

# Protecting Women

Labor Legislation in Europe,  
the United States, and  
Australia, 1880–1920

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*Edited by Ulla Wikander,  
Alice Kessler-Harris, and Jane Lewis*

*With the assistance of Jan Lambertz*

93. Ibid., 4.  
 94. Ibid., 177.  
 95. Ibid., 444-45.  
 96. Ibid., 444ff.  
 97. Ibid., 445-51.  
 98. *Dagny* (1904): 377-83. See Karlsson, "The Beginning of a 'Masculine Renaissance.'"  
 99. *Bulletin de l'Office International* (1905-6).  
 100. Alexandre Millerand, "La Conference Officielle de Berne," in *La Protection Légale des Travailleurs: Discussions de la Section Nationale Française, de l'Association Internationale pour la Protection Légale des Travailleurs*, ser. 3 (Paris: Musée Social, 1907).  
 101. Marcel Caté, *La Convention de Berne de 1906, sur l'interdiction du travail de nuit des femmes employées dans l'industrie* (Thèse pour le doctorat. Université de Paris. Faculté de droit) (Paris: Emile Larose, libraire-éditeur, 1911), 18-19.  
 102. Ibid., 26.  
 103. The "Résumé des arguments évoqués pour et contre le travail de nuit des femmes"; it also exists in a German version: Pre-ILO 10 403, ILO archives, Geneva.  
 104. In fact, very few dissenting voices were heard at some of the congresses that I have not dealt with here, for instance, one in Brussels in 1897. See *Congrès International de Législation du Travail, tenu à Bruxelles du 27 au 30 septembre 1897* (Rapports et compte rendu analytique des séances publié par le bureau de la commission d'organisation) (Bruxelles: Weissenbruch, 1898). Those voices belonged to extreme liberals, however, who were also against labor protection across the board and advocated a totally free labor market.  
 105. *Congrès Socialist International* (Copenhagen, August 28-September 3, 1910), reprinted in *Histoire de la IIe Internationale*, vols. 19-21 (Geneva: Minkoff Reprint, 1981), 471-72.  
 106. See also Ravn, "Lagging Far Behind All Civilized Nations."  
 107. See the following essays in this volume: Ravn, "Lagging Far Behind All Civilized Nations"; Gro Hagemann, "Protection or Equality?"; and Karlsson, "The Beginning of a 'Masculine Renaissance.'"  
 108. In its planning stages, this organization was called the International Women's Labor Association. See the Rutgers-Hoitsema papers at the International Archives for the women's movement in Amsterdam. I will explore this aborted attempt further in a forthcoming book.

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### Equality for Men? Factory Laws, Protective Legislation for Women in Switzerland, and the Swiss Effort for International Protection

Regina Wecker

In a report by the British Royal Commission of Labour on Switzerland presented to Parliament in London in 1893, the commentator remarked,

It is a remarkable fact that Swiss law contains so few provisions for the protection of women and children. The same working hours, with the same intervals are legal for all persons employed in factories whatever may be their age or sex. . . . Women are altogether forbidden to work at night. . . . A large number of women and children are, however, employed in factory work, and some cases occur in which children are allowed to begin work too early, or women are employed in dangerous work or kept at work all night.<sup>1</sup>

From a foreign perspective, provisions in the Swiss factory law of 1877 (*Bundesgesetz betreffend die Arbeit in den Fabriken*) exclusively regulating women's work were few. Swiss politicians, however, believed that men and women in their country benefited from a very high degree of protection compared to other countries.<sup>2</sup> Switzerland had already implemented gender-neutral measures with regard to maximum hours, safety regulations, and the prohibition of night work. Moreover, the Swiss vigorously advocated protective legislation on an international level, writing to foreign embassies and governments on the subject, organizing conferences, and spreading the idea of international treaties covering labor regulations. Because the earliest Swiss factory laws af-

fectured men as well as women, a kind of relative equality existed in the control of working conditions in the first decades of Switzerland's industrial revolution.<sup>3</sup>

In the latter half of the nineteenth century and the first years of the twentieth century, equal treatment underwent a progressive erosion, aided and abetted by a series of laws regulating factory work—some regional, some national, and some mirrored in initiatives to establish an international agenda for labor and industrial production. This chapter will delineate that history and explore the gradual creation of labor protection into the antithesis of gender equality and its attempted export beyond national borders. Swiss protective labor legislation would introduce a new, defining element into workplace gender divisions, progressively molding female labor into a separate category. In turn, Swiss male industrial labor not only lost its ambivalent “protected” status—which a legally encoded “equal weakness” in the work force had afforded—but won the hypothetical protection of constraints placed on female labor, constraints encoded in labor law. If “protection” was rewritten, “equality” also took on a different, highly ambiguous tenor, one that troubles feminists in Switzerland to this day.

Gender difference and inequality of course rested on much more than whether those holding late-night jobs were men or women. Yet the history of the gendering of protection for workers is central to understanding the trade-offs made—by industrialists, male and female workers alike, women's welfare advocates, and politicians wary of the “anarchy of production”—for making the new industrial order more palatable, if not profitable. Unique in this Swiss story is not only the seemingly genderless genesis of protective laws but also the later vigorous attempts by the Swiss to export the gender-bound version of protection they had wrought. This chapter will explore that journey.



In Switzerland, the attempt to regulate factory work via labor legislation began in the early nineteenth century, roughly coinciding with the country's industrial take-off in the years between 1800 and 1830. The form such legislation initially took was bound up with the character of the country's industrialization, the work force populating its major industries, and its political institutions and their development. In this early period Switzerland had about 1.7 million inhabitants,<sup>4</sup> and textiles was the main industry. Once an important market for British

cotton cloth, this small country became Britain's competitor in markets the world over.<sup>5</sup> Indigenous chemical and machine industries had grown up around textiles, the former producing dye for cloth and the latter revolving around the production and repair of textile machinery. Neither of these industries would attain independent importance until the twentieth century.

Swiss industrialization claimed a place in the countryside as well as a place in town; it basically remained decentralized. Although Swiss towns were growing, industrialization was not accompanied by a rapid expansion of urban agglomerations. Perhaps because industrialization remained rather small-scale, class antagonism was less pronounced than in most industrializing countries. Decentralized industry and concentration of workers made it more difficult for the new labor force to organize, and a large portion of factory workers kept “proletarian” identity at arm's length. Many industrial workers in fact still owned some farming land and garden plots, and sometimes even owned the houses they lived in. By involving the entire family in some additional agricultural work, the cost of living could often be kept to a minimum. Yet the scene is much less idyllic than some historians would have us believe.<sup>6</sup>

With no access to the sea, Switzerland was locked into a highly unfavorable geographical position and forced to import all its raw materials. In pursuit of high returns, industrialists relied on the skilled work produced in the cloth finishing industries and the staple of low wages. Much skilled work also came relatively cheaply, for a large proportion of industrial workers were female. While the proportion of women in the work force decreased during the nineteenth century, as late as 1882 nearly half the workers in factories were women, and in the textile industry women made up 65–70 percent of all workers.<sup>7</sup>

The Swiss state has a federal structure and consists of twenty-six<sup>8</sup> member states (cantons) that enjoy considerable autonomy and differ in their political structure and institutions. Historically, the cantons came first and were slow (and reluctant) to transfer powers to the national government and the national parliament, a process that was at its height in the nineteenth century. The history of protective legislation in Switzerland was both a mirror and an incentive for the transfer of power from the cantonal to the national level. After the Napoleonic Empire collapsed in 1814, Switzerland could still be considered a *Staatenbund*, a confederation of states.<sup>9</sup> Only in 1848 did it take the decisive step of becoming a federal state and forming a parliamentary sys-

tem that strove to find a synthesis between federalism and centralism.<sup>10</sup> But civil, penal, mercantile, and labor matters were still decided on the cantonal level or by rather complicated agreements among the cantons, a disadvantage in the rapid industrialization process. The situation did not change until 1874, when the revised constitution conferred more power on the federal institutions.

