

# Perspectives on Gendered Labour Legislation in Sweden during the 20th Century

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Historically, occupational and environmental safety issues have been the subjects of legislation that has been gendered. Where women can work and what kind of work they can do has been regulated in many different ways. For example, when the International Association for Worker Protection (the forerunner of the International Labour Organisation) was founded in 1900, the regulation of women's night work was one of the first points on its agenda.

Gendered protective legislation has raised controversy both in Sweden and abroad.<sup>1</sup> The regulation of women's work alone, it has been argued, created constraints for women on the labour market, making it difficult for them to compete with men. It could in certain cases worsen rather than improve their working conditions.

In this article, I want to explore these issues further by looking specifically at the controversial night work prohibition for women workers that was in effect between 1911 and 1962. This is the major piece of legislation regulating women's work in Sweden, and it was an issue of controversy throughout its fifty-year history.<sup>2</sup> In the following, I trace the history of this law. Official investigations of the legislation and its effects, as well as its treatment in the Riksdag, the Swedish parliament, are described, and the arguments for and against the special protection of women are presented. I also compare the development of the women's night work prohibition to attempts to introduce a "general" (i.e. for men) night work prohibition to show what implications the existence of gendered legislation has had for the male worker.<sup>3</sup>

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<sup>1</sup> Wikander et al (1995).

<sup>2</sup> In a comparative perspective, Sweden has had relatively little gendered labour legislation. Women were prohibited from working underground in mines between 1900 and 1962/77 (the prohibition was gradually relaxed), and all Worker Protection Acts until the Occupational Safety and Health Act of 1977 have included a clause allowing the government to prohibit women from doing work considered "particularly dangerous or hazardous" for them. Under this clause, they have been prohibited from loading planks on ships and working with lead paint.

<sup>3</sup> The question of protective legislation for women only touches upon many aspects of gender relations: for example, questions of women's citizenship, women's and men's rights and duties both in the home and at the workplace, and the gendering of work processes. I plan to look at these issues more fully in another context.

## The 1909 Prohibition Against Women's Night Work

In 1906, Sweden signed the first international convention on worker protection, the so-called Bern Convention, prohibiting women's night work in industry.<sup>4</sup> The fact that Sweden signed a binding international treaty is important for understanding the subsequent history of the law. This limited the government's options regarding making changes in how the prohibition was formulated. Moreover, throughout most of the history of the women's night work prohibition, impulses for change came from abroad, with the formulation of new international conventions.

In 1908-9, prior to the passing of the law by the Swedish Riksdag, union women and Social Democratic women joined with middle-class feminist organisations, such as the Fredrika Bremer Förbund, in protesting against it, arguing that it discriminated against women workers and made them less competitive with men in the labour market. They feared, they said, that groups of women who had competed successfully with men, for example women typographers, would lose their jobs if they no longer could work at night. Instead, these protestors demanded, unsuccessfully, a night work prohibition for all workers.<sup>5</sup>

Despite these protest, the law was passed in 1909 and went into effect on January 1, 1911. The law required that women working with industrial work in mines, factories or handicrafts employing more than 10 workers were to have 11 consecutive hours of nightly rest, including the period between 10 pm and 5 am. The law allowed only certain limited dispensations. Industries using or producing perishable goods could be totally exempted by the government from the prohibition.<sup>6</sup> Limited dispensations could be obtained by employers in the case of accidents or natural catastrophes. For seasonal work, where the bulk of production activity took place during a short period of time, or when an enterprise was forced to intensify its production for "exceptional reasons", the law stipulated that the number of hours off for women workers could be reduced from 11 to 10 hours per day during a total of 60 days per year. This reduction in the rest period was to be reported to the factory inspector, who was also to decide whether such a reduction was motivated.

After the law went into effect, it continued to raise protests among various groups of women. The Women Factory Inspection, which was charged with its enforcement, also came to the conclusion that it was inflexible and often made women's work difficult. The law's rigid stipulations regarding working hours

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<sup>4</sup> This was done without prior investigation into women's working conditions or formal discussion within the government on the need for such legislation. Karlsson (1995) p 247.

<sup>5</sup> See Karlsson (1995), Carlsson (1986), Norlander (1984).

<sup>6</sup> The Swedish canning industry was exempted by government decree soon after the law was passed. Inspecting these workplaces where women worked nights became an important task for the Women's Factory Inspector. See Åkerblom (1998) pp 54-61. It should be noted that this law remained separate from the Worker Protection Act passed in 1912 and was only integrated into that law in 1931 (see below).

and the very limited possibilities for getting dispensations – and never at the request of women workers – were felt in many cases to be a burden for women workers, rather than a protection. At the same time, the law gained support in many quarters. Once in place, the prohibition against women’s night work did come to have a “protective” function, at least for some women (and, as we shall see, some men), and attempts to change or repeal it caused strife between different groups of women, as well as between women and men.

## Should Sweden Ratify the Washington Convention?

The first official discussions regarding a modification of the Swedish legislation arose after a new international convention on women’s night work was signed in Washington in 1919. It differed mainly from the Bern Convention in that the night work prohibition was extended to small workplaces with less than 10 workers.<sup>7</sup> In the mid-1920s, the National Board of Health and Welfare (*Socialstyrelsen*), which was preparing a new Worker Protection Act, was called upon to recommend whether Sweden should ratify this new convention or seek a change in the Bern Convention, upon which the Swedish legislation was based.

During the early 1920s, women workers, sometimes with the support of male union officials, had called for an easing of the night work prohibition to make it “less of a disadvantage” for women. In 1925, the National Board of Health and Welfare met with delegates from a number of trade unions who had expressed similar views. The women workers, the Board wrote, had not demanded the total repeal of the special night work prohibition for women, but wanted to see it modified to suit their working conditions. Women working in breweries on two shifts, for example, wanted to be able to work to 11 pm, while women bakery workers needed to start work at 4 am. They also wanted more flexible opportunities for dispensations.<sup>8</sup>

When the National Board of Health and Welfare presented its proposal for a new Worker Protection Act in 1925 (later passed in 1931), it recommended against a ratification of the Washington Convention, citing these demands by women workers. However, the Board was not ready to support a modification of the existing night work prohibition along the lines suggested by the women. This would require the abrogation of the Bern Convention, “a step that would undoubtedly attract considerable attention in those circles interested in interna-

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<sup>7</sup> The Swedish delegates at this conference, among them factory inspector Kerstin Hesselgren, proposed that the night work prohibition be made less restrictive. This met with no success however.

<sup>8</sup> SOU 1925:34 p 69. Petitions regarding the prohibition were presented by unions representing brewery workers, newspaper carriers, streetcar workers, typographers, bakery workers, food industry workers, railway workers and textile workers. See also Norlander (1984) p 42 ff.

tional social political cooperation; this should not be undertaken unless there are strong, not to say compelling, reasons for such an action.”<sup>9</sup>

When the Board carried out an official investigation on employer and union views on the night work prohibition in 1926, it found, however, that there were no such “compelling reasons”. While employers were generally negative to the law, various trade unions, and more importantly, the Swedish Trade Union Confederation (*Landsorganisationen, LO*), now explicitly supported the night work prohibition and called for the adoption of the Washington Convention as well. While the Board suspected that the opinions of women workers “had not been fully taken into account” in the investigation, it now felt that there was no longer any basis to push for a modification or repeal of the Bern Convention. However, the Board found that the investigation confirmed its earlier impression that an extension of the special night work prohibition to small workplaces was not to be recommended. The Board ended its policy statement to the government by saying that the ILO would soon be reevaluating the Washington Convention and urged that Sweden should work for “certain, in its view, unquestionably well-motivated modifications...” of this convention, thus allowing Sweden to eventually adopt a more suitable night work prohibition for women workers.<sup>10</sup>

This recommendation was followed. In 1931, when the Liberal government finally introduced a bill to the Riksdag for a new Worker Protection Act, it proposed that the 1909 prohibition against women’s night work be integrated into the new law without any changes.<sup>11</sup>

## The Regulation of Men’s Night Work

While women’s night work in industry had been legally restricted since 1911, men’s night work was left unregulated by law until the revision of the Worker Protection Act in 1931.<sup>12</sup> As early as 1908, however, in connection with the debate on the women’s night work prohibition, Social Democrat Carl Lindhagen, a noted opponent of protective legislation for women only, had raised this issue. He demanded that the question of both men’s and women’s night work be investigated and measures be taken to alleviate unhealthy working conditions for both sexes in this regard.<sup>13</sup> By 1912 his position had gathered support within the party, and in 1912-15, the Social Democratic party put bills to the Riksdag calling for measures to put a stop to men’s night work except where it was necessary “for technical reasons or for the public good”. In

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<sup>9</sup> SOU 1925:34 p 69.

<sup>10</sup> Quoted in 1931: Kungl. Maj:ts proposition nr 40 p 109.

<sup>11</sup> 1931: Kungl. Maj:ts proposition nr 40 p 111.

<sup>12</sup> Night work in bakeries had been regulated since 1919. Sellberg (1950) p 281 ff.

<sup>13</sup> This short account of the development of demands to regulate men’s night work is based on 1931: Kungl. Maj:ts proposition nr 40 p 54 ff and 1931: FK motion nr 206 p 2 ff.

1915 the Riksdag passed a resolution calling for an investigation of men's night work, which however was delayed by World War One. The issue was raised again in 1920, in connection with an investigation of working hours. The committee carrying out this investigation found that there was very little "abuse" of night work in industry, and it did not recommend any legislation in this regard. The National Board of Health and Welfare, in its proposal 1925 for a partial revision of the Worker Protection Act of 1912, agreed with the Working Hours Committee, that in general night work did not occur in Sweden unless it "could be considered necessary." Nonetheless, the Board did feel, it wrote, that the Worker Protection Act should contain some kind of regulation that would make it possible to intervene in any "abuse" of night work. What was needed was a statute that would allow authorities to react in the case of "unjustified night work" – which "in all probability" was rare – in a "prudent" manner that was in keeping with the spirit of viable worker protection.<sup>14</sup>

The new Worker Protection Act put to the Riksdag in 1931 therefore contained a general (i.e. for men), although non-binding, prohibition against night work. The law was worded very generally: "Workers should, when the nature of the work, the public interest, or other circumstances do not legitimately require otherwise, be provided with the necessary time off for rest at night." It was recommended that night work should not take place "unnecessarily" and stipulated that the factory inspectorate could arbitrate if the law was "abused".<sup>15</sup>

In the government's bill, Liberal Minister of Social Affairs Sam Larsson made very clear that the government had taken the needs of employers into consideration:

"even if concern for the health and welfare of the workers must, to be sure, naturally be the primary consideration when the statute is applied, employers' legitimate interests should, on the other hand, receive all reasonable consideration ... On the whole, a flexible application of the statute would seem to be necessary."<sup>16</sup>

The Liberal government's proposals regarding both women's and men's night work did not go unchallenged. Identical bills opposing the government and proposing, among other things, that the night work prohibition for women be extended to small workplaces were put forward in both chambers by leading Social-Democrats. The co-signers of these bills motivated their stance merely by saying that Sweden should adhere to the Washington Convention.<sup>17</sup>

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<sup>14</sup> Quoted in 1931: Kungl. Maj:ts proposition nr 40 p 55.

<sup>15</sup> 1931: Kungl. Maj:ts proposition nr 40 p 3.

<sup>16</sup> 1931: Kungl. Maj:ts proposition nr 40 p 60.

