (created during the first and the second wave of the feminist movement) had always kept an interest for the topic and they decided to join their effort and focus on the single issue of parity in 1992 under the umbrella of a new organization, *Elles Aussi*. Other organizations focusing exclusively on parity were created in the mid-1990s as well, and important second wave organizations, such as Choisir-La cause des femmes, led by activist Gisèle Halimi, also concentrated their efforts on this new claim.

Third, some of these women who organized in networks during the 1990s became active members of the European expert network on gender-balance in decision-making (Bereni 2004). This participation gave them expertise and legitimacy and the ability to compare France with other European countries. Using a shaming strategy, France was from then on labeled as the 'red lantern' of Europe.

² Decision n° 82 146 DC 18 November 1982.

The political opportunity structure in France is very much determined by presidential elections. Using this window of opportunity parity activists asked presidential candidates to take position on the parity issue during the 1995 campaign. This led the newly elected president from right wing party RPR Jacques Chirac to create a small governmental institution, the Observatory of Parity, to give expertise and advice on this topic to the government. Key female politicians and feminist activists, appointed in 1995 by the right wing government to the newly created Observatory of Parity helped keep the debate alive and produced the first official report devoted to the issue of parity (Halimi 1998). Finally when the socialist Party unexpectedly came back to power in 1997, it was bound to take more seriously than its right wing counterpart its commitment to gender equality and the moment was finally ripe for a revision of the Constitution in order to unlock the 15-years constitutional freeze on quotas.

However, despite a favorable momentum, the battle was hard won, especially in the parliamentary and public arenas. Parity was presented as opening the door to US-style identity politics and all the usual rationales against quota (un-meritocratic, against freedom to stand for election, the absence of competent women or women's disinterest for politics) were abundantly used. Right wing parliamentary representatives strongly voiced their opposition, reaffirmed traditional gender stereotypes and claimed that a natural social process would enable women to enter political assemblies in the years to come, while left-wing representatives used every argument possible, from equality principles to pragmatic accounts of a supposed complementarity between men and women in decision-making bodies, to plead their case. The presence of a left wing majority in the Assembly and the Senate, and the personal support of the Prime Minister Lionel Jospin to the cause, as well as the feminist expertise gathered under the supervision of the Observatory of Parity sealed the victorious fate of the reform i.e. the possibility to reach a majority of the 3/5 of both legislative chambers for a Constitutional Revision.

What was gained from the Constitutional revision? Article 3 of the Constitution was changed to include the following sentence:³ 'the law promotes women's and men's equal access to electoral mandates and elective functions'. The placement of this sentence in Article 3 that defines national sovereignty is a direct consequence of, and a direct response to, the framing of the debate by the Constitutional Council in terms of sovereignty. A revision to article 4 adds that political parties must contribute to this objective. In 2000 a law defined more precisely the parameters of the implementation of this new constitutional principle.⁴ The debate was, again, heated in the Parliament with right wing deputies trying to curtail every innovation introduced by the reform, with the tacit agreement of many left-wing deputies. For example, despite intense controversy the attempt to implement parity in cities over 2500 inhabitants did not pass⁵. Parity was implemented only in cities over 3500 inhabitants where elections follow a closed proportional list system. As a result the electoral system was not challenged at all, despite being inimical to the implementation of gender quotas with several elections using uninominal/majoritarian modes of elections. Only elections to the Senate were modified to allow more senatorial districts to use a proportional list system (all districts with 3 senators at least instead of 5).⁶

The Fight of the Constitutional Council against Gender Quotas

In 2005 the then Minister for parity and gender equality at work, Nicole Ameline, proposed a bill on *égalité professionnelle*, that is equal pay and gender equality at work.⁷ Building up on the 2001 parity victory (a victory Nicole Ameline had supported) the bill mentioned women's presence on board and

³ Loi constitutionnelle no 99-569 of 8 July 1999 relative à l'égalité entre les femmes et les hommes.

⁴ Loi n° 2000-493 of 6 June 2000.

⁵ Cities under 3500 inhabitants have an open proportional list system.

⁶ Loi n° 2000-641 of 10 July 2000.

⁷ Projet de loi 2214, enregistré 24 March 2005.

the need to reach a gender balance within a 5 years period, but did not say how. Marie-Jo Zimmermann proposed several amendments to the bill to include a limit of 80% of members of the same sex on corporate boards, which means effectively a 20% women quota for boards as well as commissions representing workers in the public sector and supervisory boards of public institutions. The gender gap was to be reduced within 5 years, however the bill and the law finally adopted (including Zimmermann's 20% quotas) did not define any sanction for non-compliance. Despite an agreement reached in the National Assembly and the Senate on the use of a 20% quota⁸, the Constitutional Council struck down the quota provision. Indeed, 60 deputies referred the law to the CC on procedural grounds (they did not mention the quota provision), but the CC decided to examine the quota provision and, unsurprisingly given its historical commitment against quotas, struck down the provision.⁹ A Constitutional reform was, once again, needed to implement this new type of quota.

It has become apparent, from the history of gender quotas that the Constitutional Council has proven a site of entrenched resistance to the demands to reformulate the republican principle of formal equality. In 1982 and 2006 the CC refused that gender quotas be implemented and struck down laws aiming at improving women's presence in decision-making bodies. Each time the CC was not seized by deputies to examine gender quotas provisions but did so nonetheless (it used its power to seize itself), thereby demonstrating its will to be the one in charge of defining the meaning of equality and its lawful means of implementation. Each time the CC decision determined the subsequent path for legal reform, that is a constitutional revision, encouraging parity activists in response to make stronger claims about what gender equality means and the means that can be used to achieve it, and, in fact, led to stronger quotas (with higher numerical aims and stronger sanctions). Whereas in 1982 the CC was adamant that political quotas would threaten the indivisibility of national sovereignty, in 2006 its legal reasoning used an equality argument to strike down CBQ. However, the content of the equality principle defended by the CC in 2006, in a context in which a constitutional revision has already allowed the legislator to use quotas, is particularly shallow. Indeed, in its decision¹⁰ the CC argued that the aim of a gender balance in non-political instances was not unconstitutional (how could it be otherwise since the constitution had been revised to make it so?), but that the legislator could not give priority to gender (sex in the CC's wording) over competence or merit, thereby implying that the proposed 20% gender quota on CBQ logically implied that incompetent women would be nominated on boards.¹¹ The thrust of the argument was that sex could not be a lawful, compulsory criterion to choose board members. However, why this could not be so was not really explained in the decision since the constitutional judge does not make any reference to constitutional texts or norms when s/he states this specific argument (§15 and 16). Hence, equality is invoked as the normative and legal ground upon which gender quotas are rejected, but its content and definition are not explained.

