

1. INTRODUCTION

Der Arbeiterschutz ist auf der eine Seite eine nothgedrungene Concession des Staats an die Arbeiter, auf der andern Seite rubrizirt er in die bekannte Politik von Zuckerbrot und Peitsche.

Paul Ernst, 1890

Discussions about a night work prohibition for women — a so-called protective labor legislation -- were conducted at several international congresses in the 1890s. At the national level, however, special laws for women in the labor market had been introduced earlier, for example in countries like England and Switzerland.¹ The prohibition of night work for women became a special case as it became a test question for all those who wanted to internationalize social reforms, among them socialists. Would it be possible to reach agreements - conventions - on protective labor legislation at an international level? The question was new, acceptance was not easy to get. Those in favor of a free market were against internationalization of the existing national restrictions.

But there was also a different kind of resistance to internationalization of this special reform, emanating from a less influential group, consisting of women. In the very beginning of the first wave of the women's movement, the prohibition of night work for women only, became one of the "burning" questions during a couple of decades. Such a prohibition was delicate because of its relation to women's increasing demands for economic independence. In debates the issue of a special night work prohibition would touch upon questions such as the role of woman in the family, women as competitors to men in the labor market, prostitution, and sexual morality. Apprehensions and expectations about the consequences of women's emancipation were discussed in relation to such a special treatment. But all women were not at all in agreement over the legislation or its consequences. Contrary to the split among women, men who promoted an international spread of social reforms could agree that women needed special protection.

This book investigates the internationalization of the prohibition of night work for women. Not only to follow the spread of the ban is interesting but to follow the discussions and argument for or against it at a number of international congresses. It makes it possible to see how perceptions of women and their conditions were formulated in a period of transition when new welfare systems and market regulations began to be constructed. The question of prohibition of night

¹ Wecker 1995; Lewis & Rose 1995; Lewis 1995.

work for women, and only for women, can show how opinions among influential groups dominated by men could lead to new national legislations and even end up in a radical international convention. It eventually became the first international convention concerning labor laws. That was positive. But it should for a long time leave a mark on the actual conditions for women in waged work and permeate a special view of women as weak and different. The introduction of this ban of night work was based on ideas about what women ought to do, which were embraced not by all men, but by the most influential ones. It will be shown how male dominated groups for decades worked towards special treatment of women, refusing to hear or discuss the opposition to such an international agreement.

During the decades around 1900, more and more industrialized nations introduced protective legislation concerning night work for women. State representatives worked together and managed to get an international convention accepted as early as 1906. This so-called Bern convention was the very first international convention on labor protective legislation. It aimed at women only. They were all, young, old, unmarried, married, to be prohibited to work at night in industries with more than ten employees. The ban also affected overtime work, as it stipulated a limit for work in the evening. The prohibition of night work for women became a cornerstone in the internationalization of labor law. The new international social policy, despite in principle positive, became a factor that contributed to define and segregate men and women as workers.

The first international convention had been created despite conflicting opinions expressed at a number of international congresses. Strong lobby groups had been active. In 1919 the prohibition of night work for women was sharpened as it became an ILO convention. As such, it acquired a high status and was disseminated throughout the world. With revisions, it continued to be in effect throughout the 20th century.² It became an integrated part of the construction of welfare states and their internationalization. In research on welfare states generally, prohibition of night work for women has had low priority.³ The convention of 1919 became integrated into the efforts of modern states to reach consensus in the area of international labor legislation. For women it had the additional consequence of turning them into a special category of worker.

This book traces ways in which it was possible to internationalize legislation that prohibited all adult women -- but not men -- from working at night in factories. *Nota bene*, women were allowed in many other occupations that demanded night work. Briefly, it can be said that this is a study of the effect of

² Wikander, Kessler-Harris, and Lewis, 1995; Åkerblom 1998; Karlsson 2001a and b; *Night Work of Women in Industry* 2001.

³ Welfare states have been the object of much research; see for example Esping-Andersen 1990; Baldwin 1990; Lewis 1993; Sainsbury 1996; Topalov 1999; Wisselgren 2000; Horne 2004.

ideological discussions on national legislations related to international conventions. It describes how modern societies constructed new conditions, that made it difficult for women to achieve economic equality with men. It took place during a historical period when women's increased participation in paid employment outside their homes was understood as a major social problem. It had consequences that were effective long range for women's status and conditions in the labor market as well as in the family.

