

Non-decision making in the reform of equal pay policy The case of Finnish gender equality legislation

Purpose – The purpose of this article is to analyse an example of non-decision making in the Nordic tripartite policy process, namely the reform of the Finnish gender equality legislation and law for equal pay comparisons.

Design/methodology/approach – The paper uses non-decision making as a conceptual framework for qualitative analysis of the documentation of the working group that drafted the law for equal pay comparisons. The analysis focuses on the strategic responses used by the participants in order to defend the status quo and resist change in the legislation.

Findings – The key findings are that the law for conducting equal pay comparisons as a part of gender equality planning in Finnish organisations changed dramatically in the tripartite policy process. Employer organisations successfully prevented the most relevant features from being implemented in the reformed law.

Research limitations/implications – The findings of this research indicate that there is a need for more research on the tripartite policy process and its implications for developing policy.

Social implications – This paper shows the kind of power that employer and employee organisations use in Finnish policy-making. As a result, the reformed gender equality legislation is a compromise, reflecting the vested interests of different stakeholders. The findings highlight the challenges of developing policy in the tripartite policy process.

Originality/value – The tripartite policy process and its implications have rarely been studied. The value of this paper lies in both the originality of the topic and approach, and the societal importance of the findings.

Keywords – Tripartite policy process, Equal pay, Legislation, Non-decision making, Finland

Paper type Research paper

Introduction

The concept of non-decision making can be used to describe how gender equality issues are marginalised and delegitimised in order to keep them off the political agenda. Non-decision making is essentially about power (e.g. Lukes, 1974). The suppression of women's shared interests is central to the maintenance of a patriarchal society. By analysing non-decision making, it is possible to understand the dynamics and tactics used by patriarchal systems in order to marginalise gender equality issues and maintain the patriarchal status quo (e.g. Marchbank, 1994).

This article seeks to make a contribution to the literatures on non-decision making (e.g. Bachrach and Baratz, 1962, 1963, Bergqvist et al., 2015, Marchbank, 1994), corporatist politics (e.g. Saari, 2015, Ikävalko, 2010, Salmi and Lammi-Taskula, 2014) and equal pay policy (e.g. Saari, 2013, Fransson and Thörnqvist 2006, Rubery and Koukiadaki, 2015) by analysing the renewal process of the Finnish gender equality legislation. The intersection of these three literatures is a neglected but highly important area of research, with both academic and policy implications. This article makes a significant contribution to this area by analysing the competing interests of different stakeholders, tactics used in order to limit the scope of decision-making and the implications for the developed law. The results contain significant new information on the mechanisms through which corporatist politics can impact policy development.

Understanding the circumstances in which gender equality policies are adopted is a central challenge in literature on gender and politics. Non-decision making in gender equality policy can take a variety of forms which can vary in different national contexts. This particular case is from Finland but similar dynamics are likely to be found in policy making in other national contexts. Another example is the case of Swedish parental leave renewal. The Swedish Social Democrats failed to reform the parental leave system because of competing interests: proponents' gender concerns and opponents' class-based interests. Class-based interest and short-term electoral goals surpassed gender equality objectives (Bergqvist et al., 2015).

The renewal process of the Finnish gender equality law began in 2012 and the reformed law was enacted in 2015. This article tells the story of how the law for pay comparisons came into existence. The tripartite working group that was assigned to the task of drafting the law on pay surveys as part of the legislation met a total of 18 times but accomplished very little, or so it seems. However, if the objective of certain participants

was to make sure that the group accomplishes very little, then the process and the end result can be interpreted rather differently.

A special feature of Finnish society and policy-making is that the national central employer and employee organisations have a significant role in national policy-making. Shaping policy takes place in tripartite working groups between the state, the central employee organisations and the central employer organisations. In the case of equal pay policy, the policy process means that the same organisations that negotiate on wages and framework agreements for Finnish labour market also negotiate on equal pay policy and legislative initiatives. This implies that each of them have vested interests in the process. Each decision made within this framework and each policy so shaped is in effect a compromise that reflects the different interests of the parties involved (Salmi and Lammi-Taskula, 2014, Saari, 2015, Ikävalko, 2010).

It is not surprising that employer organisations are unenthusiastic about increasing regulation. However, the relationship between trade unions and legislation has also often been uneasy. This is mainly because the trade unions prefer to advance their objectives through collective bargaining rather than by legislation. In fact, they may oppose legal intervention since it might undermine collectively negotiated agreements (e.g. Nummijärvi, 2004, Conley, 2014).

This article has the following aims: to analyse the role of employer and employee organisations in shaping Finnish equal pay policy, to provide an analysis of the strategies used by the organisations in order to prevent changes in policy, and to analyse the implications of the policy process for equal pay objectives. The research questions addressed in this paper are:

RQ1: What kind of strategies did the different stakeholders use in order to either change the equal pay policy or prevent it from changing?

RQ2: What are the implications of the tripartite policy process for equal pay policy outcomes?

These questions will be addressed through the analysis of the minutes of the meetings of the tripartite working group shaping the new legislation. The minutes of the meetings of the tripartite working group are used in order to analyse the role of the employer and employee organisations in the process of the Finnish gender equality legislation reform.