Legal and constitutional developments ensured that the cantons would be first to take the initiative in matters of protective legislation. At the beginning of the nineteenth century, the cheap labor force still included a large number of children. Opponents of child labor argued that children's physical development suffered and that they failed to get the schooling the republic expected of its future citizens. Therefore, some cantons passed legislation addressing children's hours and conditions of work. In Zurich, in 1815, a decree excluded children under nine from factory work and limited working hours of those under sixteen to a maximum of twelve to fourteen hours a day. The canton of Thurgau attempted to institute similar restrictions.<sup>11</sup> Major industrialists vigorously opposed the regulations, as did parents who relied on their offspring's income. Cantonal authorities in fact had no means of enforcing this legislation, yet the state had set in motion a precedent for interfering in private contracts and "violating" the idea of free enterprise and free contracts.

Glarus, a major center of textile production early in the century, began the process of passing comprehensive factory legislation in 1824. It forbade night work after 9 P.M. for all workers in spinning factories. If this canton made a move long before others, its commitment came in fits and starts, and the well-being of Glarus mill laborers was probably not at the forefront of legislative deliberations. The aim of the 1824 provision seems to have been to protect the neighborhoods surrounding the factories from fire hazards. Glarus continued its efforts to regulate the working lives of all workers by introducing the thirteen-hour day in the cotton-spinning industry in 1848.<sup>12</sup> Though many women were its *de facto* beneficiaries, this piece of legislation contained no special rules pertaining to women. In 1864 the same canton unveiled the first factory law applying to *all* factories in its territory, instituting a twelve-hour day and prohibiting night work for men and women alike.<sup>13</sup>

The parliament of Glarus had originally intended the 1864 law only to regulate working hours for women and children, "adult men being able to negotiate for themselves."<sup>14</sup> Coupling this argument with laborers' economic need and the financial straits of the canton's entre-

preneurs, the parliament of Glarus turned down the general prohibition of night work as well, limiting it to women and children. In a famous debate in the *Landsgemeinde* (the cantonal assembly of all enfranchised citizens), working men, supported by physicians and ministers, altered the law. Calling the assertion that adult men were able to protect themselves from exploitation a "bad joke," they insisted that working hours and the prohibition of night work should be the same for men and women. Viewed from a gender perspective, the debate reveals men—still a minority among factory workers in Glarus, but in possession of the "manly" power to legislate—as the successful defenders of *de facto* male "equality with women."<sup>15</sup> In the final law, only one provision explicitly dealing with women remained: it forbade women from working for six weeks after childbirth.

Men in the *Landsgemeinde* revealed their clear antipathy toward special legislation and special protections for women, be it for night work or gender-specific maximum hours. Those who argued against comprehensive provisions in the assembly asserted that women were especially vulnerable. In the end, a majority rejected the notion that only women and children required protection and had separable interests from men. In the middle of the nineteenth century, Swiss families depended on more than one income to survive; and in the laboring classes in particular, wives, daughters, and sons were all expected to contribute to the family income. Reducing the maximum hours of women and children alone may arguably have led to a reduction of family income without offering any advantages to men. There were no immediate, obvious gains for "male privilege" to claim by strengthening gender differentiation at this juncture and in this way; the currency of the "male family wage" arguably remained too weak to support such a move. Male workers in the *Landsgemeinde* had spoken out, insisting that they did not feel strong enough to negotiate with private employers or to strike for better conditions.<sup>16</sup> Perversely put, their egalitarian position was probably elicited by a feeling of equal weakness. Regardless, factory legislation affected more women than men simply because they constituted a majority of the canton's factory workers.<sup>17</sup> Echoing the Swiss labor historian Erich Gruner, Swiss historians concur that the 1864 law served as a model for the subsequent cantonal as well as federal legislation and that it determined the form of future protective legislation.<sup>18</sup> This view can only be partly true if we take the peculiar position of women seriously.

Four other cantons (out of twenty-five) followed Glarus and imposed

factory laws: Basel-Land (in 1868), Basel-Stadt (in 1869), Schaffhausen (in 1873), and the Ticino (in 1873). The electorate of two cantons (Zurich and St. Gallen) rejected such legislation.<sup>19</sup> While the law of Basel-Land and that of Schaffhouse mainly aimed at protecting young people, the factory law of Basel-Stadt closely followed that of Glarus: it instituted a twelve-hour day and banned night work for both men and women. The issue of shorter working hours for women was raised, but it was quickly dropped because MPs feared that this would endanger the legislation as a whole. Identical maximum hours were thus set up for men and women. As a compromise, the law entitled the government to reduce working hours for women and children "if necessary."<sup>20</sup> A further provision is of interest: married women could take a longer midday meal break on request, presumably tied up more with familial provisioning than with chivalrous generosity. Although Basel-Stadt clearly modeled its law on that of Glarus, it contained special provisions for women, at least in theory: the longer midday meal break was optional and women often could not take advantage of it even if they wanted to, for it reduced their income. The government never made use of its right to impose shorter working hours for women. Intervention on behalf of children, then, set a general precedent for government involvement in industrial relations during the early and mid-nineteenth century in Switzerland. Beyond intervention for children, the question of whether or not the state should participate in the creation of gender divisions through regulation of working conditions would remain a far more ambiguous proposition in these years, antipathy toward special legislation and special protection for women being predominant.



The era of cantonal regulations ended in 1877 as a result of changes in the Constitution of 1874, which gave the federal Parliament the right to legislate conditions of work "for children and adults."<sup>21</sup> Parliament soon made use of this new capacity. This shift made more systematic responses to industrialization possible, and, crucially, it opened the way for transforming the Swiss dialogue between work and gender divisions.

The new 1877 Federal Law on Work in Factories<sup>22</sup> expanded on and differed from its cantonal predecessors in various ways. It instituted an eleven-hour day. It also forbade night work for men and women but decreed that night work might be permitted in emergencies and that in special cases permits for exceptions might be issued to men but not

to women (Article 15).<sup>23</sup> The law decreed that women with "household duties" could request a break of ninety minutes at lunchtime, which they would take at their own expense. Married women were not allowed to perform auxiliary work outside normal working hours, and women were generally not allowed to clean running machinery. The law mandated a maternity leave of eight weeks (two before and six weeks after childbirth). It instructed the Federal Council to publish a list of industries and jobs (*Fabrikationszweige*) in which pregnant women would not be allowed to work. Finally, children under age fourteen were barred from factory work altogether.

In Switzerland, before a draft becomes federal law it must pass several stages, the first of which involves submitting the draft to a public consultation procedure (*Vernehmlassung*), where the governments of the cantons, political parties, unions, interest and pressure groups, and concerned individuals submit their opinions.<sup>24</sup> The federal government then presents it to Parliament with a written report that contains the major arguments of all groups and institutions who participated in the consultation process. The two chambers of Parliament deliberate and vote on the proposed law.<sup>25</sup> Finally, the bill is submitted to a plebiscite if a certain number of voters ask for this.<sup>26</sup> It is then accepted or rejected by a majority of the voters.

