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How the non-gendered work-life balance improving laws have gendered results: Belgian time credit and career break allowing laws and their impact on women's lifestyle during the last quarter of the 20th century

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Abstract

This study is to show that although a law may be completely gender neutral in writing and implementation, it may have a very gendered result due to the existing social background. The changing purpose of the law as well as the actual usage of the law is being discussed, together with the reasons for the law to be used in this way. Whether women make use of the law out of free will or out of necessity is an important question in itself as women take a step back in the evolution to a non-gendered society by interrupting their career to do housework. The findings show that more changes are needed to the social structure and customs before a completely neutral law like the Belgian career break law can work as originally planned.

Introduction

This research examines the evolution of laws that influenced women's work-life balance situation in Belgium. To do so, the Belgian "Recovery Act on Social Provisions" in 1985 and the "Act Concerning the Reconciliation of Employment and Quality of Life"¹⁾ from 2001 are analyzed, with their multiple modifications in the years in-between and after. The evolution of the goals of these laws through the last quarter of the 20th century, the use of the laws, differentiated by gender, age, and the environment, the effects of this particular use on women's work and private life situation are discussed in this paper. The work-life balance that is referred to, can be described as circumstances when people are able to take their rightful place in both the realms of work and home, and when people are able to realize themselves both in their work and in their family life/life outside. Work and life are in balance when people can have quality time both at home and at work, without experiencing things such as role conflicts caused by spillover from work to home or home to work (Guest 2002). Women in childbearing years or with small children experience more difficulties to

balance their work and family time and that is the group that would be mostly affected by the career break and time credit laws.

Vanderweyden discusses the history of the career break and time credit laws. How they came to be, what different political groups meant to do with it, and how the law was changed to adapt to changing economic and social conditions. While, as the paper states, the government wanted the law to allow men and women to better combine work and family and change the existing roles (Vanderweyden 2002), it can be seen that the law actually strengthens the traditional roles as mostly women use their career break to do house chores and look after children. The paper does mention the reservations of the Christian People's Party concerning this aspect of the law, but doesn't pick up the subject itself. I argue that even though the government knew the law would be used in a way that strengthens inequality in the workplace, it could not avoid such use of the law while staying gender neutral and without taking into account the existing social customs.

Nagels, like Vanderweyden discusses the history of the career break laws. However besides the political and historical side, Nagels also looks at the distribution of paid and unpaid work among the genders. Unlike Vanderweyden the problem of the traditional gender roles being continued due to women using their career break for house chores and taking care of children is noted and analyzed (Nagels 2002). However more than just keeping the existing roles, I argue in my research that as more women are going to use career breaks for household work, this will possibly become a negative attribute assigned to women from the viewpoint of hiring managers.

As for whether a career break actually helps in obtaining a better work life balance, I refer to the research of Vandeweyer. Besides providing a wealth of information and statistics, Vandeweyer observes that even when people are given more free time, the employer can still put more pressure on their employees to get the same results in less time thus not reducing the stress on the employee. Additionally people try to do too much in their extra free time and have such a fragmented schedule that they feel like they weren't able to do anything. Women don't seem to be more energized or more positive towards their job after the break (Vandeweyer 2010).

Van Bavel has drawn attention to the fact that it is not engaging in paid work, but only engaging in certain kinds of paid work that conflicts with having a family with children, causes role conflict and constraints the possible choices women can make. He observes that legislation can also alter the degree of work participation of women, as in the case of Germany. Van Bavel, to find the relationship between women's work participation rate and fertility rate, focuses not only on Belgium but also looks at how Northern European countries have more women participating in the labor market and Southern countries have less. He concludes that policies can be an effective way to balance work and childcare responsibilities and that government intervention is most likely to lower the opportunity costs of having children (Van Bavel 2002). Legislation appears to be a way to make work and life more balanced, but Van Bavel doesn't specify the possible solutions. However, Van

Bavel does make it clear that it is the legislation that can lessen the possible role conflict, and that different kinds of legislations are connected to the big picture of as how society perceives and supports working women and women with children.