In the analysis, the concept of non-decision making is used to elaborate on the strategies that the stakeholders use in order to resist change and defend the status quo.

The article comprises the following sections. First, the theoretical framework is presented. Second, equal pay policy is discussed. Third, evaluation-based pay systems and their link to policy is presented. Fourth, the Finnish context is described. Fifth, the vested interests of the stakeholders are presented. Sixth, the data and methods are set out, and, seventh, the research results are presented. Finally, the main findings and their implications for both theory and practice are discussed.

Non-decision making

Non-decision making is a theory concerned with systemic bias, issue suppression, and covert use of power, and as such is a very suitable approach for analysing feminist questions. Non-decision making is a useful concept for analysing situations where there are significant, but latent, power conflicts and actors intentionally limit the scope of decision-making to relatively non-controversial issues (Bachrach and Baratz 1962, 1963, see also Bergqvist et al., 2015). The concept of “mobilisation of bias” describes how the dominant values, political myths, rituals and institutions tend to favour the vested interests of certain stakeholders. Analysing non-decision making can be conducted by investigating the mobilisation of bias in a certain context: 1) What are the dominant values, myths, political procedures and rules of the game? 2) Which individuals or stakeholders benefit from the existing bias and which do not? 3) What are the dynamics of non-decision making, the manner through which the status quo is upheld? (Bachrach and Baratz 1962, 1963).

Marchbank (1994) applies the concept of non-decision making to describe how gender equality issues are marginalised with the objective of keeping them off the political agenda. The suppression of women’s shared interests is central to the maintenance of a patriarchal society. Thus, by analysing non-decision making we can better understand the dynamics and tactics used in order to marginalise women’s collective interests and maintain the patriarchal status quo. All decisions involve power, and the asymmetrical power relations between the different stakeholders affect both which issues get onto political agendas and the kind of decisions that are ultimately made. Marchbank (1994, 2000) describes policy making as a series of hurdles or barriers. Policies can “stumble”

at the hurdles at any point in the policy process, and all phases of the process can involve non-decision making.

On equal pay policy

The right to equal pay is based on several international agreements and conventions (e.g. 2006/54/EC, ILO Convention 100, 1951, Treaty of Rome, 1957, Universal Declaration of Human Rights, 1948, CEDAW, 1979). The equal pay principle is also included in the Finnish legislation and especially in the Act on Equality between Women and Men (1986/609, 232/2005, 1329/2014). It is indeed a human right and mandatory for those states that have ratified the conventions to implement.

With the objective of promoting equal pay through legislation, different countries have adopted different approaches. In some countries, such as Finland and Sweden, the approach is proactive which means that employers are obliged to promote equal pay actively. In others, the legal approach is based on anti-discrimination and individuals or groups making equal remuneration claims within such framework. Such is the case in, for example, in the United States, where the Equal Pay Act, enacted in 1963 is mainly meant to address within-job discrimination. Zeigler (2006) examined the limitations of the U.S. equal pay litigations, stating that the law is ineffective regarding the most common form of discrimination, the undervaluation of feminised work (for undervaluation see Grimshaw and Rubery, 2007, Austen et al., 2013, Koskinen-Sandberg, 2015). In certain Australian states, the emphasis of equal pay policy is on the concept of undervaluation, and there is no routine comparison between male-dominated and female-dominated jobs or wages of men and women within a given occupation. This approach allows female-dominated employee groups to make equal remuneration claims without establishing equal value to a group of male employees (e.g. Smith, 2011, Austen et al., 2013).

Policies are not shaped in a vacuum but rather, they reflect a variety of influences, opinions, competing demands, motivations, and vested interests (Marchbank, 2000). Policies create meaning for what is entailed by problems such as the gender pay gap. Choices on how the problem is presented affect the policy measures to be implemented in order to solve it (e.g. Saari, 2013). The widely-used policy measures to promote equal pay can be divided into four categories. The different issues and approaches represent the four perspectives on equal pay (framework by Rubery and Grimshaw, 2015): the

economic, the sociological, the institutional, and the organisational perspective. Each of the four perspectives offers a different lens through which the question of the gender pay gap is viewed. They also imply different remedies for wage inequality. The pay survey and equal pay comparisons are part of the organisational policy measures for promoting equal pay, whereas the tripartite policy process can be seen as belonging to the institutional perspective. The economic perspective focuses on issues such as gender segregation of the labour market and education, whereas the sociological perspective focuses on gendered divisions in care responsibilities and implications to labour market situations of men and women.

Pay system and equal pay comparisons

Evaluation-based pay systems are often thought of as promoting equal pay and these systems are part of international and national equal pay policy (e.g. ILO Convention 100, 1951, Ministry of Social Affairs and Health, 2007). This is linked to the comparable worth movement and the idea that the undervaluation of women's work would be revealed when assessing job demands with a job evaluations system (e.g. Acker, 1989, England, 1992). In Finnish organisations, the existing pay systems are also typically used as tools for making equal pay comparisons required by legislation. In previous work (Koskinen-Sandberg, 2015), I analysed gendered practices in the pay systems of 18 Finnish organisations from different sectors. From this study, I came to the conclusion that although most of the Finnish organisations in my sample had some sort of evaluation-based pay system in use, most of the organisations had not engaged in a careful process of either job evaluation or performance appraisal; therefore, the pay ratios were often not strictly based on differences in job demands or performance on the job.