<sup>17</sup> 1931: FK motion nr 205 and AK motion nr 349. The Social-Democratic co-signers of these bills – among others, member of the First Chamber Sigfrid Hansson, editor of the LO's periodical, and member of the Second Chamber August Sävström, who was active in the party leadership – were critical of the Liberal government's proposal in other areas as

Carl Lindhagen, on the other hand, continued his campaign for an effective, gender-neutral prohibition against night work in a bill to the First Chamber. Accusing the Liberal government of formulating an entirely inadequate protective measure for men, he proposed that the women's night work prohibition be instead extended in full to men. His motivation for his proposal was to claim that men, as well as women, were important for the "reproduction of mankind". Men, he said, may be considered stronger than women and thus more able to tolerate night work, but this belief was a mistake, in his view:

"even for a man, night work is contrary to nature. It degenerates him as well and thus even the race, and it moreover entails an infringement of his human right...It is still emphasised that women will bear children. For that reason it is important for coming generations that they especially must be spared night work. This is undoubtedly correct. But the man's physique and way of life must have just as much an effect on the health of the race. He is the one who contributes the seed of life itself, and its quality is no doubt of vital significance for the germ and the plant. Men's night work weakens the seed of life."<sup>18</sup>

Lindhagen is a rare voice, as we shall see, in the coming discussion regarding both women's and men's night work. He alone in the debate on the night work prohibition uses women as "the norm" in the sense of defining men, as well, in terms of their reproductive biology.

In the both chambers, the night work prohibition for men was voted through without any debate<sup>19</sup> However, Carl Lindhagen raised the subject in connection with the short discussion on the women's night work prohibition – which Social Democrat Sigfrid Hansson had proposed be extended – arguing that the two points were inter-connected. The big question, Lindhagen said, was whether there was to be equal legislation for men and women. This did not seem to be the case, he continued. The Social Democratic party may have resolved in 1914 that worker protection should be the same for both sexes, but now, in 1931, this view had been abandoned.

"Now even the Social Democratic men in leading positions are approaching the ...old notion of the protection of women without the protection of men. Now one is saying that woman has less strength than man and therefore she must get most protection. But then I say that in this case she is protected by her own natural instincts, for she will not take on an occupation that she is incapable of doing...But when women already have a place where they have shown themselves able to make their livelihoods, one cannot throw them out through such one-sided legislation; instead im-

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well. In general they felt that the revision of the Worker Protection Act did not go far enough. See also Lundh & Gunnarsson (1987) pp 69-70.

<sup>18</sup> 1931: FK motion nr 206 p 14.

<sup>19</sup> 1931: FK protokoll nr 30 p 44 and AK protokoll nr 31 p 10.

partial legislation, benefiting the welfare of both men and women, should be implemented.”<sup>20</sup>

Liberal Kerstin Hesselgren, Sweden’s first women’s factory inspector, also responded to Hansson’s proposal. She pointed out that it was women themselves, those who would be affected by the extension of the law, who had spoken out most strongly against it. This had to do, she said, with how the night work prohibition was formulated. Being the oldest of the international acts for worker protection, it was ill suited to modern working conditions. Rules for dispensation were narrow and rigid. Were the law to be applied to small industries, such as bakeries for example, it would cause great difficulties for the women employees. Her own investigations had shown that there was little night work in small workplaces, but occasionally such work was essential. If women were prohibited from this night work, it would lead to a “serious handicap in their possibility to earn a living”. The international convention upon which the law was based was to be revised, she added, and it seemed to her to be “exceedingly impractical to extend the law now, when one would be doing so without the approval of women; on the contrary they were afraid of this development.”<sup>21</sup>

Carl Lindhagen’s accusations that Social Democrats had abandoned their policy for the equal protection of women and men in the labour market were correct as developments during the following years show. Both the LO and the Social Democratic party became firm supporters of the special protection of women.

## New Attempts to Change the Women’s Night Work Prohibition – the Geneva Convention of 1934

In 1934, the Washington Convention of 1919 was revised. The new so-called Geneva Convention was more flexible in terms of working hours: in “exceptional cases” the authorities, after deliberations with employers’ and employees’ organisations, could shift the period that had to be included in the 11 hour period of obligatory nightly rest forward one hour to between 11 pm and 6 am. Moreover, the convention was not applicable to women in managerial positions who did not perform manual labour.<sup>22</sup> Just as the Washington Convention, the Geneva Convention was applicable to all industrial workplaces and to all women employed in such industrial workplaces, with the above exception.

The question of whether Sweden should ratify the new convention became the subject of much activity in Sweden in the following years. Investigations

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<sup>20</sup> 1931: FK protokoll nr 30 p 70.

<sup>21</sup> 1931: FK protokoll nr 30 pp 66-67. Hesselgren was the first woman to sit in the Swedish Riksdag. At this time, she was a radical so-called “independent” Liberal.

<sup>22</sup> 1935: Kungl. Maj:ts proposition nr 84 p 3.

were carried out to determine the consequences of ratification, and organisations representing different interests made their views known.

In investigations undertaken during 1934/35 regarding the potential effects of extending the women's night work prohibition to small workplaces, the Women's Factory Inspector noted that night work had more or less disappeared in many branches where it had previously existed, for example among milliners and in laundering, sewing, and dairying. Here, a night work prohibition would cause little problems. Small bakeries, on the other hand, would suffer from an extension. Many of the bakeries employed only 1-3 workers, mostly women, who started work before 5 am, mostly on Saturdays or before holidays. If women's night work were prohibited, the women's factory inspector reported, the bakeries said they would have to either close down, fire their women workers and replace them with men, or speed up work to the detriment of the health of the women workers. This could affect up to 6-7,000 women.<sup>23</sup> Former Women's Factory Inspector Kerstin Hesselgren noted that a change in the law would entail "considerable difficulties" for these women, "without providing protection or help as the law intends." Moreover, the night work in question only involved 30 minutes or an hour during certain days. "The damage that such night work can entail cannot compensate the difficulties for these women workers that a prohibition would bring about."<sup>24</sup>

In 1935 the Women's Factory Inspection was charged with investigating how an extension of the night work prohibition to "non-industrial work" in industry would affect women workers. The investigation showed that few women were employed for such work, which took place only sporadically at night. Those women who would be most affected by a new law were cleaning women and newspaper delivery women. In particular, cleaning women working in factories that ran on two shifts had to work at night if cleaning was to be done after working hours, which was preferable. It was also "desirable", the Women's Factory Inspector wrote, "that if the cleaning was to be done in the best manner...special personnel are used for this purpose and that these should be women."<sup>25</sup> Other groups, such as women canteen and workers nurses employed in industry for work at night, would be affected by an extension and would probably be replaced by men. Finally, the inspector noted, because news-

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<sup>23</sup> "Socialstyrelsen med utredning angående verkningarna av ett utvidgat förbud mot kvinnors nattarbete m.m." dated 19 January, 1935. (Rfa). See also Åkerblom (1998) pp 63-65 for these investigations.

<sup>24</sup> "Frkn Hesselgrens uttalande januari 1935". (Handwritten statement). (Rfa). Kerstin Hesselgren had retired from her position as women's factory inspector in 1935, but was still called upon to comment on this issue.

<sup>25</sup> "Till Konungen, socialstyrelsen med utredning rörande kvinnors användande i industriella företag till annat än industriellt arbete", dated 29 April 1935. (Rfa).



papers were considered to be industrial establishments, women journalists would be prohibited from working between 10 pm and 5 am.<sup>26</sup>

This latter threat had prompted 19 women journalists to write a letter to the National Board of Health and Welfare protesting any extension of the night work prohibition that would affect their occupation, “for no comprehensible reason that we can see.” Journalism, they wrote, was by its very nature characterised by irregular working hours; setting a 10 pm boundary for work was “in practice absolutely impracticable.” No woman journalist would be able to report what had happened at an evening meeting or file a review of a theatrical performance, for example. As a result, women would no longer be employed by the daily press. Night work had caused no problems during the 40 years or so that women had been employed as journalists, which was moreover one of the better paid areas of employment for women. The letter ended with a “decided protest” against “every proposal for a legal limitation of working hours for women only within journalism.”<sup>27</sup>

At the same time, a petition signed by over 6,000 women textile workers declared that any change in the hours of the existing night work prohibition would entail “severe consequences” for women in the textile industry, while “one-sidedly” promoting the interest of employers. Women working in this industry were often married – wages were so low, the petition stated, that the whole family had to work – and had their households to attend to after work. Were the hours of the nightly rest period shifted forward to 11 pm, women working on the second shift would lose any chance of getting a proper night’s sleep because they had to get up at 4-5 am to prepare their family’s breakfast. These women thus also protested sharply against a ratification of the Geneva Convention. Instead, they wrote, the protection that the existing night work prohibition gave them should be extended to the men in the industry as well, something that “the vast majority of men working on the shift system” agreed with.<sup>28</sup>

Organised working class women represented by, among others, Sweden’s Social Democratic Women’s Association (*Sveriges socialdemokratiska kvinnoförbund*) also petitioned the government, requesting that the revised convention not be ratified and that the existing night work prohibition be retained unchanged.<sup>29</sup> Organisations representing primarily groups of white-collar workers went further in their emphatic protests against ratification. “Even the existing

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<sup>26</sup> “Till Konungen, socialstyrelsen med utredning rörande kvinnors användande i industriella företag till annat än industriellt arbete”, dated 29 April 1935. (Rfa).

<sup>27</sup> “Till Kungl. Socialstyrelsen, Stockholm”, dated 13 April 1935. (Rfa).

<sup>28</sup> Quoted in SOU 1946: 60 pp 495-96.

<sup>29</sup> 1935: Kungl. Maj:ts proposition nr 84 p 5. The Women’s Section of Stockholm’s Central Organisation of Trade Unions (*Stockholms FCOs kvinnosektion*) and Stockholm’s Social Democratic Women’s District (*Stockholms socialdemokratiska kvinnodistrikt*) also signed this petition.

rules regarding a night work prohibition”, they wrote, “ were an undesirable restriction in women’s right to work.”<sup>30</sup>

What should be noted here is that with the revised women’s night work convention of 1934, the situation had changed for the various opponents to the night work prohibition. In order to get the change in working hours that many women demanded, the convention’s more far-reaching definition of to whom the law applied would have to be accepted. This meant extending legislation to groups of women workers, such as journalists or nurses working in industry, who had never come under the existing night work prohibition. Thus new groups of women would be “sacrificed” for more flexible working hours, which must have seemed unpalatable for opponents of special protection. On the other hand, supporters of protective legislation for women, such as the textile workers cited above, also opposed ratification in that they felt their working conditions would become worse. Women from both camps were united in their opposition to ratification of the Geneva Convention of 1934.

Employers and trade unions had diverging views on the subject of ratification. Not surprisingly, the Swedish Employers’ Confederation (*Svenska arbetsgivareföreningen, SAF*) argued against, saying that the legislation was not motivated by any misuse of women’s night work in Sweden. The LO, on the other hand, supported an extension, but other union organisations were more critical. The Union of Swedish Garment Workers (*Svenska beklädnadsarbetareförbundet*) and the Union of Swedish Textile Workers (*Svenska textilarbetareförbundet*) both protested the change in working hours that would be the result of ratification. The former organisation pointed out, however, that it was against any move to make the night work prohibition less restrictive. On the contrary, the best solution to any problems caused by the law was to extend it to all workers, regardless of sex.<sup>31</sup>

In early 1935, the Social Democratic government, which had taken power in 1932, put the question of ratifying the Geneva Convention to the Riksdag. Influenced by the results of these investigations and petitions – Minister of Health and Social Affairs Gustaf Möller particularly mentioned the Social Democratic women’s petition – the government bill proposed that the matter be deferred pending further investigation. The bill was passed without discussion.<sup>32</sup>

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<sup>30</sup> SOU 1946: 60 p 491. The Central Council for the League of Women’s Professional Associations (*De kvinnliga kårsammanslutningarnas centralråd*) and the Association of Women Clerical Employees (*Kvinnliga kontoristföreningen*) sent this petition.