To construct the gender division of labor anew

The period from 1889 to 1919 was a crucial period for the ideological and practical construction of a new kind of rather rigid gender division of labor. Men and women were assigned different spheres of work in the new society, which at the same time saw democratization and urbanization. This construction was not at all a simple continuation of the division of labor existing in the agrarian society; it was recreated anew, in new circumstances. Intervention in the development of the labor market was required in order to initiate and strengthen new gender divisions of labor. Industrialism did break up old patterns of production and then saw the re-establishment a new one, with labor regulations, with the introduction of new forms of organization, with a new gender division of labor referring to a new interpretation of an old ideology of women as different.

The early and heated debates of the international prohibition of night work for women at international congresses – arranged by both men and women -- illuminate the process of a new gendering of work. Ideological disagreements were legion at some of these meetings. The ideological conceptions of an earlier age were confronted by new conditions in labor processes and with new ideas about the equal rights of all humans to participate in society. The debates were conducted in order to affect the legislation, to introduce it or to hinder it. Another consequence was that various ways to view women were articulated and made fairly clear. The result was that a rather conservative ideological idea of women was confirmed through an international convention that changed women's possibilities of choice in real life. It reestablished women's economic subordination.

Underlying my interest in the debates at international congresses on prohibition of the night work is a question that has occupied many researchers: the gender division of labor that exists between women and men. How is it changed, retained, created, and reformulated? Many researchers before me have shown that the gender division of labor is not something given by nature. Time and again the hypothesis that such a division of labor is a social construction in flux has been confirmed in scientific studies, published more and more frequently since the

second wave of the women's movement. The insight was articulated much earlier.⁴

I agree with what the North American economist Heidi Hartmann claimed in her classic article from 1979 -- that it is the gender division of labor that must become equal if women and men are to be able to achieve the same positions of power in society. It is through the division of labor that women's inferior economic conditions and dependence have continued despite a democratic social order. Possibilities of subordination follow from a rigid gender division of labor. Hartmann pointed out the importance of protective labor legislation for conditions of women workers in the industrial society. The same did historian Alice Kessler-Harris in a full chapter in *Out to Work*, stating that protective legislation "bears some of the responsibility for successfully institutionalizing women's secondary labor force position".⁵ This book will show the relevance for their conclusions in an international perspective, inspired by their research.

This view of the gender division of labor and its consequences for equality includes the distribution between paid and unpaid work. Women's tasks within the family were the constantly underlying premise in the discussions on prohibition of night work, even when not always openly referred to.

Citizenship

In order to describe and analyze discussions, I use the concept of *economic citizenship*. The concept has been developed among others by Alice Kessler-Harris.⁶ Here I will use it and at the same time limit it by not taking into account a full analyze of all the implications for changing social policies. I will use it to be able to describe a goal that was already raised by early women's rights activists. By equal economic citizenship, I mean in this book a labor market in which women and men have the same rights and opportunities. Such citizenship is based on women being able to get training and education for manual and intellectual occupations, exactly on the same conditions as men. This means that women should not be hindered by rules, laws, or not even practices that make a distinction by sex. It means that the responsibility for children is divided equally between the parents. It means a society that is organized accordingly, so that adults might combine parenthood with individual economic independence. Through its laws, the state lays the groundwork for economic citizenship. It asks for new attitudes and identities.

⁴ Here are only some examples: Clark (1919) 1992; Pinchbeck (1930) 1969; Kock 1938; Guilbert 1966; Dublin 1979; Kessler-Harris 1981; Hausen 1981, 1993a & b, 1987; Nienhaus 1982, 1995; Müller et al. 1983; Lewis 1984; John 1986; Milkman 1987; Cooper 1987; Wikander 1988, 1998; Glucksmann 1990, 2000; Parr 1991; Sommestad 1992; Turbin 1992; Lewis 1993; de Groot & Schrover 1995; Hirdman 1998; Waldemarson 2000; Neunsinger 2001; Åmossa 2004.

⁵ Hartmann 1981; Kessler-Harris, Chapt 7 "Protective Labor Legislation" 1981, quote from paperback 1982:181. The distinction between the formal and practical side of rights is analyzed well by Lister 1997.