There were gaps between the formal and realised pay systems, and pay was based on, for example, market rates, pre-existing hierarchies of the organisations and gendered valuations of occupations (Koskinen-Sandberg, 2015, see also Gilbert 2012, Arnault et al., 2001). I conceptualised these findings as intertwining gender inequalities: several kinds of structures, processes and practices that are intertwining and mutually reinforcing in producing and reproducing gender inequality in wage determination. The pay systems also provide gender-neutral unwarranted legitimacy for these intertwining inequalities by making these look legitimate, an issue that is central for understanding the implications of using pre-existing job grades as tools for equal pay comparisons (Koskinen-Sandberg, 2015).

If job evaluations and performance appraisals are not conducted carefully, then the logical conclusion is that the pay grades produced by these systems are not valid tools to be used in pay surveys in comparing wages. However, as we will see, in the Finnish equal pay legislation, pay comparisons are to be conducted only within pre-determined pay grades. For this to be an appropriate basis for implementing equal pay, a prerequisite is that the job evaluation has been carefully conducted and the placement in the job grade hierarchy correctly reflects actual differences in job demands and performance. If not, this within-grade comparison does little more than legitimise existing pay differences.

The Finnish context

Many Finns believe that gender equality is already a reality in Finland (e.g. Julkunen 2009). Indeed, in international comparisons Finland tends to do rather well (e.g. World Economic Forum 2015). However, when Finnish society is examined more carefully, the picture is more complex, and a variety of unresolved issues, such as the gender pay gap, remain. Gender segregation in the Finnish labour market is unusually strong; men often work in the private sector in industries such as manufacturing and construction, while women often work in the public sector in industries such as health care, social services and education (Official Statistics of Finland, 2015). Gender segregation is also routinely offered as an explanation for the aggregate gender pay gap (e.g. Vartiainen, 2001, Luukkonen et al., 2004).

Centralised and regulated industrial relations systems have been associated with smaller gender pay gaps (e.g. Colling and Dickens, 1998, Mandel and Semyonov, 2005). In Finland, the coverage of sector-wide collective agreements is extensive and the agreements are usually binding: that is, non-organised employers also have to implement national collective agreements. The vast majority of Finnish employees are covered by collective agreements. Despite the wide coverage of collective agreements, the gender pay gap is rather wide in Finland (17%) and has showed no signs of narrowing (Official Statistics of Finland, 2014).

While sector-wide collective agreements can be seen as supporting equal pay, there are also features that undermine possible positive outcomes. In Finnish workplaces, different employee groups are often covered by different collective agreements, a potential threat to equal pay. A clear example of this is the Finnish local government

sector, where the labour force is highly gender segregated, and employees are covered by five major collective agreements (CA's) (General CA, Technical CA, Education CA, Physicians' CA, Hourly Workers' CA), each with different methods for wage determination and different wage levels. The local authority is, however, a single employer and by law obliged to treat all employees equally, regardless of collective agreements. In previous work I have analysed the implications of the local government sector collective agreements for the within-organisation gender pay gap and found that the collective agreements indeed contribute to, in other words widen, the within-organisation gender pay gap. Especially the largest, female-dominated General Collective Agreement had a clear negative impact on wages paid when controlling for traditional human capital variables, such as level of education and work experience (Koskinen-Sandberg and Kohvakka, 2015).

Vested interests of the stakeholders

As mentioned earlier in this article, the same organisations that negotiate on wages and framework agreements for Finnish labour market also negotiate on equal pay policy and legislative initiatives, such as the case presented here. The renewal of the gender equality legislation and new wordings on how to conduct pay comparison, is very directly linked to wages, wage determination practices and wage relativities between different industries and occupations, negotiated by these central stakeholders (Table 1, p. 11). Thus, the legislative renewal presented a clear threat to these stakeholders since it has potential to change wage relativities and uncover injustice in wage determination. Thus, the tactics of non-decision making (e.g. Marchbank, 1994, 2000) were needed in order to protect their vested interests.

In equal pay policy and gender equality policy more generally, the Finnish gender equality machinery is a central stakeholder. Finnish governments outline their strategy and objectives in government programmes. Equal pay and other gender equality questions are typically included in the government programmes, although the current government programme does not include gender equality measures (Government programme 2015). The details of the gender equality measures are then presented in more detail with concrete action plans in gender equality programmes prepared by the Gender Equality Unit (TASY) located in the Ministry of Social Affairs and Health. The Finnish gender equality machinery, namely the government officials from the Gender Equality Unit, were involved in policy process that is under analysis in this paper. Their

role was to set the agenda, coordinate the work and to ensure the best possible outcome in the renewal of the law in cooperation with the other stakeholders. The same government officials collaborate with the same representatives of the central labour market organisation in several contexts, such as within the tripartite Equal Pay Programme (Ministry of Social Affairs and Health, 2007, 2016).

