

## Abstract

This thesis analyzes gender discrimination laws in health care under a human rights framework, by comparing two jurisdictions: the United States and Denmark. The basis of comparison is each State's compliance with rights to gender non-discrimination in health care under international and regional human rights conventions, expressed as State obligations to respect, protect, and fulfill such rights. Based on feminist legal theory, the thesis takes as a starting point that women's bodies, diseases, and health needs are subordinated in medicine, and that marginalized women, such as women of color and immigrant women, experience more pronounced subordination. This research project therefore seeks to answer whether and how human rights law and domestic laws protect against gender discrimination specifically in the field of health care. Based on a mapping of some of the most salient problems in women's health, the dissertation primarily focuses on the manifestation of gender discrimination in four areas: medical research; reproductive health; pain and chronic illness; and the application of algorithmic and artificial intelligence tools to medicine. The findings include that gender discrimination specifically in the health care context largely is neglected in both the US and Denmark. Both States' legal frameworks, therefore, seem to struggle to recognize that the detrimental treatment of sex- and gender-linked conditions in health care (e.g., pregnancy, breast cancer, endometriosis) is a form of prohibited discrimination, even though human rights law is relatively clear on that front. Overall, though, Denmark's legal framework is much more aligned with human rights obligations towards gender non-discrimination in health care; the US only minimally respects such obligations, let alone protect and fulfill them. On the other hand, the US legal framework is moderately more attentive to intersectional discrimination against women than Denmark, but its application in health care is somewhat limited. Moreover, both States fail to appreciate in many respects how their health laws and policies discriminate against women on an intersectional basis. The thesis concludes with recommendations for both jurisdictions, including taking advantage of temporary special measures in human rights law to advance *de facto* gender equality in health care.