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*Edited by Sara L. Kimble and Marion Röwekamp*

# New Perspectives on European Women's Legal History

Edited by Sara L. Kimble and  
Marion Röwekamp

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To Leora, Ingrid, Lars, Reeva, and Dan with love. SLK  
Farewell Misia, welcome Emilio. MR

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## 14 "Who Belongs" or the Question of Women's Citizenship in Switzerland Since 1798

Regina Wecker

In 2014, twenty-four percent of the inhabitants actually living in Switzerland were foreigners without Swiss citizenship.<sup>1</sup> This rather high percentage of non-citizens is due to migration because of the attractiveness of the Swiss labor market and living conditions, as well as the Swiss Law on Naturalization, which requires a minimum of twelve years of residence but does not automatically convey a right to naturalization. Since 1990, the percentage of non-citizens has continuously increased. The fear that this increased level of immigration might continue, especially given that Switzerland joined the bilateral Agreement on the Free Movement of Persons with the EU in 2000, has led to some rather heated political discussions and the acceptance of a popular initiative which intends to limit immigration.<sup>2</sup> Parallel to the discussion on immigration and the rights and status of immigrants, the discussion on citizenship and naturalization has intensified.

Generally speaking, the concept of a citizen has a dual dimension: the civil rights and duties (including the political rights) of a person and the status of nationality as a native or naturalized member of a state or nation. However, the concept of *Bürgerrecht*, which is most often used as the German language equivalent of citizenship in Switzerland, includes a third dimension: the municipal part of citizenship; that is, membership in or affiliation with a municipality, on which Swiss citizenship is based.<sup>3</sup> This third dimension lies at the core of Swiss citizenship, and it is one of its problems at the same time, as will be shown later. In the current political debates on nationalization, law, and citizenship, the status of a citizen is assumed to be permanent and fixed. In particular, cultural uniformity and equality are often considered the basis of citizenship; conformity to cultural norms and integration are asked of those who wish to become citizens.

Any challenge to these principles is alleged to threaten the identity of the nation. The history of citizenship in Switzerland from 1798 to the present day shows not only how much naturalization laws have changed, but also how inconsistent the meaning of citizenship has been. This holds true for men and women, but more accurately reflects women's inferior legal position:<sup>4</sup> women were called "citizens" (*Bürgerinnen*) but nonetheless denied the political rights that had been part of men's citizenship since 1848,

even though the constitution spoke of “universal suffrage” and the “equality of all citizens.” Swiss citizenship was “permanent” according to the letter of the law,<sup>5</sup> but women could lose it. Additionally, women’s municipal citizenship, allegedly transferred from generation to generation and considered to be the basis of Swiss citizenship, was transferred by the spear side only, meaning a woman could not transfer her national or municipal citizenship to her husband or her children. By contrast, a man automatically “naturalized” his foreign spouse at marriage and transferred his citizenship to his children. Only an unmarried mother transferred her citizenship to her children.<sup>6</sup>

My contribution will, on the one hand, deal with the consequences of those discriminatory legal provisions and customary rights for women’s everyday life; it will also address the influence these factors had on their family situation, marriage, and their opportunities and expectations in life. In addition, I shall analyze the meaning of women’s “incomplete” and “dependent” citizenship in terms of the consequences for both citizenship and the inclusion of women in the nation. The longtime denial of political rights and citizenship to women was not unique to Switzerland, but the duration of this exclusion was considerably longer than in the rest of Europe. Therefore, I shall enquire as to the reason why this exclusion lasted for such a long time and how the connections, amalgamations, intersections, and disjunctions of the different dimensions of citizenship developed over time.

### Swiss Citizenship Today

Swiss citizenship is a complicated matter because it consists of three parts: municipal, cantonal, and federal citizenship, and because there are large differences in the form of organization, responsibilities, and the process of naturalization among the 2000 municipalities and twenty-six cantons of Switzerland. Every Swiss citizen is, first of all, a citizen of a Swiss municipality.<sup>7</sup> The municipal citizenship, which he or she usually inherits from his or her father or, if the parents are not married, from the mother, is part of a person’s identity. It is stated in the Swiss passport where, in other countries, the place of birth is indicated. At the beginning and, to a more limited extent, continuing until the middle of the nineteenth century, political or economic privileges such as the right to run for office or to own property and social security provisions were contingent on municipal and cantonal citizenship. But this is no longer the case.<sup>8</sup> Only a few municipalities still convey minor privileges.<sup>9</sup> Very often today, people do not even have a personal connection with “their municipality of origin,” as it is transmitted from generation to generation without them ever having lived there.<sup>10</sup>

In the majority of the cantons there are two municipal organizations: the municipal corporation, the *Bürgergemeinde*, and the political municipality,<sup>11</sup> *Einwohnergemeinde*. The political municipality or the organization of Swiss residents is responsible for all political decisions in the municipality, such as local taxes, buildings, primary schooling, etc. Here, decisions are taken by

all Swiss citizens living in the municipality at a meeting or by their elected representatives.<sup>12</sup> The second is the municipal corporation (*Bürgergemeinde*), which includes all persons who are citizens of the corporation—whether living there or not—usually by inheriting the respective citizenship. The *Bürgergemeinde* often holds property in the village and provides social and cultural services. For Swiss citizens’ municipal citizenship, “the place of origin” has lost much of the legal importance it used to have, but decisions on naturalizations are usually made either by the corporative municipality (*Bürgergemeinde*), or by the political municipality (*Einwohnergemeinde*). In both cases, the new citizen becomes a citizen of the corporative municipality.<sup>13</sup>

The system of the two forms of municipalities was essentially shaped the way it now exists after the founding of the Federal Republic of Switzerland in 1848,<sup>14</sup> when political rights were no longer reserved to members of the corporate municipalities but granted to all male residents. The political organizations incorporated the rights (and duties) of the corporal municipalities step by step,<sup>15</sup> but the *Bürgergemeinde* kept the right to confer citizenship.

Before 1988 a woman used to acquire her husband’s municipal citizenship at marriage and lost her original municipal citizenship, which means that her citizenship used to be a “contingent belonging.”<sup>16</sup> Since the change in the marriage law in 1988, a woman could keep her former municipal citizenship at marriage but got her husband’s in addition to it, while children got their father’s municipal citizenship. This has once again changed quite recently: since 2013, marriage no longer has any influence on the municipal citizenship of a woman. She keeps her inherited citizenship.<sup>17</sup> Thanks to those recent changes, the municipal citizenship rights of men and women have become equal, with respect to the law.<sup>18</sup> But as I will show later, equality is a difficult concept to apply, especially when tradition, living conditions, gender-based notions, and power relations preserve substantive differences between men and women.

Municipal citizenship, without which the acquisition of Swiss citizenship is not possible, is important in the case of naturalization. Federal and cantonal authorities are responsible for compliance with the constitutional and legal prerequisites of naturalization, but the municipality or the canton can deny naturalization. The law requires twelve years of residence, integration into the Swiss way of life, familiarity with Swiss customs and institutions, compliance with Swiss law, and knowledge of at least one of the official languages of the country.<sup>19</sup>

With respect to naturalization, applicants depend on the goodwill and benevolence of their neighbors, especially in smaller municipalities. In general, it is easier for citizens of the “old” EU countries to become Swiss than, for example, Turkish citizens or members of the Balkan countries, because those EU citizens are considered to be better integrated, having a Christian background and being more familiar with customs and institutions, and because those who make the decision consider their way of life and religious

orientation more easily compatible with that of new citizens.<sup>20</sup> There is no general right to naturalization and the municipality or in some cases the canton has the final say. The Federal Court decided only in 2004 that a refusal of naturalization had to be substantiated.<sup>21</sup> Only the so-called “facilitated naturalization,” that is, the naturalization of the foreign spouses of Swiss nationals (after three years of marriage and five years of residence) remains the sole responsibility of the Federation, leaving solely a right of appeal to the respective municipality and canton.

### Citizenship from the “Helvetic Republic” (1798–1803) to the Mid-Nineteenth Century

The history of the modern Swiss state begins in 1798. The old Swiss Confederation had remained neutral during the war against revolutionary France but was occupied in 1798 by French troops, who were welcomed by some as liberators from patrician rule but fought and detested by others as foreign invaders. Between 1798 and 1803, the so-called “Helvetic Republic” was installed as a centralized Swiss state. It was then that a joint constitution was drafted which abolished differences between the cantons and proclaimed equality and universal political rights for Swiss citizens regardless of their former status. There were, however, two exceptions from this “universality”: Jewish inhabitants were not accepted as citizens, and women’s citizenship did not convey any political rights. While Jewish citizenship had been discussed upon the request of the Federal Council (the parliament) and was rejected after three days of controversial debates in August 1798, there is no information that women’s exclusion from political rights was even mentioned.<sup>22</sup> Thus, for women, the salutation of “Liberty and Equality” (formed after the French “Liberty, Equality, and Fraternity”) remained—as in France—a mere formula.<sup>23</sup> There was, however, some progress with respect to citizenship: loss of citizenship because of interdenominational marriages, or poverty, common in the *ancien régime*, was banned. As municipalities seem to have disregarded this ban, and continued to collect fees, petitions were filed asking for freedom of marriage for citizens of different municipalities and for foreigners.<sup>24</sup> But those petitions were never discussed in the Federal Council.<sup>25</sup> A new civil law, which might have forced municipalities to accept the change, was not completed. Swiss women received their husband’s municipal citizenship and kept it after his death and after a divorce,<sup>26</sup> but bi-national marriages did not seem to have had an influence on nationality. Besides, at that time, naturalization of foreigners required a residence of a twenty-year duration.<sup>27</sup>

After the short intermezzo of the “Helvetic Republic” (1798–1803) and following the Congress of Vienna in 1815, the old regime was restored, people lost their political rights, and citizenship was once again solely a matter of the sovereign cantons. Cantons and municipalities handled those rights differently and naturalization was often a question of the respective

religious affiliations: Catholics were more easily accepted in Catholic cantons and Protestants in cantons where their denomination prevailed.