Data and methods

The analysis focuses on the minutes of the meetings of the tripartite working group that shaped the renewed legislation in relation to pay comparisons. The data consist of documentation of a total of 18 meetings of the tripartite working group: the minutes of the meetings and appendices. The minutes of the meetings are a valuable source of information about tripartite decision-making and the dynamics of non-decision making. All the decisions made and the rationale and arguments behind the decisions were documented. All participants have also approved the minutes of the meetings. A limitation of the data is that not everything is documented in the minutes.

The research method used is qualitative content analysis (e.g. Schreier, 2014). In the analysis, focusing on the argumentation used by the participants of the working group, I systematically categorised all the documents: I analysed the key issues, events and argumentation. I analysed the argumentations used by the participants, the decisions made, and the changes in the actual law text during the process.

The analysis specifies the barriers recognised in policy process (e.g. Marchbank, 1994, 2000). The different phases of the policy process are: 1) objective interest, 2) public agenda, 3) political agenda, 4) decision, and, 5) implementation. The analysis in this article focuses specifically on non-decision making on the political agenda and the decision that is made.

Non-decision making in the tripartite policy process

First barrier: Setting the political agenda

According to the Finnish gender equality legislation, all organisations that employ 30 or more people are obliged to conduct gender equality planning and pay surveys; thus, it is a central policy mechanism. The initiative to investigate the current state of the Finnish gender equality legislation and pay surveys and make recommendations for their development was written into the Framework Agreement 2011-2013 of the central labour

market organisations. Pay surveys are an integral part of the legislation, but before the renewal the law did not specify how the pay survey should be conducted. To jump start the renewal process of the gender equality legislation, a tripartite working group was formed in the spring of 2012. As the basis for this task, the central employer and employee organisations decided to conduct a survey in order to collect information from their own members. The Ministry of Social Affairs and Health was involved in the process, co-ordinating the working group.

The work of the working group was challenging and full of conflicts. The survey was conducted separately for members of each of the central labour market organisations, and the organisations did not hand on the data to other participants. There were also differing opinions on which questions could be included in the survey and which could not. The question of equal pay for work of equal value could not be included due to the employer organisations' resistance. This was the first attempt to prevent this issue from becoming a part of the agenda.

The main results of the survey were that not all organisations conduct gender equality planning. Further, not all gender equality plans included any kind of pay survey, and even if they did, these were often insufficient. Based on the findings, it was decided that that pay surveys need further reforming (Ministry of Social Affairs and Health 2012). The working group then continued its work in drafting the law for equal pay comparisons as part of the renewed legislation. The working group's members and codes used for them are presented in Table 1.

Table 1. Participants of the working group

Organisation	Description of organisation or group member	Code	Group member
Chair of the working group	Neutral, compromise-seeking role. Was also the chair of the executive committee of the Equal Pay Programme.	Chair	Man
Ministry of Social Affairs and Health	Gender equality machinery/Government	Ministry	2 Women
Central Organisation of Finnish Trade Unions (SAK)	Trade union confederation representing e.g. industry, public sector, service sector employees	Union SAK	Man
The Finnish Business School Graduates (SEFE)	Trade union representing business school graduates	Union SEFE	Man
Finnish Confederation of Salaried Employees (STTK)	Trade union confederation representing e.g. industry, service sector, public sector, health care employees	Union STTK	Woman
Confederation of Finnish Industries (EK)	Employer organisation confederation representing business organisations	Employers EK	Woman
Local Government Employers (KT)	Employer organisation representing local government sector	Employers KT	Man
Commission for Church Employers (KIT)	Employer organisation representing Finnish Evangelical Lutheran Church	Employers KIT	Man
Office for the Government as Employer (VTML)	Employer organisation representing government sector organisations	Employers VTML	Woman
The Ombudsman for Equality's Office (TAS)	The Ombudsman's office supervises compliance with the Act on Equality between Women and Men.	Expert TAS	Woman
Expert, University of Turku	Professor, Academic expertise on gender equality legislation	Expert UNI	Woman

Second barrier: Tripartite negotiations on the content of the law

Next, the main points of conflict, strategies and argumentation tactics used and decisions made are analysed. According to the analysis of the data, four main topics of negotiation and conflict are identifiable: 1) shop stewards' access to wage data, 2) comparing wages

between collective agreements, 3) equal value comparisons, and 4) comparing by pay component. These central issues remained on the agenda throughout the process, and the methods of non-decision making were targeted towards these issues until the compromise was eventually reached and issue suppression successfully achieved.

The starting point for drafting the law text was the first draft produced by the Ministry (Table 2). The draft includes equal value comparisons and comparing between different collective agreements, issues that were very important for the Ministry. The text also included comparisons by pay component and shop stewards' access to detailed wage data. This text essentially represents the Ministry's agenda for the reform of the legislation.

Table 2. First draft of the new guidelines for pay survey

The aim of the pay survey is to find out whether there are unjustified pay differences between men and women who do equal work or work of equal value for the same employer.

The pay survey must include the wages of women and men classified according to pay grades or employee groups. Different components of pay should be elaborated. In the pay survey, wages are compared between women and men within the same pay grade, employee groups or groups who do work of equal value (also between different collective agreements). The pay survey should include analysis of the pay differences found.

