Board gender diversity and the enlightened shareholder value principle

Citation for published version:
Valsan, R 2016, 'Board gender diversity and the enlightened shareholder value principle', *The Company Lawyer*, vol. 37, no. 6, pp. 171-177.

Board gender diversity and the enlightened shareholder value principle

Remus Valsan

Lecturer in Corporate Law

University of Edinburgh Law School

15 Buccleuch Place, Room 3.04

Edinburgh, EH8 8LN

remus.valsan@ed.a.c.uk

Word count (including abstract and footnotes): 5878

Abstract

This paper analyses relation between the enlightened shareholder value principle (ESV) and board gender diversity in the UK. ESV has created the need for a board that embraces values coming from both the masculine and feminine leadership styles. The recent initiatives encouraging female representation in boardrooms can be understood as a means to facilitate the implementation of the ESV approach.

Board gender diversity and the enlightened shareholder value principle

Remus Valsan*

Introduction

Gender diversity in the boards of directors of large corporations is a key topic in corporate governance across Europe and elsewhere in the world. Despite the vast literature on this topic, a clear understanding of the relevance of gender in boards of directors and in corporate governance has yet to emerge. Board gender diversity is often justified as a means to improve the company's financial performance or to make the board decision making more effective. Although intellectually appealing, these explanations have proven very difficult to demonstrate with any rigour. The extensive empirical studies in the UK and elsewhere in the world have proven largely indeterminate.

This paper proposes a novel explanation to the role of board gender diversity in the UK, by linking it to the enlightened shareholder value principle (ESV). ESV has triggered a shift in the values that UK directors and officers are expected to embrace. The emphasis on developing long term relations with shareholders and other corporate constituencies has brought the relational role of the board to the fore. It will be argued that the ESV approach has created the need for a board that combines values typically associated with the masculine leadership style with values associated with feminine leadership. Consequently, the recent initiatives encouraging increased female representation in boardrooms can be understood as a means to improve the relational role of the board, thus facilitating the implementation of the ESV approach.

This paper is structured as follows. Section 2 reviews the recent legal, regulatory and market developments promoting women directors, with a focus on the UK. Section 3 is a brief critical review of the dominant theoretical arguments in support of board gender diversity: the social justice argument, the business case argument, and the groupthink argument. Section 4 introduces the enlightened shareholder value concept and connects it with the relational function of the board. Section 5 explains how gender diversity enhances the relational function of the board, thus contributing to a more effective application of the ESV principle. Section 6 concludes.

Board gender diversity: the facts

Despite recent significant progress towards gender balance in the labour markets of many Western economies, women remain heavily underrepresented in leadership positions, especially in executive offices. At global level, the representation of women in boards is on a slow upwards trend. In 2014, women held over 12 per cent of board seats at the world's largest and best known companies, an increase of only three percentage points since 2009.[1]

---

* Lecturer in corporate law, Edinburgh Law School. I would like to thank the European Union Centre of Excellence at the University of Alberta and the Law Faculty, University of Alberta, for inviting me to Edmonton as a short-term visiting scholar. I acknowledge with gratitude the financial support of European Union Centre of Excellence. I would like to thank Moin Yahya, Lori Thorlakson and Skirmante Tamelyte for their hospitality and insightful conversations.

[1] MSCI ESG Research, "Governance Issue Report: 2014 Survey of Women on Boards", 2014, p.2, at *http://30percentclub.org/wp-content/uploads/2014/11/2014-Survey-of-Women-on-Boards-1.pdf* [Accessed August 07, 2015].

Norway is the leading country in the world in terms of percentage of female directors in public companies. Recent statistics show that women occupy 41 per cent of the board seats in public companies.[2] The significant advance that Norway has is due to the early adoption of quotas legislation, in 2003.[3] Although the empirical evidence on the financial and corporate governance effects of quotas is mixed, quotas legislation is spreading in Europe. Since 2008, several other European countries have adopted quotas. Belgium, France and Italy have enacted binding quotas with sanctions, while the Netherlands and Spain have introduced quotas without sanctions. Denmark, Finland, Greece, Austria and Slovenia have quota requirements for state-owned companies.[4] More recently, in March 2015 Germany has adopted quota legislation, requiring a minimum of 30 per cent of each gender on the supervisory boards of the largest listed companies from 2016.[5]

---

[2] Statistics Norway, "Board and Management in Limited Companies, 1 January 2015", at *https://www.ssb.no/en/virksomheter-foretak-og-regnskap/statistikker/styre/aar/2015-03-20?fane=tabell&sort=nummer&tabell=221768* [Accessed August 07, 2015].