Naturalization was again not only a matter concerning foreign nationals; here the complex form of two different municipal organizations, the political municipality of all Swiss residents and the municipality as place of origin (*Bürgergemeinde*), were important. If they were citizens of a municipality other than their place of residence, Swiss nationals had to apply for the citizenship of that municipality and pay a considerable sum if they wanted to have the same economic and residential rights as the locals. Some liberal cantons tried to change this in the 1830s, but were not backed by the municipalities, which wanted the respective revenues.

On the other hand, the authorities of the municipality of origin had to express their consent to a marriage, especially if one of their citizens married a woman who was a citizen of a different municipality. The authorities of the municipality could interdict “poor” marriages and a marriage “with a bride from outside.” They did so if they feared that the couple would not be able to support a family. Those decisions show an intersection of cantonal matrimonial laws, municipal citizenship rights, the common understanding that marriage had to be based on property, and the fact that women’s citizenship could be called a “secondary citizenship”<sup>28</sup> since it was conveyed by their husbands upon marriage.<sup>29</sup>

The conflict was often enough not only between the husband’s community and the future couple but also between the authorities of the different municipalities and cantons, as one can see in the following case: when the Bernese municipality of Lützelflüh prohibited the marriage between Barbara Tschudin from Läfelfingen in the Canton of Basel-Country and their citizen Johannes Pfister, a farm hand, who was citizen of Lützelflüh but had lived for years in the Canton of Basel-Country, the authorities of the Canton of Basel-Country intervened in favor of the couple. They were, however, told by the Bernese cantonal authorities that their law<sup>30</sup> backed their decision and that the municipalities were interested in preventing “frivolous and unhappy marriages” (“*leichtsinnige und unglückliche Ehen*”). Therefore, Barbara and Johannes could not marry.<sup>31</sup>

Since the middle of the nineteenth century, children would get the father’s citizenship after marriage; only illegitimate children would get their mother’s. Prohibitions to marry—such as in the case of Barbara and Johannes—aimed at reducing the number of “poor marriages” and children. Besides, by prohibiting a marriage—especially if the future wife was already pregnant—“the problem” remained that of the mother’s municipality, for municipalities were obliged to care for their poor. This could cause severe problems for a couple. An illegitimate child—especially if it was not the first one—could well be a reason for imprisonment or a “foreign”<sup>32</sup> mother’s expulsion from a municipality if a couple lived in the father’s municipality, or the expulsion of the father if they lived in the mother’s municipality. This procedure by the municipal authorities could severely damage the reputation

and economic opportunities of an unmarried mother, as illegitimacy was a social stigma for mother and child. They would thereupon have severe problems in establishing an existence elsewhere. The anger of the government of the Canton of Basel-Country in the case of Barbara and Johannes had two causes: firstly, they would have to deal with the problem in case their citizen Barbara Tschudin should have children "out of wedlock," and secondly, the fact that at that time, the laws of Basel-Country did not permit them to prevent "poor marriages." They saw this as a problem, because most of the neighboring cantons had that possibility. They were therefore eager to add a respective provision to their poor law, which they finally did in 1859.<sup>33</sup> As it was always the right of the man's municipality to grant or deny a marriage license, this legal device increasingly caused suffering and sorrow when mobility rates rose as a result of industrialization. But it was a powerful obstacle intended to hinder women from entering into a relationship with "foreign" men and vice versa.

Marriage licenses were common not only in Swiss municipalities but also in southern Germany around the middle of the nineteenth century.<sup>34</sup> Marriages of bi-national couples were not actually handled differently, but they were even more complicated because of the different national laws and the distance to the place of residence, as research on marriage and illegitimacy in the Canton of Zurich shows.<sup>35</sup> The case of a German "bridegroom," a tanner from Württemberg, and the "bride," a servant from Wetzikon in the Canton of Zurich, may serve to illustrate this. The "bridegroom's" German municipality, Reutlingen, denied them a marriage license unless the "bride" provided an exorbitant sum, quite prohibitive in fact, given her financial situation. Thus, the municipality hindered such a marriage and avoided any responsibility for the children of such a union. The same had happened in Zurich in 1810 in a reverse case, when the marriage of a "bride" from Baden (Germany) and a "bridegroom" from Höngg in the Canton of Zurich was prevented because he could not raise the sum required for the naturalization of his "foreign" bride. Höngg even prohibited any contact between them until the sum was procured.<sup>36</sup>

Often enough, such a verdict heralded the end of a relationship. But in case it was continued, it ended more often than not with those concerned either being thrown into prison or "exiled"—that is, they were separated and sent back to their respective municipalities. Living together and sexual contact between an unmarried couple was illegal and liable to prosecution according to the order of the marriage court (*Ehegerichtsordnung*).

If the marriage license was granted, the bride then lost her former citizen's rights and was now considered a citizen of her husband's municipality. An 1808 decision of the *Tagsatzung*, the Diet of the Old Swiss Confederacy, was taken as legal basis for this. Though her loss of citizenship was not mentioned in that decision, federal authorities argued that it was the logical consequence.<sup>37</sup> In situations of need (sickness, old age, death of the husband), the wife had to rely on her husband's municipality for support, no

matter where she lived. The municipality, however, was not obliged to support her at her place of residence but could request her to "return" to "her" municipality, a place she might not even know.

The link between marriage and citizenship was therefore a most welcome opportunity to control citizenship as well as the status of a citizen, the social order as well as the physical belonging and access to the privileges of a municipality. And it was proven again and again that women's ties, be it to the nation or the municipality, were weak ties, and that their citizenship amounted to only a contingent belonging.

### *The Federal Constitution of 1848 and Citizenship*

The history of the Swiss federal state or Swiss Confederation began in 1848 when, after a successful revolution and a short military conflict between the cantons, the federal state was founded.<sup>38</sup> The new constitution guaranteed Swiss citizens a range of civic liberties: the right to reside wherever one wanted, equality before the law, and universal male suffrage. Although according to the letter of the law, Swiss citizenship conveyed political rights "on every citizen;" this did not hold true for women. For them, political rights were not an integral part of citizenship. In the 1830s, women's political equality had been discussed—hesitantly but without concrete results—and the issue was only taken up again in the 1860s when women in the Canton of Zurich sought political participation and those in the Canton of Basel-Country asked for access to better schooling and property rights during the revision of the cantonal constitutions—but without success.<sup>39</sup> The new federal constitution did not explicitly exclude women from political rights; they were, once again, simply not mentioned. Thus "equality," the most important device of the new constitution and, at the same time, a mythical and important element of social bonding in Switzerland, did not include women. They were citizens but they were not equal, and thus not visibly included in the invention and construction of Swiss national identity. While before 1848 political rights were not automatically conferred on all male citizens and political rights differed quite considerably among the various cantons, after 1848, the division now followed the sex line.

The rules of naturalization differed according to sex. The new constitution declared Swiss citizenship as unalienable. But women continued to lose their municipal and cantonal citizenship if they married a man from another municipality and/or canton, and even their national citizenship if they married a foreigner; for example, a woman became Italian or German, according to her husband's nationality. The law in most cantons declared that a woman had to accept her husband's municipal and national citizenship. This could cause a severe problem insofar as if after the death of her husband or in case of sickness she could no longer support herself or their children and became dependent on social welfare, she could be sent back



to "her home country." The fact that a woman forfeited her citizenship by marriage and became a foreigner was still not sanctioned by law. It continued to be strictly a customary practice, a practice by which an important principle of the modern Swiss state was violated: the principle that there is no involuntary loss of nationality.

On the other hand, a Swiss man conveyed his citizenship—municipal, cantonal, as well as national—by marriage to his wife. The problems created by this legal situation on the national level were not different from those on the municipal level mentioned above, but due to the fact that mobility had increased, cases and difficulties snowballed.

In a period when national states were increasingly demarcating their territories and establishing borders, and took on a growing importance surrounding the construct of "national identity," women's relationship to the state became somewhat fragile. By the sheer possibility that they might lose their nationality, persons of the female gender became "temporary" citizens.

The procedure of naturalization was left to the cantons and municipalities and, especially after the unsuccessful revolution of 1848 in Germany and Austria, liberal cantons granted asylum to many refugees, along with their wives and children, and provided shelter by granting them municipal citizenship and, consequently, Swiss nationality. Although this caused considerable internal trouble between liberal and conservative cantons and diplomatic conflicts with the German states, the Swiss Confederation had no say in the matter.<sup>40</sup>

#### *From the Revision of the Federal Constitution in 1874 to 1917*

The revision of the Federal Constitution in 1874 changed the situation governing the conferral of rights. The constitution granted the federal authorities the right to determine conditions for the naturalization procedure: the approval of the federal authorities; two years of residence; and, as a result of the diplomatic conflicts of 1848, the guarantee that the applicants' naturalization would not prove detrimental to the Swiss state.<sup>41</sup> The revised constitution established a right to marriage and abolished the right of the municipalities to interfere. Municipal authorities deeply regretted this change.

