

Pay Equity by Law? Legal Mobilization by Social Movements in Europe, 1996-2006

The idea of equality is a core value of modernity and democracy. But norm and reality often diverge. Equality as a principle is an ongoing pursuit needing constant practical and discursive re-affirmation. In this process social movements are crucial. Recently, they have increasingly framed their demands for social justice in terms of rights and the law. They have also intensified approaches to the courts with their causes. But can this advance social change, or is reliance on the law a „hollow hope“?

This study analyzes and assesses social movement's legal mobilization – including litigation and discursive mobilization, e.g. claims made with reference to the law and equal rights – for gender pay equity.

While research for the United States has shown that litigation had strong mobilizing effects for social movements, we lack knowledge on the role of litigation for social movements in European countries with a civil law tradition. The issue of pay equity serves as litmus test in this, because the gender pay gap in Europe is high (up to a quarter) and pay equity is a redistributive issue that demands more than rhetorical concessions.

A central hypothesis is that legal opportunity structures (law, jurisdiction, legal procedures) and discursive opportunity structures (institutional and cultural factors shaping public discourse in a given society, e.g. values, norms, political organization) shape the probability and extent of legal mobilization for pay equity. The more favourable these structures, the more likely is legal mobilization. The project hence examines four European countries with legal and discursive opportunity structures in different combinations: Switzerland, Germany, France and Poland. While Switzerland constitutes a case outside direct European Union influence, relevant variations exist within the EU.

First, the opportunity structures in these countries will be examined in detail. Then, gender pay equity trials will be described and a selection thoroughly analyzed. Finally the discursive mobilization will be investigated by analyzing media discourses and source materials from the social movements themselves.

The project will offer a comparative account and analysis of how social movement organisations argue for pay equity. It will also develop a more detailed picture on the role of the law vis-a-vis cultural norms, traditions and the peculiarities of the political system in a given country. It will thereby show how legal mobilization fits into social movement organisations' whole repertoire of action. Thus the project contributes to the discussion if and how law fosters or hampers the transformation of gender relations.

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