Hence, on both occasions the CC used normative and authoritative arguments (sovereignty and equality) to reject gender quotas, but without really giving precise and solid legal grounds to its decision. Rather, it used its political clout and institutional privileged position to promote a formal conception of equality. Indeed, these decisions on gender quotas must be placed into the context of CC's attempts at defending republican values in the face of what it interpreted as communitarian threats in the 1990s. Indeed, on two important occasions, the CC linked together the principle of indivisibility of the Republic, national sovereignty and equality to strike down what it perceived as separatist claims (for Corsica)¹² or provisions giving special treatment to groups in a way that would

⁸ Loi n° 2006-340 of 23 March 2006 relative à l'égalité salariale entre les femmes et les hommes.

⁹ I detail below the legal argument used by the CC to strike down CBQ.

¹⁰ Décision n° 2006-533 DC of 16 March 2006

¹¹ « *Considérant que, si la recherche d'un accès équilibré des femmes et des hommes aux responsabilités autres que les fonctions politiques électorales n'est pas contraire aux exigences constitutionnelles rappelées ci-dessus, elle ne saurait, sans les méconnaître, faire prévaloir la considération du sexe sur celle des capacités et de l'utilité commune* ».

¹² Décision 91-290 DC of 9 May 1991.

foster their separatism and imply a differential treatment with other groups (language rights for regions)¹³ (Calves 2002). In 1999 in particular, the CC rejected the ratification of the European Charter of regional languages arguing that the constitutional principle of the indivisibility of the French people implies that it is forbidden to recognize “collective rights, for any kind of groups defined on the basis of their community of origin, their culture their language or their belief”.¹⁴ Several years later, in 2007, the CC again used its power to self-examine provisions of a bill that have not been submitted to its scrutiny by parliamentarians to struck down a provision enabling the collection of statistical data referring to peoples’ origins or ethnicity on similar grounds (Sabbagh and Peer 2008).¹⁵

Hence, the CC decision on gender quotas must be understood in the broader legal and political context, a context in which the CC fought to impose a conception of the non-discrimination principle - that appears in Article 1 of the Constitution¹⁶ - as a principle of non-distinction, i.e. a principle of color-blindness. Since the CC was determined to refuse specific rights to any groups based on ethnicity, origin or language, it also considered gender as a ‘dividing’ social characteristic that should not lead to positive action measures.

The dominant narrative of the 1999 Constitutional reform and the subsequent 2000 law imposing parity in several elections is one of breaking the rule and trying to impose a new one. Indeed, opposition to parity was voiced in the name of preserving the integrity of Republican constitutional principles, including the principle of equality itself (Rodriguez Ruiz and Rubio Marin 2008). In order to counter such a powerful normative argument, parity activists had to place their claim on high normative grounds as well. Hence, rather than explaining the use of quota as a temporary measure in order to achieve a concrete pragmatic goal – women’s access to politics – they framed parity as a democratic normative principle that would ensure not only women’s fair political representation but also a better and more modern democracy because both components of human kind, men and women, would be present (Lépinard 2007, 2013). Hence the context of the debate forced activists to define parity as a normative principle, and a new rule for political representation. It was out of the question that parity would be a temporary measure. Quite the contrary it was always framed as a principle with no term limit. Moreover, although the focus of intense activism and claim making was the political sphere, some activists already pointed in 1995 that the principle could apply in other spheres of social life. Hence, although the focus had been clearly to ‘improve’ and ‘perfect’ French democracy by adding to it the principle of parity, this principle was here to stay and could expand outside the realm of politics. In fact, parity represented an opportunity to reframe demands for gender equality, to claim new measures for women’s rights. The semantic change, from equality to parity – made necessary by the strong opposition to quota in the name of equality – actually opened up new venues to elaborate new claims (Lépinard 2007).

Institutionalizing Parity: the creation of a support structure (1995-2014)

In the decade following the victorious campaign for the constitutional revision, the principle of parity became a new way to frame demands for equality, and was more clearly adopted by femocrats and French state feminism as a part of their toolkit or ‘grammar’ for action (Bereni and Revillard 2007).

¹³ Décision 99-412 DC of 15 June 1999.

¹⁴ «*Considérant que ces principes fondamentaux s'opposent à ce que soient reconnus des droits collectifs à quelque groupe que ce soit, défini par une communauté d'origine, de culture, de langue ou de croyance*» (§6, Décision 99-412 DC of 15 June 1999).

¹⁵ Décision n° 2007-557 DC of 15 November 2007.

¹⁶ France is an undividable, secular, democratic and social Republic. It guarantees equality of all citizens without distinctions based on origin, race or religion. «*La France est une République indivisible, laïque, démocratique et sociale. Elle assure l'égalité devant la loi de tous les citoyens sans distinction d'origine, de race ou de religion.*»

This adoption of the parity motto was made possible by the creation of a strong support structure¹⁷ (Epp 1998) in favor of parity and by the political activism of key players.

The incremental strengthening of political parity

Indeed, the Observatory of Parity became the official monitoring body for the implementation of the parity law, compiling data and producing expertise after each round of elections on how to improve the parity laws and their implementation. Its activism was supported by the creation in 1999 of two delegations for women's rights, one in the Senate and one in the Assembly. Marie-Jo Zimmerman, a right-wing deputy close to President Chirac –who was reelected in 2002 –was appointed as *General Rapporteur* of the Observatory and President of the National Assembly's delegation for women's rights. Her commitment to women's rights and to the parity principle led her to issue very critical reports on the implementation of parity, especially by her own political party, and very critical reports on various reforms of the electoral system proposed by President Sarkozy. Indeed, the right wing majority passed electoral reforms in 2003 which direct effect was to reduce the scope of the parity laws for senatorial, regional and European elections. Indeed, while deputies introduced a strict 'zipper' system for candidate lists for senators elected with a proportional representation system, it reduced the number of senators elected with such a system: the proportional election with list system applied to all circumscriptions (*départements*) with at least 3 senators and now applied only to (fewer) *départements* with 4 senators.¹⁸ Similarly, the government and its parliamentary majority introduced smaller districts for both European and regional elections, with the predictable effect of limiting the impact of the parity requirement.¹⁹

However, parity activist inside political institutions did not witness those attempts to curb the parity reform and its disappointing implementation for the National Assembly (elected with a uninominal system) without taking action. Quite the contrary, under the tenure of Marie-Jo Zimmermann, from 2002 to 2009, the Observatory helped craft several pieces of legislations to improve the efficacy of the parity laws. In 2007 a law to promote women's and men's equal access to electoral mandate and elective functions²⁰ was passed. It extended parity to executive functions in regional and municipal councils (in cities over 3500 inhabitants). Indeed, so far parity applied only to candidate lists, and left untouched executive functions. Traditionally the head of the list would designate a number of elected candidates to be part of the executive body of the city or the regional council, and the regional or municipal council would vote in favor when meeting for the first time of its tenure. Hence, there was no obligation to respect parity in allocating the, crucial, executive functions. The 2007 law imposed parity in executive functions and increased the financial penalty for political parties that would not apply parity for legislative elections. Finally, this law also imposed a 'mix ticket' for uninominal elections (legislative and *cantonales*): the substitute should be of the opposite sex of the candidate.