The pay survey is to be conducted in collaboration with shop stewards. Representatives of personnel who take part in the analysis of pay differences are entitled to have access to detailed and comprehensive wage data. The personnel representative who takes part in analysing the pay differences should not give others information about the above-mentioned pay wages and pay differences.

Shop stewards' access to wage data

One of the main topics addressed in the negotiations in the working group was shop stewards' access to wage data. Difficulties with shop stewards' access to detailed and comprehensive wage data has been identified as one of the problem areas in gender equality planning and pay surveys. Thus, access to wage data was a top priority for the Ministry. This objective received support from the employee organisations, who also thought that access to wage data should be guaranteed and that currently the data received often lacks detail. The employers strongly opposed giving shop stewards access to wage data.

“Employers EK think that there is no need to change the law. The starting point for Employers EK is that wages are a contract between two actors that are no one else’s business”.

“Union STTK brought up the need to discuss what information should be accessible by the shop stewards so that the goal for the pay survey would be met”

“Union Seife thought that the current practice of delivering wage data to the shop stewards is not useful, the statistics are on a too general level”.

The decision made is that the new law says that the gender equality plan is to be conducted in co-operation with representation of employees and that these representatives should have sufficient opportunity to participate and influence the process of gender equality planning. Access to wage data is not mentioned as such. Thus, it seems that the employers were able to influence the decision-making on the question of shop stewards’ access to wage data and to limit the scope of the decision made to only the right to participate in the process. Non-decision making was achieved through purposively vague wording of the law text, such as the “sufficient” opportunity to “participate” in the process.

Comparing wages between collective agreements

Wage comparisons between collective agreements were a priority for the Ministry. These comparisons are highly central in Finnish organisations, in which using several collective agreements is indeed very common. This question met very strong opposition from the employers’ side. There was some support from the employees, although not particularly strong support. The issue of comparing wages between the collective agreements collides with their vested interests as well.

“Employers EK expressed their view that the way in which wages are currently compared is good and that the idea of comparing wages between collective agreements shows lack of understanding of the collective agreement system”.

“Union SAK stated that a collective agreement is no justification for unequal treatment”

“Expert UNI emphasised that the new legislation must be better than the current one. The employers’ responsibility for not justifying discriminatory wages with collective agreement is central”

In the renewed law, there is no mention of comparisons *between* collective agreements. Instead, the law states that comparison should be made *within* job titles and pay grades. Implicitly, this means not comparing between the collective agreements but, instead, only within the pre-existing classifications within the collective agreement. With this question, too, the highly controversial issue of comparing wages between collective agreements was successfully kept off the agenda. Related to the role of the central labour market organizations in maintaining the wage relativities between different jobs and industries, suppressing the issue of comparisons between collective agreements was a top priority.

Equal value comparisons

Another key issue on the agenda was equal value comparison: that is, seeking to assess whether women and men conducting equally demanding work receive equal remuneration. Though an important topic, this was one of the most challenging topics since it is not at all easy to define what constitutes work of equal value. The Ministry’s proposal (Table 3) was also vague regarding this issue, and it did not define clearly what they meant with by equal value. Even with the vagueness, the employers strongly opposed equal value comparisons. Again, there was some support from the employee’s side for equal value comparisons.

Union SAK: *“The comparison should be made between jobs of equal value and also between different employee groups”*

Ministry: *“It should be possible to conducted comparisons between jobs of equal value, and shop stewards should receive detailed wage data by pay components, so that they can conduct the comparisons”.*

The law text on work of equal value is interesting since equal value is indeed mentioned but there is no clear advice on how to conduct the comparisons. The comparisons made according to the law are not equal value comparisons since they use pre-existing classifications as bases for comparisons. The mentioning of equal value in the law has very limited practical implication. Again, non-decision making was achieved through

vague wording in the reformed law. In addition, none of the stake holders seemed to have a strong view of what work of equal value would mean in practise, at least not in the kind of detail that could become part of the new law.

Comparing by pay component

Comparing by pay component was also one of the key issues on the Ministry's agenda for the working group. Comparing by pay component provides more detailed information about how the different components contribute to wages and wage differences between men and women. The employers again opposed more precise wage comparisons. The employees supported the idea of comparing wages by pay component.

“Union SAK and STTK took as a starting point that all components of pay should be included in the comparisons”

“The representative of Employers EK thought that the interpretations of the Ministry were going too far and that international conventions or EU legislation do not support the views on pay components”

In the new law, the advice is to first compare total wages within pay grades, job titles or other chosen groups. If pay differences are identified, and if the organisation uses a pay system that consists of different pay components, then central pay components should be analysed in order to locate the reasons behind the pay differences. Comparisons by pay components are included in the new law, but they are only to be conducted if there are differences found in total wages within the pre-existing classifications. My interpretation is that of these four main themes, this was the least threatening. Thus, most of the tactics on non-decision making were targeted towards preventing the other three central themes from becoming part of the new law. Within pre-existing job grades, vast differences in pay components are not likely to occur. By definition, differences should not exist at all in base pay for a certain job grade, since the base pay is based on the job grade. There might be more variation in performance-related pay.