In this work I hypothesize that gender neutral laws don't work as expected when their implementations don't take into account the tendencies already present in society. Even though laws might be implemented as gender neutral, that doesn't mean they are automatically used in a gender neutral way. Outside factors, such as existing prejudices related to gender will influence the use of such laws. To prove this statement, this research will focus on legal changes that affected working women and how these legal changes did influence or did not influence the social perspective on working women, and the other way around, how the changing social perspective, or other factors, such as economic necessity, influenced the legislation. This research aims to show that, while aiming for a gender equal society when making new legislations, laws need to take into account the existing social bias, and thus other measures, next to the proposed legislation, need to be taken to ensure the gender equal use of gender neutral laws.

However, men and women's preferences as how to make use of legislation might differ. Women and men, at different points of their life, might opt for different solutions regarding their career and private life. A gender equal society and gender equal use of the law doesn't necessarily mean that both genders have to make exactly the same choices at different stages of their lives, but that they are free to make the choices as they wish. According to Hakim, men and women's preferences are different and it is due to these differences that the majority of men and women end up in different career paths. Hakim states that the difference in work position between men and women is not due to obstacles that women cannot overcome, but due to their own choice. Men have better jobs because much more men than women are career oriented. According to Hakim, about 60% of women put importance on both family and work and enjoy both sides of life. Women in this group, called the adaptive kind of women, want to work, but are not totally committed to their career. The work-centered women are only about 20%, a group as big as the home-centered one. However, Hakim argues that European countries for which the preference theory can apply to, are the Netherlands and Great Britain only, where women are given free choice whether to commit themselves to work life or family life (Hakim 2006). Criticism against Hakim's theory is that it is difficult to completely negate economical and structural constraints, like availability and cost of child care, job availability, and social class that is connected to one's education level and financial level (Duncan 2006). Even though Hakim's theory seems to be applicable to few countries, her theory has some points that can be applied even to countries that do not fit into that description. Her classification of women's work-lifestyle preferences could be a measure to analyze any social and economic situation. Women's preferences are what determine what kind of path they will

choose in their life, whether it would be career, housekeeping or a part-time job, or any of these at different stages of life.

Whether people are free to make choices as they wish is something very difficult to decide. Giddens argues that we not only have the possibility to make choices but that we are also made to do so, “we have no choice but to choose”. According to Giddens, something called “free choice” might not exist after all (Giddens 1991). That is, if society provides enough opportunities to make choices. Already in 1979 Dahrendorf stated that choice is dependent on whether society is able to provide enough life chance opportunities (McNamee 1982). I would argue that it is difficult to completely negate economical and structural constraints, like public pressure that propels a person to make a certain kind of choice or not. Giddens claims that the choices people make contribute to their lifestyles. Work also is a part of a lifestyle. Even though the work environment conditions the way the individual behaves, it is still a part of one’s lifestyle. Work milieu is part of the choices a person makes and it forms a basis of one’s lifestyle (Giddens 1991). Given a society that provides enough chances, a person chooses what she or he would like to professionally become, and as a result of this choice a person exercises a certain lifestyle. What kind of lifestyle had women in Belgium in the last quarter of the 20th century? What were their preferences concerning family life and work? Was it possible to make the use of the career break and time credit laws as one wanted to? This paper analyzes the use of the career break and time credit laws with the importance put on preferences and the followed lifestyle.

From a measure of solving unemployment to a measure to improve work-life balance

The career break and time credit laws started out as “The Recovery Act on Social Provisions in 1985”. This law allows people to take a break in their career without a specific reason (there are also thematic breaks which need a specific reason to be able to take them, like caring for sick children or elders). The law is interesting as it started as a unique solution for a contemporary problem, unemployment, and was many times adapted in order to solve new societal problems. It is also interesting that the law is implemented as a completely gender neutral solution, but has a very gendered result.

“The Recovery Act on Social Provisions in 1985” started as a law to combat unemployment and to improve work-life balance. The original idea was that people could have a break in their career, and an unemployed person would take over the job for the time of the leave. The person taking a career break is given a small replacement salary by the government, and is given the assurance that the job can be picked up again after the break. The employee needed the agreement from the

employer and by law couldn't be fired during or right after the break. If the company did decide to fire the employee despite being forbidden to do so, the law stated a fine which equaled at the time the amount of 6 months of salary (Nagels 2002).