<sup>31</sup> SOU 1946: 60 pp 490-91.

<sup>32</sup> 1935: Kungl. Maj:ts proposition nr 84, FK protokoll nr 16 p 34 and AK protokoll nr 18 p 77.

# Proposal for a New Worker Protection Act

## New Regulations for Men's Night Work

In 1938, the so-called Worker Protection Committee was appointed to formulate a new Worker Protection Act.<sup>33</sup> The Committee decided, among other things, that the time had come for a more stringent regulation of men's night work. The existing provisions from 1931 were in its view "all too vague and general" to control a possible misuse of night work. The paragraph allowing authorities to take measures against employers abusing the law had never been used, it noted.<sup>34</sup>

Employers' organisations, for example the SAF, protested vigorously against such a change in the law, arguing that night work "if it organised in a reasonable fashion" had not been proven scientifically to be dangerous. Moreover, it would be economically disastrous for the country to prohibit night work. The productive capacity in many industries would be sharply reduced, and, unless other countries also had such a prohibition, the Swedish export industry, which was "vital for the well-being of the country" would become less competitive.<sup>35</sup> The LO, on the other hand, called for a total prohibition of night work, unless it was granted dispensation after an official inquiry.

The Committee decided on a compromise. In its view, it wrote, it was "indisputable" that night work, and particularly shift work, was more exhausting for workers than day work, even though employers tried to minimise its drawbacks. It was difficult for workers to get sufficient rest. "Shift work also entails irregular mealtimes, and home life is not infrequently subjected to various forms of disruption." This was particularly the case if family members worked different shifts.<sup>36</sup> The Committee thus now placed men in a family context, although in more restrained terms than Carl Lindhagen's.

Even so, the Committee did not propose an absolute prohibition against night work, unless it was approved by the authorities, as had been requested by the LO. This, it felt, would lead to unnecessary bureaucracy. Instead it proposed a "more moderate" variant – a regulation that workers (men<sup>37</sup>) were "as a rule" to

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<sup>33</sup> While its work was interrupted by the war in 1939, the Committee was reactivated in 1942 and it presented its proposal in 1946. SOU 1946: 60 pp 9-16.

<sup>34</sup> SOU 1946: 60 p 356.

<sup>35</sup> SOU 1946: 60 pp 354-5. Other employer organisations, representing for example agriculture, handicrafts and small industry, and iron works and mines expressed similar views.

<sup>36</sup> SOU 1946: 60 p 356.

<sup>37</sup> Of course the prohibition would affect many women as well. The women's night work prohibition excluded and, as will be seen, continued to exclude women not working industry, i.e. in health care and services for example (which however were exempted from the general prohibition as well; see below). However, it is clear from the Committee's proposal, and indeed in all debates on night work, that a "general" night work prohibition is understood to be something concerning men. That men are "the generic" and women "the spe-

be given time off between 11 pm and 5 am. However, exceptions were made for “such work that, owing to its character, the needs of the public or some other special circumstances has to be nonetheless carried out at night.”<sup>38</sup> Moreover, dispensations were to be allowed for reasons of a “technical, economic and social nature”, for example to fully utilise expensive production apparatus or to avoid unemployment in going from a three- to a two-shift system. If an employer or employees found it “desirable or suitable” to work during the nighttime period and came to an agreement on this matter, they should also be given a dispensation. All night work could continue provisionally for one year after the law was passed and for a second year with a dispensation. In the view of the Committee, these relatively generous possibilities to get dispensations – which, it said, met the demands of the SAF – were justified by the fact that an absolute prohibition against night work could lead to “great difficulties”, particularly for industries facing foreign competition.<sup>39</sup>

### **Protective legislation for women only is retained**

Even though a night work prohibition – albeit weak – for all workers had been proposed, the special night work prohibition for women was not only retained in the Committee’s proposal; it was extended to small industrial workplaces as well. The Committee’s justification for this is revealing. If the level of protection afforded women was to be maintained, the Committee wrote, the new “general” night work prohibition would have to have been much stricter; otherwise women could be used for night work “that at the moment is not permitted”.<sup>40</sup>

The investigations of women’s night work in small industries during the 1930s had shown that an extension of the night work prohibition to these areas

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cific” is a recurring theme in research on gender history. See for example Waldemarson (2000) Chapter 1.

<sup>38</sup> SOU 1946: 60 pp 357-58. The Committee listed numerous examples here: ironworks, paper factories and glassworks were examples of work processes that for technical reasons had to run 24 hours per day. Moreover, even when it was technically possible to stop work during the night, this might have such economic or technical consequences that it was questionable whether closing down at night was justified, the Committee wrote. In such cases, night work should be allowed. The “needs of the public” included transportation, restaurants and cafés, hospitals, electricity etc. “Special circumstances” were guards and porters of various kinds.

<sup>39</sup> SOU 1946: 60 pp 361-64. The spirit of cooperation and compromise that the Committee expresses here – that it had met the demands of employers in allowing dispensations, while stipulating that they were subject to negotiation between employer and employee organisations – characterises the entire legislative proposal and reflects the so-called “spirit of Saltsjöbaden” that was the result of the Saltsjöbad Agreement of 1938 between the LO and the SAF. This central agreement contained a bargaining procedure for resolving conflicts and initiated a period of compromise and consensus in relations between labour and capital in Sweden. Sund & Åmark (1990) pp 38-39, Magnusson (2000) pp 232-35.

<sup>40</sup> SOU 1946: 60 p 497.

could lead to more pressing working conditions and/or unemployment for women. The Committee argued nonetheless that an extension was motivated. That the prohibition had up to now been limited to larger workplaces had, it said, been considered “unfair”. Moreover, small workplaces had “hygienic shortcomings” not found at larger workplaces that made women’s night work unsuitable there. However, the Committee had not included non-industrial activities such as cleaning in factories in its proposal because, it said, “the disadvantages of prohibiting such work at night outweigh any benefits such a prohibition could provide.” The Committee reasoned that women in these jobs only worked a few hours per night and that sporadically. Moreover, women in supervisory positions were also to be exempt from the law.<sup>41</sup>

This meant however that Sweden could not sign the Geneva Convention, the Committee noted. More radically, the Committee also proposed a number of other changes, which, it said, would require the abrogation of the Bern Convention. It recommended that the period of nightly rest be shifted forward from 10 pm and 5 am to 11 pm and 5 am. This would enable workers on two shifts to be able to take proper breaks during their shifts – the existing night work prohibition had created a problem for women workers, forcing them to take too few and too short breaks, the Committee wrote – while still allowing them a shorter work day on Saturdays, as they wished.<sup>42</sup> In proposing this adjustment in working hours, the Committee did not take any account of the demands from women textile workers, mentioned above, that the hours covered by the prohibition should remain unchanged.

Another major change in the prohibition against women’s night work was proposed by the Committee. According to the law of 1909, women were to have an 11-hour period of unbroken rest during the night that included the hours between 10 pm and 5 am, a provision that was not incorporated into the new legislative proposal.<sup>43</sup> The existing paragraph, the Committee wrote, “does not correspond with modern views regarding woman’s right to work or freedom to work.” There was no reason to require that women industrial workers over 18 years of age “under all circumstances – regardless of their age or marital status” have an 11 hour rest period during which they were not allowed to work.<sup>44</sup> A change in this regard would also, the Committee said, “reduce to some extent the difficulties arising from the extension of the prohibition to small workplaces.”

The Committee also suggested somewhat broader provisions for exceptions to the prohibition than had existed previously. Dispensations could be given for seasonal work and emergency situations as before. To this it added work “that

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<sup>41</sup> SOU 1946: 60 pp 496-500, 503. Quotation on p 500.

<sup>42</sup> SOU 1946: 60 pp 501-02.

<sup>43</sup> This rule meant that if, for example, women worked to 10 pm, they were not allowed to start work before 9 am the next day.

<sup>44</sup> SOU 1946: 60 p 501.

satisfies needs of great public interest or that is required to avoid considerable inconveniences of a technical, economic or social nature.” It specified that such work should involve “providing for the needs of defense and the maintenance of the population”. However, the Committee “assumed” that such dispensations would allow a few hours night work only, not that women would be employed during the entire night.<sup>45</sup> These were, it should be noted, much less liberal provisions, for both employers and women, than those provided in the Committee’s proposal for a general night work prohibition. Women workers who, for example, wanted to work at night could not, through their unions, negotiate with their employers regarding night work and come to an agreement, as men were allowed to.

The Committee’s proposal regarding the women’s night work prohibition was, in its own view, an attempt to modernise the special protection of women, while still retaining it. In the 40-year period since the signing of the Bern Convention, working life had been transformed and attitudes towards women’s right to work had changed. This motivated, it wrote, new provisions. The Committee did observe that the adjustments it had proposed “probably did not agree fully with what some women’s organisations had urged in this question.” But it had tried “as far as possible” to take their views into consideration, as well as “considering existing practical needs”<sup>46</sup> What should be noted here is that the Committee’s proposal involved renouncing an international worker protection convention, which was taking a major step. Seen in this perspective, the proposal can be considered radical. It was certainly controversial, as the reactions to it show.

The Committee’s proposal was subject to criticism from all quarters. Organisations representing middle-class women, such as the Cooperative League of Professional Women and the Association of Women Clerical Employees, “expressed their surprise” that the women’s night work was retained now that a general night work prohibition had been proposed, a point also made by the women’s district factory inspectors. In their view, the special rules for women should be stricken entirely from the law. On the other hand, the LO supported the extension of the prohibition to small workplaces, but objected strongly to the change in working hours.<sup>47</sup>

In the end, as will be shown below, the LO’s point of view prevailed, and the women’s night work prohibition was left unchanged when the new Worker Protection Act was put to the Riksdag in 1948.

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<sup>45</sup> SOU 1946: 60 pp 502-03.

<sup>46</sup> SOU 1946: 60 p 506.

<sup>47</sup> SOU 1946: 60 pp 493-94.

## Extraordinary Circumstances Require Extraordinary Measures

The outbreak of World War Two halted work on new protective legislation. However, the war and its aftermath had important effects in the case of the women's night work prohibition. The mobilisation of male labour for the war effort meant that women were required to take over men's work and working hours. Thus, in December 1939 the government was given the authority to allow dispensations from the women's night work prohibition for firms producing goods necessary for the defense of the country. This was extended in June 1940 to include all production necessary for the country's survival in a time of war and remained in effect until June 1946.<sup>48</sup> As a result of this emergency legislation, women were employed at night, even on a regular three-shift basis, throughout the war in industries working towards the war effort.<sup>49</sup>

In an article written in 1948, Women's Factory Inspector Ida Fischer summed up the experiences with women's night work during the war years. Women working on a three-shift system had been kept under strict medical observation, and while, as Fischer pointed out, night work was physically demanding, the women "generally speaking" managed quite well. Their physical problems (for example digestive problems and sleep disturbances) were no greater than those of men working three shifts. Married women did experience some difficulty in managing their households, and for them night and shift work was particularly burdensome. However, Fischer noted, the size of the women's earnings played a great role here. When the women were paid enough to be able to employ household help, they did not feel as tired. Generally speaking, the factory inspectors had found that particularly the three shift system created social and physical difficulties for, Fischer emphasised, both women and men. However, Fischer concluded the article, the war-time experience had convinced the Women's Factory Inspection that the newly proposed general night work prohibition, properly enforced, made the women's night work prohibition unnecessary.<sup>50</sup>

The "extraordinary circumstances" of wartime had motivated the temporary legislation allowing women's night work. In May 1948 – the same year that the government was later to refuse to relax the women's night work prohibition – it proposed new provisional emergency power acts that would allow the govern-

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<sup>48</sup> SFS 1939: 831, 1940: 484, 1941: 126, 1942: 141, 1943: 102, 1944: 464, and 1945: 281.