Men conferred their citizenship on their wives.<sup>42</sup> The fact that a Swiss woman could not only *not* confer her citizenship on her husband but continued to lose her municipal citizenship upon her marriage to a citizen of a different municipality, and her Swiss nationality upon her marriage to a foreigner, did not cause any political discussions. The Swiss Civil Code (ZGB) of 1907, the first national codification of private law, simply stated that the wife obtained her husband's citizenship and thus resumed the *Tagsatzung* decision of 1808 and transferred it into a modern legal codex.<sup>43</sup> There was still no legal device stating that she would lose her former citizenship, neither with respect to her municipal citizenship nor her nationality, though this was continuously practiced until 1952.<sup>44</sup>

Between 1850 and 1910, the percentage of foreign residents in Switzerland had risen from three percent to 14.7 percent. In border cities such as Basel and Geneva, almost forty percent of the inhabitants were foreign nationals.<sup>45</sup> Industrialization and the growing opportunities on the Swiss labor market had encouraged immigration, mostly from Germany, France, and Italy. Switzerland was changing from a country of emigration to a country of immigration in the 1890s. As a result, bi-national marriages increased and so did naturalization or women's loss of citizenship by marriage. The municipalities now supported foreign workers when they needed assistance due to labor shortage, sickness, or old age, but officials tried to get the expenditure back from their native country. In the case of Italian nationals, there was no reasonable chance of reimbursement; the Basel Social Services decided in 1905 to no longer support Italians and forced them to leave the country. The reason was a mixture of suspicion against Italians, who had worked in road construction in Basel and were often out of work because of the seasonal character of that employment, and a feeling of the Italian "national character" being "dangerous," characterized by "seeking conflicts" and "being untidy and demanding."<sup>46</sup> In addition, people generally suspected them of having obtained financial support by fraud.

This interference of the construction of a national identity and of municipal structures, combined with the general suspicion against women who had married a foreigner, had severe consequences for women who had become Italian by marriage.<sup>47</sup> Forced repatriation was a cruel fate for workers who had left Italy maybe decades earlier. For a woman such as Elise Panozzo, née Schmidt, a widow, it was a country she did not know nor had any connection to; as she said in 1908, "Italy is a place where I have never been, do not know anybody and where I cannot understand the language."<sup>48</sup>

The survival of municipal citizenship is a particular feature of the Swiss political system and the Swiss system of social security; the loss of the ancestral national citizenship due to marriage is not.<sup>49</sup> Germany, Great Britain, and the United States had similar legal provisions. A comparison between the European and the U.S. system<sup>50</sup> is helpful, as in an immigrant society such as the United States the impact of citizenship and naturalization on the forming and construction of the populace becomes especially visible.<sup>51</sup> In the United States, citizenship was automatically obtained by birth (*jus soli*). A female American citizen lost her citizenship upon her marriage to a non-citizen until the 1920s, when citizenship status became increasingly conceptualized as being independent of marriage except in the case of Asian immigrants, who were considered "non-eligible" for American citizenship. Women who married men of Asian descent lost their American citizenship in case of an extended absence from the States. They also lost their right to a facilitated re-naturalization because of the provisions prohibiting immigration from Asia and the fact that re-naturalization was only possible after a return to the country. Racist immigration laws remained a barrier, even though after the proclamation of the "Equal Nationality Bill"<sup>52</sup> in

1934 marriage lost its influence on citizenship and foreign male and female spouses henceforth faced equal conditions with respect to naturalization.<sup>53</sup>

The high percentage of foreign nationals in Switzerland was not only due to immigration, but also to a reluctance to go after citizenship status, which was a pretty expensive undertaking. At the end of the nineteenth and the beginning of the twentieth centuries, this was seen as a problem because—as a statistician<sup>54</sup> put it—it had created a large group of people with no direct “ties and connections” to a state. They had, in his opinion, lost any connection to their home country and had not developed close bonds to the place they lived in and—very important in Switzerland—they had no political rights. Politicians and municipal authorities of towns and municipalities such as Basel, Zurich, and Geneva, locations with a high proportion of foreign nationals, tried to make naturalization more attractive by reducing fees and encouraging those who had lived there for some time or were even born there to apply for citizenship. This shows that in the question of citizenship, multilingual Switzerland was not divided along the language border.<sup>55</sup> Although the French-speaking part, *la Romandie*, the Romandy, is now often considered to be more liberal and sensitive regarding gender equality and the political rights of foreigners,<sup>56</sup> this did not generally apply to citizenship and naturalization law for the nineteenth and the first half of the twentieth century. Around 1900, economic factors and the number of foreign residents was more important than the difference between German and French-speaking cantons and aroused discussions in the parliaments in French-speaking Geneva as well as in German-speaking Basel and Zurich. This led politicians of those cities (or cantons) to campaign for more liberal naturalization laws on the federal level. However, their proposal to introduce *ius soli*—a facilitated naturalization of those born in Switzerland—was rejected by a vast majority of the cantons. Among those cantons were the French-speaking, while German-speaking cantons (Basel-City, Zurich, St. Galle, Thurgau) and the Italian-speaking Ticino would have agreed to these concepts. A compromise was finally accepted in 1903 when the new Federal Law on Citizenship entitled the cantons to enact laws allowing children born in Switzerland to become Swiss, if the mother [sic] was Swiss before her marriage with a foreigner or if the parents had lived in Switzerland at least five years before the birth of the child. This would even be applicable without the consent of the federal authorities.<sup>57</sup> However, none of the cantons took advantage of this possibility later on because the political climate changed quickly.

Around 1900, naturalization was seen as a perfect means of integration. The invitation to naturalize always aimed at winning male inhabitants as new citizens, although immigration was by no means confined to men. Many of the numerous servants in towns close to the borders came from adjacent Germany.<sup>58</sup> When Basel offered inhabitants living there for twenty-five plus years the opportunity to naturalize gratuitously in 1902, they explicitly did not send this invitation to women, because—as the *Bürgererrat*, the

parliament of the *Bürgergemeinde* argued—women would not strengthen the municipality because they were not enfranchised and they did not constitute a potential military danger as they would not be called to arms by their native country.<sup>59</sup>

At the same time that politicians tried to reduce the percentage of foreign nationals by naturalization, a new concept arose, that of *Überfremdung*—literally alienation, a typically Swiss word, best translated by an analogue such as “domination by foreign influence” or simply “too many foreigners.” The problem for those who adhered to that concept was not that the large percentage of foreigners was a problem because they were deprived of social and political rights, but that they were a danger to the *Schweizer Eigenart*, the “Swiss character” or nature. Naturalization was not seen as a means to integration but was to follow integration, and a complete acceptance of Swiss habits and culture was to be the very prerequisite of naturalization.<sup>60</sup> Although the definition of *Schweizer Eigenart* remained completely vague, it became part of the Law on Naturalization from the 1920s onwards.<sup>61</sup>

With the beginning of World War I, the percentage of foreign nationals dropped quite rapidly. Men were called “to arms” and their wives and children followed them, among them a considerable number of Swiss-born women who had become German, French, or Italian by marriage. Swiss women, who had lost their nationality by marriage but nevertheless tried to stay in Switzerland and be supported by their families, were probably ostracized in more than one way: as a woman who had married a foreigner and as a foreign national, as a member of “her” country who did not go “home,” and as a wife who did not follow her husband. In general the number of naturalizations, which was not possible without becoming citizen of a community and a canton, increased during the war. Men who tried to naturalize themselves in order to escape military service were often not accepted. The government of the Canton of Basel-City suspended naturalization at the beginning of the war and when they re-started the process again the government explicitly prohibited naturalization of men who had received a draft notice, even if they had lived in Basel with their family for a long time, and taking the large number of foreigners in the canton and of bi-national marriages into consideration, formerly Swiss women must have often been affected. Independent naturalizations of women—that is, not as wives or daughters—were rare, though the number rose at the beginning of the war when women tried to stay in Switzerland. They were very often backed by their employers, who did not want to lose their servants or workers.<sup>62</sup>

The need to address the loss of nationality through marriage was realized by the Schweizerischer Verband für Frauenstimmrecht (SVF, Swiss Association for the Women’s Vote)<sup>63</sup> in 1915 when the fate of formerly Swiss women, who had lived abroad outside the home country of their husbands, was brought to their attention. While their husbands—if they were considered enemy aliens—were detained in internment camps, their wives and

children were not allowed to return to Switzerland but were “deported” to their so called “home countries.” But the member-sections of the SVF were afraid of tackling that question, because it had nothing to do with the vote and the Association only decided in 1917 to deal with questions outside the scope of the vote.<sup>64</sup> They then proposed a kind of special protection for formerly Swiss nationals and shortly later dual nationality—proposals that drew no response from Swiss political authorities.<sup>65</sup>

*1917–1945: Fear of Überfremdung—Despite the Reduction of Foreign Residents*

Although the percentage of foreign nationals had dropped, naturalization laws were paradoxically tightened and, in 1920, the minimum time of residence before application was raised from two years to six years.<sup>66</sup> This clearly shows that from that time forward naturalization was understood to be the final consequence of a process of integration and assimilation.<sup>67</sup>

The Swiss Association for the Women’s Vote had begun to take up the issue of a married woman’s nationality and the question concerning the loss of Swiss citizenship by marriage with an “alien” again shortly after World War I. On the level of international women’s organizations, their proposal for dual nationality was rejected: the International Alliance of Women (IAWSEC) favored independent nationality for women, irrespective of marriage. Repeated contacts of the SVF with officials of the Swiss Political Department were fruitless even though they could cite as a model the Swedish law, which specified dual nationality, without causing any problem.<sup>68</sup>

They decided to profit from the efforts made on an international level by IAWSEC to implement an independent citizenship for women. The Bund Schweizerischer Frauenverbände (BSF, National Council of Swiss Women), the umbrella organization of the Swiss women’s movement and ICW affiliate, joined them and when the issue appeared on the agenda for The Hague Conference on Codification (1930), they again asked for an audience with a member of the Federal Council to present their demands and suggested sending a female lawyer to the conference.<sup>69</sup> At a meeting with Giuseppe Motta, Minister of Foreign Affairs, whom they had already contacted in 1923, they were, however, told to present their demands in writing: they officially proposed “Frl. Dr. Speiser-Basel” as delegate.<sup>70</sup> Antoinette Quinche, Ruth Speiser (BSF), Nelly Schreiber-Favre (SVF), and Annie Leuch-Reineck (president of SVF) met for a second official meeting with the Head of Department of Justice, Heinrich Häberlin, and the male delegates appointed for the conference. Annie Leuch reported that their suggestion to send a female lawyer to the conference was met by a complete lack of understanding (“mit absolutem Unverständnis”).<sup>71</sup> Their proposal still was to grant dual nationality, arguing that no change of law was necessary since a married woman’s loss of her original citizenship was not indicated in any legislation but was only customary and common practice.