Although only one bill was passed, many others were proposed, and short lived, to improve the implementation of parity in election. For example on May 20th 2010, the then *General Rapporteur* of the *Observatoire*, Chantal Brunel, proposed a bill (n°2529) to 'promote women's and men's equal access to electoral mandates with a uninominal majoritarian mode of election'. These failed attempts testify of the continuing activism on the issue of political parity inside governmental and legislative institutions. Moreover, on the ground, activists networks such as *Elles Aussi* continued to lobby, to issue press releases, to organize conferences and training session for female representatives.

¹⁷ Charles Epp uses the term support structure to designate a combination of several institutional and legal factors that sustain the development of human rights and what he calls the 'rights revolution'. I borrow the term to designate the institutional apparatus that supported the development of the parity claim.

¹⁸ Loi n° 2003-697 of 30 July 2003.

¹⁹ Loi n° 2003-327 of 11 April 2003.

²⁰ Loi n° 2007-128 of 31 January 2007

As the socialists came back to power in 2012 some electoral reforms called for by parity activists for a long time finally took shape. In 2013 an electoral law²¹ changed the way local counselors (*conseillers départementaux*) are elected (introducing a ‘mix ticket’ one man/one woman) and aligning cities over 1000 inhabitants on the same mode of election (proportional list system as cities over 3500 inhabitants, allowing a strict parity to be applied to candidate lists (a reform asked by parity activists as early as 1999). Another electoral law re-introduced proportional list system to elect senators in districts with 3 or more senators.²² Finally in 2014 an important piece of legislation tightened the condition for elected representatives to hold several mandates at the same time. For a long time parity activists had identified holding several mandates, a common practice in French politics, as an important impediment for women’s access and presence in political assemblies since men were trusting most of the available mandates. This new law prevents national and European deputies, as well as senators to hold another executive mandate at the local level.²³

During all these legislative processes the support structure institutionalizing parity was a key actor, issuing reports on how parity was implemented and pointing to loopholes and problems in the current legislation. Another interesting way in which the Observatory of Parity tried to prevent setbacks in the implementation of the parity laws was by providing prospective knowledge on how certain changes in the electoral system would adversarially affect the representation of women. For example, when Nicolas Sarkozy, then President of the Republic, proposed a bill in 2011 to suppress two important local elective mandates (local counselors and regional counselors) and blend them into only one mandate of ‘territorial counselors’ mostly elected through uninominal majority system (rather than proportional list system), the Observatory provided an assessment of the number of women that would probably be elected under such a new electoral system, showing how women’s presence would drastically decrease. It provided these numbers for each French department, comparing each time with the current number of elected women.²⁴

The institutionalization of parity finally led to two rounds of institutional change within French state feminism institutions. Indeed, the creation in 1995 of the Observatory of Parity meant that the issue of women’s political representation was clearly identified as specific and was not articulated with other women’s rights issues inside French state feminism (Baudino 2005). Although the Observatory’s official missions were broadly defined to include the political, social and economic situation of women, it in fact devoted itself uniquely to producing data and expertise on women’s political representation. The ‘service des droits des femmes’ is traditionally in France the bureaucratic structure in charge of women’s rights²⁵. Hence there was a strict separation between the two institutions and the Observatory had stronger links with the legislative delegations for women’s rights given the fact that for a long period (2002-2009) Marie-Jo Zimmermann headed both structures. Things changed in 2013 when socialist President François Hollande created the *Haut Conseil à l’égalité entre les femmes et les hommes*, (High Council for Equality between women and men – HCEfh). Still a parallel structure to the administrative bureaucracy in charge of women’s rights, the HCEfh has broader mission, and an extended staff²⁶ compared to the previous Observatory. Among its members are high civil servants in charge of gender equality in each ministry, as a way to mainstream gender equality in the executive

²¹ Loi n° 2013-403 of 17 May 2013

²² Loi n° 2013-702 of 2 August 2013

²³ Loi organique of 14 février 2014.

²⁴ Observatoire de la Parité entre les femmes et les hommes, étude d’impact 2014, accessed online http://www.haut-conseil-egalite.gouv.fr/IMG/pdf/OPFH_RT2014_projectionsratios.pdf.

²⁵ Provided with a specific political leadership such as a minister or an under-secretary of State depending on the government in power, socialist tending to provide women’s rights with a specific ministerial portfolio when right wing government tended to subsume it under social affairs

²⁶ Although still minimalist : now three full time persons are employed rather than two for the Observatory. The members are more numerous : over 70 when the Observatory had only less than 40.

bureaucracy. Moreover, the HCEfh has a new mission, compared to the Observatory, which is to provide impact studies on pieces of legislation with a gender dimension. Parity is now only one of the HCEfh's 5 missions (along with gender stereotypes, international, health and reproductive rights and gender violence). This could mean that parity has been diluted and downgraded on the political agenda. However, recent developments that I detail in the next section points to another interpretation, that is that parity has been fully adopted as the new way to frame equality issue and as the preferred mechanism to address many gender inequalities by state feminism institutions.

Extending parity: quotas for boards and beyond

Once deemed un-French and a European or American import, parity and quotas mechanisms have become quintessentially French. The parity motto emerged as French feminist activists networked at the European level and produced expertise on women's in decision-making that proved to be crucial in their national crusade. This typical boomerang effect (Keck and Sikkink 1998) characterized the early 1990s and the emergence of the parity claim but did not last beyond this first phase. Instead, the parity claim and the idea of gender quotas as tools to reach equality developed, thanks to the institutional support structure, and generated new venues and new advances, without any references to international or European incentives.