[3] Mari Teigen, "Gender Balance on the Boards and Management of the Norwegian Business Sector" in *Gender Balance on Company Boards* (Oslo: Institute for Social Research, 2015), pp.8-10.

[4] The European Parliament, "Report on the Proposal for a Directive of the European Parliament and of the Council on Improving the Gender Balance Among Non-executive Directors of Companies Listed on Stock Exchanges and Related Measures" (2012) COM(2012) 0614, p.44, fn.2.

[5] Reuters, "German Parliament Approves Legal Quotas for Women on Company Boards," March 6, 2015, at *http://uk.reuters.com/article/2015/03/06/uk-germany-women-quotas-idUKKBN0M214W20150306* [Accessed August 07, 2015].

At EU level, the proportion of women in the boards of the largest publicly listed companies is currently around 20 per cent.[6] Despite some progress over the past few years, the rate of change remains rather slow. To address this issue, in November 2012 the European Commission put forward a proposal for a Directive on improving the gender balance among non-executive directors of companies listed on stock exchanges.[7] The proposal was adopted by the European Parliament in November 2013, but has been stuck in the European Council ever since, due to the divergent views of the Member States on the best way to promote gender diversity in corporate boards. The proposal sets a "quantitative objective"[8] or "procedural quota"[9] of minimum 40 per cent of the under-represented sex in non-executive board positions in listed companies and "individual commitments" (self-

---

[6] The European Commission, "Gender Balance in Decision-making Positions", June 30, 2015, at *http://ec.europa.eu/justice/gender-equality/gender-decision-making/index_en.htm* [Accessed August 07, 2015].

[7] The European Commission, "Proposal for a Directive of the European Parliament and of the Council on Improving the Gender Balance Among Non-executive Directors of Companies Listed on Stock Exchanges and Related Measures" (2012), COM (2012) 614 final.

[8] The Gender Balance Directive Proposal preamble states that the gender balance aim should be pursued through "binding measures aiming at attaining a quantitative objective for the gender composition of boards of listed companies" (para.16). Art.4 of the Gender Balance Directive Proposal also refers to "objectives" rather than "quotas".

[9] The European Commission, "Improving the Gender Balance in Company Boardrooms", June 2014, at *http://ec.europa.eu/justice/gender-equality/files/gender_balance_decision_making/boardroom_factsheet_en.pdf* [Accessed August 07, 2015].

imposed targets) for executive directors, to be met by 2020. In an explanatory note, the European Commission underlined that the quantitative objective is not "a rigid quantitative quota obligation that would result in sanctions if it is not reached." [10] It is, instead, a requirement that companies adopt a fair and transparent board selection process until the 40 per cent gender balance objective is achieved.

In the Anglo-American world the proportion of females on board fluctuates around the 20 per cent mark. In the US, in 2014 women accounted for close to 19 per cent of the number of directors of S&P 500 companies, but held only 4.6 per cent of the CEO positions.[11] In Canada, women account for a little over 20 per cent of the board seats in the largest 60 companies listed at Toronto Stock Exchange (S&P/TSX 60), according to the latest Catalyst study.[12] In Australia, in 2014 women occupied a little over 19 per cent of the board

---

[10] The European Commission, "Improving the Gender Balance in Company Boardrooms", June 2014, at *http://ec.europa.eu/justice/gender-equality/files/gender_balance_decision_making/boardroom_factsheet_en.pdf* [Accessed August 07, 2015].

[11] Spencer Stuart "US Board Index 2014", 2014, at *https://www.spencerstuart.com/research-and-insight/spencer-stuart-us-board-index-2014* [Accessed August 07, 2015].

[12] Catalyst, "2014 Catalyst Census: Women Board Directors", 2015, at *http://www.catalyst.org/knowledge/2014-catalyst-census-women-board-directors* [Accessed August 07, 2015].

seats of companies listed on the Australian Securities Exchange (S&P/ASX 200 index), a significant increase from 17.3 per cent in 2013 and 15.4 per cent in 2012.[13]

In the UK, the latest statistics show that the FTSE 100 boards have 23.5 per cent female directors, with no all-male board.[14] This is a significant improvement from 2011, when women amounted to only 12.5 per cent of FTSE 100 board seats.[15] This significant increase is the result of a combination of government campaigns, purely voluntary initiatives and legal disclosure requirements.