<sup>49</sup> I will not go into detail here regarding women's work during the war. It should be noted however that there existed an unwieldy administrative apparatus for employers to get dispensations. Applications were sent to the Ministry of Health and Social Affairs, who in turn sent them to the National Swedish Insurance Board and the factory inspection for a statement. Unions, both local and central, were asked for their opinion. It could happen that dispensations were denied if the union reacted negatively. Dispensations were usually valid for about three months; after this, they had to be renewed, following the same procedure outlined above. See Rylander (2000), Åkerblom (1998) pp 58-62.

<sup>50</sup> Fischer (1948) pp 130-32.

ment to continue to give dispensations for women's night work during a one-year period.<sup>51</sup> The "extraordinary circumstance" now was the "labour market situation": "in particular the iron industry was experiencing a considerable need for labour." Women, the government wrote, could fill some of this need, provided the rules regulating their night work did not prevent this. Moreover a provisional law allowing exemptions from the prohibition "should not be limited to the iron industry, in that a similar situation could exist or could be feared to arise for companies in other areas...."<sup>52</sup> Thus to meet the needs of industry (not women workers) the government could take this somewhat paradoxical – not to say cynical – stance.

The Swedish Labour Market Board (*Arbetsmarknadsstyrelsen*), the SAF and the LO were called upon to comment on the proposal. Citing the great difficulties that had arisen to meet the labour force needs of industry – "the shortage of manpower is notorious", the SAF wrote – the two former organisations supported the proposal. The LO and its two representatives on the Swedish Labour Board were critical, however. The present situation, they said, could hardly be compared to the crisis of the war years and did not motivate a dismantling of the night work prohibition to the extent that women be allowed to do recurring night work. Nonetheless, they did agree that women working on two shifts could be permitted to work after 11 pm or before 5 am. The Minister of Health and Social Affairs Gustav Möller answered that he had no intention of allowing women to work on a regular three shift schedule: "As far as using women workers for such work is concerned, we should remember that the difficulties that are connected to working on three shifts are increased for married women because the women have to devote themselves to the care of their homes and families during their free time."<sup>53</sup> With little debate, the Riksdag passed this provisional legislation.<sup>54</sup>

## The Passing of the 1948 Worker Protection Act in the Riksdag

In the autumn of 1948, the long-awaited revision of the Worker Protection Act was put to the Riksdag in the form of a government bill.<sup>55</sup>

Despite protests from employers' organisations that it was economic folly to introduce a general night work prohibition in the over-heated labour market of

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<sup>51</sup> 1948: Kungl. Maj:ts proposition nr 267.

<sup>52</sup> 1948: Kungl. Maj:ts proposition nr 267 p 4. Instead of experiencing a depression after World War Two, as had been feared, Sweden – as was the case in many other countries – was surprised by an economic boom and a labour shortage, particularly in iron works and the mechanical engineering industry. See for example, Höök (1952) pp 4-5, 152-53, Lundberg (1983) pp 113-30.

<sup>53</sup> 1948: Kungl. Maj:ts proposition nr 267 p 9.

<sup>54</sup> 1948: FK protokoll nr 26 and AK protokoll nr 26.

<sup>55</sup> 1948 (höstsessionen): Kungl. Maj:ts proposition nr 298.



the post war years<sup>56</sup>, the 1938 Committee's proposal, with some adjustments, was included in the government's bill. The LO's demand that the prohibition be absolute, with clearly defined – and restrictive – rules for dispensation, was ignored, however. The Minister of Health and Social Affairs Gustav Möller reassured employers by noting that if the proposal was accepted, “most of the night work that is now carried on would probably be covered by the general exemptions suggested by the 1938 Committee, and in other specific cases the prerequisites for dispensation would probably exist.” Moreover, he added, night work was to be allowed to continue without dispensations one year after the law took effect in July 1949, and he “assumed” that dispensations would be granted if the production of goods “of importance to the country” were threatened by a crisis situation. Möller did, however, make a cautionary statement regarding dispensations for economic reasons only. It should not be possible, in his view, for an employer to get a dispensation solely on the grounds that his machinery was so expensive it had to be run 24 hours a day in order to be profitable. Applications for dispensations on these grounds would have to be considered very carefully. Nor should it be possible, he added, to get a dispensation merely on the grounds that an employer had a “rush order”. Were this possible, he said, the night work prohibition would become “illusory”.<sup>57</sup>

Achieving a revision of the special women's night work prohibition as the Committee of 1938 had suggested proved, on the other hand, to be impossible. Despite continued protests from many women's organisations that special legislation for women was no longer necessary<sup>58</sup>, when the proposal for the new Worker Protection Act reached the Riksdag in 1948, the prohibition of women's night work had not only been retained in its original form from 1909, it had also been extended to workplaces of all sizes. The Ministry of Health and Social Affairs, which had prepared the government's bill, felt that the LO's opposition to any changes in the law – the LO had stated that neither women industrial workers or their unions, in particular the textile workers' union, supported such changes – was of deciding importance. At the same time, Gustaf

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<sup>56</sup> The SAF and other employer organisations representing such branches as iron works, mining, sawmills, and paper and pulp works argued that a strictly enforced night work prohibition could diminish productive capacity in important areas by up to one-third. 1948 (höstsessionen): Kungl. Maj:ts proposition nr 298 p 139.

<sup>57</sup> 1948 (höstsessionen): Kungl. Maj:ts proposition nr 298 pp 145-47.

<sup>58</sup> The Cooperative League of Professional Women repeated its protests against the law, and the Open Door, the Fredrika Bremer Förbund and Föreningen SAIA, which represented social workers within industry and business, expressed similar views. The National Swedish Insurance Board (*Riksförsäkringsanstalten*), which was the central authority for the factory inspection at this time, suggested that women over 45 years of age be exempted from the provision, considering the fact, it wrote, that the actual purpose of the night work prohibition was to protect women in their roles as wives and mothers. One can detect the influence of the women's factory inspector, a staunch critic of the night work prohibition for women, behind this statement. 1948 (höstsessionen): Kungl. Maj:ts proposition nr 298 p 163.

Möller wrote in the government's bill, since no one had opposed the 1938 Committee's extension of the prohibition to small workplaces, he felt this new clause could be included in the law. The major factor behind the government's position was, however, the fact that the changes in the night work prohibition for women suggested by the Committee of 1938 would have required Sweden to renounce the Bern Convention. "A measure such as this should not be taken unless there are very good reasons to do so," Möller stated.<sup>59</sup> Instead, he proposed that any changes to the existing law could wait until the on-going revision of the Geneva Convention of 1934 had been completed (a new convention had in fact been formulated by the time the government's bill was dealt with in the Riksdag in 1948). No mention was made of the provisional law passed earlier the same year allowing dispensations for women's night work.

The government was not unanimous in wishing to retain the women's night work prohibition. Economist Karin Kock, Sweden's first woman cabinet minister, wrote a dissent against the government's legislative proposal. The more stringent general night work prohibition that was now being proposed made it possible, she felt, to treat women and men equally in this respect, and she proposed that the special night work prohibition for women be stricken from the law.<sup>60</sup>

The government's proposal for a new Worker Protection Act prompted a number of bills dealing with both men's and women's night work. Both Conservative<sup>61</sup> and Liberal<sup>62</sup> party bills proposed less rigid working hours at night for women, such as the Committee of 1938 had suggested, pointing to the fact that the newly revised international night work convention had more generous regulations for women than what the government was proposing. This greater flexibility in women's working hours would allow women working on two shifts to take proper breaks and would make it easier to adjust women's working hours to those of men. The Riksdag had already shown its awareness of these problems, the Conservatives wrote, when it had passed the law in June 1948 allowing temporary dispensations from the women's night work prohibition.

In the case of the general night work prohibition, both parties argued that considering the prevailing economic situation in the country – with the need to increase production particularly in heavy export industries such as iron and steel works and mechanical engineering, many of which ran on three shifts – any restriction on men's night work was ill-advised. The Conservative Party therefore demanded that the general night work prohibition to be stricken entirely from the new Worker Protection Act. The Liberals accepted the prohibition itself, albeit reluctantly, but called for dispensations to be allowed for

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<sup>59</sup> 1948 (höstsessionen): Kungl. Maj:ts proposition nr 298 p 165.

<sup>60</sup> 1948 (höstsessionen): Kungl. Maj:ts proposition nr 298 p 316.

<sup>61</sup> 1948 (höstsessionen): FK motion nr 444, AK motion nr 617. The bills were identical.

<sup>62</sup> 1948 (höstsessionen): FK motion nr 438, AK motion nr 621. The bills were identical.

economic as well as technical reasons. Moreover, they felt that the one-year grace period allowed employers before the night work prohibition was to go into effect was too short; it should be extended to at least three years. The current economic crisis required, in their view, that all industrial capacity be used to the fullest.<sup>63</sup>

Communist Party bills to both chambers called, on the other hand, for an absolute general night work prohibition, citing the LO's objections to the government's proposal. Except in the case of emergency situations, all night work, these bills stated, should require a dispensation from the National Board for Occupational Safety and Health, "after consultations with workers' organisations".<sup>64</sup>

The Standing Committee on Civil-Law Legislation, to which the government proposal as well as the bills were referred, rejected all the bills' proposals. However, influenced by the Liberals' bill, it did move that the implementation of the general night work prohibition be postponed for two years after the new Worker Protection Act was to go into effect in 1949, i.e. until July 1, 1951. The Committee's reasoning here is significant. There were a number of reasons, it wrote, "partly of a psychological nature" to delay the introduction of the prohibition. "Taking into consideration the importance, in the prevailing circumstances, of avoiding any disturbances in production, it hardly seems possible during the next few years to carry out any real reduction in the amount of night work existing at present."<sup>65</sup> Were the prohibition to go into effect at once, the Committee wrote, it was very probable that all requests for dispensations would be granted; industry and the authorities would just experience a lot of "unnecessary bother".<sup>66</sup>

The Committee accepted the proposal to retain women's night work prohibition and its extension to all workplaces. However, it did feel that the nightly rest period should be between 11 pm and 6 am, and it encouraged the government to re-examine the legislation in connection with the upcoming discussion in the Riksdag on the newly revised international night work convention.<sup>67</sup>

In the following debates in both Chambers of the Riksdag, the question of both night work prohibitions, the most controversial elements in the new Worker Protection Act, came to dominate the discussions. Conservatives continued to question the need at all of the general night work prohibition, while Communist chamber members criticised the new law for being too weak. Liberals, although still critical to the prohibition, expressed their satisfaction that its imple-

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<sup>63</sup> 1948 (höstsessionen): FK motion nr 438 pp 3-6.

<sup>64</sup> 1948 (höstsessionen): FK motion nr 440, AK motion nr 619. The bills were identical.

<sup>65</sup> 1948 (höstsessionen): Andra lagutskottets utlåtande nr 62 p 45.

<sup>66</sup> Three Conservative Party members registered a dissent from the Committee's proposal; they called once again for the exclusion of the general night work prohibition from the law. 1948 (höstsessionen): Andra lagutskottets utlåtande nr 62 pp 44-63.