At the time of the first act, the improvement of work-life balance was not yet a priority. It was the high unemployment rate which needed solving. The first version of the law provided a full break from 6 months to a year, as well as a partial 1/2nd break for a maximum of 5 years. People received a monthly salary of 260.39 euro during a full time break and 130.19 euro for a half time break, a bit more than one third of the monthly salary²⁾. For the government this was nearly a zero operation, meaning it would not burden the governmental funds. The unemployed person taking over the job would no longer require an unemployment salary and this money covered the replacement salary of the person taking the break (Vanderweyden 2002).

Initially the law was not popular with employees because of the high unemployment (Nagels 2002). People didn't have much faith in the no-fire provisions. High unemployment wasn't exactly promoting the new law, as people were worried they might lose their job once returning to the workplace. It wasn't popular with employers either, as many jobs requiring specialized skills couldn't find replacements. Specialized skills were difficult to replace with a previously unemployed person, without skills needed for a particular job.

What was already clear though is that mostly women were making use of the opportunity to have a break in their career. In 1989, 84% of people taking a career break were women, around 1995 this grew to 87% and by 2000 this number was still 85% (Nagels 2002).

In 1991 the law was changed to differentiate between the public and private sectors. People employed in the private sector could take 5 years of full break and after reaching the age of 50 a partial break of 1/2nd, 1/3rd, 1/4th or 1/5th up to a total of 5 years.

In 1992 the replacement salary was modulated by the amount of dependent children (322.48 euro for two children and 374.07 euro for three) (Nagels 2002). This change gave a steep increase followed by a peak in the amount of women making use of the law (Hertogen 2009).

In 1993 the modulation was adapted as the previous one turned out to be too expensive (312.49 euro for two children and 328.93 euro for three). Afterwards there was a slight decrease in women taking a career break. In the same year, to limit the burden on companies, C.A.O. nr. 56³⁾ made the law into a partial right by allowing only 1% of the employees at a company take a break simultaneously. The Royal Order of the 10th of August 1998 increased this to 3% (Nagels 2002).

In 2001 the "Act Concerning the Reconciliation of Employment and Quality of Life" made some big changes to the career break law. First of all it renamed "career break" for the private sector to "time credit". The obligation to fill the empty spot with a person who is unemployed was removed. In return the employees no longer needed the approval of the employer to take a break. People in

the private sector got the opportunity to take up to 12 months full time, 24 months half time or 60 months 1/5th leave. The 1/3rd and 1/4th options were removed. A seniority clause was added which restricted the people eligible for a break to people who have worked for at least one year. The idea behind it is that people first need to give something, in this case to work for awhile, before they can receive and be allowed to take a break. The 3% of employees allowed to take a break simultaneously was increased to 5% and could be increased by the individual sectors if they wanted to. Similarly the 1 year full time break could be increased to at most 5 years if the individual sectors saw this fit (Nagels 2002).

As the name of the act suggests, the emphasis put on the law since 2001 differs from the previous years. This time it focuses more on improving the work-life balance of people by spreading the work over more people instead of solving unemployment. The goal was to create a society where people have more choice in how to spend their time. It was meant to prevent burnout of workers and prevent the exit of women from the labor market when the housework becomes too much (Vanderweyden 2002).

In 2012 further changes were made. The seniority clause was adapted to restrict the law to people who have worked for at least 5 years, 2 of which at the current employer. Additionally a person needed to work 12 months prior to requesting time credit (Rijksdienst voor Arbeidsvoorziening 2012).

Recent developments have made people cautious of taking a break. Changes have been made which have brought the possibility to take a break and simultaneously obtaining a replacement salary out of sync. When we talk about the time credit law, we are in fact talking about two separate agreements. One is an agreement set up by the government between the employers and employees, that the employers grant the option to employees to take a leave. The other one is between the government and the employees, in order for the employees to receive a replacement salary during that time. When these two agreements go out of sync, there is uncertainty whether a person taking a break is going to be able to receive a replacement salary. Due to the resulting confusion people have refrained from starting a break (people already taking a break are unaffected), and have opted to use thematic breaks instead (Jobat 2012). The discrepancies have been solved with a new C.A.O. which went active on the 1st of September 2012 (K.B. of 25th of August 2012) (SDWorx 2012).