In the *Vernehmlassung* the government received sixty written statements. Responding to the proposed prohibition of women's night work, a group of 272 textile industrialists wrote that they could not accept the law; it would be the deathblow for night work in general, for most textile workers were women.<sup>27</sup> Apart from this, little opposition to the ban was registered. The Association of Industrialists (Handels-und Gewerbeverein), the most important pressure group of entrepreneurs, accepted it. The national Working Man's Association (Arbeiterbund) argued for shorter working hours for women and for a maternity leave of twelve weeks, a shift from its earlier position. When the association was founded in 1873, it proposed equal working hours and equal pay for men and women as part of its program. Now it claimed that most of its members wanted to abolish factory work for women. Even the best legislation, it argued, could not make up for the harm done to households and families by the absence of a housewife and mother.<sup>28</sup>

Apart from the question of whether or not the federal authorities might legitimately have a hand in legislating working conditions (an issue that revealed how large the obstacles to national legislation were),

the main discussion in Parliament revolved around limiting the workday to eleven hours for all workers. Opponents of the law had both tacitly and openly agreed that if protective legislation was inevitable, it was better to increase protection of women and children than to impose stricter rules on the whole work force. They concentrated their efforts on blocking the eleven-hour day in the parliamentary debate. This strategy failed, for Parliament accepted the eleven-hour stipulation. Judging from the “letter of the law,” the difference between protection of men and protection of women with respect to night work was small; night work could in general only be performed in exceptional cases. The difference became more obvious, however, when exceptions for male workers were obtained rather easily.

The Swiss Parliament passed the law by a large majority.<sup>29</sup> Opponents of the law then submitted it to a plebiscite. It was the Association of Industrialists of the canton of Aargau that started the referendum. The association was backed by other industrialists and entrepreneurs. In the campaign that followed, the eleven-hour day once again became the most important issue, but there is not much leeway in a plebiscite for subtle arguments. Prohibition of night work, a ninety-minute midday meal break for women with household duties, exclusion of children under age fourteen, and an eleven-hour day for all workers were part and parcel of one law that could either be accepted or rejected but no longer amended. Supporters and opponents concentrated their efforts on discussing the consequences of an eleven-hour day for all factory workers rather than, for instance, the strict ban on women’s night work. Protection of women and children had become more accepted. The absence of any discussion of an absolute ban on night work constituting a positive feature of the law may well have derived from the fact that women did not have the vote; their support for the law was thus dispensable.

Indeed, women’s organizations at the time were not active in discussions about factory legislation. The new type of bourgeois women’s organization,<sup>30</sup> which would deal with political questions, did not appear in Switzerland until the early 1890s.<sup>31</sup> Furthermore, public discussions of female labor had started rather late in the 1860s and 1870s, when the Swiss Welfare Societies<sup>32</sup> and their female adherents dealt with the problems of women’s work by developing models of female education that were primarily aimed at promoting better housekeeping. These societies were convinced that a solution of “The Social Question”—as they called the growing misery caused by rapid industrial develop-

ment—lay in good cooking and thrifty housekeeping. Their model for education was ambivalent. In the 1880s, they developed vocational courses in sewing, ironing, or knitting. They aimed to improve women’s knowledge in an area that would be useful both at home and in industry.<sup>33</sup> Working Women’s Associations, which represented working-class women and later defended protective legislation, were only founded toward the end of the 1880s and therefore did not take part in this discussion. If we tap into the opinions of individual working women on the matter, we find that they were in favor of measures such as longer midday meal breaks.<sup>34</sup>

Male Swiss voters accepted the law by a small majority. Thus, the total exclusion of women from night work went into effect, as did other special provisions. Women were thus doubly protected, as workers and as women, though not entirely for their own benefit: they were supposed to rush home to cook meals, and they had to stay home from jobs for eight weeks around the period of childbirth, with no provisions made to replace wages lost during this time. Furthermore, they could be dismissed when they became pregnant if they worked in a so-called dangerous occupation.

The ambiguities radiating from the provisions regulating women’s work were not publicly discussed in Switzerland at the time. Perhaps the implications were barely clear, too tangled in mixed objectives and political strategizing by both defenders and opponents of the measures. Neither the possibility that special protection might weaken women’s position in the labor market nor the issue of whether or not protection of women was a viable strategy for reducing the harsh toll of factory work entered the public record. Rather, a consensus seems to have developed, a feeling that female factory workers suffered from a double burden of housework and factory work and that any possible provision to alleviate it ought to be welcome. Women’s position in the family and the workplace seemed different from that of men, and their capacity to bear children seemed to make special regulations necessary.

The plebiscite results may be taken as a sign that the concept of the male breadwinner was gaining ground in the working classes. It was arguably accompanied by a shift from the assumption that women belonged in the family wage economy to a more middle-class norm: a woman was primarily mother and housewife and required protection. Work outside the family economy—common in an industrialized society—may have in theory created conditions for an economically

independent existence for women, and Swiss legal developments also pointed in this direction.<sup>35</sup> But opportunities for such independence were destroyed even before they were put into practice. On the legal level, the new Civil Code (*Zivilgesetzbuch*) drove this message home in its definition of both women's property rights and the rights and duties of husband and wife;<sup>36</sup> on an economic level, the ideas of man as the breadwinner and woman's wage as supplementary gained credence. The 1877 factory act, with its special regulations for women, essentially mirrored these trends. It helped to reassert differences between male and female in the workplace. Offering a distinct new set of rights for men, it shored up male dominance, which was losing confidence in the face of a new machine age in which the value of traditional male labor and skills was itself being undermined and eroded. Still, its consequences for the shape of male labor probably remained veiled for many contemporaries. Would it help to firm up the sexual division of labor before de-skilling put in an appearance, or would it help restructure mixed-sex industries to benefit all workers?



While notions of protection for women and children had circulated from the earliest days of Swiss industrialization, the 1877 federal law and the international initiatives that followed were to prove powerful steps toward the creation of women as a special class of workers and the construction of gender differences. In 1864, night work prohibition was still a question of social justice: night work was forbidden with no exceptions because it was harmful to women and men. In 1877, a concern with gender difference—the protection of women—encouraged parliamentarians and male voters at large to make exceptions to the night work ban for men.<sup>37</sup> Longer midday meal breaks and a maternity leave acknowledged women's family role but arguably also made that role a self-fulfilling prophecy. And they offered a new version of “protection of men.” It was as though legislators wanted to demonstrate that while working men lived and worked under bad conditions and had few rights, they had a right to wives who looked after them and their offspring.<sup>38</sup>

The 1877 law, then, functioned as an opening wedge not only for the terms of international protective legislation but also for a retooled conception of protection: special protection for women only. In the canton of Basel-Stadt, for instance, it underwrote the argument that if women

were not allowed to work in factories for more than eleven hours, then making dresses in sweatshops, selling goods in unhealthy shops, or working in offices (including on Sundays) was no more acceptable. This kind of argument could well have been extended to men's work, but it was used to address women's labor alone for the first time. Basel was the first canton to go beyond the federal law and apply both the eleven-hour day and night work prohibition to all women working in millinery production and other trades that were not defined as factories and employed more than three women (1884).<sup>39</sup> In 1888, the canton extended protection to all enterprises (except retail shops) employing three or more women or any woman under the age of eighteen.<sup>40</sup> The 1888 law mandated a maternity leave of eight weeks. In 1904, Basel altered its law again to include protection for women working in retail shops as well. Only servants remained excluded, an omission hardly out of step with other European countries but an interesting comment on conceptions of domestic labor.

