

What is the relative effectiveness of law economics essay

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Introduction to discrimination, equality and diversity
Discrimination was defined by Mike Noon, as the course of action of judging people according to a particular reason (Beardwell and Claydon, 2010, p. 197). In addition, equal opportunities approaches have kind of manipulated behaviour through legislation so that discrimination is prevented (Torrington, 1998, p. 351). On the other hand, management of diversity approaches stresses the cost-effectiveness and business case for the equivalent treatment, offering benefits and advantages for the boss if they invest in making sure everyone in the organisation is appreciated and given the chance to extend their potential and make utmost contribution (Torrington, 1998, p. 351). The term equality refers to 'sameness' but used in different contexts and the focus on 'equality' in the workplace surfaced since 1970's with the Equal pay Act 1970, Sex Discrimination Act 1975 and Race relations Act 1976 (Murton, Inman and O Sullivan, 2010, p. 256). In contrast, the management of diversity focuses on persons and not just those in minority groups, furthermore, Kandola and Fullerton (1994, p. 47) expressed management of diversity as the recognition of the potential of all employees certain group based equal opportunity policies need to be seriously questioned in particular positive action and targets (Torrington, 1998, p. 352). In the latter paragraphs will discuss several theories on gender-based discrimination and remedies that can be used to reduce or eradicate discrimination between gender groups and the ASHE report will be used to show that low pay and pay gap between men and women is a concerning matter with some statistical data to support the explanation. Discrimination and evidence of labour market inequalities with unequal and low pay
Labour market

inequalities happen in the labour market due to demand side and supply side of labour. The low pay and unequal pay and gender gap can be generated from the ASHE report showing statistical data. A key determinant of female employment market behaviour is the pattern of household, and there have been fundamental changes in the pattern (Adnett, 1996, p. 165). The ASHE report 2012 will show some statistical data on low pay in private and public sector. Pay inequality is a fundamental source of legal vulnerability for employers in the UK (Dawson in Wright and Conley, 2011 p. 69). The gender pay gap is continual and functions ' across equalities area' (Longhi and Platt 2008); notwithstanding other characters, gender still remains an essential indicator of unequal pay (Dawson in Wright and Conley, 2011, p. 69). Below are some statistical data on gender pay differences. According to the ASHE report, 2012, the gender pay gap based on median gross hourly earnings not including overtime pay for full time workers reduced to 9. 6% from 10. 5% in 2011 (ASHE, 2012, P1). Gender pay differences of earnings of women relative to men vary depending on whether an employee works full time or part time. The median gross hourly earnings not including overtime pay of part time workers were 37. 2% less than earnings of full time workers. For male employees, 88% worked full time and 12% part time whilst the competing figures for females were 58% and 42% respectively. As proof of gender inequality exists, these figures tells us that more women work part time then men and consequently they are more likely to be paid low hourly rates (ASHE, 2012, p. 7). This can be represented in a bar chart below in figure 1.

Figure 1: source from ASHE report 2012 (www. ons. gov. uk)

While having the third highest rate of women's participation in Europe at 70% compared with 79% of men in employment, the United Kingdom's labour market is among the most gender diverted (Hibbert and Meager 2003: 504; Perrons and Shaw 1995) and has the fourth gender pay gap in Europe (Dickens in Bach, 2005, p. 182). According to the EOC, 2005, women's pay position has improved compared to men, but, women who work full time still receive 82 pence for every Pound earned by men. Women working part time receive 40% less per hour than men in full time employment about 25 years ago (Dickens in Bach, 2005, p. 182). Pirani et al (1992: 40-1) stated that ethnic minority workers who have higher education and training, their wages still tend to be lower compared to their white counterparts at work and that minority ethnicity workers do not get advancements in position and tend to stay on the lower scale. Theories explaining discrimination based on gender inequalities at work There are several theories that can be used to explain gender inequalities at work. Each theory will be explained and its idea behind each of the theories. The theories which are going to be used are the neo-classical, class-based theory or Marxist theory, patriarchal theory and dual systems theory. Discrimination only arises when some external individual character is used in an attempt to limit an individual's chance for economic or social progression (Adnett, 1996, p. 170). Division in employment is the primary factor to explain the pay gap between men and women respectively (Walby, 1988, p. 14). The human capital method has been improved by Becker (1985) who pointed out that the lower wages of married women can also be endorsed to the cost of <https://assignbuster.com/what-is-the-relative-effectiveness-of-law-economics-essay/>