Methods of non-decision making

Marchbank (1994) lists several methods of non-decision making: issue suppression and threats, intimidation of the challenger, co-optation of the challenger, branding with negative symbols to delegitimise and delaying tactics. In the working group, these

methods of non-decision making were used in order to limit the scope of decision-making.

Delegitimising. This concept refers to claims made by the employers which included, for example, the following: claims that the proposal was not based on joint discussions, that some issues presented were not within the mandate of the working group, that the presented views were not supported by international conventions and even questioning the whole purpose of the pay survey. The Ministry then responded to these claims by seeking legitimacy (e.g. Nousiainen et al., 2013) by bringing up obligations set by the current legislation or international conventions and legislation.

“Why is there a need for a pay survey and what is its role in relation to the overall obligation of employers to promote gender equality?”

“The representative of the Ministry brought up the fact that this is not just about labour market politics. The obligations set by the current legislation as well as EU Directives need to be considered”

Issue suppression as a concept refers to action taken in order to take central issues, such as the shop stewards’ access to wage data and the equal value comparison and wage comparisons between collective agreements and by pay component, off the agenda.

“Employer EK did not wish to define the groups between which wage comparisons should be conducted”

Branding with negative symbols refers to claims made about other participants: they were accused of being too negative and too demanding, in other words labelled them as difficult.

Employer EK: “In tripartism, there shouldn’t be continuous demands made of one of the parties. The perspective of the companies should also be considered....”

Intimidation refers to situations where there were direct or less direct threats about discontinuing the working group’s work if a participants’ demands are not met, such as the example below.

“... (Employers EK) brought up the Framework Agreement and stated that if there were conflicts, the issue would be withdrawn from the government’s agenda and the reasons behind the failure would be told”

Bargaining. There was bargaining on the content of the law, which is a very typical feature of the tripartite policy process. In order to meet some of their objectives, for example, the Ministry was willing to compromise and let Finnish organisations conduct gender equality planning less often in the future, which is a clear weakening of the legislation.

“Employers KT asked whether it would be possible to consider conducting the pay survey less often than annually. The Chair said that this option might also be considered”.

Third barrier: The final non-decision

When looking at the final version of the law (Table 3), it is clear that many central features of the initial proposal did not survive the tripartite policy process. The issues of shop stewards’ access to wage data, comparing between collective agreements and equal value comparisons are not included in the law. The scope of decisions made was limited to less controversial issues. What is problematic in the legislation is that it takes pre-existing pay grades determined with a job evaluation system as the basis for comparisons. For this to be a valid method for pay comparisons, job demands need to be carefully evaluated and the pay systems need to be non-biased. A large body of research indicates that such an assumption might be unfounded (e.g. Steinberg 1992, Acker 1989, Koskinen-Sandberg, 2015). The legislation takes as its starting point that the pay differences between the pay grades are justifiable as such. The law does not require any re-evaluation of job demands but accepts the existing classifications as the basis for pay comparisons. Further, the law does not advise that wages should be compared between different collective agreements. Such comparison would be highly relevant in Finnish organisations; in which it is very common to have several different collective agreements in use for different employee groups.

Table 3. Comparing wages according to the new gender equality legislation

Pay Survey
The aim of the pay survey is to find out whether there are unfounded pay differences between men and women who do <u>equal work or work of equal value</u> for the same employer.
If clear differences in pay between men and women are found when comparing wages <u>within pay grades or job titles or other chosen groups</u> , the reasons for the differences must be identified.
If the work place uses a pay system that consists of several pay components, <u>the relevant components must be assessed</u> in order to identify the reasons for the differences found in pay.
If there are no justifiable reasons for the pay differences found, the employer must take measures in order to rectify the situation.

Conclusions

The concept of non-decision making is useful in understanding the dynamics behind a policy initiative that failed, or at least was severely damaged by, power struggles between the stakeholders and deliberate acts to keep certain issues off the agenda. This article sought to make a contribution to the literatures on non-decision making (e.g. Bachrach and Baratz, 1962, 1963, Bergqvist et al., 2015, Marchbank, 1994), corporatist politics (e.g. Saari, 2015, Ikävalko, 2010, Salmi and Lammi-Taskula, 2014) and equal pay policy (e.g. Saari, 2013, Fransson and Thörnqvist 2006, Rubery and Koukiadaki, 2015). This was achieved by analysing the competing interests of different stakeholders, tactics used in order to limit the scope of decision making and the implications for the developed law.

The new Finnish law for pay surveys is, as the working group described it, a compromise. It reflects the vested interests of the stakeholders, the power relations between them and the non-decision making that resulted in preventing most of the changes suggested from taking place, limiting the decision-making to non-controversial issues by using a variety of methods. This case is a clear example of how gender equality issues are marginalised

and delegitimised in order to keep them off the political agenda by using non-decision making.