⁶ Kessler-Harris 1996, 2001, 2003, 2007. See also Appendix I in this book.

Economic citizenship, like the political kind, has two sides, one formal and one practical. The relation between rights and practices are different concerning the labor market and politics. Political and economic citizenships have had different prerequisites.⁷

For political citizenship the formal side was the most important in order for practice to get started. Not until women got legal rights were they allowed to sit in the parliament, to take part in legislating. Women were excluded until they got the right to vote and were eligible to run for office. Of course, women had tried and managed to influence policy making earlier, if politics are defined broadly. To influence politically was, by the way, the purpose behind the initiatives to arrange international congresses for women's rights. The very fact that women got political citizenship formally did not mean that all obstacles were gone. The political system consisted, and consists, of practice as well as formality. In Sweden, a fairly democratic country, it took over fifty years from formal political citizenship for women to equal representation in the parliament and government.⁸ And it is still not possible to say that there is total equality in political practice.

Between the formal and practical sides of economic citizenship, the situation is the opposite from the one in policy making. The practice of working for wages preceded formal and general permissions to do so. Without any formal permit the majority of women have worked since ever to support themselves and others. Economic citizenship differs also from the political by the fact that it has not been formulated in a unique legislation. Instead a patchwork of formal and informal obstacles has existed side by side with the necessity to work for a livelihood.

The concept of economic citizenship is relevant only for an analysis of a society in which incomes from paid employment in a labor market is central to the support of individuals, that is when the resources of the society are distributed with money as the medium of exchange. In such a society the state has a responsibility for upholding a system in which each citizen, through work or otherwise, might get such an amount of money that he/she is able to lead a decent existence. The rules of distribution of the capitalist system interact with those of the state, as well as with local regulations and traditions. Thus an economic citizenship was (and is) embedded in a multitude of different rules and traditions within the labor market -- national, professional, and local -- which have been changed and can be changed.

Changes in the terms of citizenship have been considerable for men and women during the past one hundred and fifty years in the Western world. New rules for participation in political life, through increased suffrage, are just one of many changes. Changes were not introduced without resistance; among hinders were

⁷ The distinction between the formal and practical sides is analyzed well by Lister 1997.

⁸ Östberg 1997; Frangeur 1998; Florin & Nilsson 2000.

norms in the gender ideology of the specific period. It is important to keep in mind that both unspoken and spoken conceptions were behind the fact that new gender relations, slowly, gradually changed. This process of change is to be teased out.

The gender division of labor was a big obstacle to equality. It was upheld in large part through firmly anchored notions of femininity and masculinity, of a “gendered imagination”⁹ of women’s role in the family, also echoed in regulations and laws. The ILO’s convention in 1919 on a ban of night work for women became an internationally legitimized special rule that confirmed such a view of women. Thus women were denied equal economic citizenship and their difference was established by legislation at the end of the Great War. Nevertheless, in the harsh reality of industrialized society, women had to support themselves and often others close to them.

Feminism and Equality

Prohibition of night work for women was introduced only some decades after European states, one by one, had taken away another important regulation of the labor market: the guild system. Under it, activities of women and men had been segregated. The abolition of the guild system gave women new opportunities to earn money in areas that had earlier been reserved for men. But the intention of deregulation had not been to dissolve the norms of the gender division of labor. Women’s initiatives gave offense, and their better abilities to support themselves together with older attitudes of men’s right to superior positions as workers, helped make it easy for men to accept new rules excluding women in the labor market. This study, focusing on one law and its internationalization, will expose how such gendered views looked and how they were continued and formalized into the 20th century.

National prohibition on night work for women had encountered protests early on. In England, where women’s work was regulated first, the first protests were raised. Criticism of such special treatment would constantly be reoccurring. At feminist international congresses a discourse was developed based on an ideology of equality between women and men also in the labor market. But women were not united in a negative view of special treatment. The ban against night work was praised by many women for contributing to a clear gender division of labor, with the argument that women needed protection on account of their responsibility for family and children. The prohibition primarily affected working-class women, as it mainly covered industrial work.