Up to 1904, seven cantons<sup>41</sup> had introduced laws specifically regulating women's work outside factories along the lines of factory regulations; these introduced an eleven-hour day,<sup>42</sup> maternity leave,<sup>43</sup> and a ban on night work and Sunday employment.<sup>44</sup> Apparently, women's organizations did not challenge them. The Working Women's Association as well as individual women supported the 1888 law when an amendment was again discussed in Basel in 1904.<sup>45</sup>



Swiss politicians thought protection for men and women in Switzerland compared very favorably with the provisions made by other countries.<sup>46</sup> Special measures for women workers had grown out of a broader tradition of factory legislation for all workers. These general provisions were supported by politicians and trade unions of different political persuasions. For some, the idea needed to be extended even further, be it in gendered terms or carried into the international realm. Here, Swiss protection initiatives were a point of pride and of calculation. As these initiatives developed from the latter half of the nineteenth century, they would mirror the same divisions and ambiguities surrounding gender questions that beset protection debates within Switzerland.

The idea of promoting labor protection internationally had a long history in Switzerland. It originated with industrialists from the Swiss canton of Glarus, the canton that was furthest along in creating pro-

rective measures. Already in 1855, these men tried to convince other Swiss cantons of the necessity of a “concordat”<sup>47</sup> on factory legislation. More calculating than worker-friendly, they sought “equal conditions” for employers in the cotton-spinning industry. At the same time and in a similar vein they were already toying with the idea of international agreements as a weapon for improving their competitive position in both Swiss and international markets. Last but not least, they sought to reduce productivity, seeing “overproduction” as a threat to economic stability.

Emil Frey, later a member of the Swiss government, made an early important contribution to the internationalization of factory legislation. In his parting address after a year as president of the Swiss National Council in 1876, he proposed that Switzerland should initiate international conferences and treaties and create equal conditions for production of all industrialized European countries. This intention was based on economic and political calculations: the Swiss Parliament was at that time discussing the factory law, and employers complained that the legislation would put them at a disadvantage in other European markets. Frey, a member of the Liberal party (Freisinnig-demokratische Partei), was an ardent defender of the factory law. Such a law, he argued, was in keeping with a humane worldview and the notion of social stability.

Frey promoted the idea that Switzerland should take the first steps toward an all-inclusive labor legislation stretching beyond its borders. According to him, no other country had quite the same obligation to creating better working conditions. Although conditions were not especially bad in Switzerland, he argued, it was nevertheless the responsibility of a republican and democratic Swiss state to care for those who could not care for themselves. In a state like Switzerland, poor living conditions for a large group of citizens should not be countenanced and had to be abolished by legislation. Unchecked social inequality would only increase and eventually endanger political equality, the basis of a democracy. Furthermore, because the Swiss state gave its citizens the right to exert direct influence on political issues, it was, according to Frey, obliged to care for the welfare of those who influenced its politics. If by this intervention the basis of production and competitive viability were to suffer, it was Switzerland’s duty to underwrite more expansive equal opportunity through international treaties.<sup>48</sup>

Although Frey’s concept of protective legislation contained special

passages for women (a strict prohibition on night work, provision of maternity leaves, exclusion from dangerous jobs), his notion of the citizen who required protection appears above all to have been the citizen who had the power to legislate and influence politics—that is, the male citizen who might be influenced by Marxist ideology, who might cause upheavals or revolutions, and for whom the state had to procure acceptable working conditions.

In response to Frey’s address, Swiss newspapers dealt at length with international protection for the first time; from then on, the subject became a matter of parliamentary and public discussion. In addition to humane considerations, internationalizing protective measures was arguably a means of ameliorating working conditions at home without creating economic disadvantages abroad.

Frey’s address did not go unchallenged. In the French-speaking part of Switzerland in particular he was tagged a *socialiste* and *utopiste*.<sup>49</sup> Nevertheless, the idea of international protection gained ground after the proposed factory legislation rode out the plebiscite and the attempts to rescind it shortly afterward derailed.<sup>50</sup> The results of different cantonal plebiscites showed that some workers remained opposed to protective legislation, but the leaders of the workers’ association had always advocated protection on a national level and now pushed the idea of international legislation. In 1880, the Arbeiterbund<sup>51</sup> took up the idea and demanded action from the federal government. Political forces such as the Grütliverein, a moderate political party, and the parliament of the canton of Grisons supported the association’s call. Later in the same year, Emil Frey, still a member of the Swiss Parliament, submitted a motion that obliged the government to take concrete steps toward international protective legislation. This first attempt failed.

Almost a decade lapsed (1888) before two members of Parliament, Caspar Decurtins of the canton of Grisons and Georges Favon from Geneva, submitted a second motion. Decurtins,<sup>52</sup> a member of the Catholic Conservative faction in the National Council, argued that because modern industrialization had produced the same conditions of work and the same grievances everywhere, a common effort should be mobilized to address them. According to Decurtins, overproduction was the main danger of the modern system, and international workers’ protection provided a means of stopping the “anarchy of production.” From elsewhere on the political spectrum, Favon, a member of the Council of States for Geneva and a Radical (*Radikal-Demokrat*), saw the



move as a necessary step toward “uniting all friends of social reform.”<sup>53</sup> It seems obvious that at least Decurtins also had a specific agenda for the future of female labor: he considered factories thoroughly unfit for women and saw protective legislation as a way to abolish factory work for women in the long term.<sup>54</sup>

The Swiss government accepted the motion and planned a congress in Bern for 1890. Representatives were invited from Belgium, Denmark, Germany, France, Great Britain, Italy, Luxembourg, the Netherlands, Austria, Portugal, Russia, Sweden, Norway, and Spain. The agenda included the abolition of work on Sundays, minimum age laws for child labor, maximum hours for young people, the abolition of work for young people and women in dangerous industries, a ban on women’s night work, and enforcement and control of these regulations through an international treaty.

Before the Bern Congress could be held, Germany stole the show. The kaiser seized the initiative and invited representatives of the various nations to Berlin for the same purpose. Like most countries, Switzerland accepted the invitation. The program at the Berlin Congress was very similar to what had been planned for Bern, but the results were a far cry from the original plans laid by the Swiss: measures encoded in treaties were not on the agenda, and congress participants could merely agree to proposals.

Switzerland took the initiative for a second time in the wake of the Berlin meeting. This time, the workers’ association seized the reins. On the one hand, the idea of protective legislation had become more prevalent among socialists following the Second International of 1889 and its demand for an eight-hour day. On the other hand, the issue now attracted Catholic politicians because of Pope Leo XIII’s 1891 *Rerum Novarum* encyclical, which advocated workers’ protection.<sup>55</sup> The First Congress on Workers’ Protection was ultimately delayed, however, because German and Austrian socialists refused to participate if members of nonsocialist parties or unions were allowed to attend.

The congress finally took place in Zurich in 1897 and was attended by 391 delegates. Most were members of unions and workers’ organizations, but attendance was not limited to those of a socialist persuasion. The most prominent participant of the Social Democratic party (SPS) of Switzerland was *Arbeiter-Sekretär* Hermann Greulich, his position created to mediate between the federal government and workers’ unions. Apart from delegates of the workers’ organizations and unions,

several Swiss cantonal governments sent delegates as well. The official delegate of the federal government was Fridolin Schuler, a physician from Glarus and the first Swiss factory inspector. To demonstrate that protective legislation was a matter of broad public (not merely socialist) concern, the Swiss government granted organizers 4000 SFr toward the expenses of the congress. The program featured all the “usual” points. The speakers were all Swiss, among them Margarete Greulich,<sup>56</sup> who was one of the main lecturers in the congress segment devoted to women’s work.