Women's lifestyle and the career break and time credit laws

While the law has no direct constraints on gender, in reality women are less able to make use of it. First of all, already from the time the law was formed, it is only applicable for people working full-time for an employer. This means self-employed people or those who are working part-time

cannot receive benefits for the time they do not work. Most of the people working part-time are women. In 1991 from all working women, more than 30% were working part time versus less than 3% of all working men. This number is growing each year, by 2013 44.3% of all working women were working part time versus 9.3% of all working men (Van Hove, et al. 2011). All people working part-time in order to balance their work-life are automatically excluded. Career break and time credit is only applicable for people who have a full-time job and want more time for other activities (Vanderweyden 2002).

The seniority clause added in 2001 and further increased in 2012, means that young parents cannot use it in order to spend time with their children or take care of their first home, as they haven't worked enough years yet (5 years at the time of writing) to be able to take a break. With the change from 2012, also theoretically excluded are women right after pregnancy leave since people have to have worked the 12 months prior to taking the break.

Still the majority of users taking time credit and career break in their 30's are women. Men mostly take their time credit a few years before retiring in order to slow down their career. Time credit and career break is used a lot by women in order to make their full time job more bearable while also taking care of children. When looking at the use of the laws in 2001, divided by gender and age, men mostly use their credit at the end of their career, to make it less stressful before they go on their pension. While many women also take their credit at the end of their career, many use their credit during the years they need to take care of children. How men and women use their career break also differs depending on which sector they work in. In the public sector more women take break during childrearing years than in the private sector. The same situation repeats itself in the case of men, though in much smaller degree. There are very few men in the private sector who decide on taking break during their 30's, and this number is drastically higher for both genders before retirement (Hertogen 2009). It might indicate that it is difficult to take a career break during child rearing period in the private sector, and as a result mostly only women decide to take it.

The fact that more women would be using the law to balance childcare and work responsibilities hasn't come as a surprise for the politicians involved in the creation of the law. During the construction of the first version of the law one of the political parties taking part in the debate talked about this possible outcome. The Christian People's Party argued that the law would set back what women had achieved until now, that it would put them back into the home caring for children and doing house chores. The Christian People's Party representative De Pauw-De Veen said that during an unemployment crisis women are "not removed from the country like foreign workers but are pushed back into the traditional roles to the greater comfort of men" (Vanderweyden 2002).

From surveys we know that many women use their 1/5th time credit for housework. In 1989, 84% of people making use of the career break opportunities were women. Most of them were

women between 25 and 29 years old. According to research from Leuven they used the career break primarily to take care of their children. In 2000, 28.4% of women were taking a break because of taking care for children, compared to only 2.6% of men doing so for the same reason. When asked why one decided on taking a career break, 26% of women gave personal or family reasons, compared to only 15.9% of men. One of the theories is that it is the person with the lower wage, or worse job situation, who will take the break to care for children, and this most often means women. Though some women admit tradition plays a role, as they feel that it is natural that the woman takes care of children while the man works (Nagels 2002).

When asked in 2004 by TOR⁴ why one decided on taking a career break, and not their partner, about 39.6% of women answered that it was because they have more talent for housework and thus they are the better candidate for taking care of house chores. 23.9% answered that they took it because they earn less than their husband. When asked after the reason of taking the career break, 73.5% took it to have more time for their children, while 15.3% gave household work as reason⁵. If we look at the amount of children, men without children are the largest group to take a career break, while when looking at women, those with 2 or more children are the largest group (Desmet, Glorieux and Vandeweyer 2007). It indicates that women tend to take a career break to take care of children, while men tend to take a break to gain extra time to engage in other activities.

From one side it seems as it is women's conscious choice to engage in housework instead of working outside, but from the other side we notice that lower opportunity cost also plays a role, as there is less to lose when a person with lower wage is quitting his or her job. Even though the difference in salary plays an important role, it seems that some women prefer themselves to take care of household responsibilities, because they feel that they seem to suit this role better. The main reason seems to be the need for extra time for children, fewer women gave housework as a reason. It might be because, as Hakim suggests, that there are more women who try to focus on both family and career than women who choose career as their main goal. The above answers indicate that some women themselves prefer taking a career break to manage housework and child-care. This way they can still keep their career for a certain degree and at the same time focus on household related responsibilities and family. Some also feel such a role is a traditional one, even though, the division between a man working outside and a woman working at home is not much older than 100 years and thus not as "traditional" as often thought. Whether it is the "tradition" that sets the standard for a certain lifestyle, or the necessity of more time for child care, the fact that more women in their 30's decide to take a career break has contributed to their new lifestyle. With the career break and time credit women are able to engage themselves in the "traditional" lifestyle of stay-at-home wife for a period of time, as well as be able to return to the "modern" one, the career women, later on.