It was impossible, as we will see, to determine women’s widely different views on the special night work prohibition by means of a simple right/left scale in politics. The internationalization of the prohibition of night work is here studied from a feminist perspective. This seems all the more urgent as the very word *feminist* --

⁹ Kessler-Harris 2001.

as a word for women in opposition to male dominance -- is directly connected to discussions on the night work for women. In 1890 Marya Chéliga-Loévy¹⁰ used the word *feminist* in her magazine *Bulletin de l'Union Universelle des Femmes* (Bulletin of the Universal Union of Women). By this time the word had been used for almost two decades. Initially it was a medical term.¹¹ As early as 1872 -- when the word was new -- it seems to have become a designation for women of the opposition. The author Alexandre Dumas the younger knew that feminists wanted to have equality with men in education and as citizens generally. Dumas was in strong opposition to this at first but changed his view later. His early use and definition of the word must be said to be identical with the one Marya Chéliga-Loévy and other women used later. According to Dumas, feminists thought that

“All the wrong comes from not wanting to admit that woman is equal to man. It is necessary to give her the same upbringing and the same rights as men: the man takes advantage of his strength, etc., etc. You know the rest...”¹²

Marya Chéliga-Loévy used the designation *feminist* in a positive sense in an article about how the prohibition of night work for women was discussed in the French National Assembly. Such a prohibition was in 1890 not yet introduced in France. Her critical article wanted to stop the legislation. Chéliga-Loévy emphasized that politically unaffiliated feminists stood behind the criticism. Her way of calling this group *feminists* may be worth citing:

We neither accuse nor target anyone, but whatever sympathies we might feel for such and such a political person we disregard him from the moment he worsens the lot of women. For a woman the so-called protective legislation takes away her last mouthful of bread and sends her from the workplace to prevent her from competing with men. We declare again that we do not belong to any political party. We are feminists sincerely and independently. History has given us more than one example, that after having been exploited as instruments of action, after having served with an incomparable zeal, women have been relegated to their former position of servitude by the conquering politicians. We must profit from these harsh lessons and learn how to concentrate the strength of

¹⁰ *Bulletin de l'Union Universelle des Femmes, Revue mensuelle* no 4, 1890:6. Chéliga-Loévy was the group's leader; the leading trio consisted of Clémence Royer, Eugénie Potonié-Pierre, and Maria Martin, according to Jules Bois, “Les Apôtres femmes du ‘Féminisme’ à Paris” (The Female Apostles of Feminism in Paris), *Le Figaro* 9/11 1894, cited by Wilkins 1975:12; on Clémence Royer, Fraisse 1985:97.

¹¹ On the early medical usage, Fraisse 1989:198f; Cott 1987:14, and in a note, Cott writes that Hubertine Auclert introduced the word during the 1880s. The reference is unclear and refers to a letter that Auclert published 25 years later in which she says she used the word early. The location of the letter is not clear.

¹² “Tout le mal vient de ce qu'on ne veut pas reconnaître que la femme est l'égale de l'homme et qu'il faut lui donner la même éducation et les mêmes droits qu'à l'homme: l'homme abuse de sa force, etc., etc. Vous savez le reste. Nous nous permettrons de répondre aux féministes que ce qu'ils disent là n'a aucun sens.” Dumas 1872:91f.

the feminine and feminist element, pursuing a single goal: improving the condition of women. It is on this that we focus our efforts and our actions.¹³

These feminists saw themselves as politically independent, disregarding the way men organized. They had their own view of history and their own interpretation of the intentions of introducing the prohibition of night work; feminists believed that men wanted to introduce a special law in order to reduce the competition from women in the labor market and to keep women in economic dependence of men. It was their opinion that on earlier occasions -- and here they were certainly referring to women's support for the Third Republic in the restless time that was not so distant -- politicians had promised women things they had never delivered. Those who called themselves feminists thought that economic independence was crucial for women's emancipation. And they demanded to be treated as equal to men. That demand was neglected when a prohibition of night work for women was introduced in France in 1892.¹⁴ The legislation put new hinders when women were demanding the opposite, adherence.

The voices of these feminists were raised in what has been described as an age when "relational feminism" connected to discourses on motherhood were predominant among Europe's women activists for women's emancipation.¹⁵ That is not seen at the congresses of radical women in the 1890'. Granted, the notion that women's nature and psyche were different from men's was common among feminists. However, they were not of the opinion that such a view ought to lead to a different treatment of them as citizens or workers. Feminists did not see any problem in viewing themselves as being different from men and, at the same time, maintaining their right to equality before the law. They were not pro similarity, they claimed equality!