The Ministry's objective was to include equal value comparisons, also between different collective agreements, in the law and strengthen the rights of shop stewards in the process. Their fear was that the new law might be weaker than the previous one. The employers were strongly against more detailed wage comparisons of any kind. Contrary to what one would expect, the employees did not seem to have strong objectives for the working group. They basically wanted the group to be able to reach consensus, and that there would be more clear guidelines for conducting pay comparisons. They also seemed to value their long established relationship with employer organizations and did not wish to risk that by teaming up with the government representatives. Doing so might backfire in other important negotiations and future collaborations.

Practical tools for equal value comparisons would have been a victory for the Ministry. This was also in the interests of the employees' representatives to a certain extent, although they also have competing interests since they represent different employee groups. The issue of equal value is not in the interests of the employers, and would indeed mean large scale challenges to some employers, such as the local government sector. Therefore, they used their power in order to defend the existing practices and avoid dramatic changes to the legislation. And they succeeded.

Policy Implications

While the actual effects of the renewed legislations will be known only after some years, it seems unlikely that the legislation would be successful in promoting equal pay. The resulting legislation only implies small changes to the previous situation. The prior legislation did not give detailed advice on comparing wages of men and women. The new legislation gives more detailed advice but at the same time, advises to only compare within job titles and pay grades, where no large differences are to be found. Comparing only within existing pay grades and job titles leaves the majority of gender-based pay differences, which appear between different job titles and pay grades, invisible and unaffected.

The current power relations in Finnish society make it possible for the national central employer and employee organisations to prevent any major changes in equal pay policy. In order to take stronger measures in promoting equal pay and developing policy in

general, we need to make informed decisions on which stakeholders are involved in policy-making and what the implications are of that decision.

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References

- Acker, J. (1989), *Doing Comparable Worth: Gender, Class, and Equal pay*. Philadelphia, PA: Temple University Press.
- Act on Equality between Women and Men, 1986/609, 232/2005, 1329/2014.
- Arnault, E. J., Gordon, L., Jones, D. H. and Phillips, G. M. (2001), An experimental study of job evaluation and comparable worth. *Industrial & Labour Relations Review* Vol. 54, No. 4, pp.806–815.
- Austen, S. E., Jefferson, T. M. and Preston A. C. (2013) Contrasting Economic Analyses of Equal Remuneration: The Social and Community Services (SACS) Case. *Journal of Industrial Relations* 55 (1): 60-79.
- Bachrach, P. and Baratz, M.S. (1962), Two Faces of Power. *The American Political Science Review*, Vol. 56, No. 4, pp. 947-952.
- Bachrach, P. and Baratz, M.S. (1963), Decisions and Nondecisions: An Analytical Framework. *The American Political Science Review*, Vol. 57, No. 3, PP. 632-642.
- Bergqvist, C., Bjarnegård, E. And Zetterberg, P. (2015), When Class Trumps Sex: The Social Democratic Intra-Party Struggle Over Extending Parental Leave Quotas in Sweden. *Social Politics*, doi: 10.1093/sp/jxv017
- Colling, T. and Dickens, L. (1998), Selling the Case for Gender Equality: Deregulation and Equality Bargaining. *British Journal of Industrial Relations*, Vol. 36, No. 3, pp.389-411.
- Conley, H. (2014), Trade unions, equal pay and the law in the UK. *Economic and Industrial Democracy*, Vol. 35, No. 2, pp. 309–323.
- England, P. (1992) *Comparable Worth. Theories and Evidence*. Walter de Gruyter, Inc., New York.
- European Union, Treaty Establishing the European Community (Consolidated Version), Rome Treaty, 25 March 1957, available at: <http://www.refworld.org/docid/3ae6b39c0.html> [accessed 4 January 2016]
- European Commission: 2006/54/EC, Directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.
- Equal Remuneration Convention, ILO C100 (1951).
- Equal Pay Act of 1963 (Pub. L. No. 88-38). Access: <https://www.eeoc.gov/laws/statutes/epa.cfm>
- Framework agreement by the central labour market organisations of Finland to ensure competitiveness and employment 2011-2013. Access: <http://www.sak.fi/materials/publications/other-material/framework-agreement-2011-2013>.

Fransson, S. and Thörnqvist, C. (2006), Some Notes on Workplace Equality Renewal in the Swedish Labour Market. *Gender, Work and Organization*, Vol. 13, No. 6, pp. 606-620.

Gilbert, K. (2012), Promises and practices: job evaluation and equal pay forty years on! *Industrial Relations Journal*, Vol. 43, No. 2, pp. 137-151.

Grimshaw D. and Rubery J. (2007): Undervaluing women's work. Working Paper Series No. 53 European Work and Employment Research Centre University of Manchester.

Ikävalko, E. (2010), Taistelu tiedosta. Tasa-arvolain uudistus vuosituhannen vaihteessa. *Naistutkimus/Kvinnoforskning*, Year 2010, No. 4

Julkunen, R. (2009) Työelämän tasa-arvopoliittikka. Ministry of Social Affairs and Health, 2009:53.

Koskinen-Sandberg, P. (2015) Intertwining gender inequalities and gender-neutral legitimacy in job evaluation and performance-related pay. Manuscript submitted for publication.

Koskinen-Sandberg, P. and Kohvakka, R. (2015) The institutionalised undervaluation of women's work. The case of local government sector collective agreements. Manuscript submitted for publication.