In 2010 the UK Government set up the Davies Review, a commission chaired by Lord Davies of Abersoch, and having as objective to identify the barriers preventing women to reach the boardroom. The Review was also mandated to recommend strategies for increasing the proportion of women on corporate boards.[16] The Review recommended the FTSE 100

---

[13] Australian Institute of Company Directors, "Appointments to S&P/ASX 200 Boards", 2015, at *http://www.companydirectors.com.au/Director-Resource-Centre/Governance-and-Director-Issues/Board-Diversity/Statistics* [Accessed August 07, 2015].

[14] Government Equalities Office, "Women on Boards", 2015, p.3, at *https://www.gov.uk/government/publications/women-on-boards-2015-fourth-annual-review* [Accessed August 07, 2015].

[15] Government Equalities Office, "Women on Boards", 2011, at *https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31480/11-745-women-on-boards.pdf* [Accessed August 07, 2015].

[16] Several previous reports indicated that board gender balance is desirable to increase overall board effectiveness. See the Department of Trade and Industry, "Review of the Role and Effectiveness of Non-Executive Directors" (the Higgs Review) (London: The Stationery Office, 2003), paras 10.15-10.33; London Business School, "Tyson Report on the

companies to aim for a minimum of 25 per cent female representation by 2015 and 30 per cent by 2020.[17] Between 2011 and 2015 the Review issued annual reports on the progress towards this goal. These reports comprise suggestions for improvement and renew the threat of quotas being imposed by the European Commission, should the voluntary measures fail. The latest report shows that the 25 per cent target is well within reach by the end of 2015.[18]

The recommendations of the Davies Review reports work alongside gender diversity disclosure requirements imposed by the UK Companies Act 2006 and the UK Corporate Governance Code.[19] Section 414A(8)c of Companies Act 2006 requires quoted companies to specify in their annual Strategic Report the number of persons of each sex who were directors, senior managers, or employees of the company during the reporting period. The UK Corporate Governance Code recommends that board members be appointed on merit and with "due regard for the benefits of diversity on the board, including gender".[20] It also requires companies to disclose in their annual reports "the board's policy on diversity, including gender, any measurable objectives that it has set for implementing the policy, and progress on achieving the objectives."[21]

Recruitment and Development of Non-Executive Directors", 2003, p.20, *at* *http://facultyresearch.london.edu/docs/TysonReport.pdf* [Accessed August 07, 2015].

[17] Government Equalities Office, "Women on Boards", 2011, p.19.

[18] Government Equalities Office, "Women on Boards", 2015, p.3.

[19] The Code applies to companies listed on the London Stock Exchange on a "comply or explain basis". Financial Conduct Authority Handbook, Listing Rule 9.8.6 (5) and (6).

[20] The Financial Reporting Council, UK Corporate Governance Code, 2014, Principle B.2.

[21] The Financial Reporting Council, UK Corporate Governance Code, 2014, Code Provision B.2.4

These disclosure requirements incentivise large companies, which are closely scrutinised by the market, to meet the public expectations on diversity. Well-performing companies are rewarded via a multitude of market tools, such as diversity indexes or awards. Gender diversity indexes are a powerful market tool that increases the visibility of the gender equality issue. The annual Davies Review reports, for example, rank all FTSE 100 companies on their gender diversity performance. Similarly, the Cranfield School of Management annual reports include a Female FTSE 100 index, which ranks companies based on their percentage of female directors.[22] Diversity awards are another tool through which the market promotes board gender equality. For example, the Breaking the Mould Awards, organised annually in the UK in partnership with the Institute of Directors, the 30% Club and the Mail on Sunday, reward companies that have effective schemes in place to ensure women are well represented in their boardrooms.[23]

The intense debates around the most appropriate legal instrument to promote gender equality as well as the numerous market-driven initiatives have given significant traction to the gender equality movement. This momentum is reflected in the corporate governance literature, where several theories have been developed to address the relation between gender and board membership. Despite widespread support for board gender balance, it remains largely unclear whether gender in itself is relevant to board effectiveness.

---

[22] The Cranfield International Centre for Women Leaders, at *http://www.som.cranfield.ac.uk/som/p1087/research/research-centres/cranfield-international-centre-for-women-leaders*, [Accessed August 07, 2015].

[23] At http://www.breakingthemouldawards.co.uk/ [Accessed August 07, 2015].