In the 1930s, a national debate on naturalization was initiated, though this proved to be a highly controversial affair. On the one hand, it was characterized by distancing Switzerland from Germany by a definition of the Swiss state (and society) as not relying on any concepts of race.<sup>72</sup> But on the other hand, authoritarian forms of government were admired, the eugenic fear of a populace degenerating due to foreign influence pervaded the discussion, and any increase of the Jewish population was anxiously noted.<sup>73</sup>

In the process of changing the naturalization law of the Canton of Basel-City, the director of the psychiatric clinic, John E. Staehelin, requested that “mental health” be made a more decisive issue in accepting or denying citizenship. In the 1938 revision of the law, this was put into practice. It became an argument against naturalization if a person or a person’s relatives had had any previous contact with a psychiatric clinic. This reference to the family’s case history embodied the eugenic background of the new provision.<sup>74</sup> Physical and mental health was generally made a prerequisite for naturalization, and even if not sanctioned by law, it was common practice in Switzerland. In Geneva, the cantonal parliament turned a respective paragraph down in 1924 but finally accepted it in 1934.<sup>75</sup>

It was then that a debate on women’s citizenship became part of a more general debate on naturalization, Swiss identity, and foreign influence. One of the most important discussants of the debate on citizenship was Max Ruth, a lawyer and high-ranking official of the Federal Department of Justice and Police (EJPD). Although he declared his point of view to be “private,” his publications had semi-official character.<sup>76</sup> One of his main positions was that Switzerland—although he considered the country as “übervölkert” (over-populated)—had to try and bind those inhabitants who were foreigners “on paper only” to Switzerland. This seemed important to him with respect to the welfare of the country and its “Webrhaftigkeit” (defensive potential). To him, the existing laws on naturalization were too complicated, and “a perverted nationalism”<sup>77</sup> hindered even those who had been born in the country and were completely “assimilated” to become Swiss. This had to be changed—according to his opinion—by accepting a modified *jus soli* and forcing the municipalities to accept as Swiss citizens those born in the country—and, in particular, the descendants of a (formerly) Swiss mother.

On the other hand, and despite his positive notion of (formerly) Swiss mothers, Ruth vividly opposed any change in women’s citizenship status. The women’s movement in Switzerland again called attention to the severe problems caused by a loss of Swiss citizenship. Not only did women lose the possibility of social security even if they stayed in Switzerland; if they were civil servants they could lose their jobs, or if they lived abroad they could lose diplomatic protection.

Max Ruth condemned the idea of maintaining Swiss citizenship after marriage or of dual nationality as completely destroying family bonds. The disadvantages for women were, in his eyes, not severe enough and women

could “re-nationalize” if the marriage failed or if the husband died. After all, he said, “Marriage is destiny and fatherland is destiny—there is no remedy for it.” The one and only “remedy” was “to abstain from marrying a foreigner.”<sup>78</sup> A strange conclusion, because women’s citizenship was not their “destiny;” it could be changed without them agreeing to it. If anything was “destiny” in that interpretation, it was certainly their sex. In the 1930s the relationship between the discussion about nationality and the deteriorating economic and political situation became obvious. The fear arose that dual nationality would not only allow a woman, married to a foreigner, to keep her employment, but that it also might give her husband a legitimate claim to stay and seek work in Switzerland.<sup>79</sup> On the one hand, denial of dual nationality became a means of “protecting” the Swiss labor market, and on the other hand, it was a safeguard against immigration, especially by Jewish immigrants. In 1935, Heinrich Rothmund, chief of the Federal Department of Justice and Police (EJPD), mentioned what the loss of nationality might mean when he hinted at the “danger” that (Jewish) women might enter into marriage with German Jews even more carelessly if they could keep their Swiss nationality. He said that the EJPD was “not very interested” (*haben wir wenig Interesse*) in marriages of Swiss women with German Jews, as their husband’s German families would do anything “to establish themselves” (*sich zu etablieren*) in Switzerland.<sup>80</sup>

The naturalization of foreign women by marriage had also been discussed since the 1930s. Ruth feared that “bad elements” might have infiltrated Switzerland in this way.<sup>81</sup> In the 1940s, psychiatrist Staehelin, director of the Basel clinic *Friedmatt*, stated that the percentage of patients in his psychiatric clinic who had been naturalized since 1900 by far exceeded the percentage of patients from old and established families. In his opinion, this was the result of the fact that the canton dealt carelessly with applications for citizenship. And what particularly aroused his anger was that the canton had no say in the process of naturalization of women by marriage to a Swiss citizen.<sup>82</sup> He requested that the process as such be subjected to specific control. However, his endeavor was not successful this time and the provisions in question were not changed.

On an international level, the commitment of the women’s organizations to dual citizenship was ultimately futile. Here, the different dimensions of citizenship rights (e.g., nationality and political rights) met. When The Hague Convention on Nationality failed to guarantee that women would receive the same national rights enjoyed by their male counterparts, American feminists pressed for a national solution. They were successful—the Equal Nationality Bill was signed by President Roosevelt and ratified by the Senate in 1934.<sup>83</sup> The fact that the Nineteenth Amendment to the U.S. Constitution granted women’s suffrage in 1920 proved vital to this outcome—as voters women had become a political force to be reckoned with, even though the number of female members in the American Congress was still small.<sup>84</sup>

The British Nationality and Status of Aliens Act of 1914 had instigated a system similar to that of Switzerland. This meant that if a British woman married an “alien,” she automatically lost her British citizenship. But in 1948, British women did have the vote, and the government passed the Nationality Act, giving women the same rights as men upon marriage to someone from another country. These precedents were carefully noted by Swiss feminists.

Swiss women did not yet have political rights; in vain they had tried to change this shortly after World War I by launching several cantonal initiatives. Although political rights were no guarantee for independent citizenship—as the German case showed<sup>85</sup>—without political rights, it was even more difficult to bring about change, especially in Switzerland, where any change of law could be put to a plebiscite and where any amendment of the constitution required a plebiscite.

Re-naturalization was, even in the 1930s, not as simple as Ruth had argued. Case studies show that the municipalities continued to prevent women from taking up their former Swiss citizenship after a divorce or the death of their husband, out of fear that the municipality might have to support them financially. Amazingly, sometimes even eugenic arguments were used against them, arguments that had otherwise been used against foreigners.<sup>86</sup>

The “destiny” of women’s citizenship once again became a significant issue with dangerous consequences during the time of the Nazi regime in Germany.<sup>87</sup> Swiss women who were married to German Jews, or to Jews in countries invaded by the German army who had lost their citizenship rights because of the German Race Law, were, if they were Jewish themselves, not allowed to return to Switzerland in order to reestablish their former Swiss citizenship: in fact, Switzerland prevented any Jews from crossing the border. The “J” in their passport identified them. Violation of this prohibition to return could result in deportation and death. The fate of Margrit Barth may serve as an example: she had married a Dutch Jew in Amsterdam in 1938. Her application for a visa to return to Switzerland after the German occupation of the Netherlands in 1940 was denied. She then tried to illegally pass the Swiss borders near Geneva but was refused entry into the country. She was finally deported to Auschwitz.<sup>88</sup> It was not until December 1942 that the Federal Government decreed not to repel former Swiss citizens at the borders, but only in 1944 were formerly Swiss women given express permission to enter the country.<sup>89</sup> This was too late for many victims of the Holocaust, quite apart from the fact that it proved extremely difficult to get to the Swiss border at all.

Contrary to this “benevolence,” there were two crucial modifications to, and tightenings of, the law. Many foreign women had married Swiss citizens in order to be allowed to stay in Switzerland. Communists or socialists were willing to enter into a so-called “*Bürgerrechtsehen* or *Scheinehen*,” fictitious marriages. Before 1940, such a marriage could be annulled but women would remain Swiss. In 1940, a government decree made it possible

not only to annul a fictitious marriage, by which a woman had obtained Swiss nationality, but to de-nationalize the woman.<sup>90</sup> The women's movement objected, but during the war, the Swiss government could issue emergency decrees, by the so-called *Vollmachtenregime*, without parliamentary consent or the risk of a referendum. In 1941, another government edict decreed the loss of citizenship for a woman at marriage with a foreigner. By the edict, what had been practiced for more than a century became the (written) law of the land for the first time.<sup>91</sup>

### Toward Legal Equality: 1950–1989

Change in the laws regarding women's citizenship came about in the 1950s. The reason for this revision of the law on naturalization was not the status of women but the endeavor to hamper naturalization. Although women still did not have the vote,<sup>92</sup> the National Council of Swiss Women was able to nominate five female lawyers, among them Antoinette Quinche, the first lawyer in the Canton of Vaud and until 1951 the Vice President of the SVF, as well as connected to the International Federation for Women in Legal Careers,<sup>93</sup> as members for the government's advisory expert commission. The women's movement succeeded in publishing reports on the fate of women who had been deprived of their nationality in newspapers and to interest a wider public in the question of women's nationality.<sup>94</sup> It was this campaign in the press that laid the foundation for a change in public opinion, and in the opinion of the members of the commission, because it gave a face to the problem of the loss of nationality. It was the face of "German" women who had been prevented from returning to Switzerland during or shortly after the war, as well as those who had married Polish refugees who were former internees of Swiss labor-camps, women who had never lived outside Switzerland themselves, and—as one of them put it—"[did] not know how to explain to her son why he is not Swiss like his classmates."<sup>95</sup>

This change in opinion, which led to the alteration of the draft legislation and finally of the law was, however, not only the result of the pressure brought to bear by the women's movement and of broader European developments concerning marriage and citizenship. The only reason that had allowed some Swiss women to keep their nationality despite marriage to a foreigner had been that the husband's country would not automatically confer his nationality on his wife and she was threatened with statelessness. In the fifties most countries no longer changed or conferred citizenship by marriage, and the authorities had to allow more women to keep their nationality.