The Christian People's Party, who feared that the new law would push women back to kitchen, stressed that more emphasis should be put on family, instead of individual people as the career break law was formed. They thought that by placing focus on the family and not on the individual, men would take leave as well and share housework (Vanderweyden 2002). Though it is in nations of individuals that women get the most help with housework and childcare, following by nations with the focus placed on families, with policies intervening into families matters or not. In the countries with their policies directed at families, often childcare and family matters are supposed to be solved within a family. However, in the case of policies directed at individuals, such support is provided by institutions and organizations (Van Bavel 2002). Still, according to the OECD Better Life Index, even in the nations of individuals, such as Sweden or the United Kingdom, women do most of the cooking, cleaning and caring kinds of domestic work. The division of domestic work is clear when calculated into percentages instead of just the amount of working hours. Women's part of domestic work still equals about 60% of more. Yet, countries such as Italy with focus on family without little supporting family policies do worse than others.

	hours men	hours women
Belgium	151 (38%)	245 (62%)
Germany	164 (38%)	269 (62%)
Italy	103 (24%)	326 (76%)
Austria	135 (33%)	269 (67%)
Holland	163 (37%)	273 (63%)
United Kingdom	150 (35%)	273 (65%)
Sweden	177 (42%)	249 (58%)

Average hours spent on domestic work, by country and gender (OECD Better Life Index 2012).

One of the Christian People's Party's proposals was to make housework remunerable in order to make it an economic activity. Women would be paid for working at home. One of the reasons people need to work, besides earning money, is to have a purpose in society. Housework however is not seen as real work, although it is as essential for society as paid work. If housework was being paid for, it would gain a value and would become appreciated by society. Women could feel that they have purpose in society and additionally earn money for their work, while men might be more inclined to do housework as it would be less seen as an ungrateful chore. A less extreme proposal was to decrease the maximum amount of work hours for both men and women in order to make men spend more time at home (Vanderweyden 2002).

How the law fails to fulfill its original purpose

The Belgian law protects women in order to give them equal opportunities in education, jobs and salary. The laws reducing work hours and offering career breaks to both men and women are neutral as well, and thus apply to both in the same way. Since the time of the implementation of the career break law, it was meant to be used by either men or women as they saw fit. However, working married women, struggling with the conflict between the two roles they need to take at work and at home, use the law different than men. They need to use the career break law in order to relieve some of the friction caused by role conflict rather than to be relieved from the stress of their work. They use their 1/5th or 1/2nd break early in their career in order to get the housework done and to care for their children, while men use it at the end of their career in order to relax more.

Because they temporarily give up their full time job for something like domestic work, they may make a bad impression with some employers. Employers already avoid women in some positions because women may become pregnant and be unavailable for a longer duration. This use of the career break early in the career can give employers another reason not to hire women for certain jobs.

Women, who make use of free time acquired through time credit, do not necessarily have less work. As Higgins, Duxbury and Johnson suggest, working part-time might just mean an employee has a heavy workload on his work duties list. Working part-time might be a part of an illusion, where a more balanced work and life might be promised, but where in reality less work hours does not necessarily mean less work, but only less hours to get the same work done (Higgins, Duxbury and Johnson 2000).

The government has not directly discouraged the use of the law to do housework, as its premise is that it can be taken without a specific reason, but there are other laws which are thought to be able to reduce the role conflict, which in theory would remove the need to use the career break law for housework. One measure is the reduction of legal work hours. Less work hours may give more time for other tasks like housework. It also means that men are theoretically more at home in order to help. However this is a limit on compelled work hours, so if people voluntarily perform more hours rather than spending the time at home, there is little change. The other measure is the law of equal pay. The law also states that women should earn as much as men for the same job. If both genders would earn the same it would be less obvious which job has to be sacrificed when both parties would earn the same. Yet even with the law of equal pay, women still earn on average 15% less than men (Van Hove, et al. 2011). And that is if they are able to get the same kind of job. Because in reality women earn less, they tend to be the ones to take a career break. It

might be the kind of choice Giddens is referring to, when a person is made to do so, not to choose so because it was his or her preference to do so.