In this book, the word "feminist" will be reserved for those who called themselves so or who worked in accord with the equality aspirations of the French feminists. These women were not dealing with any "relational feminism". Those who can be categorized so, did not like feminists. As we shall see, these early feminists also sympathized with socialism, introducing and defending their own

¹³ "Nous n'accusons et nous ne visons personne, mais quelle que soient les sympathies que nous puissions éprouver pour tel ou tel personnage politique, nous n'en tenons aucun compte, du moment où il fait bon marché du sort de la femme à qui la loi, soi-disant protectrice ôte la dernière bouchée de pain et la renvoie de l'atelier pour l'empêcher d'être la concurrente de l'homme. Nous déclarons encore une fois, que nous n'appartenons à aucun parti politique. Nous sommes franchement et indépendamment féministes. L'histoire nous a montré plus d'un exemple, qu'après avoir été exploitées comme instruments d'action, après avoir servi avec un zèle incomparable, les femmes ont été repoussées par les politiciens vainqueurs au fond de leur ancienne servitude. Il s'agit donc, de profiter de ces leçons si dures et de savoir concentrer la force de l'élément féminin et féministe, ne poursuivant qu'un seul but: l'amélioration du sort de la femme. C'est à quoi se bornent nos tendances, nos efforts et nos actions." Under the title "France," *Bulletin de l'Union Universelle des Femmes*, no. 4, 1890:6.

¹⁴ For the "archeology" of this law in France, see Zancarini-Fournel 1995.

¹⁵ Offen 1988; Koven & Michel 1993.

definition of socialism as including equality between the sexes. Some were activists in male dominated reformist socialist circles. They will be called socialist feminists here, in order to emphasize their own definition of their political position.

Marya Chéliga-Loévy was one of the arrangers of an international women's congress in 1892 that carried the word feminist in its title. The prohibition of night work for women, which that year became law in France, was discussed at that congress. The feminists' view of the ban differed from opinions at other international congresses in which the question was on the agenda. The most prestigious of these were men's congresses. Some women's congresses also supported a prohibition of night work for women. This book traces, more or less closely, the process of creating opinions at more than thirty international congresses. All of these congresses used the international level to achieve broader influence, for establishing an international cooperation after which delegates were able to go back to their own countries referring to a wider backing of their ideas. The international discussions were related to the national ones. But the international congresses also influenced each other mutually. Between some of the congresses a dialogue developed with arguments for and against prohibition of night work for women. Sometimes it became a dialogue with impediments, in which only one side -- the women's congresses -- answered arguments presented by the other. Moreover, statements in the debates were often misinterpreting the arguments of a not-present opponent and a distortion was given an answer; as a result, arguments that no one actually held could be included in the discussions. The men's groups stood significantly closer to national legislators and others in power than the women's congresses. But the women were not totally without influence, and cultivated consciously relations to men in power positions.

The prohibition of night work for women acquired significance in two ways: it created a special labor market for women and it paved the way for general international conventions on protective labor legislation. The convention was spread to the majority of European countries, but not to Denmark, Norway, or Finland. In Scandinavia only Sweden accepted it as legislation in 1911. The international convention on prohibition of night work for women has continued to cause debate. It is still a convention within the ILO, although revised in form, while it has been declared invalid within the European Union.¹⁶

At the end decades of the 19th century, the conditions in the labor market were difficult. Industrialism experienced a crisis of structural transformation, resulting in unemployment beginning in the mid 1870s. The same period saw the beginning of organized resistance to free capitalism. At the end of

¹⁶ *Night Work of Women in Industry* 2001.

the crisis in the mid-1890s, new types of salaried work were on the increase, rationalization began to be more widely spread, and tendencies toward gender integration occurred in some occupations. Women were seen in strenuous wage work outside the home in increasing numbers. Men too had heavy jobs. Everyone had long working days.