<sup>67</sup> 1948 (höstsessionen): Andra lagutskottets utlåtande nr 62 pp 52-53.

mentation would be postponed for two years. This showed, they said, an understanding of the country's precarious economic situation. Social Democrats defended the Committee's proposal, saying that it had indeed taken into consideration the need to increase industrial production.<sup>68</sup> Moreover, Social Democrat Emil Olovson said in the Second Chamber, the conservative fear of the new general night work prohibition was exaggerated. Considering the wording of the new law, it was, he felt, more appropriate to speak of a "supervision" of night work, rather than its prohibition. The rules for dispensation would certainly allow all "necessary" night work to continue.<sup>69</sup>

While no male participants in the debate from any party questioned the need for the women's night work prohibition, several women, uniting over party lines in this question, did. While Social Democrat Hulda Flood was carefully critical of the retention of the prohibition<sup>70</sup>, cabinet minister Karin Kock directly attacked the government's proposal. She pointed out that her own studies on women's wage work<sup>71</sup> had shown that special regulations for women, in particular the night work prohibition, were one reason, if by no means the only one, for the "prevailing divergence" between men and women in the labour market. Whether or not the prohibition had been motivated when it was originally implemented, conditions in the labour market had changed, she said, and the position of women was now entirely different. They were organised and supported by their unions, and many women workers in industry were against the prohibition. Doing away with the prohibition would give women "an equality in the labour market that could help them gain equality with regard to wages." Moreover, she pointed out, the prohibition was "illogical". The idea behind the prohibition was to protect women from work that could endanger their health, but only a limited group of women were affected by the law. Women did night work in health care, restaurants and as domestic servants, but this had been left unregulated. "Indeed", she continued, "no one has even considered doing so, in view of the fact that women supply a great demand for labour in these areas." Finally, she noted that with the passing of a general night work prohibition, "which brands night work as being less desirable for everyone, both men and women", she and many others would have welcomed the disappearance of special legislation for women only.<sup>72</sup> Conservative party member Ebon Andersson concurred with Kock.

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<sup>68</sup> 1948 (höstsessionen): FK protokoll nr 40 pp 112-34 and AK protokoll nr 40 pp 182-90.

<sup>69</sup> 1948 (höstsessionen): AK protokoll nr 40 pp 184-85.

<sup>70</sup> 1948 (höstsessionen): FK protokoll nr 40 pp 124-126.

<sup>71</sup> Kock had for example written a chapter on women's work and wages in Sweden for the official investigation carried out in the late 1930s regarding married women's right to employment. Here she discussed different reasons – for example protective legislation, traditional attitudes and restrictions on women's education – for women's low wages and their segregated labour market. SOU 1938: 47 pp 351-470.

<sup>72</sup> 1948 (höstsessionen): FK protokoll nr 40 pp 119-20.

Social Democrat and former chair of the LO, Albert Forslund, took issue with in particular Karin Kock regarding the women's night work prohibition. The Committee, he said, had not taken a stance in principle on this "delicate problem", as Kock had, but he understood that their goal for future legislation was to "also protect the home". He was, he admitted, "extremely surprised that women here expressed a view based on the now so modern idea of equality and [that they] attempted to mould public opinion...without ever once mentioning the word *home*." The home, he continued, was the foundation of society and had to be protected. "And who is to give the home this protection, if not the mother in the home?" It was very important, he felt, that worker protection legislation provide not only protection "for those who work in the trades and workshops, it should also have an impact on society, and that it cannot have unless the home is provided the protection it needs."<sup>73</sup>

Forslund was answered by Conservative Ebon Andersson who, she said, wanted to say a few words in that she had "taken it into her head" to concur with Social Democrat Kock. Andersson noted that while there were groups of women who argued from the principle of equality between the sexes "to the point of absurdity", this was not the case regarding opponents of the women's night work prohibition. But, she continued, there were problems with the prohibition – there were cases, she said, where it was worse to prohibit women from working at night than to permit them to do so. The point was to try to find a solution that afforded the best protection for everyone. Further, she emphasised that she agreed with Forslund that women were needed in the home.

"But I am clearly even more old-fashioned than Mr. Forslund, because I consider that a home is made up of both a father and a mother. If women's night work is to be prohibited, then we should therefore prohibit fathers' night work as well."<sup>74</sup>

Finally, she pointed out that, contrary to what Forslund had intimated, all women were not married, not all women had children and not all children were small. Thus, there were groups of women, just as Kock had said, who should be allowed to work at night if they felt they were able to do so.<sup>75</sup>

The new Worker Protection Act, as formulated by the Standing Committee on Civil-Law Legislation, was passed in both Chambers by a large majority. The law went into effect in January 1949, but the implementation of the general night work prohibition was postponed for two years in order not to jeopardise the country's economic growth. Men were thus still left without any effective protection against night work. The women's night work prohibition, on the other hand, was extended to all industrial workplaces. The very same year, however, the post-war economic crisis prompted a new round of developments.

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<sup>73</sup> 1948 (höstsessionen): FK protokoll nr 40 p 134.

<sup>74</sup> 1948 (höstsessionen): FK protokoll nr 40 p 136.

<sup>75</sup> 1948 (höstsessionen): FK protokoll nr 40 p 137.

## Provisional Legislation for Women Made Permanent

“Economic considerations” seem to have been the over-riding factor behind measures taken during these years. The iron- and steel industry, considered to be vital to national economic interests, continued to suffer a shortage of labour, and the Social Democratic government, as well the LO, did somewhat of an about-face on the question of women’s night work. Thus the legislation allowing women’s night work in the iron industry was extended once again in 1949<sup>76</sup>, and that same year the Social Democratic government announced that it was going to renounce the Bern Convention and propose that the provisional dispensations for women’s night work be made permanent. At the same time the Riksdag, following a government proposal, decided not to ratify the new ILO women’s night work convention of 1948, despite its more flexible working hours, because it would have affected all women working in industry.<sup>77</sup> Both the LO and the SAF, for example, agreed that it would cause considerable difficulties for industry if women could not be employed in a non-industrial capacity, particularly as cleaning women, at night.<sup>78</sup>

With the renunciation of the Bern convention after nearly 50 years, Swedish legislation on women’s night work could now be formulated independent of international developments. In 1951, the Worker Protection Act was amended. Night work for women, unless they worked in a supervisory capacity, was still prohibited between 10 pm and 5 am. However, the newly established National Board for Occupational Safety and Health (*Arbetskyddsstyrelsen*) could grant dispensations for a “specific locality, specific type of work or specific workplace” for work between 10 pm and 7 am, provided that the woman worker had a rest period of seven consecutive hours. In “exceptional cases”, the government could give dispensations for more extensive night work. None of the authorities or organisations called once again to comment upon the government’s legislative proposal had any objections, although the LO “strongly emphasised” that these new provisions were to be used with “great moderation”, a

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<sup>76</sup> 1949: Kungl. Maj:ts proposition nr 189 pp 2, 6-9. Once again, Communists presented a bill to the Second Chamber protesting against the government’s proposal. 1949: AK motion nr 389. The government’s proposal was passed with very little discussion. 1949: Andra lagutskottets utlåtande nr 30, FK protokoll nr 19 p 111, AK protokoll nr 19 p 113.

<sup>77</sup> 1949: Kungl. Maj:ts proposition nr 162 pp 34-36, the Riksdag approved this course of action without discussion. 1949: FK protokoll nr 15 p 72 and AK protokoll nr 16 pp 109-10. The Bern Convention was renounced in 1950. 1950: Kungl. Maj:ts proposition nr 43 p 4.

<sup>78</sup> 1949: Kungl. Maj:ts proposition nr 162 pp 20-26. The National Board of Occupational Safety and Health, the SAF, the LO, the Swedish Confederation of Professional Employees (TCO) and the Delegation for International Social Political Collaboration all advised against ratification. Only the National Board of Health and Welfare recommended taking steps for ratification, without any motivation however.

point repeated by Gustaf Möller in the government's bill.<sup>79</sup> Motivations for the new legislation, Möller said, were the need at times to adapt working hours to public transportation schedules, as well as adapting women's working hours to those of men. Generally, he said, more flexible working hours would make it easier "to take into account the shifting conditions in different communities and workplaces."<sup>80</sup> The amended law was to go into effect on January 1, 1951.

In the Riksdag, the proposed legislation was scarcely debated.<sup>81</sup> Communist Gunnar Dahlgren opposed the government's bill, moving that the proposal be rejected. The government's and the Standing Committee's arguments in earlier years that laws allowing dispensations from the women's night work prohibition could be accepted because they were provisional "were not worth very much", he said, now that this provision was being made permanent. Instead, he argued, the Riksdag was meeting the needs of capital and not those of workers: "In this way women are allowed to become to some extent equal with men by giving them the worst part of the privileges that exist for men in the worker protection legislation."<sup>82</sup>

## Further Debates on the General Night Work Prohibition

Ironically, male workers were nearly denied even that much protection. After its two-year postponement, the general night work prohibition was scheduled to go into effect in July 1951. However, the Korean War had brought about an economic boom and rising inflation. In order to dampen the inflationary tendencies created by rising cost of imports and exports, the Social Democratic government pursued a restrictive monetary policy, continued to regulate the construction of housing and industrial plants and in early 1951 proposed the introduction of an investment tax to combat what were considered to be inflationary investments by industry in machines and stock.<sup>83</sup> In this situation, it was feared by many that the controversial new prohibition would jeopardise economic development. In private bills put to the Riksdag in January of 1951, Conservatives and Liberals called for a further two year deferral of the general night work prohibition, arguing that the continued regulation of construction and investments made it impossible for employers to adapt to the new law. Were they forced to go from three to two shifts, the level of production would decrease, requiring investments in new plants made impossible by the current economic restrictions. Instead, the bills' co-signers wrote, if the nation's productivity –

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<sup>79</sup> 1950: Kungl. Maj:ts proposition nr 43 pp 14-19. The National Board for Occupational Safety and Health, The Swedish Labour Market Board, the LO and the SAF were called upon to comment.

<sup>80</sup> 1950: Kungl. Maj:ts proposition nr 43 p 16.

<sup>81</sup> 1950: Andra lagutskottets utlåtande nr 9 p 5, FK protokoll nr 8 p 32.

<sup>82</sup> 1950: AK protokoll nr 8 p 50.

<sup>83</sup> *Kommersiella meddelanden* (1951) p 243, Lundberg (1953) Chapter 7.

and living standard – was to increase without causing inflation, existing capital equipment should be used even more intensively.<sup>84</sup>

These bills gathered support from many quarters, all pointing to the pressures the economy was under. Both the National Board of Health and Welfare and the National Board for Occupational Safety and Health approved of a postponement of the prohibition, the latter noting that in the present economic situation, it would have to allow so many dispensations that night work would be prohibited in theory only. The SAF and other employer organisations argued vigorously for a postponement of the prohibition, saying its implementation would seriously damage Sweden’s export industries.<sup>85</sup>

Only the Government Institute for Public Health (*Statens institut för folkhälsan*), citing the many disadvantages “from a hygienic and social point of view” of night work<sup>86</sup>, and the LO argued for the implementation of the prohibition. The LO in its statement said that there was nothing substantially new in the reasons put forward for once again deferring the implementation of the prohibition. It pointed out that the Minister of Health and Social Affairs had already in 1948 promised that dispensations for night work would be given generously. In fact, in the view of the LO, the prohibition was worded in such a way that it was “more justified to harbor misgivings that it will only become a night work prohibition in principle.”<sup>87</sup>

The Standing Committee on Civil-Law Legislation spilt evenly along party lines. Liberal, Conservative and Farmer party members recommended a deferment, while the Social Democrats on the Committee called for the Riksdag to vote against the bills. While they agreed, the Social Democrats wrote, with the bills’ co-signers that it was necessary to increase production, they did not feel that the implementation of the night work prohibition would jeopardise this in any way, nor would it lead to “unnecessary inconveniences” for employers. They pointed out that the National Board for Occupational Safety and Health had, in its statement, indicated that it would be generous with dispensations. Furthermore, they wrote, unions also “possessed an interest in increasing production for the good of all” and would be willing to agree to employers’ applications for dispensations.<sup>88</sup>

After intense discussion, the bills were voted down in both chambers.<sup>89</sup> The general night work prohibition thus went into effect as planned on July 1, 1951. What is notable about this debate in the Riksdag is that nearly all speakers, both

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<sup>84</sup> 1951: FK motion nr 44 and AK motion nr 63 (Conservative Party) The bills were identical. FK motion nr 59 and AK motion nr 85 (Liberal Party). The bills were identical.