Indeed, the story of the demand for corporate boards quotas, and their later adoption in 2011, and the subsequent rapid diffusion of gender quotas as a redress mechanisms in various domains such as the French state bureaucracy, universities, professional organizations and so on is evidence of the indigenization of gender quotas. The process by which corporate board quotas (CBQ) were adopted differs clearly from the adoption of political parity. Indeed, the then *General Rapporteuse* of the Observatory of Parity and of the National Assembly's delegation for women's rights, Marie-Jo Zimmermann, heard of the Norwegian CBQ law of 2003 and decided to pay a visit to its main instigator in Norway as part of her mandate as head of the Observatory. Besides from this one-day fieldtrip abroad, the whole process of adoption of CBQ is typically French and does not involve any reference to European or international soft law or incentive.

Q: Did you benefit from any European influence ?

M-J Z: No, absolutely not. I had as my ambition that France should be the model.

The 2008 Constitutional revision planned by President Sarkozy to modernize political institutions gave Marie-Jo Zimmermann the window of opportunity she was looking for. Advised by an important figure of her own party, Simone Veil²⁷ who was then in charge of making propositions to the President Sarkozy to revise the Constitution, that she should seize the opportunity of the reform, despite Sarkozy's opposition, Marie-Jo Zimmermann proposed an amendment to Article 3 to enlarge the constitutional commitment to promoting women's equal access to electoral mandate to 'professional functions'. However the fight was not so easy to win. Indeed, she was going against her own political party since the President has decided he did not want any Constitutional revision on the CBQ issue and wanted rather to add a provision on gender equality in the Preamble of the constitution (therefore with no binding effect).

The battle for the constitutional revision, in order to add professional responsibilities to 'electoral mandates' and 'elective functions' to Article 3 of the Constitution, the very one changed in 1999 in order to allow gender quotas in politics, repeated the arguments already rehearsed in 1999 but on a minor mode. Opposition was now concentrated in the right wing Senate and Marie-Jo Zimmermann, who was witnessing the senate debate from the public gallery kept the journalists informed. Using a 'shaming' tactic and with the press on her side she pressured senators to vote her amendment, helped by the parity leader at the Assembly, Jean François Coppé. The main fight then occurred between

²⁷ Famously known for defending the law decriminalizing abortion in France, the « loi Veil » of 1975.

Marie-Jo Zimmermann and her right wing colleague Rachida Dati, then minister of Justice and mandated by the President Sarkozy to prevent the revision allowing CBQ.²⁸

Arguments against the CBQ reform repeated what the Constitutional Council had tried to impose prior to the parity constitutional reform, i.e. that parity was contrary to the constitutional principle of equality, although on a minor mode compared to 1999. For example a (female) senator stated in the 2008 debates:

Should the Constitution go as far as stating the principle of parity in the professional and social sphere? I repeat myself, I do not think so. The principle of equality already exists. Women, individually, must seize it. As Guy Carcassonne [a famous constitutional legal scholar] said ‘only individuals are bearers of equal rights, the Republic ignores groups that, by their nature, would introduce discrimination’.²⁹

However, in 2008, this type of counter-argument to refuse quota in the name of a formal and individualist conception of equality opposed to any special treatment for any groups was not supported by a majority. In 2008, the idea of compulsory measures with specific targets, although still raising some objections, was much more legitimate than a decade earlier.

The successful, and more consensual, constitutional revision led the way to the 2011 law ‘*Coppé-Zimmermann*’ implementing a two-step quota of 20% by 2014 and 40% by 2017 for board members of publicly listed companies, as well as unlisted companies which have more than 500 workers and average revenues or total assets of more than 50 million euros during the last three consecutive years. It also applies to some state owned companies.³⁰ The sanction is quite direct since boards members appointments while not respected the quota are considered null and board members benefit can be suspended. As Marie-Jo Zimmermann recalls³¹ she came back from Norway and decided she needed to convince one of her party main stakeholder, Jean-François Coppé, then president of the UMP group at the national Assembly. In order to take him on board, and aware of his competitive attitude towards Germany, she assured him that CBQ were discussed in Germany and that Angela Merkel might do the first move.

Although the debate on CBQ existed in other European country at the time (Oliveira and Gondek 2014) the inspiration for the bill and the process to adopt it are devoid of European influence. Rather, an internal dynamic, driven by the support structure created with the parity laws, unfold successfully as women’s absence from decision making bodies appeared more and more illegitimate, and the political elite familiarized itself with the idea of using gender quotas. No direct reference to European incentives or norms can be found during the parliamentary debates or in parliamentary reports, only one reference in passing to Norway and Spain.

Moreover, there was no social mobilization or feminist activism around this issue. After the law passed organizations of women’s accountants or women’s board members (such as the AFECA³²) developed and launched networking initiatives with academics in business schools and training for women’s boards members, there was no mobilization of any kind of collective actor prior to the law. As Marie-Jo Zimmermann notes:

The Norwegian union of employers feared that now they would have to train administrators. I told them: when you’re a man you are born and administrator, a woman has to become one. So it helped

²⁸ Interview of Marie-Jo Zimmermann with the author. 11 June 2014.

²⁹ Muguette Dini (UDI right wing party), Senate debates, 18 June 2008, p. 2926.

³⁰ I detail below in section 3 the implementation of this law.

³¹ Interview with the author. 11 June 2014.

³² Association des femmes diplômées expertise comptable et administrateurs.

reform the role of the administrator. Until then nobody asked the question of competences (...) but what are the criteria ? so it helped professionalized the function.

Hence, the CBQ law, contrary to the parity laws, is a top-down process, in great part made possible by the support structure created as a response to the political activism of the 1990s for political parity.

The process of diffusing gender quotas to other spheres than politics and using them as the preferred tool to reach gender equality continued as a year later a law, called “*loi Sauvadet*” was passed to impose a 40% gender quotas to the higher public service functions to be reached by 2018. This quota applies to administrative and supervisory boards of public institutions, high councils, juries and selection committee in public service procedures.³³

The institutionalization of a support structure, with missions to deliver impact studies and to evaluate bills that are under scrutiny in the Parliament also allows femocrats to mainstream gender quotas in other domains. For example, in 2013 the law reforming higher education also included provisions to promote parity in university decision-making bodies and representative bodies.³⁴ The last round of indigenization and mainstreaming of gender quotas can be seen in the 2014 gender equality law, passed on July 23rd 2014. Indeed, the impact study, written by the HCEfh prior to parliamentary discussions on the bill,³⁵ devotes a whole section to ‘Generalizing the constitutional objective of parity’. The law itself follows these incentives and addresses domains where parity should be implemented (or better implemented) in politics, such as legislative elections but also inter-communal structures, but also, and mainly, outside politics in the public domain (the EPICs a legal entity that structures many territorial public institutions), chambers of commerce agriculture and industry, as well as the private domain such as sports organizations. Finally, the HCEfh’s opinion on the 2014 equality bill identifies many domains to which quotas and the “parity principle” should be applied in the future, such as unions, NGOs, and political parties. Hence, virtually every public or professional organization has become the object of scrutiny of the HCEfh and the Women’s rights ministry in order to apply parity, which now in fact means most of the time a 40% gender quota.