specialization within family units. In addition, the continuation of increasing returns from specialism, families share out time and labour market investment on the source of relative advantage (Adnett, 1996, p. 171). Neo-classical economists argue that women's are 'lesser-human capital' because the requirement of ability and recommendations are less and the familiarity in the labour market is also less (Mincer, 1962, 1966 in Walby, 1988, p. 15). Human capital theory presumes workers get paid proportionately to their human capital assuming there is perfect labour market with no inequalities (Walby, 1988, p. 15). Cultural theories are where people prefer working environments that are in line with their beliefs or philosophy as to appropriate masculinity and feminine behaviour (Walby, 1988, p. 16). Matthael (1982) stated that sex categorization of occupations are still remained by both sexes in order to maintain the outset of their own respective gender behaviour (Walby, 1988, p. 17). Theories of labour market discrimination can be divided into taste theory relating to neo-classical theory, imperfect information or statistical theory and monopsony. Becker's research (1957), made an assumption that employers have a preference for discrimination and willing to give up profits for this discrimination. Alternatively, Akerlof (1976) believed that individual utility depends on reputation as well as utilization levels (Adnett, 1996, p. 176). Imperfect or statistical theory considers the cost of employers having imperfect information about an applicant's possible efficiency (Adnett, 1996, p. 177). Milgrom and Oster (1987) made an argument that skilled women and black workers may therefore be concealed by their employers, receiving low salary and prominence compared to other workers (ibid). Monopsony sufferers are

women compared to men. Gender pay gap suggests that the male counterpart's work location controls locational decision makings; hence, women with male associates will be less movable geographically resulting in larger idleness and makes their supply of labour more inelastic or inflexible, the profit exploitation monopsonistic firm will be giving them lower pay rate (Adnett, 1996, p. 177 and 179). Non competitive approaches is used as an optional economic approach starting from the Achilles' heel of competitive forces, audaciously that firms' employment policies are highly independent of market conditions such as internal labour force can resist competition for good employment by external workforce. In this agenda, managers with conventional internal labour markets employ workers on the basis of potential production (Adnett, 1996, p. 179). Managers of a sign of social customs may take for granted that female applicant's to the labour market have a lower long-term commitment to the work force or black employees have a higher turnover rate and therefore, prohibit both groups from the controlled internal labour market (ibid). A more radical method features segmentation of the labour market to employers' aspiration to portion their labour force and so to lessen their bargaining power (Adnett, 1996, p. 180). In disparity of Becker's work, now employers' tastes for discrimination are persuaded by the anticipations that such tastes are cost-effective. In addition, this approach observes discrimination as just one feature of the intrinsic divergence between capital and labour, removal of discrimination requiring essential development or substitution of the capitalist method (ibid). There are empirical studies of gender discrimination where the earlier studies were Americans and they recommended that at least half of the real

pay gap in the United States is unrecognized to the differences in occupational features (Adnett, 1996, p. 181). Newly, O'Neill and Polachek (1993) acknowledged that half of the reduction of the United States gender gap in the 1980s to improvements in women's professional characteristics and the left over increases in the returns to women's experience and the decreasing blue collar workers salaries and wages and other influences (Adnett, 1996, p181). Blau and Kahn (1992a) stated that the labour market institutions, especially the level of centralization of wage bargaining, are a crucial determinant of the universal gender wage gaps and recent augmentations in the gender difference in Denmark and Italy have been ascribed a more decentralized bargain (Smith, 1992 and Bettio and Villa, 1993 in Adnett, 1996, p. 181). Becker (1957) is the original work done in the neo-classical area and can commence with the reflection of Becker's work for not only was it the earliest neo-classical effort to deal with discrimination but it also facilitates us to focus on the characteristics of the neo-classical approach (Sawyer, 1989, p. 105). The starting point for the neo-classical method is the existence of a 'taste for discrimination' which emerges to be par levelled with other tastes (ibid). The dual systems theory according to Hartmann (1979) is where work-related separation is made by men dominants to keep the better jobs for themselves (Walby, 1988, p. 22). In addition, Hartmann's analysis is too general and is inadequate because it does not take into account the transformation and improvements in the middle and later part of the twentieth century (Walby, 1988, p. 23). Marshall, 1974, explained that, discrimination is likely more a status or social group occurrence, a notion which makes the theory more broad because the