<sup>85</sup> 1951: Andra lagutskottets utlåtande nr 21 pp 6-13. A minority, representing union interests, on the Board for Occupational Safety and Health dissented.

<sup>86</sup> 1951: Andra lagutskottets utlåtande nr 21 p 8.

<sup>87</sup> 1951: Andra lagutskottets utlåtande nr 21 p 13.

<sup>88</sup> 1951: Andra lagutskottets utlåtande nr 2 p 17.

<sup>89</sup> 1951: FK protokoll nr 16 pp 110-23, AK protokoll nr 16, pp 109-15.



the Social Democratic supporters of the prohibition and its Liberal and Conservative opponents, agreed that the amount of actual night work being done would be the same, whether the prohibition was implemented or not.

## New Attempts to Repeal the Women's Night Work Prohibition

In 1957, five years after the implementation of the general night work prohibition, the women's night work prohibition was challenged again. Bills<sup>90</sup> to both Chambers calling for the repeal of the women's night work prohibition were introduced by the Liberal Party on the initiative of, among others, social inspector Brita Elmén, a former women's factory inspector.<sup>91</sup> While the co-signers of the bills actively supported issues regarding women's equality, the arguments they presented against the prohibition were, in their own words, of a practical nature: the boundaries between industrial work, which was regulated, and non-industrial work, in health care, restaurants or offices for example, was becoming blurred, and it was not possible to say that the latter was more or less dangerous for women than the former. The rules for dispensations caused difficulties in small bakeries, for example, where men, but not women, could be allowed to begin work earlier before holidays. Special legislation for women resulted in unnecessary complications and made women's position in the labour market in many cases more difficult. The co-signers of the bill declared that they were against all night work in principle, which was, they pointed out, prohibited by law.

“We consider a special night work prohibition for women not only unnecessary but also illogical. It assumes to some extent that the general night work prohibition is not obeyed.”<sup>92</sup>

Of the five organisations called upon to comment on the bills, all but the LO were positive towards a repeal of the law.

The National Board for Occupational Safety and Health pointed out that working conditions had improved so much since the law had been passed that

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<sup>90</sup> 1957: FK motion nr 330 signed by Ingrid Gärde Widemar and AK motion nr 37 co-signed by Brita Elmén and Gerda Höjer. The bills were identical. All three women have been characterised as radical liberals in the area of women's rights, generally working for equal wages, individual taxation and other improvements for working women. Drangel (1984). They were for example active in the contemporary debate on whether Sweden should sign ILO convention no 100 on equal wages for women, adopted in 1951. Elmén and Gärde Widemar helped to initiate a bill to the Riksdag to this effect in 1956. See Irlinger (1990) p 110 ff. Höjer was a member of the steering committee for the Swedish Confederation of Professional Employees (TCO) at this time. Elmén was chair of The Cooperative League of Professional Women (*Yrkeskvinnors samarbetsförbund*), while Gärde Widemar was a member of its steering committee.

<sup>91</sup> The factory inspection had been reorganised in 1948. The women's factory inspection was replaced by so-called social inspectors. See Åkerblom (1998) pp 32-33.

<sup>92</sup> 1957: FK motion nr 330 p 5.

different rules for women and men were no longer necessary. The need for decent housing, in particular a separate bedroom, for a worker working nights or on shift, was no different for women than men. Moreover, while night work or shift work always caused difficulties in connection with home life and recreation – problems which may, the Board wrote, be greater for women than men “because of the position a woman normally has within the family and the household” – these difficulties existed even with the existing women’s night work prohibition. Finally, the Board noted, there was a general night work prohibition, which only allowed night work in “exceptional cases”. Thus from the point of view of worker protection, a repeal, in its view, was in order.<sup>93</sup>

The Fredrika Bremer Förbund, as well as the Cooperative League of Professional Women (*Yrkeskvinnors samarbetsförbund*) also called for the bill to be passed. While the law, the League wrote, may have provided women with needed protection in an earlier period, changes in the labour market, particularly fact that women had moved into new areas of industry during the war, made the women’s night work prohibition a burden. An employer using both women and men could, when night work was necessary, only get a dispensation for his male workers, who thus had to bear the brunt of any extra work, the organisation continued. This situation was bound to cause “irritation and bad feelings”. It was hardly satisfactory, the organisation felt, that a 16-year-old boy could be given a dispensation for night work but not a grown woman.<sup>94</sup>

The SAF argued for the bill as well. There was no medical reason, the organisation felt, to differentiate between women and men with regard to night work, nor did it expect that night work for women would become more frequent. However, a repeal of the law would ease a transition to more work on two shifts for both women and men, necessitated, it said, by the coming reduction in working hours – between 1958 and 1960 the work week was to be reduced from 48 to 45 hours.<sup>95</sup> At the same time, the SAF took the opportunity to call for a change in the general night work prohibition. It pointed out that if a five-day workweek, with free Saturdays, was to be introduced, then two nine hour shifts per day would be required. If workers were to have proper breaks, dispensations would be required for both men and women with the existing general night work prohibition. Thus, the organisation argued that the hours stipulated for nightly rest should be reduced by one hour, to between 12 pm and 5 am.<sup>96</sup>

The LO continued to adamantly oppose any changes in the women’s night work prohibition. The organisation repeated its argument that neither women workers nor their unions had wanted a repeal earlier and that there was no rea-

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<sup>93</sup> 1957: Andra lagutskottets utlåtande nr 37 pp 7-8. The representatives from the LO who sat on the Board disagreed, however, and cited the LO’s comment (see below).

<sup>94</sup> 1957: Andra lagutskottets utlåtande nr 37 pp 9-11.

<sup>95</sup> A new Working Hours Act was passed in 1957. *Sociala meddelanden* (1957) 10 pp 640-41.

<sup>96</sup> 1957: Andra lagutskottets utlåtande nr 37 p 10.

son to think that anything had changed in this regard. Moreover the possibility of getting dispensations for two and three shift work were quite sufficient with existing legislation, in its view.<sup>97</sup>

The Standing Committee on Civil-Law Legislation, to which the bills were referred, recommended their rejection, citing the LO's statement.<sup>98</sup>

The bills were voted down in both chambers after debates mainly between Liberal and Conservative women and Social Democratic men (no women Social Democrats participated in the debate.) Many familiar arguments against the prohibition were raised by opponents. It was inconsistent to only regulate women's industrial work. The law was impractical and caused problems for employers and employees alike. Moreover, Liberal Brita Elmén repeated several times during the debate, there did in fact exist a general night work prohibition, which "the extra regulation for women somehow ... puts out of play."<sup>99</sup> Elmén also argued against "the family reasons" that had been raised against the bill, "that these were perhaps more important for women." But, she said, "not all women who work have children, even if one gets the impression for the Committee's statement, that every woman in the labour market has small children."<sup>100</sup> Thus Elmén repeated the point, made many times previously in the debates on the prohibition, that there were differences between women and not just between women and men.

Arguments for equality and women's rights – "all Swedish citizens equal right to freedom", in the words of Liberal Gerda Höjer – were countered by arguments that the night work prohibition for women was a protective law and that it was totally wrong to try "to attain equality by making the situation worse for a group that had been given a privilege", as Social Democrat Ingemund Bengtsson said.<sup>101</sup>

A particularly heated topic was the question of who, in fact, had the right to speak for working women. Liberal and Conservative Party women in both chambers felt that the LO had not motivated its position and questioned whether in fact its female membership held the same view as the LO leadership. This suggestion was sharply repudiated by a number of Social Democratic speakers. On the contrary, Social Democrats said repeatedly during the debate, the bill's supporters in no way represented the women affected by the law, who had expressed no wish for its repeal via their own organisations.<sup>102</sup>

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<sup>97</sup> 1957: Andra lagutskottets utlåtande nr 37 pp 9-10.

<sup>98</sup> 1957: Andra lagutskottets utlåtande nr 37 pp 11-13. The Committee was not unanimous, however. Three members of the Liberal Party, plus one Conservative representative, registered a dissent, arguing that the prohibition be repealed.

<sup>99</sup> 1957: AK protokoll nr 26 pp 25-29. Quotation on p 25.

<sup>100</sup> 1957: AK protokoll nr 26 p 35.

<sup>101</sup> 1957: AK protokoll nr 26 pp 33-35.

<sup>102</sup> 1957: FK protokoll nr 26 pp 21-26 and AK protokoll nr 26 pp 36-37.

## The Women's Night Work Prohibition is Repealed

In 1962, only a few years after this debate, the Social-Democratic government, with the reluctant support of LO, reversed its position on the controversial question of the women's night work prohibition. A growing need for labour in Sweden's post-war economy and the government's policy of full employment meant choosing between importing immigrant labour or mobilising the "reserves" of Swedish women. The choice fell on women, and thus restrictions on their employment were removed.<sup>103</sup> At the same time, the general ban on night work was made more flexible.

### Background to the Changes in Night Work Legislation

In 1960, after many years of agitation on the part of the LO's female membership, the LO and the SAF signed an historic central wage agreement that included a clause doing away the special wage lists for women workers and theoretically at least endorsing the principle of equal wages for men and women. Moreover, regulations that prohibited women from performing various kinds of work in industry were to be stricken from collective wage agreements. As part of this settlement, the organisations agreed to initiate deliberations with the National Board for Occupational Safety and Health regarding women's working hours.<sup>104</sup>

At the same time, the general night work prohibition was to be seen over. In the latter case, the discussions between the LO and the SAF concerned both reducing the period of nightly rest in order to facilitate work on two shifts, as well as the question of allowing dispensations for night work for economic reasons only.<sup>105</sup> Thus, there was a change in attitude in the early 1960s not only towards women workers, but regarding the desirability of night work as well. Significantly, when a Conservative bill calling for a relaxation of the general night work ban was put to the Riksdag in 1960, the Standing Committee on Civil Law Legislation explicitly expressed its opinion that an increase in work

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<sup>103</sup> Kyle (1979) p 199 ff, Hirdman (1998) Chapters 4 and 5.

<sup>104</sup> The equal wages clause called in fact for "equal wages for work of equal value". The reform was to be implemented during a five-year period. *LO. Verksamhetsberättelse 1960* p 5. On the struggle to gain equal wages for women workers, see for example Waldemarson (2000) Chapter 5, Sund B (1991).

