



Acerca de la sentencia 12/2008 del Tribunal Constitucional sobre la Ley Orgánica para la Igualdad Efectiva de Hombres y Mujeres (3/2007) [

Marcial Pons,
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Analítica

In its Judgment nº 12/2007, the Spanish Constitutional Court has endorsed the Organic Law on the Effective Equality of Women and Men (Ley Orgánica para la Igualdad Efectiva de Hombres y Mujeres). This law ushers in an extreme form of interventionism leading to the need of a social planning based on abstract statistical criteria, in which real people will be considered as nothing but data and justice as a mere mathematical projection. It also strips some individuals of rights that are based on personal ability, will or effort in favour of other individuals whose value lies in belonging to a protected sex. Social planning will become an attempt to implement a radical form of egalitarianism, which will enable law-makers to distribute according to their sole will. The most essential individual and social freedoms will perish as a result. The mathematical shaping of reality introduced by the Organic Law 3/2007 is based on the rule of an arithmetical proportion. It prevents one sex from being considered superior to the other, even if individuals of great ability happen to belong to one of the sexes at that particular moment. This egalitarian perspective is rooted in the belief that those who, in a more or less distant past, have been treated as inferiors for ethnic, religious or sexist reasons must obtain a reparation based on the justice of resentment. This view of justice tends to place the burden of compensation for violations of justice on future generations, not on the whole of society.

En alemán: Der Urteilsspruch 12/2008 des spanischen Verfassungsgerichts stützt den spanischen Organgesetz zur effektiven Gleichheit von Männern und Frauen (Ley Orgánica para la Igualdad Efectiva de Hombres y Mujeres). Die Inhalte des Organgesetz ermöglichen einen Interventionalismus von solcher Radikalität, die dazu führt, dass die Sozialplanung auf einer rein abstrakten statistischen Rechtsauffassung ruht, die die Personen in bloe statistische Daten verwandelt, als ruhe die Gerechtigkeit.

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Baratz Innovación Documental

- Gran Vía, 59 28013 Madrid
- (+34) 91 456 03 60
- informa@baratz.es