physical observable fact surely cannot be applied to sexual discrimination. Discriminators object to a person or group being discriminated partly because the final part is generally regarded to be substandard people who would lower status of discriminators (Sawyer, 1989, p. 105). The neo-classical theory is confronted by the pay gap between men and women which cannot be put in plain words by disproportion of human capital (Walby, 1988, p. 27). The Marxist theory is also being challenged both by the consequences of labour market processes and by the stagnation level of gender inequalities and at the end of the day to capitalism (Walby, 1988, p. 27). The human capital theorists were essential in conceptualising women's housework as considerable for an economic analysis, but the constraint of their focus to pure market forces erroneously prohibits the political and organisation constitution of the labour market itself (Walby, 1988, p. 28). The dualist labour market theorists were vital in introducing the conceptualisation of a planned and divided labour market but dealt it unsatisfactorily with the public forces which created it (Walby, 1988, p. 28). Moreover, feminists face two responsibilities which are to give second thoughts on economic groupings in the light of feminism; hence, 'economics' must be challenged by the feminist evaluation (Phillips and Taylor, 1980, p. 87). The second mission is to restructure economic struggles themselves. This has been a long understood perception by feminists who find themselves in an uncomfortable coalition with trade unions and seems to leave the modest space for feminist politics (Phillips and Taylor, 1980, p. 87). Equality and diversity at work its purpose and critiques Equality and diversity are distinct in definitions. Equality is considered as 'sameness' with

different approaches. For example, it could be considered that equality is everyone having the same opportunity regardless of gender, disability and so forth (Murton, Inman and OSullivan, 2010, p. 256). Diversity can be defined as valuing everyone irrespective of their differences as individuals (ibid). The widespread and appeal of diversity which are publicly embraced as a goal by many organisations, its concept, the same as equality, has been critiqued as being naive potentially because it fails to take into account and de-emphasises workplace conflict and problems in implementing the policies of the organisation (Prasad et al, 1997 in Murton, Inman and OSullivan, 2010, p. 256). There are differences between equal opportunities and managing diversity methods. Regardless of diversity management provides an integrated method to help businesses implement equality issues but the main concern is that how attractive is the idea of the business benefits and an overall positive outcome may be diverted from the disadvantaged group, hence, no change to the status quo (Torrington and Hall, 1998, p. 352). In addition, the differences can be presented in table 1 below.

Aspect/feature	Equal opportunities	Managing diversity	Purpose
Reduce discrimination	Utilise employee potential to maximum advantage	Case argued	Moral and ethical
Business case- improve profitability	Whose responsibility	Personnel department	All managers
Focuses on groups	Individuals	Perspective	Dealing with different needs of different groups
Integrated	Benefits for employees	Opportunities improved for the disadvantaged groups mainly by setting targets	Opportunities improved for all employees
Focus on management			

activities
Recruitment
Managing Remedies
Changing systems and practices
Changing the culture

Table 1

Source adopted: Torrington and Hall, 1998, 4th edition, Human Resource management: Major differences between ‘equal opportunities’ and management of diversity approaches, p. 352.

Table 1 above shows the differences in equal opportunities and managing diversity. It illustrates that the purpose of having equal opportunities is to make discrimination to its lowest level and diversity tends to make use of the employees potential to its utmost advantage. The case being argued between these two terms is that is moral and ethics for equal opportunities and enhanced profits on the business case. The responsibility of equal opportunities method is the personnel departments whilst diversity is responsible to all the managers applicable. Equal opportunities focus on groups whilst diversity management is focused on individual. The equal opportunities method’s perspective is dealing with multi groups with different needs whilst diversity is mainly incorporated. The advantages for employees for having equal opportunities method is that it only improves chances for the disadvantaged by implementing targets and opportunities are enhanced for all employees with the diversity management approach. Equal opportunities focus on recruitment for management activities and diversity is focusing on management. The remedies stated in table 1 are that equal opportunities changes systems and practices whilst diversity management changes the culture only. Ellis and Sonnenfield explained