From the above we can see that even though the law means well, it has to fight against the existing social values and customs. Lowering work hours has no effect on male participation in the home when men do voluntary overtime hours⁶⁾, and equal pay means little if employers avoid hiring women for certain jobs. Only when these social values are challenged and changed can a neutral law like the career break work for both genders without placing one gender at a disadvantage. This is why the plan to make housework remunerable might have helped; it would change how people look at unpaid work and thus change the social values which hinder the neutral adoption of the career break law directly.

Although the remuneration of housework might look strange, we must not forget that the separation of work and housework is not so old (Van Bavel 2002). Unfortunately it is older than a few generations, so for today's people remuneration of housework might sound very strange. Before, when people had their own business on the farm or were doing their craft in their own house, housework was part of the overall business. Just like cleaning in a factory or office is needed for its economy. Even now, when work and home are separated, no one would argue that without someone doing the housework and taking care of children, this would have to be outsourced to a third party, which would have to be paid. Making housework remunerable would show its significance and might give more men the incentive to do it. Of course there are many problems when implementing such a plan, as for example how a wage would be calculated, how to know the actual hours that were spent working on housework etc.

Conclusion

The career break law implemented in Belgium was gender neutral from the start. It was meant to be used by both genders equally. At first, in 1895, it was implemented to counter the growing unemployment, however, the need placed on the employer to replace the worker who took a break with an unemployed one, was removed soon afterwards. The original Belgian career break law's main goal wasn't made to help with the role conflicts women have, but the later versions starting from 2001 are marketed as such, to make the career more relaxed. However, the law wasn't enough well thought-out by lawmakers, especially the rushed version from 2012 which has a lot of contradictions⁷⁾ and items which are left open to different interpretations⁸⁾. From the discussions we know the government knew women have difficulties doing a job and taking care of the house and children at the same time. Their fear was that women would take a step backwards and reduce their jobs to do housework. This is also exactly what happened. The problem here is that the career break law

for this particular use is a way to solve the effect rather than the cause. The reason women have the role conflict is that men don't do their part at home. Recent statistics show that on average women do almost twice the amount of work at home than men. If men could be persuaded to pick up half of the burden, women's role conflict might cease to exist. Now they stay stuck in a vicious circle. They want to work full-time, but because they are not seen as equal to men, they earn less, because they have the lesser job in the dual earner family, they are the ones that need to take a career break to do the housework and raise the children, but doing this, women are not seen as equal in the workforce. Even with a genderless approach of the law, the use of the law is still gendered as it is influenced by social customs and, by that gendered use, women are not seen as equal to men at a workplace. However, even though with some limitations, it is because such laws as career break and time credit exist that a new kind of lifestyle became possible for women. Women are able to make a choice that doesn't necessarily exclude either a career or taking care of their children at home. Women are able to choose both, depending on the moment of their lives and, at least to a certain degree, depending on their preferences at that time.

Endnotes

- 1) Later referred in this paper to as the career break and time credit laws.
- 2) To compare, the average income for a family was 1700 euro or 961 euro for a single person in 1985.
- 3) Collectieve Arbeidsovereenkomst in Dutch, meaning Collective Labor Agreement.
- 4) Tempus Omnia Revelat, VUB.
- 5) Multiple options were possible.
- 6) According to a study from 2003, more men than women perform overtime hours, and for more hours in total. 17% men and 10% of women work overtime, with men performing 11 hours a week and women 8 hours a week (Dufour 2010).
- 7) Career breaks to take care of children can't be taken by young parents because they haven't worked enough yet. These same career breaks cannot be taken after pregnancy leave because the mother didn't work for several weeks before and after labor.
- 8) It is not said whether the 5% limit of simultaneous people that can take a career break in a company is an upper limit (companies like to think so) or a threshold after which the company can decide on a case by case basis (what the original idea was).

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