The bill passed both chambers in 1952 only after a fierce debate, but it was not put to a referendum. What Max Ruth had feared as the "end of family bonds" entered into force on January 1, 1953: women could keep their Swiss nationality upon request and women who had lost their nationality could demand repatriation.<sup>96</sup> Their children could be included in the

request, only if they lived in Switzerland.<sup>97</sup> Most of the delegates of the women's organizations would have preferred an independent nationality, regardless of marriage, but they accepted what can be called an important step toward the integration of women and the temporary end of a long and engaged struggle by the SVF. Decisive for this outcome in the chambers was the support of younger members of the National Council or the Council of States like Peter von Roten,<sup>98</sup> and the dedicated presence and support of the newly elected Minister of the Department of Justice, Markus Feldmann.<sup>99</sup> Feldmann even convinced conservative catholic backbenchers to accept the law when he told them that the Schweizerische Katholische Frauenbund (SKF, Swiss Catholic Women's Organization), a conservative catholic women's movement, which had hesitated so long to take a stand, was now in favor of the law.<sup>100</sup> At the same time, the revised law on naturalization doubled the minimum time of residence before an application was possible by raising it to twelve years. This can be called an opening toward the inside accompanied by a closure toward the outside. Women still could not confer their citizenship on their husbands or children.

Swiss women who married a citizen of a different municipality continued, however, to lose municipal citizenship. For some left-wing Geneva politicians, this seemed to bring about a new kind of inequality. To place women who married citizens of a different municipality on equal footing with women who married foreigners, the 1955 Geneva Law on Citizenship introduced an article giving female citizens of a Geneva municipality the opportunity to keep their citizenship after marriage with citizens of a different municipality. This first step toward equality was nullified by the EJPD as not being congruent with federal law.

In 1959, the first vote on women's suffrage on the federal level failed decisively (thirty-three percent to sixty-six percent), but the cantons of Vaud, Neuchâtel, and Geneva had introduced the vote on the cantonal level in or shortly after 1959.<sup>101</sup> At least since that time, the French-speaking cantons could be called forerunners of equal rights for women. In 1961, they resumed the endeavor for equal municipal rights for women, which was accepted on the cantonal level in 1964.<sup>102</sup> Only in 1988 was this enacted for all cantons.<sup>103</sup>

In 1971, the male constituency finally granted political rights to all women on the federal level. Step-by-step the legal system was changed. A milestone on the way to equality was the 1981 constitutional amendment granting equality between men and women,<sup>104</sup> followed by the Law on Equality in 1995. Consequently, naturalization laws had to be changed; the fact that men could still convey their Swiss citizenship to their wives at marriage but women could not was no longer compatible with the notion of equality. Thus, the law<sup>105</sup> was changed; "facilitated naturalization," that is, the naturalization of the foreign spouses of Swiss nationals—after three years of marriage and five years of residence—was introduced for men and women alike. The proposition that it would have been fairer to transfer the previous

legal situation of the privileged gender, men, to women was denied. The municipalities, however, which had remained strongholds of inequality, began to change municipal citizenship. Before 1988 a woman used to get her husband's municipal citizenship at marriage and lost her original citizenship. Since the change of marriage law in 1988, she could keep her former municipal citizenship at marriage but received her husband's in addition to it, while children received their father's municipal citizenship. This stipulation was changed quite recently: since 2013, marriage no longer has any influence on the municipal citizenship of a woman. She keeps her inherited citizenship.<sup>106</sup>

### Recent Changes and the Challenge of Equality

Equality is a complicated concept, especially when living conditions and gender-based concepts are not equal. It has become obvious that, in a marriage, foreign women are more easily put under pressure by their husbands to stay in a difficult relationship in order not to lose the right to naturalization in the case of an early breakdown of marriage than vice versa. For example, if a husband should die earlier within the specified three-year period, it proved to be more difficult for a woman than for a man—especially if she did not take up gainful employment—to show that she was well integrated and “deserve[d]” to stay without having been naturalized.<sup>107</sup>

Equality between men and women obtained by the 2013 Law on Citizenship can still prove ambivalent, although the consequences are not as grave: a woman will keep her municipal citizenship (as well as her name) at marriage, the couple can decide the family name and citizenship of their (future) children, and can—if they are citizens of different municipalities—choose either his or her municipality as a “place of origin.” But as family name and municipal citizenship are linked, it will likely be the name and citizenship of the husband in far more than fifty percent of the marriages. It is not only the fact that a wife sticks to tradition by choosing her husband's last name, as some newspaper comments state,<sup>108</sup> but that Swiss men generally do not accept that “their” children do not carry their name. A woman who decides to use her name may then have no “connection” with the “place of origin” of her children. Before equal citizenship rights were established, name and citizenship were not linked and, as I have mentioned, a woman received the municipal citizenship of her husband in addition to her own, and thus kept the connection to her children's place of origin and their name by adding her husband's name to hers.

To end discrimination equality must be applied. The pressure to achieve homogeneity forces a suppression of existing differences and adoption of some standards of privileged groups. The dilemma that arises for women through the demand to obtain equal rights is one of the most challenging aspects of politics for women.<sup>109</sup> In her work on the Sears case and on the French women's movement, Joan Scott has analyzed this “paradox of gender” as a structural trait of women's history.<sup>110</sup> The inclusion and participation of women requires the rejection of claims to homogeneity.<sup>111</sup>

The history of Swiss citizenship rights shows that the concepts of “national identity” as well as the homogeneity of law and of the populace are “invented traditions.”<sup>112</sup> The aim and function of this concept is a demarcation and construction of borders; a loss of citizenship or prevention of naturalization goes far beyond the spectrum of those who apply for citizenship: it is of preventive and constructive character. The constructs of “national identity” and “equality” and the idea of the homogeneity of Swiss citizens and citizenship can and do impact social and political reality, but only if one ignores the problematic character of women's citizenship and denies the relevance of their right to naturalization.

The integration of their history shows not only how often women's citizenship rights have been changed in the course of time, but also that different concepts for men and women coexisted at the same time—examples that prove that citizenship has never been the “natural” concept some pretend it to be, but was dictated by the demands of respective political power structures.

The modern state defined nationality and established legal regulations for the process of nationalization. That a wife had to adopt her husband's nationality was introduced and codified in several countries in the late eighteenth and the early nineteenth centuries. Switzerland practiced the “marriage rule” but codified it only in 1940 and abolished it in 1952; with respect to nationality, under the pressure of the decisions taken by other countries, the inequality of municipal citizenship lasted until 1988 or even 2013. Why did this discrimination continue in Switzerland while other countries abolished discriminatory regulations? One reason is that Switzerland was deeply embedded in a Republican tradition with strong corporative elements focusing on the family and small municipalities with active (male) citizens. Women were considered a subordinate part of their family. The liberal 1848 Constitution preserved those corporative elements, as the municipal organization of citizenship clearly shows.<sup>113</sup> The male-headed municipalities tried whenever possible to prevent change and not to give up any authority.

The second reason is the late enfranchisement of women, who until 1971 had only an indirect method of intervening in political processes concerning their nationality. Any attempt to change this through an interpretation of the constitution or by a plebiscite failed. Here, the elements of citizenship discrimination and the corporate organization of Swiss politics meet and coincide: the argument that women were represented by their husbands and that the vote would make mischief in a family was used even as late as 1971. And some cantons and municipalities resisted even after the Federal decision: even after 1971, several municipalities of the Canton of the Grisons did not allow women to vote on the municipal level, and in 1991 the Canton of Appenzell had to be forced by the Federal Court to enfranchise women with respect to cantonal decisions.<sup>114</sup> In Switzerland, the battle for married women's independent nationality was not won easily. The battle for equality continues.