Board gender diversity: theoretical approaches

Three main strands of research dominate the corporate governance literature on gender diversity. The first strand approaches gender diversity from a social justice perspective, and holds that diversity should be promoted as a value in itself, rather than a means to another end. The second strand revolves around the business case for diversity. Board gender diversity is believed to improve the financial results of the company. The third strand uses insights from psychological and sociological aspects of small group decision making. It holds that female directors improve the decision making process in the boardroom by bringing in new perspectives, making debates more critical and thus preventing the groupthink phenomenon. These themes point towards important benefits that could be associated with a gender-balanced board, but face important conceptual and methodological shortcomings.

The desire to redress the imbalance between women and men in employment at all levels is one of the core policy objectives behind many of the legislative debates about the desirability of quotas. Promoting women in the board is regarded as the socially and morally adequate response to a historical record of female discrimination and exclusion from the highest levels of corporate leadership.[24]

The social justice argument cannot be easily fitted within the corporate governance conceptual framework. One difficulty with a social justice approach to board composition is that the equality and fairness argument applies with equal force to other observable diversity

---

[24] Mark McCann and Sally Wheeler, "Gender Diversity in the FTSE 100: The Business Case Claim Explored" (2011) 38(4) *Journal of Law and Society* 542; Stephen Brammer, Andrew Millington and Stephen Pavelin, "Gender and Ethnic Diversity among UK Corporate Boards" (2007) 15(2) *Corporate Governance: An International Review*, pp.394-395.

criteria, such as ethnicity, race, religion, age, or sexual orientation. Racial and ethnic stereotypes may portray qualified persons in a light that is unfavourable to leadership, thus preventing them from reaching board seats.[25] Gays and lesbians also are likely to face discrimination in male-dominated contexts, a phenomenon sometimes labelled as the "lavender ceiling".[26] Although these forms of discrimination are reprehensible, from a corporate governance perspective a prescription to take into account all these diversity aspects when choosing board nominees would alter substantially the mechanism of electing board members and would entail rethinking the fundamental corporate governance role of the board. The internal hierarchy of the corporation is driven primarily by enterprise efficiency concerns, rather than by macro level, societal objectives. For this reason, the social justice argument finds little traction in the corporate governance and theory of the firm literature.

The business case is another frequently invoked argument for board diversity. Numerous researchers have investigated the relation between the proportion of female directors and the company's financial success. Their findings are contradictory or inconclusive. One set of studies have found a strong positive correlation between board gender diversity and various measures of corporate performance. In a recent study, Catalyst

---

[25] African Americans are often stereotyped as antagonistic and lacking competence, Hispanics as uneducated and unambitious, while Asian Americans are often considered quiet and unassertive. See Ronit Kark and Alice Eagly, "Gender and Leadership: Negotiating the Labyrinth" in *Handbook of Gender Research in Psychology*, (New York: Springer, 2010), vol. 2, p.449.

[26] Annette Friskopp and Sharon Silverstein, *Straight Jobs, Gay Lives: Gay and Lesbian Professionals, the Harvard Business School, and the American Workplace* (New York: Touchstone, 1996), p.96.

found that Fortune 500 companies that had three of more women on board for four years significantly outperformed similar companies with no women on board as regards return on sales, return on invested capital, and return on equity.[27] The study, however, warns that the statistically significant correlations do not establish or imply causal connections. Other studies by prestigious names such as McKinsey[28] or Credit Suisse[29] emphasise the same result: there is a positive correlation between the share of women on boards and financial company performance, although there is no evidence of causation. Numerous academic studies also find empirical support for the business case.[30]

Other studies find a negative correlation between increased representation of women on boards and financial results. Some of these findings are concerned with the negative effects of mandatory quotas legislation.[31] Other studies point towards negative investor

---

[27] Catalyst, "The Bottom Line: Corporate Performance and Women's Representation on Boards (2004-2008)", 2011, at *http://www.catalyst.org/knowledge/bottom-line-corporate-performance-and-womens-representation-boards-20042008* [Accessed August 07, 2015].

[28] McKinsey, "Women Matter: Gender Diversity, A Corporate Performance Driver", 2007, pp.13-14, at http*://www.mckinsey.com/features/women_matter* [Accessed August 07, 2015].

[29] Credit Suisse Research Institute, "The CS Gender 3000: Women in Senior Management", 2014, p.16, at *https://publications.credit-suisse.com/tasks/render/file/index.cfm?fileid=8128F3C0-99BC-22E6-838E2A5B1E4366DF* [Accessed August 07, 2015].

[30] Roy Alder, "Women in the Executive Suite Correlate to High Profits" (2001) 16 *Harvard Business Review* 3.

