

# GENDER-BASED PAY DISPARITIES: LEGAL ISSUES, STATISTICS, CAUSES AND POSSIBLE SOLUTIONS

**D. D. Korsak**

*korsakdarya1@gmail.com;*

*Scientific advisor— O. V. Vologina, senior lecturer*

The article examines the problem of unequal pay for men and women in the modern world. This issue remains pressing, which is confirmed by the statistics for the Republic of Belarus, the Russian Federation, the USA and the European Union. The article gives a brief overview of the international legal regulation of this matter and highlights the difference in salaries between male and female categories of legal professionals in particular. Various controversial and generally accepted reasons for the gender pay gap are uncovered, and some possible ways of its elimination, or at least reduction, are suggested.

**Key words:** gender pay gap; unequal pay; women rights; discrimination; international conventions.

The right to equal pay for equal work is adopted in many international and national instruments, but the problem of unequal pay for men and women still exists in the world. Equal pay means that all workers are entitled to equal pay for work of equal value. Despite the straightforwardness of the concept, the actual meaning of "equal pay" and its application in practice has proven difficult.

As Emma Watson, an actress and a UN Goodwill Ambassador promoting the HeForShe campaign, said: "The reality is that if we do nothing it will take 75 years, or for me to be nearly a hundred before women can expect to be paid the same as men for the same work" [1].

Although this problem was revealed quite a long time ago, there are opinions that things are only getting worse.

First of all, it is important to focus on the international legal acts regarding this topic. The right to equal pay is enshrined in Article 23(2) of the Universal Declaration of Human Rights: "Everyone, without discrimination, has the right to equal pay for equal work" [2]. The concept "equal pay for equal work" means that everyone has the right to the amount of money that they earn for the same work.

One of the most important documents in the sphere of women's rights is Convention 90 of the International Labour Organization. This Convention, for the first time in the history of mankind, gave international legal significance to the principle that remuneration for work of equal value must be determined without discrimination on the basis of sex [3].

Moreover, the right to equal pay for equal work issues were addressed in the following international documents: Convention on the Elimination of All

Forms of Discrimination Against Women; Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women; Declaration on the Elimination of Discrimination Against Women (art. 9); Political Declaration "Women in 2000: Gender Equality, Development and Peace in the Twenty-First Century"; Beijing Declaration.

In December 2019, the United Nations General Assembly proclaimed September 18 as International Equal Pay Day. The UN Secretary-General António Guterres in 2021 said: "Many women struggle to hold down a paying job while raising children, distance learning in educational institutions, caring for sick or vulnerable family members without financial compensation... On International Equal Pay Day, let's undertake the elimination of discrimination and harmful gender stereotypes that exacerbate the gender pay gap" [4].

Thus, there is a strong legal basis for eliminating the gender wage gap. But what happens in practice?

The UN presented shocking facts about the gender wage gap: women are concentrated in lower-paid, lower-skill work and are under-represented in decision-making roles. For every dollar men earn, women earn 77 cents. Women carry out at least 2.5 times more unpaid work than men. Today, it will take 257 years to close the global gender pay gap [5].

The gender wage gap has remained relatively stable in the United States. In 2022, women earned an average of 82% of what men earned, according to the analysis of median hourly earnings of both full- and part-time workers [6].

In the European Union women's work is valued unequally too. For every euro a man earns on average, a woman gets 86 cents. To make it even clearer: a woman needs to work an additional 51 days a year to equal her male counterpart's income [7].

In Russia, women lose to men in salaries by 18-20%, taking into account education, profession and personal characteristics, according to scientists at Russia's Higher School of Economics [8].

Despite the similar overall level of education and work experience of women and men, there is a significant gender pay gap in Belarus, under the opinions of Belarusian researchers. According to official statistics, the average monthly pay gap between men and women in 1995 was 20.9%, in 2000 it decreased to 19%, in 2010 it increased to 26.3%. Then a downward trend followed and in 2016 the gap was 21.5%. But then gender inequality only increased. At the end of 2020, the wage gap between men and women reached 26.7% [8]. It is a real problem, taking into consideration the fact that the level of the gender pay gap in 1995 was lower than in 2020.