## Notes

- 1 The number of inhabitants had risen from 7,255,700 in 2001 to 8,236,600 inhabitants in 2014, when 1,947,023 were foreign nationals. Reference date December 2014: Cf, <https://www.bfm.admin.ch/bfm/de/home/publiservice/statistik/auslaenderstatistik/archiv/2014.html>; [http://www.bfs.admin.ch/bfs/portal/de/index/themen/01/01/new/nip\\_detail.html?gnpID=2015-049](http://www.bfs.admin.ch/bfs/portal/de/index/themen/01/01/new/nip_detail.html?gnpID=2015-049).
- 2 The so-called Volksinitiative "Gegen Masseneinwanderung" (popular initiative "against mass immigration") was accepted on February 9, 2014 by a majority of 50.34 percent. Its political consequences are so far not clear at all.
- 3 Schweizerische Bundesverfassung (BV) (Swiss Federal Constitution) 1999 Art. 37, 1: "Schweizerbürgerin oder Schweizerbürger ist, wer das Bürgerrecht einer Gemeinde und das Bürgerrecht des Kantons besitzt." (Swiss citizen is who is a citizen of a municipality and a canton).
- 4 On the history of citizenship, including women's citizenship, cf.: Brigitte Studer, Gérard Arletta, and Regula Argast eds., *Das Schweizer Bürgerrecht. Erwerb, Verlust, Entzug von 1848 bis zur Gegenwart* (Zurich: Verlag Neue Zürcher Zeitung, 2008); Regina Wecker, "'Ehe ist Schicksal, Vaterland ist auch Schicksal und dagegen ist kein Kraut gewachsen.' Gemeindebürgerrecht und Staatsangehörigkeitsrecht von Frauen in der Schweiz 1798–1998," *L'homme* 10, no. 1 (1999): 13–37; Regula Argast, *Staatsbürgerschaft und Nation. Ausschließung und Integration in der Schweiz 1848–1933* (Göttingen: Vandenhoeck & Ruprecht, 2007). For a commented bibliography, cf. Regina Wecker, "Die Politik mit dem Bürgerrecht," *traverse. Zeitschrift für Geschichte* 1 (2013): 141–155.
- 5 Schweizerische Bundesverfassung (BV) (Swiss Federal Constitution) 1848 Art. 43. "Kein Kanton darf einen Bürger des Bürgerrechtes verlustig erklären." (No Canton may deprive a citizen of his citizenship.) Schweizerische Bundesverfassung (BV) 1874 Art. 44. "Kein Kanton darf einen Kantonsbürger aus seinem Gebiete verbannen (verweisen) oder ihn des Bürgerrechtes verlustig erklären." (No Canton may ban a citizen from its territory and deprive a citizen of his citizenship).
- 6 Until the middle of the nineteenth century, in some Catholic cantons illegitimate children could take their father's name and citizenship; in Protestant cantons they took their mother's. After 1860 the *Maternitätsprinzip* (principle of maternity) became standard for illegitimate children. Cf. "Illegitimität," *Historisches Lexikon der Schweiz (HLS)*, <http://www.hls-dhs-dss.ch/textes/d/D16112.php>.
- 7 Die *Bürgergemeinde* (municipality of "descent," as well: *Bürgergemeinde, Ortsbürgergemeinde, Tagwen*. In French: *bourgeoisie, commune bourgeoise*, Italian: *patriziat*, Romansch: *vischnanca burgaisa*), includes all individuals who are citizens of the *Bürgergemeinde*, usually by having inherited the *Bürgerrecht* (citizenship) or by naturalization, regardless of where they were born or where they currently live.
- 8 For social security rights, cf. Thierry Christ, "Fürsorge," *Historisches Lexikon der Schweiz (HLS)*, <http://www.hls-dhs-dss.ch/textes/d/D25809.php>. For political rights, cf. Tomas Poledna, "Stimm- und Wahlrecht," *Historisches Lexikon der Schweiz (HLS)*, <http://www.hls-dhs-dss.ch/textes/d/D26453.php>.
- 9 E.g., Diepoldsau, a municipality in the Canton of St. Gall, offers a free Christmas tree from the municipal forest; Eptingen, a municipality in the Canton of Basel-Country, offers free mineral water from a municipal source to members of the municipality living there.
- 10 Until 1988, a woman lost her municipal citizenship by marriage and obtained her husband's. When this was changed by the new marriage law, a considerable number of women applied for their original citizenship, displaying a certain emotional attachment to their municipality of origin.
- 11 *Gemeinden* or *Einwohnergemeinden* (German: *Gemeinden*/French: *commune*/Italian: *comuni*/Romansh: *vischnancas*, residential municipalities in contrast to *Bürgergemeinden*, cf. Note 8) are the smallest government division in Switzerland. At the beginning of 2015, there existed 2,352. The number of municipalities is decreasing to save administrative costs.
- 12 In four cantons (Neuchâtel, Jura, Vaud, Fribourg), foreigners are entitled to vote on the municipal level. In the canton of Geneva, they can vote and decide on a subject. Two cantons (Grisons, Appenzell AR) enabled the municipalities to decide whether or not they grant citizenship rights to foreigners. Foreigners may not cast ballots on federal matters.
- 13 In the cantons of Nidwalden, Schwyz, Appenzell IR, Neuchâtel, Geneva, and Vaud there are no *Bürgergemeinden*, the political municipalities fulfill their responsibilities. Citizenship of the *Bürgergemeinde* and the *Bürgerort* (place of origin) is still inherited.
- 14 This was foreshadowed in the Helvetic Republic (see below) when for the first time, two politically separate but geographically similar organizations were created.
- 15 Not until the Federal Constitution of 1874 were all male citizens granted equal political rights on the local (municipal and cantonal) level and were political voting and electoral rights removed entirely from the *Bürgergemeinde*. For a short English summary of the history of corporal municipalities, cf. <http://en.wikipedia.org/wiki/Bürgergemeinde>.
- 16 Brigitte Studer, "Citizenship as Contingent National Belonging. Married Women and Foreigners in Twentieth-Century Switzerland," *Gender & History* 13, no. 3 (2001): 622–654.
- 17 Schweizerisches Zivilgesetzbuch (ZGB) Art. 161.
- 18 Ziff. I des BG vom 30. September 2011 (Name und Bürgerrecht), in Kraft seit 1. January 2013 (AS 2012 2569; Bundesblatt, 2009 7573–7581). no I, 1 FL of September 30, 2011 (Name and citizenship), in force since January 1, 2013.
- 19 The Law on Naturalization was recently revised. The Federal Government had proposed to reduce the required time of residence from 12 to 8 years and accentuate language competence and integration into the community. The National Council (*Nationalrat*, the larger house of the Federal Assembly) decided to require 10 years of residence. The Council of States (*Ständerat*, the smaller house of the Federal Assembly) backed this proposal. The revised law will likely come into force in 2017.
- 20 Jens Hainmüller and Dominik Hangartner, *Does Direct Democracy Hurt Immigrant Minorities? Evidence from Naturalization Decisions in Switzerland*. January 2013, <http://ssrn.com/abstract=2022064>.
- 21 Decision of the Swiss Federal Court of May 12, 2004, *Bundesgericht (BGE) 130 I 140 Urteil vom 12. Mai 2004*. [http://relevancy.bger.ch/php/clir/http/index.php?lang=de&zoom=&type=show\\_document&highlight\\_docid=atf%3A%2F%2F130-I-140%3Ade](http://relevancy.bger.ch/php/clir/http/index.php?lang=de&zoom=&type=show_document&highlight_docid=atf%3A%2F%2F130-I-140%3Ade).
- 22 *Amtliche Sammlung der Acten aus der Zeit der Helvetischen Republik (Official Publication of the Records of Time of the Helvetic Republic, ASHR) (1798–1803)*, 16 vols. (Bern/Fribourg: Stämpfli 1886–1966). Decision concerning Jewish citizenship: ASHR XI, 209–211.
- 23 Jews obtained citizenship in France in 1791 during the Revolution.
- 24 Cf. Anne-Lise Head-König, "Mariage et citoyenneté des femmes. L'influence de la Helvétique et la Révolution sur la conception du mariage en Suisse," in *Dossier Helvetik—Dossier Helvétique. Sozioökonomische Strukturen—Frauengeschichte/Geschlechtergeschichte*, ed. Christian Simon, vol. 2 (Basel: Hebing & Lichtenhahn, 1997), 151–166 (155, 156).
- 25 Head-König, "Mariage," 156.

- 26 Head-König, *Ibid.*, 157. Head-König considers this a deterioration of the situation of the widow, because she might have had closer connection to her municipality of origin. Head-König, "Mariage," 159.
- 27 The period of the "Helvetic Republic" seems to have been too short to bring about profound changes with respect to municipal citizenship or nationality.
- 28 Beatrice Ziegler, "Frauenstimmrechtskampf in der Schweiz—zum Verhältnis von Frauen und Staat," *Schweizerische Zeitschrift für Geschichte (SZG)* 46, no. 3 (1996): 297–305 (300).
- 29 Studies of the situation prevalent in many cantons show this quite clearly: Eva Sutter, "Ein Act des Leichtsinns und der Sünde." *Illegitimität im Kanton Zürich: Recht, Moral und Lebensrealität (1800–1860)* (Zurich: Chronos, 1995), 192–193; Verena Schmid, ". . . von allem entblösst." *Armut, Armenwesen und staatliche Reformpolitik in Schaffhausen (1800–1850)* (Zurich: Chronos, 1993); Annamarie Ryter, *Als Weibsbild bevogtet. Zum Alltag von Frauen im 19. Jahrhundert. Geschlechtsvormundschaft und Ehebeschränkungen im Kanton Basel-Landschaft* (Liestal: Verlag des Kantons Basel-Landschaft, 1994).
- 30 Gesetz über das Armenwesen 1847 (Poor Law, 1847), in *Gesetze des Kantons Basel-Landschaft* (Laws of the Canton of Basel-Country), vol. 8, 22ff.
- 31 Staatsarchiv Basel-Landschaft, Justiz B.I. Nr. 2180 and 240; Annamarie Ryter, *Als Weibsbild bevogtet*, 81.
- 32 "Foreign" here means that she was not a citizen of the municipality she lived in. The legal basis for imprisonment or expulsion were orders of the so-called marriage courts, ("Ehegerichtsordnungen," e.g. Cantons of Basel-Country and Basel-City) or matrimonial laws ("Matrimonialgesetze" in Zurich). When some of the cantons codified civil law in the middle of the nineteenth century they partly transferred the provisions. These provisions were abolished by the Amendment of the Federal Constitution in 1874.
- 33 Gesetz über das Armenwesen (Poor Law) vom 8. November 1859, § 16 und 17, in: *Gesetze des Kantons Basel-Landschaft*, vol. 8, 22ff. (Laws of the Canton of Basel-Country); Ryter, "Als Weibsbild bevogtet," 83.
- 34 Wolfgang Kaschuba and Carola Lipp, *Dörfliches Überleben. Zur Geschichte materieller und sozialer Reproduktion ländlicher Gesellschaften im 19. und frühen 20. Jahrhundert* (Tübingen: Tübinger Verein für Volkskunde, 1982), 312–320.
- 35 Sutter, *Ein Act*, 192f.
- 36 Staatsarchiv Zürich (State Archive of the Canton of Zurich) YY 3.8 and YY 3.9 Ehegerichtsprotokoll 1810, 1811; Sutter, *Ein Act*, 206–207, and footnote 15, 344.
- 37 Zaccaria Giacometti and Fritz Fleiner, *Schweizerisches Bundesstaatsrecht* (Zürich: Poligraphischer Verlag, 1949), 202.
- 38 The development of a federal state had been prepared and foreshadowed by several liberal movements in those industrialized cantons that had already introduced universal male suffrage in the 1830s, while other cantons stuck to the old, aristocratic privileges. The differences of political opinion between the liberal, mostly Protestant cantons and the conservative, mostly Catholic cantons remained insurmountable even after the Swiss Civil War and the founding of the Swiss Confederation. It led to different institutions and naturalization procedures.
- 39 For Zurich, cf. Elisabeth Joris, "Mündigkeit und Geschlecht: Die Liberalen und das 'Recht der Weiber,'" in *Im Zeichen der Revolution. Der Weg zum Schweizerischen Bundesstaat 1798–1848*, ed. Thomas Hildbrand and Albert Tanner (Zurich: Chronos, 1997), 88. For Basel-Country, cf.: Petition von 30 Sissacherinnen an den Verfassungsrat des Kantons Baselland vom 29. August 1862 (Petition by 30 women from Sissach to the Constituency of the Canton of Basel-Country),