managing diversity as the dare of meeting the requirements of an ethnically varied labour force and of sensitising workers and managers to differentiation related with gender, race, age and nationality to take full advantage of the latent efficiency of all employees (Ellis and Sonnenfield, 1994, p. 82 in Torrington and Hall, 1998, p. 370). Redefining equal opportunities in the language of the endeavour civilization (Miller 1996) may just be a way of making it more pleasant in today's environment, and Liff (1996) suggests that the retiling may be used to revitalise the equal opportunities plan (Torrington and Hall, 1998, p. 376). However, weakness of the method has been acknowledged. Managing diversity can be seen contemplative as it deals with people already in the organisation, rather than getting people into the organisation managing rather than intensifying diversity (Donaldson, 1993 in Torrington and Hall, 1998, p. 376). Even though organizations internally which admits themselves to be equal opportunity companies, discrimination will still present. For example, Bradford metropolitan Council, where one of the first local authorities to declare its self an equal opportunity employer, had legal action taken against it by the Commission of Racial Equality (CRE) in 1991 for persistent discrimination (Dickens in Bach, 2005, p. 183). In addition, Foster and Williams, 2011, mentioned about the perception of ' formal equality' or ' equal treatment' underpinned the British Sex Discrimination Act 1975 and the Race Relations Act 1976 and it is commonly understood as the right to be treated fairly and equally compared to other people. An Equal treatment as a standard demands regularity, such as, it is likely to appeal to people's right mind of equality and even-handedness (Friedman, 2002 in Foster and

Williams, 2011, p. 326). It overlooks 'difference' and argued by some to be unsuccessful to recognize the function that past and societal disadvantages have played in the continuation of inequalities and why positive action may be required to deal with these situations (Howard, 2008; 170 in Foster and Williams, 2011, p. 326). Effectiveness of law, equal opportunities policy and collective bargaining as remedies

The effectiveness of the law, equal opportunities and collective bargaining depends on the way it has been carried out and used. Equal opportunities initiatives concern policy and practice designed to tackle the differential distribution of opportunities, resources and rewards among employees usually based on their membership of a social group (Dickens in Bach, 2005, p. 184). Below is table 2 concerning the Equal Opportunities policy: ten-point plan.

1. Develop an equal opportunities policy, covering recruitment, promoting and training.
2. Set action plan with targets
3. Provide training for all people within the organization to ensure all understand equal opportunities and its importance.
4. Establish starting point then monitor progression in the objectives been set
5. review selection, recruitment, promotion and training procedures regularly
6. Draw up a clear justifiable job criteria
7. offer pre-employment training where appropriate
8. Consider your organizations image due to gender, ethnicity, disability differences or indifferent
9. Flexibility at work
10. Develop links with local community groups, organization and schools.

Source: Commission for Racial Equality (www. cre. gov. uk/gdpract/eop. html) in Bach, 2005, p. 185

The functioning of equal opportunities polices includes of a variety of activities for two analysis; liberal and radical approach. Liberalists

necessitate bureaucratisation of procedures whilst the radicals need politicisation of decision making (Jewson and Manson, 1992, p. 318). The usefulness of the policies equal opportunities, liberals and radicals propose similarly named, but dramatically different practically, which are positive action and positive discrimination (Jewson and Manson, 1992, p. 322). Positive action is solely likely, to allow more individuals to enter the competition freely without any restrictions. Positive discrimination consists of the rationale manoeuvring of employment way so as to achieve a fair distribution of the deprived within the labour force (ibid). In addition, the main part of confusion of the two perceptions is the theories that fair measures according to the liberalists and fair results according to the radicals (Jewson and Manson, 1992, p. 324). Liberals do so to justify and impound their policy actions to procedural reforms; radicals in order to foster they believe that those policy actions which are legal can create an essential transformation in the allocation of employment rewards (Jewson and Manson, 1992, p. 325). The United Kingdom of Great Britain and Northern Ireland being compared with the rest of Europe, Great Britain faces particularly, badly, in pay with non-manual women workers where they earn only 53% of the male rate in the service sector of banking and finance and only 61% of the male rate in retailing and sales sector (Donaghy, 1995, p. 181). Legislation and law is absolutely crucial and whatever the limitations are, it is important to use both British law and European law (ibid). New growth of personal contracts and performance related pay have been tremendously accepted amongst employers and are generally an important factor of personal contracts, in turn, justifiable on the grounds that they

