

Abstract

The purpose of this dissertation is to investigate how the labour market creates and interprets gender. The goal is to analyse the *phenomenon wage discrimination*, its norms, principles and practices as they relate to gender. Gender systems theory and normative model theory form the framework for this study. Argumentation analysis models are the tools used to study how the courts legitimise interpretations of the principle of equal pay. There are two primary questions of interest. Is there within the prohibition of wage discrimination an internal conflict between individual and collective norms? How are norms concerning equal pay for equal or comparable work interpreted and applied in the courts?

The dissertation is composed of six parts. The introductory section, *The framework for the study*, is a description of the subject, wage discrimination. The premise of the discussion is that the right to non-discriminatory wages is a human right. The second section of the dissertation, *Women and men's working conditions from an historical perspective*, is a survey working conditions for women and men from the early Middle Ages until the 1990s. Section three *The principle of equal pay on an international and regional level*, is primarily, an investigation of the European Court of Justice (ECJ) interpretation of Article 119 (141). Section four, *The ban against wage discrimination in the Law of Equal Opportunity*, is a study of the norms, interpretations and practices of the Law of Equal Opportunity, at the national level. This disposition was chosen in order to reveal the discrepancy between national law and EC-Law. In section five, *Negotiation and collective agreement systems in a gender-differentiated labour market*, the prerequisites for change within the framework of the system are studied. The study concludes with, *Wage discrimination – a comprehensive analysis*.

The Labour Court and the Court of Justice judicial argumentation preserves the status quo but on different grounds. The dichotomous gender hierarchy characterises the Court of Justice interpretation of the principle of equal pay. The gender segregated negotiations- and collective agreement system and their norms and values of women and men's work characterise the Labour Courts argumentation. Conflict between law and collective agreement is obvious. Separation or discriminations logic is expressed here. The court's justification of the logic of discrimination supports stability in the labour market and the unforeseen – in form of new valuations of women and men's work – are not the concern of the courts.

Key words

Collective agreement, EC-law, equality, gender discrimination, gender segregation, labour law, wage discrimination, trade unions and work evaluation.

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