- in *Alles was RECHT ist! Baselbieterinnen auf dem Weg zu Gleichberechtigung und Gleichstellung*, ed. Pascale Meyer and Sabine Kubli (Liestal: Museum im alten Zeughaus, 1992), 17.
- 40 Martin Leuenberger, *Frei und gleich und fremd. Flüchtlinge im Baselbiet zwischen 1830 und 1880* (Liestal: Verlag des Kantons Basel-Landschaft, 1996).
- 41 Schweizerische Bundesverfassung (BV) (Federal Constitution of Switzerland), 1874 Art. 44, 2.
- 42 BV Art. 54, 1.
- 43 Kapitel 5. Wirkungen der Ehe im Allgemeinen (Chapter 5. General impact of marriage) Art. 161, "Die Ehefrau erhält den Namen und das Bürgerrecht des Ehemannes." (The wife obtains the name and the citizenship of her husband.)
- 44 Nicole Schwalbach, "Ausbürgerung zur Zeit des Zweiten Weltkriegs," in *Bürgerrecht*, 267–294; Studer, "Citizenship," 291.
- 45 Heiner Ritzmann-Blickenstorfer, ed. *Historische Statistik der Schweiz* (Zurich: Chronos, 1996), 138.
- 46 Jahresversammlung der Basler Armenpflege 1905 (Annual Meeting of the Poor Law Administration of the Canton of Basel-City), cited in Anna Katharina Schmid, "Die verwaltete Armut. Die Allgemeine Armenpflege in Basel 1898–1911," diploma (Master's) thesis, University of Basel, 1984, 118.
- 47 Schmid, "Verwaltete Armut," 116–117.
- 48 Schmid, *Ibid.*, 122.
- 49 Legally, Swiss municipalities of origin (*Bürgergemeinden*) remained responsible for "their" poor, wherever they lived, up to the 1970s, when this responsibility was transferred to the residential municipality. This important change allowed welfare recipients to stay in their place of residence. But there are signs of problems in the municipal organization of welfare even in this new system: in small municipalities, one or two welfare cases may far exceed a municipal budget. To avoid a deficit in the municipality's finances, a member of the municipal council recently requested that owners of houses not rent flats to welfare recipients. Cf. <http://www.aargauerzeitung.ch/aargau/kanton-aargau/keine-wohnungen-an-sozialfaelle-auch-glarners-gemeinde-macht-das-so-128239240>.
- 50 For the history and interpretation of the meaning of American citizenship, cf. James H. Kettner, *The Development of American Citizenship 1606–1870* (Chapel Hill: University of Michigan, 1978), and Linda K. Kerber, "The Meaning of Citizenship," *Journal of American History* 84, no. 3 (1997): 833–854. Concerning the "citizenship" of women, Linda K. Kerber, "The Paradox of Women's Citizenship in the Early Republic, The Case of Martin v. Commonwealth, 1805," *American Historical Review* 97 (April 1992): 349–378; and Nancy F. Cott, "Marriage and Women's Citizenship in the United States, 1830–1934," *American Historical Review* 103, no. 5 (December 1998): 1440–1474.
- 51 Cott, "Marriage," 1443.
- 52 Cott, *Ibid.*, 1471.
- 53 Cott, *Ibid.*, 1469.
- 54 Hermann Kinkel, *Die Bevölkerung des Kantons Basel-Stadt am 1. Dezember 1880. Im Auftrage des H. Regierungsrates* (Basel: Birkhäuser, 1884).
- 55 The four national languages of Switzerland are German, French, Italian, and Romansh. Sixty-five percent of the population of Switzerland live in the German and 24.4 percent in the French-speaking part, while 8.4 percent live in the Italian and 0.6 percent in the Romansh-speaking part. In 17 cantons, German is the only official language (Aargau, Appenzell Inner Rhodes [IR], Appenzell Outer Rhodes [AR], Basel-City, Basel-Country, Glarus, Lucerne, Nidwalden, Obwalden, Schaffhausen, Schwyz, Solothurn, St. Gallen, Thurgau, Uri, Zug, Zurich).



- In the cantons of Berne, Fribourg, and Valais, French is co-official; in the trilingual canton of Grison, more than half of the population speaks German, while the rest speaks Romansh or Italian. The French-speaking cantons, the so-called *Romandie* (Romandy), are Geneva, Vaud, Neuchâtel, and Jura. The cantons of Valais and Fribourg are divided but have a French-speaking majority.
- 56 The canton of Vaud was the first canton to enfranchise women in 1959; Geneva and Neuchâtel followed soon.
- 57 Argast, *Staatsbürgerschaft*, 181.
- 58 They had immigrated from Baden-Württemberg, or Alsace-Lorraine, which was German from 1871 until the end of World War I.
- 59 Regula Argast, "Das Basler Kantons- und Gemeindebürgerrecht," in *Bürgerrecht*, 197–228 (1993).
- 60 Botschaft des Bundesrates vom 9. November 1920, Bundesblatt, V, 1920, 18.
- 61 Regina Wecker, "Eugenik—individueller Ausschluss und nationaler Konsens," in *Krisen und Stabilisierung. Die Schweiz in der Zwischenkriegszeit*, ed. Sebastian Guex, Brigitte Studer, Bernard Degen, Markus Kübler, Edzard Schade, Béatrice Ziegler (Zurich: Chronos 1998), 165–179.
- 62 Pierre-Yves Kocher, "Die Einbürgerungspraxis in Basel-Stadt 1910–1922," Licenciata thesis, University of Basel, 2001, 65–90.
- 63 Founded in 1909, the SVF was the first Federal organization to demand the vote. Schweizerischer Verband für Frauenrecht eds., *Der Kampf um gleiche Rechte. Le combat pour les droits égaux* (Basel: Schwabe Verlag, 2009).
- 64 Gosteli-Archiv zur Geschichte der schweizerischen Frauenbewegung, Worblauf (Gosteli Archive for the History of the Swiss Women's Movement): Bund Schweizerische Frauenverbände (BSF), Bürgerrechtsgesetz. Zum Bürgerrecht der ausheiratenden Schweizerin 1915–1952 (Law on Citizenship, Married Women's Citizenship 1915–1952), Korrespondenz SVF 1951–1953, Bestand 103:925:350–06–06, 1. (Written by Annie Leuch-Reineck).
- 65 Gosteli Archiv, Zum Bürgerrechtsgesetz, 2. Cf. Ka Schuppisser, "Denn im Herzen bin ich eine 'Schweizerin' im wahrsten Sinne des Wortes." Wiedereinbürgerungsverfahren 1937–1947: Die ehemalige Schweizerin im Diskurs der nationalen Identität der Frau," Licenciata thesis, University of Bern, 1998, 66.
- 66 Studer et al., *Bürgerrecht*, 76. Georg Kreis and Patrick Kury, *Die Schweizerischen Einwanderungsnormen in Wandel der Zeiten* (Bern: Schweizerische UNESCO-Kommission, 1996), 30.
- 67 In 1928, a change of Art. 44 of the constitution, which might have allowed the child of a "former" Swiss mother to acquire Swiss citizenship if it was born and lived in Switzerland, was accepted by a majority of the voters, but the law was not enacted. Studer et al., *Bürgerrecht*, 144.
- 68 Gosteli Archiv, Zum Bürgerrechtsgesetz, 2.
- 69 Gosteli Archiv, *Ibid.*, 3; Schuppisser, "Im Herzen," 66.
- 70 Ruth Speiser (1893–1976), first female Doctor of Juridical Science of the University of Basel, notary at the Civil Court of Basel.
- 71 Gosteli-Archiv, Zum Bürgerrecht, 3; Schuppisser, "Im Herzen," 66.
- 72 Botschaft des Bundesrates über die Organisation und die Aufgaben der schweizerischen Kulturwahrung und Kulturwerbung, in: Bundesblatt, II, 1938, 999.
- 73 Patrick Kury, "Man akzeptierte uns nicht, man tolerierte uns!" *Ostjudenmigration nach Basel 1890–1930* (Basel: Helbing & Lichtenhahn, 1998).
- 74 Gabriela Imboden, "Die geistesschwache Tante." Einbürgerung und Eugenik in der Stadt Basel," *Itinera* 21 (1999): 264–271.
- 75 Anina Gidkov, "Das Genfer Kantons- und Gemeindebürgerrecht," in *Bürgerrecht*, 245–253. The paragraph was only abolished in the 1980s.
- 76 Max Ruth, "Das Schweizerbürgerrecht," *Zeitschrift für Schweizerisches Recht* 1 (1938): 1a–156a. Ruth states that the publication represented his private views