interconnect pay to effort and performance (Donaghy, 1995, p. 183). In a few words, it is essential to be familiar with both the scope and limitations of trade unions in promoting equal opportunities. The bargaining plan is getting even broader and wider which covers paternity and parental leave, leave for carers, domestic violence, and stress at work as well as more conventional areas of equal opportunities (Donaghy, 1995, p. 192). This is because trade unions will only accomplish definite objectives by campaigning for change in the wider social environment. Lack of sufficient reasonably priced childcare is probably the major single factor that restrains the improvement of working women and it seems now, after the Second World War, there were 1, 300 nurseries providing places for 62, 000 children (Donaghy, 1995, p. 192). Trade unions have a fundamental responsibility in campaigning in the wider political arena and progression of opportunity access, education and child support for women (ibid). Crompton also elaborated that the women's paid employment, since the Second World War has been mainly an increase of married women's employment. It has been fully focused in ' non-standard' forms of work especially part-time jobs. The broad outline of work-related separation remain much as it always been, but it is becoming less distinct and women are climbing up to some high level services (Crompton, 1997, p. 47-48). Current introduction of equality duties in the United Kingdom's public and government sectors indicates a move away from the perception of ' equal treatment', ' non-discrimination', and ' equality of opportunity' that have dominated local law to allow for ' positive action'. In addition, equality duties are concerned with existing against the law type of discrimination and the encouragement of equality of behaviour in the future (Foster and

Williams, 2011, p. 328). Foster and Williams, 2011, mentioned about trade unions with employees having a reduction in union membership in Britain, fewer than 30% of workers now belong to a trade union has also goes together with a fall in those collective institutes that previously synchronized employment for many (Heery et al, 2004 in Foster and Williams, 2011, p. 333). Conventional collective bargaining as a way to progress on equality objectives appears to be gradually more defenceless (Foster and Williams, 2011, p. 333). The main substitute to collective bargaining is to progressively be more reliant on statutory or legal provisions, through a significant connection to voluntarism means of officially permitted remedies which have been slightly or least preferred by British trade unions (ibid). Conclusion In conclusion to the above essay, discrimination can be defined as an action of judging people whether it is directly or indirectly being discriminated. Diversity on the other hand is a kind of recognition of all employees based on equal opportunities. Gender discrimination is explained by different theories, which are the neo-classical theory, Marxist or class-based theory, patriarchal theory, dual systems theory, statistical theory, cultural theories and non-competitive approaches. The neo-classical theory with accordance to Becker's exploration (1957), presumed that employers favoured for discrimination and willing to give up profits for this discrimination. Akerlof (1976) understood that each individual's effectiveness depends on the reputation combined with exploitation levels. The dual systems theory is where job-related division is made by male dominants to keep the better jobs for them only. Cultural theories are where people prefer working environments that are parallel with their beliefs or philosophy to their gender

respectively. Equality is well thought-out to be the 'sameness' or 'similarity' but with different methods, whilst diversity, on the other hand, can be distinct as valuing everyone regardless of their differences as a person. Overall, in the above mentioned theories, the effectiveness of the discussed theories is not sufficient to decrease or eliminate discrimination because discrimination can happen directly and indirectly. Indirect discrimination is difficult to track down because it cannot be seen and sometimes overlooked. In a nut shell, in order to regulate discrimination and possibly reduce discrimination in the workplace, the law should be present to control it rather than not having law at all. Equal opportunities policies in the workplace should also be there as soon as a person enters a contract to work in a company or organisation. Word count (excluding reference list and topic): 3,901 words. Reference/Bibliography list

Textbook references
Bach, S. 2005, *Managing human resources*, 4th edition, personnel management in transition, Blackwell publishing.
Beardwell, J. Claydon, T., 2010, *Human Resource Management: A contemporary approach*, 6th edition, Pearson education limited, UK.
Murton, A. Inman, M. OSullivan, N. 2010, 'unlocking human resource management', Hodder education, UK.
Torrington, D. Hall, L., 1998, *Human Resource Management*, 4th edition, Prentice Hall Europe

KLE and Internet references

Adnett, N., (1996) " Chapter 6: Discrimination." from Adnett, N., European Labour Markets, London: Longman.