Local Government Employers website, Access: www.kuntatyonantajat.fi

Lukes, S. (1974) *Power: A Radical View*. Macmillan, London, UK.

Luukkonen A., Korkeamäki O., Kyyrä T. (2004), VATT Discussion Papers 327: Miesten ja naisten palkkaerot yksityisellä sektorilla. Helsinki, Government Institute for Economic Research.

Mandel, H. and Semyonov, M. (2005) Family Policies, Wage Structures and Gender Gaps: Sources of Earnings Inequality in 20 Countries. *American Sociological Review*, Vol. 70, No. 6), pp. 949-967.

Marchbank, J. (1994), Nondecision-Making... A Management Guide to Keeping Women's Interest Issues Off the Political Agenda. In Griffin, G., Hester, M., Rai, S. and Roseneil, S. (Eds. (2014): *Stirring it. Challenges for Feminism*. Taylor and Francis Ltd, London, UK.

Marchbank, J. (2000) Skirting the issue. Power, nondecision-making and gender. In Marchbank, J. (ed.) *Women, Power and Policy. Comparative Studies of Childcare*. Routledge, London and New York.

Ministry of Social Affairs and Health (2007), *The Equal Pay Programme*. 2007:11. Helsinki, Yliopistopaino

Ministry of Social Affairs and Health (2016) *The Equal Pay Programme 2016-2019*.

Ministry of Social Affairs and Health (2012), *Palkkakartoitustyöryhmän loppuraportti*. 2012: 19.

- Ministry of Social Affairs and Health (2013), Työpaikan tasa-arvosuunnitelmaa koskevien tasa-arvolain säännösten tarkistaminen. 2013: 21.
- Nousiainen, K., Holli, A.M., Kantola, J., Saari, M. and Hart, L. (2013) Theorizing gender equality: perspectives on power and legitimacy. *Social Politics*, Vol. 20, No. 1., pp. 41-64.
- Nummijärvi, A. (2004) Palkkasyrjintä. Oikeudellinen tutkimus samapalkkaisuuslainsäädännön sisällöstä ja toimivuudesta. Helsinki, Edita Publishing Oy.
- Official Statistics of Finland (OSF): Index of wage and salary earnings [e-publication]. SSN=1798-7814. Helsinki: Statistics Finland. Visited 25.6.2015. Access: http://www.stat.fi/til/ati/index_en.html
- Official Statistics of Finland (OSF): Labour force survey [e-publication]. ISSN=1798-7857. Helsinki: Statistics Finland [referred: 14.1.2016]. Access: http://www.stat.fi/til/tyti/index_en.html
- Prime Minister Juha Sipilä's government programme 29.5.2015. Prime Minister's Office Finland.
- Rubery, J. and Grimshaw, D (2015) The 40-year pursuit of equal pay: a case of constantly moving goalposts. *Cambridge Journal of Economics* (2014): beu053.
- Rubery, J. and Koukiadaki, A. (2015) Closing the gender pay gap: a review of the issues, policy mechanisms and international evidence. ILO report, in press.
- Saari, M. (2015) Symboliseksi sovittu- Tasa-arvosuunnittelun ja palkkakartoituksen legitimizeetti. *Oikeus*, Vol. 44, No.1, pp. 44-68.
- Saari, M. (2013), Promoting Gender Equality without a Gender Perspective: Problem Representations of Equal Pay in Finland. *Gender, Work and Organization*. Vol. 20, kNo. 1, pp. 36-55.
- Salmi, M. and Lammi-Taskula, J. (2014), Policy goals and obstacles for father's parental leave in Finland. In Eydal, G.B. and Rostgaard, T. (eds.) *Fatherhood in the Nordic Welfare States*. Policy Press at the University of Bristol.
- Schreier, M. (2014) Qualitative content analysis. *The SAGE Handbook of Qualitative Data Analysis*, pp. 170-183.
- Smith, M. (2011) Limits and Possibilities: Rights-based Discourses in Australian Gender Pay Equity Reform 1969-2007. *Gender, Work & Organisation*. Vol. 18, Issue Supplement s1, pp. e180-e201.
- Steinberg, R.J. (1992), Gendered Instructions. *Cultural Lag and Gender Bias in the Hay System of Job Evaluation*. *Work and Occupations*, vol. 19 no. 4, pp. 387-423
- UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, available at: <http://www.refworld.org/docid/3ae6b3970.html> [accessed 4 January 2016]

UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), available at: <http://www.refworld.org/docid/3ae6b3712c.html> [accessed 23 February 2016]

Vartiainen, J. (2001) Sukupuolten palkkaeron tilastointi ja analyysi. The Ombudsman for Gender Equality. Ministry of Social Affairs and Health 2001:7. Edita. Helsinki.

World Economic Forum (2015) Global Gender Gap Report 2015. Geneva: World Economic Forum. Available at <http://www3.weforum.org/docs/GGGR2015/cover.pdf>

Zeigler, S.L. (2006) Litigating Equality: The Limits of the Equal Pay Act. Review of Public Personnel Administration 2006 26: 199.