What concerns the pay gap between women and men in the legal field, unfortunately, people working in the legal profession are subject to one of the largest gender pay gaps of any industry – 25.4% [1]. Surely, the situation mostly

depends on the lawyer's particular industry and the part of the world where they live.

“Despite women making up over 60% of new entrants to the solicitor profession since 1992 and representing over half of all solicitors since 2017, a relatively small proportion are reaching senior roles. In 2019, 31% of partners were women, 69% were men” [1]. One of the reasons for such a situation is that women are underrepresented in the senior roles of law firms, courts, and other legal institutions.

In accordance with UNICEF, the proportion of women judges in the world was 45% in 2017. In Belarus, as of October 3, 2019, 60% of women worked in the courts of general jurisdiction, and 45% in the Supreme Court [8]. Such indicators of representation in Belarussian courts, of course, was highly evaluated by international organizations.

In Russia, law has a female face: here 80% of notaries, 60% of lawyers and 68% of judges are women. The global average for the latter figure does not exceed 20% [8]. The matter is that the higher the court, the lower the proportion of women in it.

There should definitely be reasons for such staggering statistics in the pay gap between men and women. Some researchers divide these reasons into 2 broad categories: “glass ceilings” and “sticky floors”.

Glass ceilings refer to obstacles that stand in the way of women advancing their careers [9]. For instance, a woman chooses not to apply for a promotion because she understands that she needs to work part-time for caregiving responsibilities.

In contrast, sticky floors are disadvantages women consistently face whether they are just starting their careers or are getting ready to retire. Sometimes there are situations when a boss assumes that women are less competent or qualified in a position, and decides to offer a lower salary when making a job offer [9].

A broader list of reasons for the gender wage gap includes the following:

Differences in industries or jobs worked. Many people discuss how women choose to go into lower-paid industries including childcare, social work, teaching and nursing, but few question why these female-dominated industries tend to offer lower pay and fewer benefits than so-called men’s jobs, like building and construction. These gendered differences are true across all industries and the vast majority of occupations, at all levels [10].

Differences in years of experience, mostly due to maternity leave.

Differences in hours worked. Women tend to work fewer hours to fulfill their unpaid obligations (household and caregiving responsibilities). That is why they are more likely to work part time, which leads to lower salaries and fewer benefits in comparison with full-time workers.

Lack of flexibility for mothers returning to work. Unfortunately, even if women try to return to work after having a child, they often face what is known as the “motherhood penalty”. For instance, they are often forced to take on lower-paying and less demanding jobs. However, even if they are able to find a job that suits them, mothers are much less likely to get an interview compared to fathers and childless women. What is more, while women are penalised for having children, men are rewarded, with research from the University of Massachusetts finding fathers are more likely to be hired than childless men and tend to be paid more [10].

Discrimination. Gender bias at both a conscious and unconscious levels is still very much alive around the world. Although a study by Harvard Business Review found that women actually rank more highly than men in 12 out of the top 16 leadership qualities – including problem solving, communication skills and innovativeness [10].

Negotiation skills. Surprisingly, there are some gender differences in the negotiations. In general, women negotiate cooperatively, and men negotiate competitively. Women focus more on relationships and try to achieve win-win outcomes for both parties. Men focus more on economic measures that have win-lose outcomes [10]. The men’s attitude is mostly preferred by employers.

Lack of transparency. This reason means that people sometimes do not even realize that they are subjects of pay gap. Unawareness of this aspect leads to an increasing level of gender wage gap, because we cannot solve a problem if we do not know about it.

So, are there any possible ways to eliminate the gender wage gap? Experts believe that resolving this issue largely depends on governments and employers. They need to be more proactive. The following measures should be introduced to reduce gender wage gap:

- Supporting promotion and pay transparency;
- Encouraging salary negotiations;
- Re-evaluating hiring, promotion, bonus and benefit packages;
- Encouraging male parental leave;
- Changing our minds and avoiding stereotypes.

To conclude, it should be highlighted that more than 90 states have passed laws providing for equal pay for equal work, but it is necessary that the measures provided for in the laws are actually implemented by employers in practice. Despite the not so bright outlook in solving the problem of the gender pay gap, society should make every attempt to reduce it. After all, as it is spelled out in international conventions, all people are entitled to equal pay for equal work, regardless of gender.

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