Various interpretations of the reality in the labor market were expressed in debates and resolutions at the international congresses: opinions were created. Interpretations were historically determined. Women's wage work -- especially outside the home -- was defined by many as a major social problem. Many believed that the situation of women (and children) as exploited waged workers was the most alarming of all the social changes. Men's waged work was not viewed in the same way. For men's problems at work, other solutions were suggested than for women's. The problem with women's waged work engaged many. A special ban on their night work was just one of many solutions launched. Many proposals went further along the lines of prohibition and could imagine banning women's waged work completely, or banning it for all married women, in the same way as child labor could be forbidden. Others did not want to regulate the labor market at all. The prohibition on night work for all women -- primarily within industry -- might be seen as a compromise that influential groups of men could unite around.

But not everybody agreed with an interpretation of reality in which women's paid employment was the problem. Instead women's waged work could be seen as an opportunity for them to become economically independent. Getting paid for work meant the key to women's emancipation, for some. They -- many called themselves feminists, as soon as the word got around -- stood apart as opponents to the mainstream views. They had new and different views on women's capacity and wishes. The majority of them were women but some loyal men were among them. The voices of resistance did not have great impact in those days, but we are going to recognize their arguments. Over time they have lived on, because the gender division of labor has continued to be in dispute.

By following the treatment of the special prohibition of night work at international congresses, this study will extend over several areas of research. First, it is a study of the gender division of labor and its renewal within changed conditions of production; all of this under the influence of many interpretations of the woman's tasks in society. It brings forward the conditions for women's economic citizenship and to a certain extent sets it in relation to political citizenship. Second, it is a study of the beginning of the international organization of women through some of the earliest international women's congresses. These congresses have not been dealt with earlier outside their national contexts. When they are combined -- studied as here in the context of following one question -- the connections and terms of competition become illuminated. Third, it is a study of

international relations (IR) from a gender perspective. In such a study the relations between women and men are analyzed. Here international women's and men's congresses constitute the material for analysis. It is a study of the growth of international conventions, this too a part of IR research. The study follows the growth of one of the very earliest conventions that was overtaken in 1919 by the International Labor Organization and still today is a convention although not frequently applied in the developed countries. Fourth, it is a study of the difficulties of early socialism in dealing with the question of women's equality and the schisms that it created also between women in these days. Fifth, it is a study that unites influences from new discourse analysis with more traditional historical research methods, which tries to put the discussions of the congresses in their cultural and political context.

After this introduction and a chapter on the background on women and work, this book begins by describing how the prohibition of night work became an ILO convention in Washington in 1919. This means that the study begins where my chronological presentation ends. The ILO convention is presented first since it cannot be seen as a definitive ending. The adoption of the convention did not mean the end of the debates on women and night work. It did not become the end of maintaining the principle of equality in the labor market or of the to-be-or-not-to-be of a gendered division of labor. The book follows debates from 1889 up till the founding of the League of Nations, as well as of the ILO, after the First World War. The presentation is mainly chronological. A few departures are due to the fact that the congresses within one and the same organization (in part, the International Council of Women, in part, the Second International) have been set close to each other.

The congresses are seen as being roughly of four kinds: men's congresses working for the spread of socialism and men's congresses working to internationalize protective labor legislation; women's congresses, either feminist or more moderate in their demands for improvements of the woman's position. None of the four kinds of congresses totally excluded persons of the opposite sex. Deviant opinions could turn up where they were least expected.

I have tried to follow the way in which the issue of night work prohibition for women was treated on an international level, from which it is possible to get a certain view of the national level, often depending in which

country the congress was held. In some cases I have included parts of the national level,¹⁷ in others much less or not at all.

Chronological presentations today seem to have low status in writing history. Many choose a thematic presentation, as considered more analytical. I have even heard historians say that without a thematic presentation, it is not possible to produce an argument. I would like to maintain the eternal point with a chronological presentation of a historical event: debates and happenings succeed each other in real time. What happens and is said in one period is frequently formulated in polemics with or in accord with what went before. To a great extent, this was what happened during the internationalization of the prohibition of night work for women, the theme of this book.

¹⁷ Cf for example for national developments: Baker (1925) 1969; Wiesen Cook 1978: 154-231; Baer 1978; Kessler-Harris 1982; Boxer 1986; Feurer 1988; Avdela, Grandner, Hagemann, Howe, Jansz, Karlsson, Kessler-Harris, Lewis & Rose, Ravn, Schmitt, Wecker, all in Wikander, Kessler-Harris & Lewis 1995a; Schmitt 1995a & b; Zancarini-Fournel 1995; Ayass 2000.