As in Berlin, Zurich delegates also lacked the authority to formalize international treaties, though the congress reached unanimous agreement on most questions.<sup>57</sup> Special protection for women remained the exception, and three different positions emerged: total exclusion of married women from “mines, quarries, and from heavy industry”<sup>58</sup> (meaning all factories); a halfway house of special protection for women; and equal protection for men and women.<sup>59</sup> Some of the Swiss delegates—among them Decurtins—belonged to a minority at the congress who advocated total exclusion. Most of the delegates were in favor of special protection for women short of such an across-the-board exclusion, among them probably all the Swiss women present. Equal protection for men and women, the third position and once the theme of such legislation in Glarus, went unsupported by the delegates.<sup>60</sup>

With factory legislation on the books—defended by the government and different workers’ organizations—protection for men and special regulations for women had clearly become an unchallenged tenet in Switzerland. Quite apart from its practical effects, however, its meanings remained wide open: some viewed protective legislation as the first step in a march toward abolishing factory work for women altogether (Decurtins), while others remained convinced that it opened up a route for ensuring further protection for men as well (Margarete and Hermann Greulich). Its potential meanings had also moved beyond the country’s borders.

Kaiser Wilhelm notwithstanding, the importance of the Swiss role in matters of international protective agreements seems to have been confirmed by the founding of the International Labour Office (ILO), which was established in Basel in 1901. The shift in Swiss activities around protection was not just a matter of scale, however. It was symptomatic for a major recasting of the gendering of labor issues in Switzerland at the close of the century.

Of the twenty-one articles of the Swiss factory law of 1877, only two dealt with women. Moreover, such legislation was historically designed to protect all workers, and special protection for women was once considered a threat to factory legislation.<sup>61</sup> Given this history, it is retrospectively stunning how easily Swiss delegations attending turn-of-the-century conferences opted to attach protective regulations to women's work exclusively. Here was proof again that attitudes toward women's work had changed significantly since the early days of factory legislation.



While Switzerland was consolidating its international position with regard to protective laws for women, there were strong demands for the revision of the 1877 national factory law. The eleven-hour day in particular was no longer acceptable to the unions; in its place they demanded a forty-eight-hour week. The attempt at revision was started in 1910. Regarding night work, the governmental report did not question the absolute ban for women: "There is nothing to say against it," the report stated.<sup>62</sup> In the parliamentary debate in 1913, however, a demand arose to grant exemptions for factories producing canned goods, especially those processing canned fruit. The National Council turned down the motion, although the person proposing it—an industrialist—had argued that only women could do this particular kind of work for it was "woman's work."<sup>63</sup> But a very important change had occurred between the 1888 law and the revision process that illustrates what Alice Kessler-Harris, at a conference on protective labor legislation, called "the creation and precise definition of the concept of 'universal woman.'"<sup>64</sup> In 1877, the government listed the jobs *pregnant* women should not hold. Some thirty years later, a movement to amend the law expanded the categories of work from which *all* women were prohibited to include such things as lifting heavy loads or handling poisonous materials. In addition, the ninety-minute midday meal break was now explicitly defined as a right for all women if they had household duties, whether they were married or not. Women who were responsible for housework were also entitled to stay at home on Saturday afternoons.

The government anticipated opposition to this new "British idea" by saying that only some women would really benefit, "the loss of earnings being a discouragement."<sup>65</sup> When Parliament discussed the Saturday afternoon housework issue, most of the National Council agreed with M.P. Albert Schwander, who asserted that a working woman should

have the time "to clean the house for Sunday."<sup>66</sup> Schwander, a politician from the canton of Basel-Land and popular with the Social Democrats, said the number of female factory workers who were housewives—about twenty-eight thousand—was "disquieting." (At stake were benefits for about a fourth of all female factory workers or a third of all female factory workers over eighteen.) Those women could not possibly fulfill their "proper duty," looking after their children and households, lamented Schwander. Some textile industrialists opposed the provision. Given the large proportion of women in the textile industry, a free Saturday afternoon for women would cause difficulties in terms of the industry's work schedule. The compromise finally reached was to delay enforcement of this particular provision for five years after the amended factory law came into force. This move purportedly ensured that the textile industry had sufficient time to adapt its schedules.<sup>67</sup>

An increasing emphasis on women's "proper duty" gave gender-based protective legislation a more distinct character, temporarily imposing greater fixity on its meaning. But there were limits put on the recognition of workers as "women." Maternity leaves were shortened to the six weeks after confinement, justified by the argument that health insurance policies only covered these six weeks.<sup>68</sup> At the beginning of the debate on revisions, the National Council changed the proposal to eight weeks, but the Council of States later overturned this.

Arguments for protection entertained at the time by various strands of the Swiss women's movement remain fairly opaque, the choices strewn with complications. Two women's organizations—the newly founded umbrella organization of the Swiss feminist movement, Bund Schweizerischer Frauenvereine (BSF); and the Union Féministe de Neuchâtel—offered written opinions on the law in 1910. Neither objected to protective legislation in general, although the Swiss feminist movement had by this time accumulated some evidence of the negative impact of protection. When the Union für Frauenbestrebungen, a progressive bourgeois women's organization, advocated equal pay for men and women working in the state mail and telephone company, they were told that women earned less because they were not allowed to work at night.<sup>69</sup> The question of maternity leave also revealed complications. The BSF and the Organization for Women's Welfare (Gemeinnütziger Frauenverein) had in a late phase of the discussion argued that the law on health insurance and the revised factory law provisions for maternity leave should be brought in line with each other. The Coun-

cil of States coolly considered this an argument for a six weeks' leave, which finally became law.

Not until the 1920s did a section of the bourgeois feminist movement in Switzerland challenge special protective measures for women.<sup>70</sup> At the Second Women's Congress (Kongress für Fraueninteressen) in 1921, for instance, Annie Leuch, a member of the organizing committee of the congress and later president of the Swiss Union for Women's Suffrage (Schweizerischer Verband für Frauenstimmrecht),<sup>71</sup> advocated equal protection for men *and* women. Leuch opposed shorter hours and other restrictions on the basis that protection tended to weaken women's economic position and their claim for political participation. She pointed to the example of book printing to show that protection carried a price, that of exclusion from a trade "profitable and suitable for a woman."<sup>72</sup>

In the 1920s, many Swiss unions were in fact stepping up efforts to exclude women from certain trades. The more powerful a union was, the more successful it proved to be in this pursuit. The Typographers' Union, a section of the Swiss Union of Workers (Schweizerischer Gewerkschaftsbund [SGB]) managed to exclude women by regulations encoded in the Labor and Collective Bargaining Agreement. The Typographers' Union had already tried to exclude women from printing jobs in 1899. Casting their work as a "dangerous trade," the Typographia Bern and fourteen other local sections asked the federal government to intervene to expel women from book printing. The provisions of the factory law of 1877 were not considered sufficient to exclude all women,<sup>73</sup> and the federal government did not comply with their request.<sup>74</sup> On the basis of the amended factory law of 1914—which was only put into effect after World War I—women could eventually be legally excluded from all skilled work and from apprenticeships in the book-printing trade because lead (a staple of the trade) was on the government's list of dangerous substances, something no woman was allowed to handle. Women were not, however, excluded from *unskilled* work in the printing industry.