[31] See David Matsa and Amalia Miller, "A Female Style in Corporate Leadership? Evidence from Quotas" (2013) 5(3) *American Economic Journal: Applied Economics* 136; Oyvind

reactions affecting the share price, rather than establishing a direct causal link between female directors and firm performance.[32]

Overall, these studies show that the business case is not a very promising avenue for finding a corporate governance rationale for board gender diversity.[33] Most of the academic literature regards these studies as largely inconclusive, due to methodological difficulties and the failure to establish a direct causal link between gender diversity and profitability.[34] In theory, a positive correlation between diversity and firm performance or improved corporate

---

Bohren, and Siv Staubo, "Does Mandatory Gender Balance Work? Changing Organizational Form to Avoid Board Upheaval" (2014) 28 *Journal of Corporate Finance* 152; Harald Dale-Olsen, Pal Schone, and Mette Verner, "Diversity among Norwegian Boards Of Directors: Does a Quota for Women Improve Firm Performance?" (2013) 19(4) *Feminist Economics* 110.

[32] See Frank Dobbin and Jivwook Jung, "Corporate Board Gender Diversity and Stock Performance: The Competence Gap or Institutional Investor Bias?" (2011) 89 *North Carolina Law Review* 809; Alan Gregory, Emma Jeanes, Rajesh Tharyan, and Ian Tonks, "Does the Stock Market Gender Stereotype Corporate Boards? Evidence from the Market's Reaction to Directors' Trades" (2013) 24(2) *British Journal of Management* 174.

[33] For other criticisms of the business case see Lisa Fairfax, "The Bottom Line on Board Diversity: A Cost-Benefit Analysis of the Business Rationales for Diversity on Corporate Boards" (2005) 795 *Wisconsin Law Review* 798.

[34] Daniel Fereira, "Board Diversity: Should We Trust Research to Inform Policy?" (2015) 23(2) *Corporate Governance: An International Review* 108.

governance could indicate one of four things.[35] First, it may be an indication that gender diversity is indeed the direct cause of improvement. Second, it may mean that more successful firms have greater resources to invest in the pursuit of board diversity. Third, it may mean that more successful firms face greater public scrutiny and pressure to increase their board diversity. Or, fourth, it may mean that qualified female directors are scarce, and they choose to serve on the boards of the most successful firms.[36] The existence of these alternative explanations makes the business case very difficult to demonstrate with any rigour.

Beside the social justice and business case arguments, policy makers often argue that gender balance is needed to solve the groupthink problem that arises in an all-male board.[37] The groupthink argument for diversity is usually presented as follows. Due to flaws in the director recruitment and appointment procedures, the members of the board are frequently males with similar educational and professional background, nationality, ethnicity or age. The board is thus a cohesive and homogenous group and therefore prone to groupthink and erroneous decisions. A board including a critical mass of female directors reduces the groupthink problem. It is more diverse, more open to considering a wider range of

---

[35] Lisa Broome, John Conley and Kimberly Krawiec, "Dangerous Categories: Narratives of Corporate Board Diversity" (2011) 87(3) *North Carolina Law Review*, p.766.

[36] Kathleen Farrell and Philip Hersch, "Additions to Corporate Boards: The Effect of Gender" (2005) 11(1-2) *Journal of Corporate Finance* 85.

[37] See the Financial Reporting Council, UK Corporate Governance Code, 2014, preface: "The problems arising from "groupthink" have been exposed in particular as a result of the financial crisis. One of the ways in which constructive debate can be encouraged is through having sufficient diversity on the board. This includes, but is not limited to, gender and race."

perspectives and evaluate them more carefully, and therefore better equipped to reach superior decisions.[38] Such statements are based on a superficial understanding of what groupthink is. When examined in more depth, the groupthink theory shows a more complex relation between group composition, concurrence-seeking tendencies and erroneous decisions.

Groupthink is a concept developed by the psychologist Irving Janis in the 1970s and 1980s in relation to political fiascos.[39] He defined groupthink as "a mode of thinking that people engage in when they are deeply involved in a cohesive in-group, when the members' strivings for unanimity override their motivation to realistically appraise alternative courses of action."[40] A decision making group is susceptible of groupthink only if certain antecedent conditions are present. Group cohesiveness is the most important antecedent. In highly cohesive groups, Janis noted, the desire for genuine concurrence on all important issues often leads members unwittingly to suppress their divergent opinions.[41] Cohesiveness does not invariably lead to groupthink, however. Cohesiveness is, actually, a neutral factor that could either improve the quality of the decision making or lead to groupthink, depending on other relevant circumstances. For the groupthink to occur, in addition to cohesiveness, two other

---

[38] Daniel Forbes and Frances Milliken "Cognition and Corporate Governance: Understanding Boards of Directors as Strategic Decision-making Groups" (1999) 24(3) *Academy of Management Review*, p.494.