<sup>105</sup> *LO. Verksamhetsberättelse 1960* pp 5-6. The issue that seems to have prompted this move to relax the general night work prohibition was the crisis in the textile industry that developed during the 1950s. In order to increase the industry's competitiveness by rationalising production and decreasing costs, a commission of inquiry appointed by the government in 1958 suggested an increased use of two and three shift work. The Union of Swedish Textile Workers protested vigorously against this, but the LO agreed to consider a change in the general night work prohibition, making it more flexible. *SOU 1959:42* pp 41-43, 92-93, *Remissyttrande (1960)* pp 15-16, 24-27. For a discussion of developments in the textile industry, see Thörnquist (1991).

on three shifts, providing that unions agreed to this, was necessary if Swedish industry was to remain competitive internationally.<sup>106</sup>

In its official communication from December 1960, after its deliberations with the LO and the SAF, the National Board for Occupational Safety and Health expressed a very cautious stance regarding the protection of women. On the one hand, it said that while night work could be both socially and physically demanding, there was no reason to make a distinction between the sexes in this regard. The Board felt that from the viewpoint of worker protection, there were no grounds for the continued existence of special regulations for women. Nevertheless, the Board did not wish to initiate a proposal to dispense with the night work prohibition for women and confined itself to suggesting that the authority to provide all types of exemptions be transferred to the Board; in the existing legislation only the government could give certain “extraordinary” exemptions, for example for work on three shifts.<sup>107</sup>

That even such a minor change to the prohibition was still controversial can be seen from the statements of some of the nine organisations called upon to comment on the Board’s proposal. The National Board of Health and Welfare opposed the Board’s proposal, pointing to the “many disadvantages” of night work and suggesting instead that the general night work prohibition for both men and women needed to be made more restrictive. While accepting the proposal, the Association of First District Medical Officers (*Förste provinsialläkarnes förening*) urged that exemptions from the law be weighed very carefully. The National Board of Medicine (*Medicinalstyrelsen*) suggested that one should differentiate between women with children under 16 and other women. While the general night work prohibition was sufficient for the latter, the former should fall under the special prohibition for women, with the Child Welfare Office authorising dispensations.<sup>108</sup>

The SAF, on the other hand, felt that the special night work prohibition for women should be repealed entirely, as did the National Labour Market Board (*Arbetsmarknadsstyrelsen*), which wrote that special laws regulating women’s labour – other than in connection with childbirth – were outmoded and restrictive. The LO in its statement, however, did not mention the change of the women’s night work prohibition at all.<sup>109</sup>

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<sup>106</sup> 1960: FK motion nr 18 and AK motion nr 26. The bills were identical. Andra utskottets utlåtande nr 33 p 8. The Committee recommended that no action be taken on the part of the Riksdag pending the outcome of the deliberations with the National Board for Occupational Safety and Health regarding night work. There was no discussion in either chamber. FK nr protokoll 16 p 116, AK protokoll nr 16 p 205

<sup>107</sup> 1961: Andra lagutskottets utlåtande nr 23 pp7-8.

<sup>108</sup> 1962: Kungl. Maj:ts proposition nr 167 pp 8-9.

<sup>109</sup> 1962: Kungl. Maj:ts proposition nr 167 pp 8-9. The LO’s position regarding the night work prohibition was expressed in more detail in an editorial comment in the organisation’s periodical. While the night work prohibition for women might no longer be necessary, as the Board said, the law should remain in place, the LO felt, until the ques-

## The Women's Night Work Prohibition Debated Again

While the Board's statement was being considered by these organisation, the LO/SAF agreement regarding equal wages for women prompted a number of Conservative Party members to introduce bills in 1961 calling for the Riksdag to request that the government initiate action to abolish the women's night work prohibition. In the view of the co-signers of the bill, legislation to protect women workers was "old-fashioned", "unless these regulations involve for example pregnancy and childbirth." Such laws limited women's choice of employment and vocational training, the authors wrote, and worked against them in the debates on equal wages, in that employers claimed that the laws made women less useful than men. With the new equal wages clause, however, "employers and unions had endorsed the idea of the equal value of the female and male labour force." There was thus no longer any legitimate reason for laws that limited the use of female labour.<sup>110</sup>

The Standing Committee on Civil-Law Legislation pointed out that, as the question was already under investigation, the Riksdag need take no action in this case. The Committee, however, made a point of defending the special protection of women: "the regulations in question have historical roots and are intended to provide a protection for the female labour force." Protecting working women, who often had to care for a family and household as well, from all unnecessary night work has been deemed particularly important, the Committee continued.<sup>111</sup>

In the ensuing debates on the bills in the Riksdag, both chambers of which accepted the Committee's recommendation, familiar arguments were repeated once again. Conservative Ebon Andersson in the First Chamber claimed that the law had been a hindrance to female workers, while Committee chairman Social Democrat Axel Strand stated that those most opposed to the legislation were organisations representing women who would never be in a position of having to do night work themselves. At the same time, however, we get a glimpse of new attitudes in this debate. Andersson once again touched explicitly on men's family duties. Night work was unsuitable for both sexes, she said. "It can be just as important that men are home at night as it is for women, in particular if they are married, need to take care of the children etc."<sup>112</sup> In

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tions of equal wages for women had met with a definite solution. Moreover, if there was a need to use women in shift work, "when there is a lack of male labour", then the new, less bureaucratic routines for seeking dispensations would facilitate this. *Fackföreningsrörelsen. Organ för Landsorganisationen i Sverige* (1961) 1 p 443.

<sup>110</sup> 1961: FK motion 267 and AK motion 234. The co-signers of the bill were in the First Chamber Ebon Andersson, former chair of the Conservative Party's Women's Association, and in the Second Chamber Astrid Kristensson, Hans Nordgren and Karin Wetterström, who now chaired the Women's Association.

<sup>111</sup> 1961: Andra lagutskottets utlåtande nr 23 pp 9-10. Committee member Conservative Karin Wetterström registered a dissent.

<sup>112</sup> 1961: FK protokoll nr 11 p 60.

turn, Strand admitted that the time had perhaps come to do away with protective legislation for women, in that women had become organised and their organisations could protect them against too much or unnecessary night work. This was the first public chink in the compact opposition to any change in the night work prohibition that had previously characterised the (male) workers' movement.

Social Democrat Sigrid Ekendahl, chairwoman of the LO's Women's Council, spoke on this question for the first time in the Riksdag. She concluded the debate in the Second Chamber by noting that she did not feel quite the same "sympathy" for employers' difficulties with the law that previous speakers had shown. Further, she noted, when she considered how to broaden occupational opportunities for women, she was hardly thinking in terms of them working nights in industry. At the same time, however, she echoed Axel Strand's careful statement that perhaps protective legislation for women had outlived its purpose. Her view on this subject, she said, was that "if employers show good faith in implementing equitable wages for women, then women will also show good faith when it comes to eliminating possible obstacles for [their] admission to certain occupations."<sup>113</sup>

### **New Night Work Regulations for Women and Men**

Whether or not employers had in fact shown "good faith", in April, 1962 the Social Democratic government introduced a bill to the Riksdag calling for the repeal of the women's night work prohibition. Further, the bill proposed a reduction of the time for the nightly rest period for both women and men by one hour, to between 12 pm and 5 am, in order to facilitate the use of a two-shift system during a five-day work week. Finally, the bill proposed that "economic reasons" as well as "technical reasons" were now to be considered as valid grounds for a company to get a dispensation for night work, even without the approval of its workers.<sup>114</sup>

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<sup>113</sup> 1961: AK protokoll nr 11 p 165. There is very little information regarding how the LO's Women's Council, which had been founded in 1947 to uphold the interests of women within the LO, felt about the night work prohibition. Waldemarson (2000) p 26 indicates briefly that it was a point of contention between the parent organisation, the LO, and the Women's Council. In another study of the LO's Women's Council, Waldemarson shows very clearly that "women's questions" in general received little attention in the parent organisation. Waldemarson (1998) Chapter 6.

<sup>114</sup> 1962: Kungl. Maj:ts proposition nr 167. It is unclear from the material used here why the LO gave up its opposition to a repeal of the night work prohibition for women or allowed changes in the general night work prohibition. Negotiations between the SAF and the LO regarding equal wages for women had continued in 1961-62, and it would seem that the LO in 1962 came to the conclusion, under heavy pressure from the SAF, that it would have to "trade" the prohibition – that is to say, allow equal working hours for women and men – to get the SAF to implement equal wages in practice. The LO presents no details about its position in this round of negotiations in either its periodical or its annual report of 1962. See, however, the SAF's periodical, *Arbetsgivaren* (1961) 17 p 9 and 22 p 11,

In the context of the previous debates in the Riksdag on the women's night work prohibition – the last one just the year before – the change in the tone is remarkable. Women are no longer “workers in need of special protection”, but rather a “reserve labour force”. The same change in attitude can be seen regarding night work in general. The needs of industry now outweighed concerns for worker protection.

The Minister of Health and Social Affairs Torsten Nilsson motivated the government proposal by pointing out that shorter working hours, better working conditions and a generally improved standard of living had reduced the dangers of night work. At the same time, a more capital-intensive industry required more night work. The special protection of women in this connection had its roots, Nilsson noted, in women's historically weak position on the labour market, something which had changed radically.

“Among women there is a manpower reserve, which is much sought after by industry and trade for its continued expansion, and women now have other prospects than they formerly did to assert themselves in the labour market. The remaining wage differences between men and women are being leveled out and will be abolished within a few years, in accordance with the agreement between unions and employers. It is natural that this progress towards equality between men and women in the labour market should lead us to examine laws that are likely to preserve existing differences between male and female labour when it comes to the opportunity to obtain the same returns from comparable employment.”<sup>115</sup>

Moreover, he continued, the special night work prohibition for women “hardly appears to be a question of worker protection in any real sense nowadays.” Rather women's night work was now being seen as a problem in terms of children's welfare, which however, he felt “was not a question properly dealt with by the Worker Protection Act.”<sup>116</sup>

Finally, Nilsson noted, because “the question of women's wages had taken a decisive step towards a solution that satisfies women's goals...”, the LO and the SAF had jointly declared that special regulation of women's night work was no longer necessary.<sup>117</sup>

The proposal to decrease the period of nightly rest by one hour had also been approved by both parties in the labour market, Nilsson noted. In this connec-

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*Arbetsgivaren* (1962) 7 p 8. One result of the LO's accession to the SAF's demands that the general night work legislation be changed was that the Union of Textile Workers felt forced to accept employers' demands for an increase in work on three shifts as a trade-off for higher wages. *Beklädnadsfolket* (1962) 13 p 10 ff. The government also proposed that women could be given dispensations in certain cases to work underground in mines. For protective legislation regarding women's work in mines, see Karlsson (1997).

<sup>115</sup> 1962: Kungl. Maj:ts proposition nr 167 p 10.

<sup>116</sup> 1962: Kungl. Maj:ts proposition nr 167 pp 10-11.

<sup>117</sup> 1962: Kungl. Maj:ts proposition nr 167 p 11.



tion, Nilsson also took opportunity to make clear that “economic reasons” as well as “technical reasons” were now to be considered as valid grounds for a company to get a dispensation for night work, without the approval of its workers. Work on three shifts, he said, had become important for “an effective utilisation of the production capacity of industry.”<sup>118</sup>

Not all Social Democrats supported the government bill. Two party members put private bills to the First and Second Chambers calling for the retention of the night work prohibition for women, as well as opposing modifications in the general night work prohibition. These changes were “not consistent with the social considerations that the Worker Protection Act is an expression of.”<sup>119</sup>

The Standing Committee on Civil-Law Legislation, still chaired by former LO chairman Axel Strand, supported the government’s proposal on all points. Regarding the repeal of the women’s night work prohibition, it wrote that this must be seen in the context of women’s position in the labour market as a whole, “which during later years had been moving towards an increasing realisation of equality between women and men...” The recent agreement regarding women’s equal wages motivated “striving towards a uniform set of regulations...” for women and men in the area of worker protection as well.<sup>120</sup> The Committee did, however, express some concern with the proposal that dispensations could be given for economic reasons alone, even without the support of employees. The Committee agreed that “tougher foreign competition” demanded a more effective use of the country’s productive capacity, by among other things increasing the use of the three-shift system. Nonetheless, it urged great caution in giving dispensations in this case, pointing out that dispensations that were not supported by employees who were willing to work at night would of little value to an employer.<sup>121</sup>

While the government’s bill was passed in the in the First Chamber without any debate<sup>122</sup>, feelings in the Second Chamber ran high. The debate was dominated by the feelings of betrayal expressed by representatives of textile workers, Social Democrats Rune Carlstein and Gördis Hörnlund. Both accused the LO of totally ignoring the interests of this group, when it reversed its position on night work. Organised textile workers, in particular its 20,000 women members, had by no means called for any changes in either night work prohibitions, they said. In fact, Hörnlund noted, at their latest union conference, they had expressly opposed all attempts to relax night work legislation. The later agreement between

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<sup>118</sup> 1962: Kungt. Maj:ts proposition nr 167 p 11.