Available at: http://repository. keele. ac. uk: 8080/intralibrary/open_virtual_file_path/i7446n344205t/HRM30030_7055. pdf

Last accessed: 2 April 2013

ASHE REPORT 2012 Available at: http://www. ons. gov. uk/ons/dcp171778_286243. pdf

Last accessed: 3rd April 2013 Cockburn, C.

1989, " Equal Opportunities: the short and long agenda" Industrial relations Journal, 20, 3, Business Source Complete, EBSCOhost Available at: <http://web. ebscohost. com/ehost/pdfviewer/pdfviewer? sid= 068ad1c0-26bc-47fd-a329-568fffbdf792%40sessionmgr12&vid= 2&hid= 12> Last accessed: 10th April 2013

Crompton, R., (1997) " Chapter 2: The Structure of Women's Employment in Britain Today." from Crompton, R., Women and Work in Modern Britain. Oxford: Oxford University Press.

Available at: http://repository. keele. ac. uk: 8080/intralibrary/open_virtual_file_path/i6205n344405t/HRM30030_7051. pdf

Last accessed: 7th April 2013

Donaghy, R., (1995) " Trade Unions and Equal Opportunities." from Shaw, J. (Ed), Making Gender Work: managing equal opportunities Buckingham: Open University Press.

http://repository.keele.ac.uk:8080/intralibrary/open_virtual_file_path/i2482n206553t/HRM30030_7054.pdf

Last accessed: 7th April 2013

Jewson, N. and Mason, D., (1992) " The Theory and Practice of Equal Opportunities: liberal and radical approaches." from Jewson, N. and Mason, D., Sociological Review. 34. Keele: Keele University

Available at: http://repository.keele.ac.uk:8080/intralibrary/open_virtual_file_path/i6205n481817t/HRM30030_7049.pdf

Last accessed: 2nd April 2013 Kirton, G. Greene, A. M., 2010, the dynamics of managing diversity: A critical approach, 3rd edition, Taylor and Francis Ltd.

[http://www.dawsonera.com/depp/reader/protected/direct/AbstractView,](http://www.dawsonera.com/depp/reader/protected/direct/AbstractView,title.$ReaderFunctions.eBookView.sdirect?state:reader/protected/AbstractView=)
title.\$ReaderFunctions.eBookView.sdirect? state:

reader/protected/AbstractView=

ZH4sIAAAAAAAAAAFvzloG1XjiBgYGjkYG1JLMkj5WBNTWzOCmvhIHX0tzCwMDC

wNLMzNDctJyDAYcMAGvB0RtDAAAALast accessed: 2nd April 2013

Phillips, A. and Taylor, B., (1980) " Sex and Skill: notes towards a feminist economics." from Phillips, A. and Taylor, B., Feminist Review. London: Palgrave

http://repository. keele. ac. uk:

8080/intralibrary/open_virtual_file_path/i7446n551128t/HRM30030_7050.

pdfLast accessed: 10th April 2013

Sawyer, Malcolm C., (1989) " Labour Markets" from Sawyer, Malcolm C., The challenge of radical political economy: an introduction to the alternatives to neo-classical economics. Hemel Hempstead, Harvester Wheat sheaf.

Available at: http://repository. keele. ac. uk:

8080/intralibrary/open_virtual_file_path/i6205n177662t/HRM30030_11242.

pdfLast accessed: 8th April 2013

Walby, S. (Ed), (1988), " Chapter 2: Segregation in Employment in Social and Economic Theory." from Walby, S. (Ed), Gender Segregation at Work. Milton Keynes: Open University Press

Available at: http://repository. keele. ac. uk:

8080/intralibrary/open_virtual_file_path/i8687n68861t/HRM30030_7053.

pdfLast accessed: 9th April 2013Wright, T. Conley, H. 2011, Gower Handbook of Discrimination at Work. [Online] Ashgate Publishing. Available from:

http://lib. mylibrary. com? ID= 309037Last accessed: 2nd April 2013