Narratives of Equality, Discrimination, Democracy and Governance

Despite its staunch opposition, the CC lost the battle against quotas. What is more, the CC’s reasoning encouraged parity activists in the 1990s to define gender as a specific difference, different from other social differences such as ethnicity or language (Bereni and Lépinard 2004, Scott 2005, Lépinard 2013). To do so they argued that sex was a more universal difference than any other social difference and therefore could be legally recognized without endangering constitutional republican principles (or granting other groups similar rights to representation). This argument opened the door to framing parity as a ‘principle’ (rather than a tool) and to using parity (therefore at least 40%) instead of smaller quotas, as the recent reports and recommendations issued by the HCEfh testify. To bolster their claims parity activists argued that parity would also improve democracy and modernize political institutions. (Lépinard 2007). The idea that an equal share of men and women would lead to a better democratic government was often linked with the idea of a complementarity between men’s and women’s perspectives. Flirting with essentialism (and sometimes embracing it), parity activists put forth women’s different social experience in order to legitimize their participation in political decision-making. However, these strategic arguments, although important in the 1999-2000 parliamentary debates, did not lead to major legal or normative shifts with respect to the conception of democracy or citizenship. Indeed, the 1999 constitutional revision clearly avoided any reference to parity as a

³³ Loi n°2012-347 of 12 March 2012.

³⁴ Loi n° 2013-660 of 22 July 2013 relative à l’enseignement supérieur et à la recherche.

³⁵ ETUDE D’IMPACT, NOR : DFEX1313602L/Bleue-1, 1^{er} July 2014.

constitutional principle, preferring to refer to ‘equal access’, thereby staying safely within the confines of equal opportunity rather than substantive equality or parity.

In 2013 a minor shift appeared as the term parity was, for the first time included in the body of a legal text (and not in the *exposé des motifs* of the bill, i.e. the political rationale that precedes the legal text itself). The 2013 law on higher education mentions explicitly in several of its provisions the word parity. The same goes for the 2014 equality law since one of its titles reads “applying the constitutional principle of parity”. This trend mirrors the political will of the HCEfh to see the parity principle more clearly defined and identified as a principle of equal sharing of power and of representation between men and women. Interestingly the HCEfh proposes a genealogy of the parity principle that ties together the international incentives for positive action with the republican universalist tradition:

Hence, the principle of non-discrimination, which implies that women are entitled to half of the seats of the representatives since they are half of the population, is articulated with a justification of women’s presence in the name of the experiences, and specific interests they bring, whether these are presented as resulting from biology or as socially constructed (...)

Quotas are legal and legitimate in the name of a coherent republican universalism. Quotas are not preferential measures but corrective and transformative measures that aims at undoing structural barriers which are incompatible with the principle of equality.³⁶

With this consensual narrative, mixing together all the arguments generally mobilized in favor of quotas and defining quota mechanisms and parity as, in fact, complementary and ‘republican’, the HCEfh attempts at making parity a ‘common referential principle identifiable by all actors and adapted for each sector [of social and economic life]’.³⁷

However, parliamentary debates show that mostly pragmatic arguments are used by quota proponents to argue their case and that they rarely refer to parity as a principle. Only Catherine Génisson, a socialist deputy and former *General Rapporteur* of the Observatory for Parity reminds her colleagues when discussing CBQ in 2010 that

[y]ou have chosen the principle of quotas to ensure women’s representativity in companies’ boards. This is an questionable choice because women are half of humanity. Hence the principle of parity should apply, not quotas.³⁸

Her fellow deputies use the term parity to refer to zipper lists of candidates for boards or to political parity, in a way that does not underline any difference with a quota. Arguments about democracy and governance are minimal when it comes to CBQ. Proponents argue that CBQ will introduce a diversity of perspective and thereby also improve the governance of companies:

In the future, with more women in the executive board and governance bodies of big firms, this integration will bring a global added value for the functioning of companies. In fact, with more women, governance is not worst or better, but women’s perspective in decision making bodies represents an added-value for society’ projects.³⁹

But overall arguments on democracy and governance did not figure prominently in the CBQ debate recent parliamentary debates. Rather equal pay, gender equality at work and discrimination were much more present when parliamentarians discussed the CBQ. In a similar vein, in the following debates on

³⁶ Haut Conseil à l’Egalité entre les femmes et les hommes, *Avis sur le projet de loi pour l’égalité entre les femmes et les hommes*, Avis n°2013-0912-HCE-007, p. 49.

³⁷ Ibid, p. 51.

³⁸ National Assembly, 20 January 2010, p. 246.

³⁹ Chantal Bourragué (UMP), National Assembly, 20 January 2010, p. 250.

gender quotas, in 2013 and 2014, pragmatic arguments about women's representation and gender equality were mostly used by politicians. Hence the diffusion of gender quotas in many spheres of social life did not lead to a reformulation of the principle of equality or to the adoption of *parity* as a legal concept. Indeed, all of the pieces of legislation using gender quotas passed between 1999 and 2013 referred to 'women and men's equal access' to decision making bodies, to 'women's access to deliberative bodies' or to a 'balanced representation of women and men in corporate boards'. Hence, although there are no clear references to European incentives or norms, the very vocabulary forged by the European commission at the beginning of the 1990s, one of 'balanced representation' is a privileged way to refer to quota measures.⁴⁰ As mentioned before, only the 2013 piece of legislation on higher education and the 2014 equality bill mention the term parity in the title of some of their provisions (without defining it whatsoever).