<sup>119</sup> 1962: FK motion nr 730 and AK motion nr 884.

<sup>120</sup> 1962: Andra lagutskottets utlåtande nr 31 p 14.

<sup>121</sup> 1962: Andra lagutskottets utlåtande nr 31 pp15-16.

<sup>122</sup> 1962: FK protokoll nr 25 p 11.

the LO and the SAF had been made against the will of the textile workers, who now risked, she said, being forced into doing night work.<sup>123</sup>

Carlstein was, moreover, generally critical to the proposal to allow night work dispensations for economic reasons. He was pleased, he said, to note the Committee's words of caution in this regard, but these were not sufficient to protect employees. In a situation where there were plenty of alternative jobs, employers would have to take their workers' views into consideration. In communities with one dominating employer, however, employees – including women, he warned – would have difficulties making their wishes felt and could be forced into night work against their will.<sup>124</sup>

As to the government's argument that the new equal wage agreement motivated a repeal of the women's night work prohibition, were we not, Hörnlund asked, getting ahead of ourselves by doing away with protective legislation before women had actually gained equality in the labour market?

“If we had had truly equal wages for women and men, shorter working hours for shift workers, a better realised family policy for working mothers with small children and in particular for single parents, as well as a fully developed public service for childcare, it would have been an entirely different question.”<sup>125</sup>

Social Democrat Rosa Andersson, who supported the bill, expressed her surprise at Hörnlund's position. The week before, the Riksdag had voted to ratify the International Labour Organisation's Convention 100 regarding equal wages for women. This meant, she said, not only accepting the principle of equal wages, but also “the idea that women in the labour market are equal with men – not only with regard to the advantages this gives, but also with regard to the possible disadvantages that may arise.”<sup>126</sup>

Social Democrat and LO representative Sigrid Ekendahl concluded this debate, which took place primarily among Social Democrats, somewhat on the defensive. She could, she said, sympathise with Carlstein's and Hörnlund's viewpoints, representing as they did the textile districts, with their “special problems”. Nonetheless, she pointed out, the Committee had clearly stated that dispensations from the general night work prohibition should only be given carefully and after a thorough examination. She was convinced, she said, that, contrary to Hörnlund's fears, employers would not be allowed to introduce night work against the will of their employees unless they could produce a very good reason to do so.

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<sup>123</sup> 1962: AK protokoll nr 26 pp 39-40. The government's proposal was sharply criticised in an editorial entitled “Equality to an excess” in the Textile Union Workers' periodical, *Beklädnadsfolket* (1962) 8 p 3.

<sup>124</sup> 1962: AK protokoll nr 26 p 35.

<sup>125</sup> 1962: AK protokoll nr 26 p 40.

<sup>126</sup> 1962: AK protokoll nr 26 p 41.

She next defended herself against a previous speaker's accusation that she had radically changed her position on this question, by saying that this change "was in line with developments." She had earlier that week given up her opposition to the ratification of the ILO convention calling for equal wages for women for the same reason: not, she said, because she had been convinced by Liberal Party arguments, but because the LO and the SAF had agreed to do away with discriminatory provisions in labour contracts. For the same reason, she said, the LO no longer objected to a repeal of the night work prohibition for women. While it was true, as previous speakers had pointed out, that the problem of women's equal wages and other discriminatory clauses had still not been resolved, a start had been made, she said. She could therefore agree to "sell this night work prohibition for an agreement on the question of women's wages."<sup>127</sup>

The Second Chamber voted for the government's proposal and the new law went into effect July 1, 1962.<sup>128</sup>

## Some Observations

It is clear that gendered protective legislation could be detrimental in many respects for women in the labour market. While I have not dealt more specifically here with the direct effects of the night work prohibition for women workers, the legislation did for example lead to women losing their jobs when the law was passed; the rigidly defined working hours meant having to work without rest periods in some industries particularly during the 1920s and 1930s; in others women worked illegally at night. The law was also one excuse to pay women lower wages than men. At the same time, the law did afford some women, and men, protection from "unnecessary" night work in, for example, the textile industry, where the predominance of female labour made it difficult, although not impossible, to run on three shifts.

For male workers, the special protection of women was otherwise double-edged. While it could remove female competition in the labour market, it could also work to the detriment of men. Historically, achieving a regulation of the working conditions and work hours of men has been drawn-out, contentious process.<sup>129</sup> As we have seen in the example of the "general" night prohibition, the fact that the working hours of the adult workers "most in need of protection" – women – were already regulated could be used as an argument for much less stringent rules for men.<sup>130</sup> Furthermore, the protection legally afforded men seems in practise to have been very little. "Economic considerations" could time and again overrule the effectiveness of the legislation for men, and eventually women as well.

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<sup>127</sup> 1962: AK protokoll nr 26 p 44.

<sup>128</sup> SFS 1962: 248 and 249.

<sup>129</sup> See for example Sund & Åmark (1990) Chapter 2.

<sup>130</sup> Compare Malone (1996) on men's work in the white lead trade in England.

Gendered protective legislation had important ideological implications for both women and men. Labour legislation for women went beyond the workplace. Throughout the debates on protective legislation for both men and women, women are “defined” in terms of their bodies and familial functions in a way that men are not. Women are first and foremost wives and mothers; this was repeated constantly by supporters of such legislation. Hence, state intervention in the labour market was justified not only to protect women as workers, but also to secure the health and welfare of “future generations”. Men, on the other hand, only rarely have bodies or families in the debates on protective legislation; they were protected as workers alone.

When women became “equal” with men, they had to accept the more unregulated conditions under which men worked. Women now had to share both the advantages and disadvantages of male status, as one speaker put it. The opposite, extending the protection given women to men – which would have also made women equal to men – was never considered seriously as an alternative. When women did become “equal” on men’s terms, it left them vulnerable in new ways. While gendered protective legislation had assumed a conflict between family and work for the woman worker (whether in fact it existed or not), gaining male status meant that all such conflicts, for both women and men, could be ignored – but not, however, resolved. Ironically, this occurred when, for the first time in Swedish history, the majority of women workers were married.<sup>131</sup>

## Epilogue

In 1977, with the passing of the new Occupational Safety and Health Act, the last formal restriction on women’s work in Sweden – working underground in mines – disappeared.<sup>132</sup> However, 15 years later the problems of gender and safety in the workplace arose again.

In 1992, the National Board of Occupational Safety and Health published new guidelines for work with lead, which were to go into effect in 1994. These stipulated that the permitted level of lead in the bloodstream of women workers under 50 was half that of the level allowed for male workers or older women, in order to protect potential fetuses from the dangers of lead poisoning. Prior to this, the limit for women and men had been the same.<sup>133</sup> “It was a hard decision to make”, a representative of the Board stated in an interview. “We are aware of the fact”, he continued, “that this can open the door for different limits for a

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<sup>131</sup> The proportion of married women workers categorised as “workers” (i.e. belonging to unions affiliated with the LO) rose rapidly during the 1940s and 1950s, and by 1960 a little more than half (52.3 %) of women workers were married. Qvist (1974) pp 41-46.

<sup>132</sup> SFS 1977: 1160.

<sup>133</sup> Bly. *Arbetskyddsstyrelsens författningssamling* 1992: 17.

number of substances in industrial production. However we cannot let equality stand in the way of our concern for coming generations.”<sup>134</sup>

As a consequence of the new guidelines, Swedish newspapers reported later in the fall of 1992, a battery factory in southern Sweden was considering firing its 30 women employees who worked with lead.<sup>135</sup> The company’s response to the new rules, according to the newspaper articles, was not to invest in a cleaner, lead-free environment, which would be too expensive. Rather, it warned women workers that unless they themselves were not extremely careful about hygiene and safety, thus keeping the level of lead in their blood below the permitted level, they would lose their jobs. The women workers, when interviewed, were indignant about both the new guidelines and company’s reaction and expressed their concern in terms reminiscent of earlier debates on protective legislation. “Of course we care about the well-being of a fetus,” said one woman. “But how about the ones who don’t want to have children?” Another asked, “Do they [the company] really have the right to fire us, just because we can have babies?”<sup>136</sup>

As it turned out, the company received a public grant to improve the working environment and the women were not fired<sup>137</sup>, but the example illustrates the precarious position women workers find themselves in when questions of reproduction come into focus.

Lead is a dangerous poison. Not only can it endanger the health of workers; it is particularly dangerous for fetuses, and in order to protect them, all women of fertile age become subject to regulation. What is noteworthy, however – as can be seen in the example above – is that gender-specific regulation of dangers in the work environment continue to have a negative effect on both women and men. When only the sex of the worker (women) and not working conditions per se are regulated, women workers are placed in a vulnerable situation. They become “difficult” employees; it is easier for employers to fire them than to comply with the regulations. At the same time, a one-sided view of women as the

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<sup>134</sup> Quoted in *Olika blyvärden för män och kvinnor* (1993) *Arbetsmiljö* 1: 8. Sweden and Germany were the only two countries in the European Union with different limits for men and women.

<sup>135</sup> *Hög blyhalt hot mot kvinnojobb Uppsala nya tidning* 1992-11-14 and *Tjejer får sparken för blyets skull Aftonbladet* 1992-11-13.

<sup>136</sup> Carlsson (1992). For discussions and interpretations of similar so-called fetal protection policies in other countries, see for example Callahan (1991), Crenshaw (1995), Daniels (1993), Jennissen (1999), Klein (1987). As these authors point out, fetal protection policies in most countries seem to have two points in common. First, it is work in male-dominated occupations that is regulated, women are not barred from potentially hazardous work in female-dominated areas such as laundries, dry cleaning, nursing or childcare. Secondly, men’s exposure to toxins that can damage their reproductive systems or endanger a fetus is largely ignored.

<sup>137</sup> *Ingen uppsagd för högt blyvärde* (1993) *Arbetsmiljö* 5: 13. There is no way of judging the long-term effects of the new lead guidelines. In 1998, the company mentioned above closed down, and by 1999 the entire industry had disappeared in Sweden.

“weaker sex” has meant that men’s health problems are still ignored.<sup>138</sup> Carl Lindhagen’s image of men as “upholders of the health of the race” has yet to have become an established norm for masculinity.

“Because women are assumed to have the option *not* to work, and the duty to put the interests of children and family ahead of their own interests, evidence of maternally mediated reproductive risks has led to different conclusions and policies than evidence of paternally mediated risks or any other kind of risk. Culturally assigned sex roles make it possible to view women as uniquely vulnerable at work, while a recognition of male vulnerability, in this area as in many others, is resisted.”<sup>139</sup>

More significantly, this example shows that the idea of women’s and men’s equal worth and status, despite their biological differences, is still not truly established in modern society. The authorities who decreed the new rulings on lead seem not to have considered that, in the interests of equality (and men’s health), the permitted level of lead allowed for men should be lowered to a level deemed acceptable for women. The idea that women could be “the norm” is still unthinkable.

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<sup>138</sup> Research on occupational health has only recently begun to explore the effects of dangers in the work environment on male reproductive biology. See for example Hansson (1999) and Kjellberg (1999).

<sup>139</sup> Bertin (1995) p 387.

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Gymnastics at the Erling Richard's factory for ready-made clothes in 1943.  
Source: Riksförsäkringsanstaltens arbetarskyddsbyrås arkiv. Riksarkivet, Stockholm.