[39] Irving Janis, *Victims of Groupthink: A Psychological Study of Foreign-Policy Decisions and Fiascoes* (Boston: Houghton Mifflin, 1972); Irving Janis, *Groupthink: Psychological Studies of Policy Decisions and Fiascos* (Boston: Houghton Mifflin, 1982).

[40] Janis, *Victims of Groupthink*, 1972, p.9.

[41] Janis, *Victims of Groupthink*, 1972, p.201.

sets of antecedent conditions are required: structural faults, such as insulation of the decision making group or directive group leadership, and a provocative situational context, such as high stress caused by excessive time pressure.[42]

An in-depth look at Janis' groupthink theory shows why board gender diversity cannot be easily regarded as a means to prevent groupthink in the board. Two elements are essential in understanding why this is so. First, for groupthink to occur, the board must lack a decision making methodology and impartial leadership and the company must undergo a crisis situation. Second, Janis' solution to groupthink was improving board processes, rather than changing the board membership. The pre-eminence of processes over composition in determining board effectiveness is a theme that has broad support in the corporate governance literature.[43]

A more promising starting point for understanding the importance of gender balance in the boards of UK companies is the concept of enlightened shareholder value and its effects on directors' values and leadership styles.

Enlightened shareholder value and the relational function of the board

The shareholder-stakeholder debate about the purpose of business corporations is one of the oldest and more persistent themes in corporate governance. Launched with the Berle-Dodd debate of the early 1930s, the issue of whom the board of directors should serve continues

---

[42] Janis, *Victims of Groupthink*, 1972, pp.114-115.

[43] See Alessandro Minichilli, Alessandro Zattoni, Sabina Nielsen and Morten Husee, "Board Task Performance: An Exploration of Micro- and Macro-level Determinants of Board Effectiveness" (2012) 33(2) *Journal of Organizational Behavior* 193.

unabated to this day.[44] In the UK, the most important legislative reforms in this respect is the concept of enlightened shareholder value, introduced in the Companies Act 2006. This concept is implemented through provisions on directors' fiduciary duties and disclosure requirements. Section 172 imposes on directors an obligation to take into account the interests of the corporation's non-financial stakeholders, such as employees, suppliers, consumers or the environment, when deciding how to promote success of the company for the benefit of its members as a whole. Sections 414A-C impose on quoted companies an obligation to disclose in their annual strategic report information about the company's environmental impact, and the company's policies on social, community and human rights issues and a breakdown of gender diversity in its workforce.

The duty to promote the success of the company codified in section 172 has generated a large amount of professional and academic debates regarding its relation to the common law duty of loyalty and its effects on stakeholders.[45] The stated aim of the Company Law Review Steering Group was to move away from a narrow focus on short term shareholder wealth maximisation and to emphasise the long term focus of directors' duties and the social

[44] Adolf Berle, "Corporate Powers as Powers in Trust" (1931) 44 Harvard Law Review 1049; E. Merrick Dodd, "For Whom Are Corporate Managers Trustees?" (1932) 45 Harvard Law Review 1145; Adolf Berle, "For Whom Managers Are Trustees: A Note" (1932) 45 Harvard Law Review 1365; Andrew Keay, "Moving towards Stakeholderism? Constituency Statutes, Enlightened Shareholder Value and All That: Much Ado about Little?", (2011) 22 *European Business Law Review* 1.

[45] For a comprehensive analysis of these debates Andrew Keay, *The Enlightened Shareholder Value Principle and Corporate Governance* (New York: Routledge, 2013) Chrs 3 and 4.

responsibility of businesses.[46] Regardless of whether the duty to promote the success of the company changes the pre-existing law or not, it clearly underlines that the long term relation with the company's core stakeholders is a central consideration that should guide directors' exercise of discretion. From the perspective of the board's main roles, the duty to take into account the effect of board's decisions on nonfinancial stakeholders puts the relational role of the board on equal footing with its monitoring and advising roles.

