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Pay Equity in Sweden – Obstacles and Opportunities

The pace of closing the gender pay gap in Sweden is very slow. Based on the information from Medlingsinstitutet (The Swedish National Mediation Office) the difference based on wage statistics is about 11 %. If the fact that women and men work in different occupations is taken into account as a ground for differences – which must be contested - the figure is lower. A small improvement could however be seen over the years.

A first observation could be that wage discrimination normally is not considered as a violation of human rights. It is mainly looked upon as an economic problem, sometimes blamed for causing disturbances in the welfare sector due to the genderbased wages in traditionally female occupations. The discourses within the strong resistance towards the principle of equal pay for work of equal value are very much the same as at the time when the ILO Convention nr 100 was decided seventy years ago.

The Discrimination Act of 2009 protects employees from wage discrimination defined through comparisons of equal work and work of equal value. The law is used by unions and thus important to reach settlements with the employer. The option to get justice through a court procedure has not been used since 2013. The arguments of the Labour Court in a judgement on wage discrimination of a very merited social worker (AD 2013 no 64) - as well as the negative outcome of earlier cases tried by the former Equal Opportunities Ombudsman - have revealed that the Labour Court definitely wants disputes on equal pay to be solved by the social partners and not by the court.

The Discrimination Ombudsman Office (DO) was set up in 2009 to monitor the Act. It was a merging of the Equal Opportunities Ombudsman and three other Ombudsman agencies, announced by the parliament as an investment in effective assistance to victims of discrimination. The result of the reform is troubling. The modus operandi of DO has changed to a strong focus on information activities and a belief in voluntary lawfulness. Only 10-15 % of the discrimination complaints are investigated. No initiatives are taken to solve discrimination disputes by mediation or conciliation and no complaints on equal pay have so far been taken to court.

Due to the passiveness of DO and also to the problem of legal expenses if an individual loses a case, a debate has started urging that civil society must take a responsibility towards persons who suffer discrimination. Voices can be heard from organisations of disabled people, elderly people, the Swedish section of the International Commission of Jurists (ICJ) and from human rights and antidiscrimination bureaus. Access to justice is a key concept in that debate.

Since 2017 the legislation on proactive measures has a new design and pay surveys have to be done every year by employers. However, questionnaires have demonstrated that most pay surveys are very deficient. So is also the surveillance by DO who does not use the sanction system.

In my opinion, the opportunities to bring about a change lie in a new model for wage setting including pay transparency. There is also a need for stronger legislation inspired by the Icelandic example. But as long as the supervision of the discrimination act does not work, no legal improvements will change the landscape. The most important step towards pay equity is a revised organisation of the Discrimination Ombudsman Office. In addition to that, a common Nordic research project on access to justice could contribute to increased efforts by the governments.