Also in line with the European development of anti-discrimination measures in the 2000s is the growing insistence, during parliamentary debate, on the role of gender quotas as tool to redress discrimination and to achieve substantive equality. For example, a female senator in favor of the 2008 constitutional revision stated during the parliamentary debates:

We propose to establish a positive obligation to guarantee equality between men and women. In fact, in this domain, it is not about an obligation to give the proper means, it is about an obligation to achieve results.⁴¹

Similarly, the recent equality bill passed in July 2014 is presented by the HCEfh as a bill to achieve 'real equality' between men and women, as opposed to formal equality and equal opportunity.⁴² Hence, as quotas become routinized tools to promote women's access to executive functions and decision-making bodies from which they were previously excluded, arguments to support them tend to become more pragmatic, practical and rely mostly on an anti-discrimination rationale. Proponents of quotas points to gap, inequalities, absence of natural progress rather than developing normative arguments about citizenship, governance or democracy. Finally, in the French case, despite its successful diffusion to various spheres of social life, the quota mechanism has not led to legal reformulation of the equality principle at the constitutional level. Although the various laws and the legislative debates refer to the need for effectiveness, and the use of quotas is therefore clearly a means to achieve greater substantive equality, the French legal doctrine has not been altered beyond what European non-discrimination legal norms require. Although the current French legislation probably goes beyond what the European jurisprudence on positive action has sanctioned as legally acceptable (Oliveira and Gondek 2014) this incremental shift towards the generalization of compulsory gender quotas and a substantive conception of equality has happened in a piecemeal bureaucratic fashion, driven by the institutional support structure created with the parity laws, and without frontally challenging dominant legal definitions of equality.

Gender Quotas: a Tool for what Kind of Toolbox?

Gender quotas have become the preferred tool to ensure women's access to 'boys clubs' in business, public service, universities, sports or professional organizations. Parity activists claimed in the 1990s that parity was a new form of equality, a perfect type of equality because it was numerical numerical

⁴⁰ On the contrary, the European/Onusian lingo that refers to quota as 'temporary special measures' is totally absent from the French legal debate.

⁴¹ 'Nous proposons d'instaurer une obligation positive d'assurer l'égalité entre les hommes et les femmes. En fait, dans ce domaine, il s'agit non pas d'une obligation de moyens, mais d'une obligation de résultat', Alima Boumediene-Thierry (socialist party), Senate Debate, 18 June 2008, p. 2927.

⁴² As stated in the Government's press release about the bill (1 July 2014), the bill aims at 'ensuring the concrete effectiveness of women's rights already guaranteed by existing laws, for example with respect to *égalité professionnelle* or *political parity*'.

equality (Lépinard 2007). They were opposed to the idea of quotas because only a perfectly equal presence of women and men means could, concretely, realize and embody gender equality. The idea that gender equality is achieved when gender equal presence is reached is very seducing, but can gender equality be equated with equal presence of both sexes? Gender quotas are indeed a potent tool to achieve gender *equal presence*, especially in traditionally male bastions, but equal presence does not imply equal power in the decision making process, it does not ensure that decisions are ‘women friendly’ and it may not challenge the public/private divide upon which deeply entrenched structures of gender inequality rests. Hence, there is a need to assess both what quotas can achieve and their limits with respect to their stated goal, i.e. gender equality (and the meaning of this term). This section first evaluates quotas’ effectiveness in reaching their goals of improving women’s access to decision making and representative bodies in the French context, then it looks at the type of complementary measures that have been put in place in the French context to overcome gender quotas inherent limits.

The Reasons for Success? Sanctions, Sanctions, Sanctions

Success in quotas’ implementation in the French context clearly varies depending on the nature and degree of sanctions for non-compliance. Where quotas are compulsory... they work very well. Where they can be by-passed... they often are. Thanks to the gradual improvement of political gender quotas laws women have massively enter many political assemblies, except for the national legislature and new executive structures created at the local level. While the latter gender gap in EPCIs⁴³ will be partially remedied by the recent 2013 electoral law⁴⁴, the national legislature, especially the National Assembly, remains a male stronghold despite incremental positive change, especially when left wing parties win elections.

Indeed, although the financial sanctions were gradually increased (in 2000 they represented a loss of 50% of the gender gap on the first fraction of public party financing for MP’s elections, in 2007 this percentage was raised to 75%, and in 2014 it was raised to 150%), the main right wing political parties remain reluctant to recruit women and to present them in winnable circumscriptions. The right wing UMP lost around 20 million Euros due to its non-compliance with parity in candidacies in the 2012 legislative elections. In 2012 there were slightly less female candidates (40%) than the previous legislative elections in 2007 (41.6%) but, thanks to the victory of left wing parties, the percentage of female deputies rose from 18.5% in 2007 to 26.9% in 2012.⁴⁵ The 2012 National Assembly comprise 155 female MPs, out of which 125 (80.6%) belong to left wing parties.

2012 legislative elections

	% female candidates	% women elected
Left wing parties	44.8	36.7
Right wing parties	38.4	12.8

Source: Observatoire de la parité

⁴³ *Etablissements publics de coopération intercommunale* are legal structures by which cities located nearby each other group together to pool together their resources. Town councilors are (designated by the mayor and) elected by their peers to this intercommunal assembly. Many important decisions regarding urbanism, construction, infrastructures etc. are now taken in these assemblies. In 2009 only 7.2% women presided these important local political institutions.

⁴⁴ Loi n° 2013-403 of 17 May 2013 relative à l’élection des conseillers départementaux, des conseillers municipaux et des conseillers communautaire – will implement parity on candidate lists for local town councils in cities over 1000 inhabitants and will directly designate those who will participate in the EPCIs (placed on the first positions on the list), thereby transferring a parity effect to the EPCIs.

⁴⁵ France ranks 13th among the 28 European countries for women’s representation in the lower chamber.

For local elections parity was also gradually improved. In 2007 a law applied parity to regional and municipal councils' executives (for cities over 3500 inhabitants).⁴⁶ In 2008 a law imposed that substitutes of General councilors (elected with a uninominal majoritarian system) should not be of the same gender than the councilor.⁴⁷ In 2013 a law improved parity, applying it to municipal elections in cities over 1000 inhabitants (by introducing a closed list proportional system), as well as to EPCIs and introduced the mix-ticket (one man/one woman) for general councilors' elections.⁴⁸

Percentage of women in political assemblies and executives

(highlighted in grey: a parity measure applied to the given election.)

	Election year	% of women
Senate	2011	22.1
National Assembly	2012	26.9
Regional Councils	2010	48
Regional Councils' presidencies	2010	7.7
Regional Councils' executives	2010	45.5
General Councils (départements)	2011	13.9
General Councils' presidencies	2011	5
Municipal elections	2008	35
Cities over 3500 h.	2008	48.5
Cities under 3500 h	2008	32.2
Mayors	2008	13.8

Source: *Observatoire de la parité* 2008, 2009, 2010, 2011, and 2012

The dynamics for political parity clearly shows an incremental path, with several laws passed to improve parity measures (and a few setbacks under Sarkozy right wing majority) and an expansion of the scope of application to executives and to assemblies that are not directly elected by citizens, such as EPCIs. However, whereas the uninominal system of election was finally amended to allow for parity to be applied at the level of the *départements* (local districts) with a mix ticket introduced and a coupling of circumscriptions that divided their numbers in two, such reforms have been proposed by parity activists for the lower chamber since the beginning of the 1990s but have not find their ways to the political agenda.