No independent women's union existed to oppose the policy of the Typographers' and Lithographers' Union. The Working Women's Association was hardly a candidate. It had been part of the Social Democratic party from 1912 on, and the Social Democrats had always defended protective legislation. Women's position in the Swiss trade

unions was generally very weak.<sup>75</sup> While not typical, the example of the typographers leaves little to the imagination: once made acceptable, special protective laws for women could be seamlessly conjoined with disputes over the sexual division of labor. Even if organized women had begged to differ on the matter, they were also tangled in alliances that made integration crucial, dissent difficult, and special protection a reasonable proposition in many contexts.

On the whole, the group of women opposing protective legislation seems to have been a minority even in the bourgeois feminist movement. At the Congress for Female Suffrage in Paris in 1927—where a majority of the delegates opposed protective legislation—the Swiss voted with a minority that passed a counterresolution in favor of such legislation.<sup>76</sup> Even opponents acknowledged the need for maternity leave and the protection of pregnant women. Thus, opponents supported benefits for actual mothers through maternity insurance and a paid maternity leave rather than measures that assumed that all women were or would be mothers. Here they found common ground with the social democratic position.



"Protection" has a long legacy in Switzerland and "equality," a complex pedigree. According to the letter of the law, night work is still not permitted in Swiss industry.<sup>77</sup> The Ministry of Industry, Trade and Labor (BIGA) issues special permits exempting exceptional cases, and these only go to male employees. The 1964 law continues to protect women, in keeping with the tradition of the 1914 law. It construes all women to be mothers or potentially pregnant, whether they are married or not, whether they have children or not, whether they are aged sixteen, twenty-five, or sixty-two.

Women are not allowed to work on Sundays. Maximum working hours are the same for men and women, but women who have "household duties" need not work overtime. Some special regulations exist on the relation between leisure and work, with regard to women, and on their maximum weekly hours (article 34 of the 1964 law). These special provisions all feed the impression that women are a very special category in the Swiss labor market. Special regulations other than those connected with pregnancy—particularly night work regulations—run contrary to the Equal Rights Amendment of the Swiss Constitution

passed in 1984. As a result, the Swiss government was forced to amend its Law on Work. In the current draft, women will be allowed to work night shifts in industry.

Will the abolition of such special regulations prove to be a successful way of improving women's position in the labor market? The development of protective legislation for men and women during Switzerland's 150-year history helped to create and still reflects the development of the notion that a woman combining family work with waged work is undesirable, harmful for her family. This notion and special protective legislation for women were the products of the end of the nineteenth century; developments in the twentieth century gradually reinforced their thrust. While this standard is now questioned, the social security system and the absence of a child-care system bear witness to the tenacity of Switzerland's basic assumptions and spirit. Abolishing only one feature of that standard (the night work ban for women) in only one part of the legal system (labor legislation) does not automatically represent a step toward equality. A modification of the labor laws alone will not advance women's position in Swiss society.

Women still earn less than men. A recent report revealed that the differential could not be a result of women's lesser qualifications or training but rather of the simple fact that women are paid less because of their sex. In middle- and upper-management jobs women typically earn one-third less than men with the same qualifications and types of jobs. Although protective legislation had been used as an argument against equal pay from early on,<sup>78</sup> it is clearly responsible neither for the financial disadvantages and poor position of women in the Swiss labor market nor for the peculiar Swiss social security system. However, special protective legislation for women and the standard on which it is based derive their strength from the same kind of ideological assumptions: the notion that all women are wives and mothers and that a woman's proper place is with her family. A sex-segregated labor market and protective legislation tend to back on each other in a pernicious way, reinforcing the impression that women are something exceptional and a special category in the labor market. Consequently, the better jobs, higher pay, and attendant influence these carry in Swiss society today remain the preserve of men.

With this in mind, some progressive women's organizations, the Catholic women's movement, the Social Democratic party, and the trade unions opposed the work of the commission. The umbrella orga-

nization of the Swiss women's movement (BSF) did not object, however. The oppositional alliance only formed recently, and the arguments they have mobilized are also new. They believe that under the pretext of equality employers attempted to introduce night work for women in industry without complying with other important elements of the amendment: equal pay and equal opportunity. The trade unions, which still view employers as interested in using women largely because they are paid less, believe that the new regulations would increase the overall number of people forced to work the night shift. "Night work is harmful for men and women," the SGB has argued, "but instead of diminishing the number of night workers, the federal government tends to increase it."

Organized women opponents of the new regulations now believe that equal opportunities for Swiss women can be attained only by raising salaries, changing social security regulations, and establishing a system of child care that would give women a choice about whether or not to work at night. Until those conditions are fulfilled, they will not agree to the amended law.<sup>79</sup> In 1991 women therefore faced a situation in which they opposed what was planned in the name of equality and laid claim to special regulations because of women's position in society. They opposed this kind of equality because it would again force women to adjust to male standards.

Writing about the Sears case in the United States, Joan Scott described the kind of difficulties that have also ensnared Swiss women: "When equality and difference are paired dichotomously, they structure an impossible choice. If one opts for equality, one is forced to accept the notion that difference is antithetical to it. If one opts for difference, one admits that equality is unattainable."<sup>80</sup> Women's organizations in Switzerland refused to structure their choices in the framework of this simple binary opposition. Their political strategy was not to claim categorical difference, but they also rejected the notion that sameness should be the basis for political equality. They escaped falling into what—in the process of adapting Swiss law to the principle of gender equality—has been called "the equality trap." Despite their protest, the Swiss federal government rejected the ILO's Convention 89 (the ban on night work for women) in February 1992. An alteration of the Swiss law would probably lead to a popular referendum.<sup>81</sup> A second *Vernehmlassung* (consultation) was started in the summer of 1993, but the opinions are not yet publicly known or published. The outcome is

uncertain, as is the outcome of a (possible) plebiscite. The effects of the recent economic crisis arrived in Switzerland after some delay, but the unemployment rate has now grown considerably. The unemployment rate of women is even higher than that of men, which might weaken the position of those who resist abolition of the night work provision for women. Employers interested in the abolition of special protective legislation for women can create public pressure by threatening to transfer factory production abroad. Women may fear losing their jobs and accept the change.

The factory law of Glarus was a remarkable step in the history of Swiss factory legislation: men claimed to be equally protected and considered their health too valuable to be ruined on the night shift. Would this not be an opportune moment and context in which to return to an understanding of protection that once was?

## Notes

1. Royal Commission of Labour, *Foreign Report*, vol. 7: *Switzerland* (London: HMSO, 1893), 25.
2. See "Arbeiterschutz (internationaler Arbeiterschutz)," in *Handwörterbuch der Schweizerischen Volkswirtschaft*, vol. 1, ed. Naum Reichesberg (Bern: Verlag Encyclopaedie, n.d.), 130.
3. Unfortunately, no new research has been done on the history of protective legislation in Switzerland in general, apart from Dominique Grobéty, *La Suisse aux origines du droit ouvrier* (Zurich: Juris, 1979). There are, however, some very useful juridical abstracts and studies that provide a short summary of the history of this question, e.g., Isabell Mahrer, *Die Sonderschutzvorschriften für weibliche Arbeitnehmer in der Schweiz* (Bern: Eidgenöss. Kommission für Frauenfragen, 1985), and Alexandre Berenstein, "L'influence des conventions internationales du travail sur législation suisse," *Revue internationale du travail* 77 (1958): 553–78. As a result of research done for this essay, I have published some short essays on the development in the Swiss cantons, e.g., Regina Wecker, "Sauber und blank für den Sonntag," in *Alles was Recht ist! Baselbieterinnen auf dem Weg zu Gleichberechtigung und Gleichstellung*, ed. Pascale Meyer and Sabine Kubli (Liestal: Archäologie und Museum, Heft 024, 1992). In October 1993 I started a new research project on the development of protective legislation in Switzerland between 1920 and 1964, financed by the Swiss Science Foundation.
4. In 1850 there were 2,400,000 inhabitants; in 1900, 3,320,000; and in 1980, 6,360,000.
5. B. M. Biucchi, "The Industrial Revolution in Switzerland," in *The*

*Fontana Economic History of Europe*, vol. 4, pt. 2, ed. Carlo M. Cipolla (London: Fontana/Collins, 1973).