- only but his conclusions can also be found in official writings, such as the publications of the Swiss Federal Statistical Office.
- 77 Ruth, "Schweizerbürgerrecht," 76a.
- 78 Ruth, "Schweizerbürgerrecht," 134a.
- 79 The argument that women would not perform military service was not part of that debate; after all, men did not lose their political rights if they were not capable of army service.
- 80 Silke Redolfi, "Die verlorenen Töchter—der Verlust des Schweizer Bürgerrechts bei der Heirat eines Ausländers," in *Der Kampf um gleiche Rechte*, ed. Schweizerischer Verband für Frauenrechte (Basel: Schwabe Verlag, 2009), 177.
- 81 Ruth speaks of "Nieten" (slouches), "Schweizerbürgerrecht," 86a.
- 82 John E. Staehelin, "Psychiatrische Erfahrungen mit Einbürgerungen im Kanton Basel-Stadt," *Schweizerische medizinische Wochenschrift* 71, no. 43 (1941): 329–341; Wecker, "Eugenik," 175–176.
- 83 Candice Lewis Bredbenner, *A Nationality of Her Own: Women, Marriage and the Law of Citizenship* (Berkeley and London: University of California Press, 1998), 230ff.
- 84 In 1933–34, 8 women were members of the Congress. Jennifer E. Manning and Ida A. Brudnick, *Women in the United States Congress, 1917–2013* (Washington, DC: Congressional Research Service, 2013), 93, accessed November 3, 2014, <http://fas.org/sgp/crs/misc/RL30261.pdf>. For American women's influence on the American delegation's decision at The Hague not to sign the treaty, cf. Ellen Carol Dubois, "Internationalizing Married Women's Nationality: The Hague Campaign of 1930," in *Globalizing Feminisms 1789–1945*, ed. Karen Offen (London and New York: Routledge, 2010), 204–216.
- 85 German women were enfranchised in 1918, but until 1957, they lost their nationality when they married a foreigner, see Marion Röwekamp, "Gerechtigkeit für Frauen im Sozialstaat? Weibliche Staatsangehörigkeit im Kaiserreich und der Weimarer Republik," in *Gerechtigkeit im Sozialstaat. Analysen und Vorschläge*, ed. Ulrike Haerendel (Baden-Baden: Nomos Verlag, 2012), 71–87.
- 86 Imboden, "Die geistesschwache Tante," 264–271; Regina Wecker, "'Liederlich.' Eugenik, Sexualität und Geschlecht," *Itinera* 21 (1999): 272–280.
- 87 Silke Redolfi, Nicole Schwalbach, and Regina Wecker, "Staatsbürgerrecht: Transnationale Aspekte einer nationalen Institution," in *Gender in Trans-it. Transkulturelle und transnationale Perspektiven. Beiträge der 12. Schweizerischen Tagung für Geschlechtergeschichte*, ed. Martina Ineichen, Anna K. Liesch, Anja Rathmann-Lutz and Simon Wenger (Zurich: Chronos, 2009), 117–124.
- 88 "Privatarchiv Erich Frischhof" (Private Archive E. F.) in Archiv für Zeitgeschichte der ETH Zurich, cited in Silke Redolfi, "Liebe über die Grenze. Der Verlust der Schweizer Staatsangehörigkeit durch die Heirat mit einem Ausländer und die Folgen für die Frauen," in *Grenzüberschreitungen: der alemannische Raum—Einheit trotz der Grenzen?*, ed. Wolfgang Homburger (Ostfildern: Thorbecke Verlag, 2012), 73–84, 83. More cases in Schuppisser, "Im Herzen."
- 89 Studer, "Citizenship," 642.
- 90 Bundesratsbeschluss (BRB) über Änderung der Vorschriften über Erwerb und Verlust des Schweizer Bürgerrechts vom 20. December 1940, in AS Neue Folge 56, 1940, 2027–2030; Schwalbach, "Ausbürgerung," 271ff. Of the 51 cases, Schwalbach had examined 15 that concerned the Romandy, mainly in the Geneva area.
- 91 Bundesblatt der Schweizerischen Eidgenossenschaft 2 (1941), 325–326; Schwalbach, "Ausbürgerung," 271–272.
- 92 Beatrix Mesmer, *Staatsbürgerinnen ohne Stimmrecht* (Zurich: Chronos, 2007).
- 93 Fédération internationale des femmes des carrières juridiques (FIFCJ).
- 94 Redolfi, "Liebe," 83.

- 95 Redolfi, "Die verlorenen Töchter," 178–183.
- 96 "Bundesgesetz über Erwerb und Verlust des Schweizerbürgerrechts," September 29, 1952, Art 9. (Federal Law on Acquisition and Loss of Swiss Citizenship): That it was granted on demand only is another clear sign that citizenship was considered something for which a woman had to make an effort.
- 97 Art. 20.
- 98 Peter von Roten, member of the National Council for the Catholic Conservative Party of the Canton of Valais, married to the lawyer and famous Swiss feminist Iris von Roten.
- 99 Feldmann, member of the Party of Farmers, Traders and Independents (BGP/PAI), now the Swiss People's Party (SVP), was also later engaged in the campaign for the vote.
- 100 Redolfi, "Die verlorenen Töchter," 183.
- 101 The first German-speaking canton, Basel-City, succeeded in 1966. Most other cantons and municipalities followed after 1971; the last canton, Appenzell IR, was forced by the decision of the Federal Court in 1991 to enfranchise women on the cantonal level while they had obtained the vote on the federal level twenty years before. For dates of all municipal, cantonal, and federal plebiscites, see Lotti Ruckstuhl, *Frauen sprengen Fesseln. Hindernislauf zum Frauenstimmrecht in der Schweiz* (Interfeminas Verlag: Bonstetten, 1986).
- 102 "Elle [the female citizen of a Geneva-municipality] conserve toutefois, à l'égard de la République et Canton de Genève, les droits inhérents à cette nationalité genevoise." "Gidkov Genfer Kantons- und Gemeindebürgerrecht," in *Bürgerrecht*, 259.
- 103 See below.
- 104 "Schweizerische Bundesverfassung (BV)" (Swiss Federal Constitution) Art 4.2.
- 105 The change affected several legal provisions, most importantly: the Marriage Law of the Civil Code (ZGB) ("Eherecht," chapter "Die Wirkungen der Eheschließung im Allgemeinen"), and the Law on Citizenship ("Bundesgesetz über das Schweizer Bürgerrecht").
- 106 *Schweizerisches Zivilgesetzbuch (ZGB)* Art. 161.
- 107 Wecker, "Ehe ist Schicksal," 35–36.
- 108 "Noch behalten Frauen ihren Namen," *20 Minuten Online* (December 23, 2013), <http://www.20min.ch/schweiz/news/story/28754638>. "Ehepaare zeigen sich traditionell," *NZZ Online* (January 4, 2014), <http://www.nzz.ch/aktuell/schweiz/ehepaare-zeigen-sich-traditionell-1.18214480>.
- 109 Cf. i.e., Ute Gerhard ed., *Differenz und Gleichheit* (Frankfurt a. M.: U. Helmer, 1990); Nancy Leys Stepan, "Race, Gender Science and Citizenship," *Gender & History* 10, no. 1 (1998): 27; Ute Gerhard, *Debating Women's Equality: Toward a Feminist Theory of Law from a European Perspective* (New Brunswick, NJ: Rutgers University Press, 2001); Andrea Maihofer, "Gleichberechtigung in der Differenz oder Gleichheit und Differenz: zur Kritik des herrschenden Gleichheitsverständnisses," in *Differenz und Gleichheit in Theorie und Praxis des Rechts*, ed. Susanne Altermatt (Basel: Schweizerischer feministischer Juristinnenkongresses, 1995), 17–31.
- 110 Joan W. Scott, *Only Paradoxes to Offer. French Feminism and the Rights of Men* (Cambridge: Harvard University Press, 1997); Joan W. Scott, "The Sears Case," in *Gender and the Politics of History* (New York: Columbia University Press, 1999), 167–177.
- 111 Iris Marion Young, "Das politische Gemeinwesen und die Gruppendifferenz. Eine Kritik am Ideal des universalen Staatsbürgerstatus in Gemeinwesen," in *Jenseits der Geschlechtermoral*, ed. Herta Nagl-Docekal and Herlinde Pauer-Studer (Frankfurt/Main: Fischer, 1993), 267–304.

- 112 On the "invention of traditions," cf. Eric Hobsbawm and Terence Ranger eds., *The Invention of Tradition* (Cambridge: University Press, 1983); Anthony Giddens, "Leben in einer posttraditionalen Gesellschaft," in *Reflexive Modernisierung. Eine Kontroverse*, ed. Ulrich Beck, Anthony Giddens and Scott Lash (Frankfurt: Suhrkamp, 1996), 113–193 (169–170).
- 113 Studer, "Citizenship," 625.
- 114 Regina Wecker, "Staatsbürgerrechte, Mutterschaft und Grundrechte," *Schweizerische Zeitschrift für Geschichte* 46, no. 3 (1996): 383–410; Regina Wecker, *Frauen in der Schweiz. Von den Problemen einer Mehrheit* (Zug: Klett, 1983), 15–18.