In contrast with corporate law scholars, who are accustomed to analyse the board in terms of standards of conduct and liability, the management and governance scholars approach the board's actions from the perspective of its main functions. The prevailing accounts identify three main functions: the monitoring, relational and advisory roles of the board.[47] The Anglo-American corporate governance literature traditionally places a great emphasis on the monitoring role of the board.[48] Heavily influenced by institutional and financial economics, the contractual theory of the firm, and the principal-agent problem, Anglo-American scholars typically see the board as a device to monitor closely the managers in order to discourage them from acting self-interestedly, at the shareholders' expense.[49]

---

[46] Company Law Review, *Modern Company for a Competitive Economy: Developing the Framework* (London: DTI, 2000), paras 2.19-2.22.

[47] See Lynne Dallas, "The Multiple Roles of Corporate Boards of Directors" (2003) 40 *San Diego Law Review* 781.

[48] Kenneth Ahern and Amy Dittmar, "The Changing of the Boards: The Impact on Firm Valuation of Mandated Female Board Representation" (2012) 127(1) *Quarterly Journal of Economics* 137.

[49] Michael Jensen and William Meckling, "Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure" (1976) 3(4) *Journal of Financial Economics* 305; Eugene

A strand of research coming from fields like management, organisational behaviour and sociology, focuses on the role of directors in providing and maintaining resource networks that are essential for the company's survival and success. This is the relational role, or resource dependence role, of the board.[50] The key function of the board is to assist the corporation in forging relationships with various stakeholders in its economic environment. The values that guide the board's exercise of authority are central in forming and maintaining these relations and in legitimising the company in the eyes of key resource providers.[51]

The enlightened shareholder value model accentuates the importance of the relational function of the board for the success of the company. How does board gender diversity contribute to a better performance of the relational function? The following section explains why female directors are essential for an effective relational board.

Fama and Michael Jensen, "Separation of Ownership and Control" (1983) 26 *Journal of Law and Economics* 30.

[50] Jeffrey Pfeffer and Gerald Salancik, *The External Controls of Organizations: A Resource Dependence Perspective* (New York: Harper & Row, 1978); Lynne Dallas, "The Relational Board: Three Theories of Corporate Boards of Directors" (1996) 22(1) *Journal of Corporation Law* 1.

[51] Donald Langevoort, "The Human Nature of Corporate Boards: Law, Norms, and the Unintended Consequences of Independence and Accountability" (2001) 89 *Georgetown Law Journal* 797.

Gender leadership stereotypes and the relational board

An important strand of research on gender and group decision making focuses on gender and leadership stereotypes.[52] Unlike studies aiming to uncover actual gender differences in traits and behaviour, research on gender stereotypes is concerned with the pervasive beliefs and mental associations about male and female behaviour.[53]

The research on gender stereotypes consistently identifies two distinct types of behaviour, labelled "agentic" and "communal".[54] The agentic qualities are associated with a masculine style and the communal qualities are regarded as feminine.[55] The agentic stereotype refers to a self-interested, task focused orientation and concern with mastery,

[52] Mary Kite, Katy Deaux and Elizabeth Haines, "Gender Stereotypes" in *Psychology of Women: A Handbook of Issues and Theories*, 2nd edn (Westport, CT: Praeger, 2008), p.205; Alice Eagly, Mona Makhijani and Bruce Klonsky, "Gender and the Evaluation of Leaders: A Meta-Analysis" (1992) 111(1) *Psychological Bulletin* 3.

[53] Ronit Kark and Alice Eagly, "Gender and Leadership: Negotiating the Labyrinth", p.447.

[54] See David Bakan, *The Duality of Human Existence: Isolation and Communion in Western Man* (Boston: Beacon Press, 1966).

[55] Kay Deaux and Laurie Lewis, "Structure of Gender Stereotypes: Interrelationships among Components and Gender Label" (1984) 46(5) *Journal of Personality and Social Psychology* 991; Linda Carli and Alice Eagly, "Gender Effects on Social Influence and Emergent Leadership" in *Handbook of Gender and Work* (Thousand Oaks, CA: Sage, 1999), p.203.

dominance, and control. The communal stereotype refers to an interpersonal orientation and concern with relationships and the welfare of others.[56]

In the context of leadership roles, research has established the existence of a deeply rooted perception that effective leaders are endowed with agentic qualities, such as ambition, confidence, self-sufficiency, and dominance, and display fewer communal attributes.[57] The role of business executive, in particular, is thought to require agentic attributes, such as task focus, decisiveness, and competitiveness.[58] This perceived fit between what is managerial and what is masculine led to the "think manager - think male" effect, which has proven to be relatively durable since the early 1970s.[59] At the same time, a "think female" effect has been found when appointing managers of failing companies.[60] Women's stereotypical qualities of being understanding, intuitive, creative long term oriented are viewed as particularly valuable for crisis management situations.[61]

---

[56] Ronit Kark and Alice Eagly, "Gender and Leadership: Negotiating the Labyrinth", pp.448-449.