6. See *ibid.*
7. In 1888 about 17 percent of the female work force was employed in factories.
8. The twenty-sixth canton was only accepted in 1978. In the nineteenth century there were twenty-five cantons.
9. There were few restrictions on the cantons' autonomy, mainly in matters of foreign policy. There was no central government but rather a sort of traveling secretariat that rotated every two years among Zurich, Bern, and Lucerne. Of course there was no federal law regulating labor conditions in this loose confederation.
10. A bicameral parliamentary system was created on the American model. The Nationalrat (National Council) represented the whole of the Swiss people and the Ständerat (Council of States) represented the cantons. In the National Council the fixed number of 200 seats is distributed according to population, while each canton sends two representatives to the Council of States. The four annual sessions of Parliament, taken together, last twelve weeks. Important and perhaps strange in comparison to other political systems is that parliamentarians are not professional politicians but have other professions. (This is true on the national as well as on the cantonal level.) In the nineteenth century a considerable number of parliamentarians were industrialists and owned enterprises. While both chambers usually meet separately, they have the same powers and duties. The consent of both is necessary for the adoption of new laws. Both houses sit together for elections and votes are not counted separately. This so-called Vereinigte Bundesversammlung (United Federal Assembly) elects the seven members of the government, called Bundesrat (Federal Council). They come from the major political parties, and at present four political parties have a member. It is a "collegial government": for instance, all members have the same rights, the chairmanship—or presidency—is rotated annually, but the position actually involves no additional power.

11. See Victor Schiwoff, *Die Beschränkung der Arbeitszeit durch kantonale Gesetzgebung und durch das erste eidgenössische Fabrikgesetz 1877* (Bern: Haupt, 1952), 17.

12. "Gesetz über das Arbeiten in den Spinnmaschinen 1848 erlassen von der Landsgemeinde," *Landsbuch des Kantons Glarus* (Glarus, 1854).

13. "Gesetz über die Fabrikpolizei, erlassen von der Landsgemeinde 1864," *Amtliche Sammlung der Gesetze und Verordnungen des Kantons Glarus* (Glarus, 1864), 44. Four factory workers initiated the law in 1863. Referring to the situation in England, they asked for state protection. They demanded the eleven-hour day for all workers in Glarus and improvement of workplace sanitary provisions. A commission formed to examine working conditions, and it finally drafted a law for Parliament.

14. See Heinz Dällenbach, *Kantone, Bund und Fabrikgesetzgebung* (Zurich: Juris, 1961), 72ff.

15. In 1865 ten thousand inhabitants, or a third of the canton's population, worked in factories. More than 50 percent of the adult workers (in these establishments) were women.

16. They had the power to use legislative means to bargain around working conditions, which they preferred to negotiating privately or collectively with employers. They were well placed to influence political decisions in each canton because of their ready access to the Landsgemeinde. Major political decisions were reached in these bodies rather than in a more distant parliament.

17. As late as 1895, 55.5 percent of factory workers in the canton of Glarus were women (4,551 of 8,204). In Switzerland as a whole, the first factory census in 1882 showed that 64,498 women were factory workers, i.e., 47.8 percent of all workers employed in factories. The percentage of women was decreasing, but as late as 1895 some 40.5 percent of these workers were women (80,995 of 200,199).

18. Erich Gruner, *Die Arbeiter in der Schweiz im 19. Jahrhundert* (Bern: Francke, 1968), 230. See also *Geschichte der Schweiz und der Schweizer*, vol. 2, ed. Beatrix Mesmer, Jean-Claude Favez, and Romano Broggin (Basel: Helbing und Lichtenhahn, 1983), 46.

19. See Dällenbach, *Kantone*; Eduard Weckerle, *Herman Greulich* (Zurich: Büchergilde Gutenberg, 1947), 91ff.

20. "Fabrikgesetz des Kantons Basel-Stadt," Nov. 15, 1869, par. 3.

21. Article 34 of the Federal Constitution of 1874.

22. The law was passed on March 23, 1877.

23. Article 15 reads (my emphasis): "Frauenspersonen sollen *unter keinen Umständen* zur Sonntags-oder Nachtarbeit verwendet werden." (Female persons shall not be used for Sunday or night work *for any reasons whatsoever*.)

24. The Vernehmlassung is considered a very important test for the chances of a draft bill in the political arena. Parliament often changes a law considerably if it becomes obvious that a political party or pressure group that lacks strong numbers in Parliament but is strong enough to launch a referendum opposes part of the draft or bill.

25. Both chambers must consent to adoption of a law.

26. In 1877 a bill had to be put to a referendum if 30,000 eligible citizens petitioned for it. All male Swiss citizens above age twenty were eligible to sign. Today, 50,000 signatures are required (women's enfranchisement was an argument for this increase).

27. "Botschaft des Bundesrates betr. den Gesetzesentwurf über die Arbeit in den Fabriken vom 6. Dezember 1875," *Bundesblatt* 4 (1875): 952-53.

28. Dällenbach, *Kantone*, 162. This must not be considered a shift as the demand for equal pay may contain an element of exclusion of female labor.

29. The National Council accepted it by a margin of eighty to twelve, and five other men abstained. The Council of States approved it by a margin of twenty-one to sixteen.

30. The first feminist organization, the International Women's League, founded by Marie Goegg in Geneva in 1867, lost its influence toward the end of the 1870s. See Susanna Woodtli, *Gleichberechtigung* (Frauenfeld: Huber, 1975), 24ff.

31. Working women's associations (*Arbeiterinnenvereine*) were founded toward the end of the 1880s. Middle-class women's organizations started up at the beginning of the 1890s. See Beatrix Mesmer, *Ausgeklammert Eingeklammert: Frauen und Frauenorganisationen in der Schweiz des 19. Jahrhunderts* (Basel: Helbing und Lichtenhahn, 1988), 196.

32. Schweizerische Gemeinnützige Gesellschaften (SGG).

33. See Mesmer, *Ausgeklammert*, 117-18.

34. In Basel a group of eleven factory workers in 1870 asked their employer for the longer break. See Staatsarchiv Basel-Stadt, Handel und Gewerbe MM 2,16.

35. These included, for instance, the abolition of male custody over women in 1881; the possibility for widows to inherit an equal share of property, which some Swiss cantons introduced in the nineteenth century; and a woman's right to an equal share of property after a divorce.

36. For instance, the Civil Code defined the husband as head of the family, and he had to give his consent if his wife wanted to take up employment. Property provisions were also less favorable for women than they had been in some of the cantonal laws.

37. Until 1877, five cantons had factory laws: Glarus, Basel-Stadt, Basel-Land, Schaffhausen, and the Ticino. Attempts to institute such laws in Zurich and St. Gallen were rejected.