CBQ and quotas in the executive functions of public service confirm that coercion is the best way to implement quotas in the French context. Indeed, contrary to what CBQ opponents claimed, i.e. that it would not be possible to find competent women to sit on boards, companies to which the law applied. Companies with more than 1 billion euros in capital ("*compartiment A*") have nominated in 2014 56% women, to reach a total number of 30% women sitting on boards (more than what was expected by the law) and companies with more than 150 million euros in capital ("*compartiment B*") have nominated in 2014 68% to reach a total percentage of 24.9% of women sitting on their boards.⁴⁹

⁴⁶ Loi n° 2007-128 of 31 janvier 2007 tendant à promouvoir l'égal accès des femmes et des hommes aux mandats électoraux et fonctions électives.

⁴⁷ Loi n° 2008-175 of 26 février 2008 facilitant l'égal accès des femmes et des hommes au mandat de conseiller general.

⁴⁸ Loi n° 2013-403 of 17 May 2013.

⁴⁹ Data from *Observatoire de la parité dans les conseils d'administration*, chair in governance, Burgundy Business School.

Similarly, the implementation of the '*loi Sauvadet*', imposing a gender quota to reach for nomination to executive functions in public service, has proven very successful. The gender gap was particularly stark in public service with 59.8% women in the public service workforce and 21% women in managing positions (in 2009). Following the Coppé-Zimmermann law and several protocols and Charters against discrimination signed by the governmental administration⁵⁰, gender quotas were again considered as the only tool to remedy the situation. The law that was passed imposed a 40% quota within a 5 years framework (2013-2018).⁵¹ Here again the first results have proven very positive and the argument of the absence of a pool of women to candidate to high public service functions was contradicted by the facts. Although numbers are not collected systematically yet, interviews suggest that the target will probably be met before 2018 in many administrative branches.

Articulating Quotas with Gender Equality

During the debate on CBQ many parliamentarians linked the quota mechanism with a broader gender equality agenda in the workforce:

To impose that boards and representative bodies in companies, a world exclusively masculine, not to say chauvinist, be 'invaded' by women will enable to change women's situation in firms, and, may be, to actually apply our law on *égalité professionnelle*, at last! 52

In particular women's representation was presented as a tool to increase gender equality, both by left-wing and right-wing deputies:

It is crucial to talk about men and women's representation in the political, the professional, the social spheres if we want to promote equality between men and women in all spheres of social life.⁵³

The other fight we must fight is against unequal pays between men and women for similar functions. This inequality is an absolute scandal. It is inside corporate boards (...) that strategies about remuneration are defined (...) it is therefore in corporate boards that newly arrived female administrators will have as their mission to put this debate on the table.⁵⁴

Hence, an underlying idea, that runs through the parity debate since its inception in the political realm, is that women's presence in decision making bodies will trickle down to impact favorably gender equality in the workforce in general, a domain in which, despite many legislative efforts, few progress has been made in France. Thus, if quotas have become the preferred tool to remedy the gender gap in political, economic and administrative functions, femocrats and feminist politicians are aware that they cannot solve all problems. Whereas with the 2000 parity law the piece of legislation was entirely devoted to the implementation gender quotas in politics, now quotas are only one measure among others in gender equality legislations.

Particularly interesting in the French case is the dynamic of coupling the implementation of gender quota with a gender assessment of the organization to which it applies. Indeed, for example in the CBQ 2011 law the 40% target is coupled with the obligation that the administrative and/or the supervisory board discuss annually about the company's policy for *égalité professionnelle*. In companies that already submit an annual report comparing women's and men's situation at work and

⁵⁰ Françoise Guéguot, *L'égalité professionnelle hommes-femmes dans la fonction publique, rapport au Président de la République*, Assemblée Nationale, 2011.

⁵¹ Loi n° 2012-347 of 12 March 2012.

⁵² Pascale Crozon (PS), National Assembly, 27 May 2008, p. 2553.

⁵³ Catherine Génisson (PS) National Assembly, 27 May 2008, p. 2554.

⁵⁴ Jean-François Coppé (UMP) National Assembly, 20 January 2010, p. 256.

for training inside the company, the boards must now also discuss annually the content of the report.⁵⁵ Nominations of women and in the whole company. The law also imposes the state itself to survey and assess the situation of women on administrative and supervisory boards in the companies and institutions it supervises. Before the end of the year 2015 the government must hand in a report to the Parliament detailing the progresses made in terms of nominations on boards.⁵⁶ The idea is of course clearly to use women's presence on boards to push for stronger gender equality measures in the whole firm:

The day when boards with 40% women will discuss *égalité professionnelle* on the basis of the comparative report on men and women's situations in the firm, the six laws on gender equality at work that we have passed will maybe finally be respected. To target corporations' governance must give a new impetus to gender equality at work.⁵⁷

Similarly in the 2014 equality law, new provisions were introduced to impose to territorial assemblies (regional councils, cities and EPCIs over 20 000 inhabitants, general councils) to hand in each year a report on gender equality in the region or city, comparing men and women's situation and how public policy implemented by the city or the council impact men and women and the program that the city or council can put in place to remedy the situation. Hence, each year, before discussing the annual budget, these political entities will have to think about gender equality policies they should implement. Gender quotas therefore opened the door to the implementation of a form of gender mainstreaming at the local level. They also generalize the practice of counting and measuring gender inequalities for all type of social or economic activity.

However, will these additional measures prove efficient in bringing social change and transforming gender relations? It is too early to assess CBQ's impact on the implementation of gender equality in the workforce thanks to the mechanisms embedded in the law. This assessment will nonetheless be very important in the French context. Indeed, many pieces of legislation have been passed since the first law on *égalité professionnelle* in 1983 (Mazur 2001), with incredibly weak results. The laws have mostly used incentives: equality labels were set up, annual reports were asked, charters were signed among social partners etc. with a steady gender gap in pay over the decades, despite women's increased participation in higher education. It will therefore be interesting to see if gender quotas on boards can indeed impulse a new dynamic in this area.

Conclusion

As a conclusion, I summarize here the French case with respect to the four set of questions proposed for this comparative project.