[57] Ronit Kark and Alice Eagly, "Gender and Leadership: Negotiating the Labyrinth", p. 448.

[58] Richard Martell, Christopher Parker, Cynthia Emrich and Marnie Swerdlin Crawford, "Sex Stereotyping in the Executive Suite: 'Much Ado about Something'" (1998) 13(1) *Journal of Social Behavior and Personality* 127.

[59] Ronit Kark and Alice Eagly, "Gender and Leadership: Negotiating the Labyrinth", p.448.

[60] S. Alexander Haslam and Michelle Ryan, "The Road to the Glass Cliff: Differences in the Perceived Suitability of Men and Women for Leadership Positions in Succeeding and Failing Organizations" (2008) 19(5) *Leadership Quarterly* 530.

[61] Ronit Kark and Alice Eagly, "Gender and Leadership: Negotiating the Labyrinth", p.449.

These gender differences have also been found at boardroom level. Adams and Funk found that male and female directors are significantly different in terms of priorities and sets of values. [62] Male directors are more concerned with power and task achievement, while female directors care more about universalism and benevolence. Furthermore, Adams et al. provide evidence that these differences in values between male and female directors correspond to a difference in shareholder and stakeholder orientation. Directors who emphasise stereotypical agentic values such as power, achievement and competitiveness, are more shareholder oriented. Conversely, universalism and benevolence, values associated with the feminine communal leadership style, correlate negatively with a shareholder wealth maximization approach.[63] Further research confirms these insights. Bear et al. show that firms with a higher percentage of female directors are more stakeholder oriented. They have more favourable work environments, higher concern for environmental CSR and a higher level of charitable giving.[64] Matsa and Miller provide direct evidence that Norwegian firms

---

[62] Renee Adams and Patricia Funk "Beyond the Glass Ceiling: Does Gender Matter?" (2012) 58(2) *Management Science*, p.220.

[63] Renee Adams, Amir Licht and Lilach Sagiv, "Shareholders and Stakeholders: How Do Directors Decide?" (2011) 32(12) *Strategic Management Journal*, p.1348. However, the authors emphasise the link between a shareholder or stakeholder orientation and values, rather than gender.

[64] Stephen Bear, Noushi Rahman and Corinne Post, "The Impact of Board Diversity and Gender Composition on Corporate Social Responsibility and Firm Reputation" (2010) 97(2) *Journal of Business Ethics*, p.210.

affected by gender quotas increased their employee costs and employment levels, while decreasing their returns to shareholders.[65]

The increased relevance of stakeholder concerns in the UK corporate governance and elsewhere in the Anglo-American system brings to the forefront the need to redefine the set of values on which the model of effective corporate leadership is based. The board's ability to nurture strong relations with the various corporate stakeholders has becomes a central part of its overall purpose and function. Consequently, the stereotypical feminine qualities of interpersonal orientation and concern with the welfare of others have become an essential value for an effective board.

Conclusion

Board gender diversity has been the topic of intense research and policy debates over the past two decades. All over the world, countries are using different legal and regulatory instruments to facilitate women's access to the boardroom, while markets deploy a multitude of incentives and rewards to accelerate this process. Despite the prominence of the gender equality topic, the corporate governance literature still lacks a clear understanding of how directors' gender relates to board effectiveness and the broader corporate objectives. Social justice, the business case and the groupthink problem are the most frequent themes used to explain the purpose and effects of board gender diversity. These themes highlight the complex range of issues that board gender diversity involves, but are not particularly helpful

[65] David Matsa and Amalia Miller, "A Female Style in Corporate Leadership? Evidence from Quotas" (2013) 5(3) *American Economic Journal: Applied Economics* 136.

in understanding board gender diversity form a corporate governance and strategic management perspective.

This paper has proposed a novel approach to the gender diversity question, by linking board gender diversity with the main functions of the board and the underlying principles of corporate governance. In the UK corporate governance context, the ESV principle has accentuated the importance of the relational function of the board. Research into gender and leadership stereotypes shows that female leaders are better suited than males to perform a relational role. Thus, a board that displays a combination of agentic and communal leadership styles is, overall, better equipped to address the main organisational goals of business corporations.