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Legalizing Gender Inequality challenges existing theories of gender-based pay inequality. The book argues that earnings differentials cannot be explained adequately by market forces or society-wide sexism and that the court's reliance upon these theories has tended to legitimate and to legalize a crucial dimension of gender inequality.

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Without a sound basis in market necessity or efficiency principles, the courts legalized gender inequality in pay. Our analysis does not, however, lead us to support comparable worth as the solution for gender inequality in pay. Our reasons are theoretical and practical.

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This means on the ground that between-job gender inequality is currently unregulated, because employers have convinced courts that 'the market made us' pay female-dominated jobs less than male-dominated jobs. Legalizing Gender Inequality persuasively refutes this strong-form market-based defense.

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The book argues that the courts have, by uncritically accepting the market explanation for wage disparity, tended to legitimate and to legalize a crucial dimension of gender inequality. Excerpt The decisions of federal courts in cases alleging sex-based pay discrimination reflect the tension between the law's normative commitment to equality and the courts' reverence for markets and efficiency.

Legalizing Gender Inequality: Courts, Markets, and Unequal ...

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