Domestic / National Preconditions for Gender Quotas

In France gender quotas initiatives present various dynamics. The 1999-2000 reform was clearly the product of a wide mobilization, allying feminist and women's organizations that had not previously been allied in any type of coalition. Left wing female politicians were instrumental in the activism in favor of the law, but some key actors were also female right wing politicians (although in smaller numbers). The institutionalization of parity with various bureaucratic structures enabled the indigenization of gender quotas and the routinization of the claim. Again left wing female and male politicians were mostly in favor of the subsequent quota laws, but right wing female politician, Marie-Jo Zimmermann was a key actor in the top-down process to pass CBQ. As quotas become a routinized

⁵⁵ Loi n° 2011-103 of 27 January 2011, article 8.

⁵⁶ Loi n° 2011-103, article 7.

⁵⁷ Marie-Jo Zimmermann (UMP) National Assembly, 20 January 2010, p. 239.

tool the left/right divide on this issue has tended to fade with consensus growing (with the usual political battles between majority and minority when discussing bills). Resistance used to be clearly located on the right wing of the Parliament in the 1990s and was attempted by representatives of employers for CBQ but is now non-existent, especially for CBQ: the business sector has complied and has totally adopted the gender quota requirement and the diversity narrative, underlining that it will improve boards' performances.

Transnational Factors

While the political parity was clearly the result of a transnational networking (organized by the European Commission and the Council of Europe), subsequent gender quotas reforms are mostly endogenous to the French context with very few references to European processes (although Vivianne Reding's position on CBQ was shaping up as the French Parliament was discussing the issue).

The Legal and Constitutional Challenge

Whereas political parity was discussed on normative and constitutional grounds, and despite the CC strong reluctance in extending quotas schemes, the legislator finally overcame these constitutional obstacles, but it took two rounds of constitutional revision. Hence constitutional obstacles clearly delayed the process of adoption of quotas and forced parity activists to argue on highly normative grounds to demonstrate the compatibility of parity with republican principles. A decade and a half after parity has not been translated into a new legal principle, and despite recent efforts by the HCEfh it seems that gender quotas are now conceived rather as a pragmatic tool to reach gender equality goals, without strong references to parity as a normative principle or any kind of redefinition of governance or citizenship. However, certainly the popular conception of democracy has been altered: women's absence from decision-making bodies is now clearly perceived as a problem.

However, the legitimization of parity has not trickle down for other groups. There has been (almost) no discussion on ethnic minorities' absence from politics or from boards. The issue of diversity in the workforce has been on the agenda, but in a parallel process driven by European directives on anti-discrimination. The diffusion of gender quotas to almost all social spheres of activity has not led to similar legal developments for ethnic minorities or other groups (Lépinard 2013).

New Frontiers

Quotas have been extended to almost all decision-making bodies. Only unions and NGOs have not been put under the legislator's scrutiny. The 2014 comprehensive bill on equality is a good illustration of how quotas are now a preferred tool in the French toolkit for gender equality: It extends quotas in the economic sphere (professional organizations), the social sphere (sport federations) and strengthen quotas in the political sphere (higher fines for non-compliance for legislative elections). However, the law also proposes a reform of parental leave, measures to combat violence against women and stereotypes in media, therefore proposing a comprehensive approach to gender equality in which quotas are not separate from other types of policy measures.

References

- Alwood, Gill and Khursheed Wadia. 2000. *Women and politics in France, 1958-2000*, New York: Routledge.
- Baudino, Claudie. 2005. "Gendering the Republican System: Debates on Women's Political Representation in France." In *State Feminism and Political Representation*, ed. Joni Lovenduski. Cambridge: Cambridge University Press, 85-105.
- Bereni, Laure. 2004. "Le mouvement français pour la parité et l'Europe", in Sophie Jacquot and Cornelia Woll (eds.) *Les usages de l'Europe: acteurs et transformations européennes*, paris, l'harmattan, p. 33-54
- Bereni, Laure and Eléonore Lépinard. 2004. "'Les femmes ne sont pas une catégorie': les stratégies de légitimation de la parité en France", *Revue française de science politique*, 54(1), 2004, p.71-98.
- Bereni, Laure and Anne Revillard. 2007. "Des quotas à la parité: 'féminisme d'Etat' et représentation politique (1974-2007)", *Genèses*, 2(67):p 5-23
- Calvès Gwénaële. 2002. « 'Il n'y pas de race ici'. Le modèle français à l'épreuve de l'intégration européenne », *Critique internationale*, 4(17): p. 173-186
- Epp, Charles. 1998. *The Rights Revolution*. Chicago: Chicago University Press
- Halimi, Gisèle.1998. *La parité dans la vie politique*, Paris: La documentation française.
- Keck, Margaret and Kathryn Sikkink. 1998. *Activists Beyond Borders: Advocacy Networks in International Politics*. Ithaca, NY: Cornell University Press.
- Krook, Mona Lena. 2009. *Quotas for Women in Politics. Gender and Candidate Selection. Reform Worldwide*. New York: Oxford University Press.
- Lépinard, Eléonore. 2007. *L'égalité introuvable. La parité, les féministes et la République*. Paris: Presses de Sciences po.
- Lépinard, Eléonore. 2013. 'For Women Only? ? Gender Quotas and Intersectionality in France', *Politics & Gender* 9(3) pp276-298
- Mazur, Amy G. 2001. "Republican Universalism Resists State Feminist Approaches to Gendered Equality in France." In *State Feminism, Women's Movements, and Job Training: Making Democracies Work in the Global Economy*, ed. A. G. Mazur. New York: Routledge, 155-82.
- Murray, Rainbow. 2010. *Parties, Gender Quotas and Candidate Selection in France*. Basingstoke: Palgrave Macmillan.
- Oliveira, Alvaro and Michal Gondek. 2014. 'Women on Company boards. An example of positive action in Europe', *EUI Working paper series*, RCAS 2014/34.
- Opello, Katherine A.R. 2006. *Gender Quotas, Parity Reform and Political Parties in France*. Lanham, MD: Lexington Books.
- Rodriguez Ruiz, Blanca, and Ruth Rubio Marin. 2008. "The gender of representation. On democracy, equality and parity" *International Journal of Constitutional Law*, 6(2):p.287-316.
- Sabbagh, Daniel and Shanney Peer. 2008. "French Color Blindness in Perspective. The Controversy over 'statistiques ethniques'." *French Politics, Culture and Society* 26 (1):1-6.
- Scott, Joan W. 2005. *Parité! Sexual Equality and the Crisis of French Universalism*. Chicago: University of Chicago Press.