38. Perhaps their "rights" were seen to include the right to a wife who was sexually available (although this was never declared openly).

39. "Gesetz betreffend die Arbeitszeit der weiblichen Arbeiter" (Basel-Stadt, 1884).

40. "Gesetz betreffend den Schutz der Arbeiterinnen" (Basel-Stadt, 1888).

41. There were twenty-five cantons. Most of those that instituted special legislation for women were industrialized but also had a large female population engaged in trades, in workplaces not defined as factories.

42. In some cantons, a ten-hour maximum was stipulated.

43. Maternity leave was usually set at four to six weeks after childbirth, and in some cantons (Basel and Glarus) it also included the two weeks before confinement.

44. Fanny Goldstein, *Der Arbeiterschutz zu gunsten der Kinder und Frauen in der Schweiz* (Bern: Francke, 1904), 54-55.

45. One argument ran that work in retail shops was just as unhealthy and exhausting as factory work. See Regina Wecker, *Frauen in der Schweiz-von den Problemen einer Mehrheit* (Zug: Klett und Ballmer, 1983), 48–49.

46. See "Arbeiterschutz," in *Handwörterbuch*, 130.

47. *Ibid.*

48. Fritz Grieder, *Der Baselbieter Bundesrat Emil Frey* (Liestal: Verlag des Kantons Basel-Landschaft, 1988), 157.

49. *Ibid.*, 158–59.

50. Industrialists had tried to abolish factory legislation in the 1880s.

51. The Arbeiterbund was the umbrella organization of workers up to the foundation of the Social Democratic party in 1888. It bore features of a political party as well as of a trade union federation.

52. Caspar Decurtins (1855–1916) belonged to the social wing of the Catholic Conservatives. In matters of protective legislation, he was the leading force of this party and later became one of the organizers of the International Congress in Zurich in 1897, presiding at that congress. See Erich Gruner, *Die Schweizerische Bundesversammlung 1848–1920, Biographien* (Bern: Francke, 1966), 613–14.

53. *Internationaler Kongress für Arbeiterschutz, Zürich 1897: Amtlicher Bericht* (Zurich, 1898), 129–30. Favon and Decurtins wanted international legislation on the protection of children, limitation of female work, a ban on Sunday work, and maximum hours.

54. Decurtins expressed his vision of society in the future and the proper place of women—the home, of course—in his speeches at the congress in 1897.

55. Caspar Decurtins is said to have instigated the encyclical in which the Pope advocated protection of workers. See Gruner, *Schweizerische Bundesversammlung*, 614.

56. Margarete Greulich, eldest daughter of the *Arbeitersekretär* Hermann Greulich, was the delegate of the Labor Office of the city of Zurich.

57. Wilhelm Liebknecht, the German socialist, reportedly spoke of a notion of *Gottesfriede* (truce of God) at the congress. For details of the congress, see Ulla Wikander, "Some 'Kept the Flag of Feminist Demands Waving,'" in this volume.

58. This was demanded by the Belgian delegate, Carton de Wiart. See *Amtlicher Bericht*, 206, for the congress.

59. The French speaker Marie Bonneval, delegate of the International Working Women's Coalition, demanded this. See *ibid.*, 220–21.

60. Marie Villiger of Zurich advocated legislation for heavy and light industry, for she felt that exploitation seemed even more severe in the latter. No Swiss delegate opposed the legislation for women's work.

61. See the aforementioned discussion in the Basel Parliament in 1869.

62. "Botschaft des Bundesrates an die Bundesversammlung betreffend die Revision des Fabrikgesetzes vom 6.5.1910," *Schweizerisches Bundesblatt* 3 (1910): 643ff.

63. "C'est un travail que ne peut pas être fait par une main masculine. Il n'y a que des femmes qui puissent faire ce travail, non pas que le travail féminin soit plus économique, ce n'est pas une cause de cela que les femmes sont employées, mais parce que ce n'est pas un travail d'hommes" (*Amtliches Stenographisches Bulletin der schweizerischen Bundesversammlung* [NR 1913], 761).

64. Bellagio Conference on comparative protective labor legislation for women only (1989).

65. "Botschaft des Bundesrates," 645.

66. *Amtliches Stenographisches Bulletin der schweizerischen Bundesversammlung* (NR, 1913), 764.

67. This discussion was held in 1913. The amended law was only enforced as of 1919 because of World War I, and the free Saturday afternoon rule was enforced as of 1925.

68. The Law on Health Insurance was instituted in 1912. Health insurance was not compulsory, so it only covered expenses for those who had already been members for a certain period.

69. The company also told them, for instance, that a man's income was a "family income" and that men had more obligations. See Mesmer, *Ausgeklammert*, 205.

70. See Margarete Gagg, *Die Frau in der schweizerischen Industrie* (Zurich: Orell Füssli, 1928), 296.

71. *Ibid.*, vii; Annie Leuch, *Die Stellung der Frau in der schweizerischen Gesetzgebung: Bericht über den zweiten Kongress für Fraueninteressen 1921* (Bern: Staempfli, 1921), 468ff.

72. Leuch, *Die Stellung*, 471.

73. They referred to pregnant women only.

74. See Christine Ragaz, *Die Frau in der schweizerischen Gewerkschaftsbewegung* (Stuttgart: Kohlhammer, 1933), 67.

75. The unions were reluctant to organize women. In the 1920s between 8 and 10 percent of the members of the Swiss trade union SGB, the most important union, were women (*ibid.*, 150). At the International Congress of Working Women in Paris in 1927, Swiss delegates were on the side of protection advocates.

76. See Gagg, *Die Frau*, 292–93.

77. "Arbeitsgesetz vom 13.3.1964," article 16.

78. Compare the aforementioned argument made against equal pay in postal and telephone offices.

79. Many women's organizations have expressed their desire to the government to have night work generally reduced to a minimum.

80. Joan W. Scott, "The Sears Case," in *Gender and the Politics of History*, ed. Joan W. Scott (New York: Columbia University Press, 1988), 172.

81. It would be the first time in Swiss history that women had a say in the revision of the Law on Work. Swiss women were only granted the vote in 1971.



## "Let England Blush"

Protective Labor Legislation, 1820–1914

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*Jane Lewis and Sonya O. Rose*

Legal restrictions on women's work were first established in England in the 1840s. Public discussion about regulating women's employment reflected growing apprehension about the consequences of industrial transformation for women's roles coupled with emerging general concerns about the changing industrial order and the state of the nation.<sup>1</sup> Numerous contemporary commentators, including Engels, remarked on both the social and moral consequences of women working in factories.<sup>2</sup> In fact, for nineteenth-century reformers and observers, social analysis and moral assessment often were conjoined.<sup>3</sup>

The debates leading to the enactment of protective labor legislation helped to construct ideas about women and about the nature of work. They contributed to the notion that women were to be defined primarily by their domestic roles while waged work, especially employment in rationalized workplaces, was structured for men. They advanced and strengthened the idea that the "working woman" and, later, the "working mother" were contradictory terms. When it came to employment, women were and would continue to be the special case, not the norm. In this essay, we will focus on these debates, especially on the rhetoric of those who were the major participants in the public dialogue about women and work. The rhetorical ploys that were effective in securing protective labor legislation, as well as the acts themselves, had a long-lasting impact on working-class lives as many of the arguments about the social and moral condition of women workers came to dominate the ways that people thought about women and structured their opportunities for employment.