

# Legislative programme: equal rights for man and woman : equality of rights needs to be digested

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## Equality of rights needs to be digested

**The Swiss people have approved, by a narrow margin of votes, a new, more share- and share-alike marriage law. Now, equality of rights of woman and man should stride onward: in Federal government legislation and statutory orders, and in the cantons. The instrument of the Federal Council is called the Legislative Programme, yet it nevertheless implies tight finances, federalistic structures and a delayed, though gradually increasing, consciousness of equal rights as applied in practice – all now being revealed as tough obstacles.**

The 8th of March, 1986: International Women's Day. In Switzerland, too, the women's movement held a demonstration. A slender procession of 750 women and a few men wound its way through the streets and alleys of Basle, banners flying in the dank winter air of the frontier town. South Africa, gene technology and asylum-seekers are the themes chosen by the women's organizations for 1986 and only a few of the rallying cries and slogans of the demonstration had any immediate Swiss content or context: the legal right to interrupt pregnancy, equal pay.

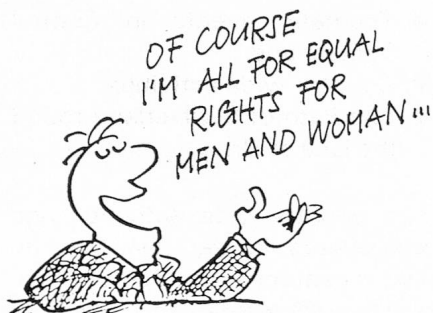
Had it not been for the few women who on this cold 8th of March provided some noise from shrill tin whistles, the demonstration would have attracted no attention – just another of the many demonstrations in demo-accustomed Basle.

### All quiet after the Initiative

Whatever became of all the women who once fought for the embodiment in the Constitution of votes for women and equality of rights? What has happened to the Helvetic themes such as inclusion of women in the militia army or equality of status in the old-age pension scheme, which only in the last few years stirred up waves? And what about the demand for an Office for Women in

the Federal administration, to be charged with the implementation of women's rights?

It is only eleven years ago now that the Swiss women's movement – this conglomerate of various groupings which at the time teamed up together for the matter



in hand – passed a resolution which was nothing short of heroic. At a women's congress in Berne to mark the «Year of the Woman», the movement launched the *Initiative* for the incorporation of the principle of equal rights in the Constitution. The amendment was accepted by the Swiss people in 1981.

This great women-motivated deed was followed, after 1981, by a few isolated campaigns, then silence. With renewed awareness, the Swiss movement returned home from the battlefield of Federal politics to its own work – in women's circles, in homes for battered wives, in professional life and jobs, in the cantonal parliaments. Only recently, in May of

this year, was the second woman elected to a cantonal government: Leni Robert in Canton Berne.

But what happened, too, to the Constitutional Article; to the amendment which was to provide for the breakthrough of equal rights for woman and man in the family, in education, at the workplace; to the demand for equal wages; to the basic principle which should have been the starting point for legislative amendments to acts and statutory orders in Confederation and cantons?

### Last demand met

The answer bears a prosy name: Legislative Programme. The Federal Council only recently approved this 140-page paper so that it should come up for discussion in forthcoming sessions and in future years, with the object of its eventually leading to the passing of a resolution. Thus, equality of rights, as circumscribed by the Constitution, goes on its way through Federal commissions and cantonal parliaments; through laws, acts and other papers; through the political parties and party-sponsored motions – in a word, through the tangle of the political order of priority in Swiss federalism.

With the Legislative Programme, the Federal Council has complied with the last demand of the initiators. The programme has its source in the compromise struck at the time between the Swiss women's movement and the National Council whereby a promise, after a motion, was given that in lieu of a fixed interim period of grace of five years, a list of the inequities in Confederation and cantons would be presented, and a timetable for eliminating them proposed.

Alone at Federal level, 26 areas or subjects which have discriminatory consequences for women,

and occasionally for men, are listed in the Legislative Programme. The traditional concept of roles runs like a tenacious thread through the laws and regulations: the woman, the creature in need of protection, who runs the household but is subordinated in jobs and professional life; the man, the breadwinner and decision-taker who bears the responsibility.

### Marriage law still operative

On 1st January, 1988 the old marriage law which consolidated these roles of «pater familias» and «housekeeping woman» will be replaced by a law based more on partnership. Thus the disadvantaged, i.e. legally disabled, wife disappears from an important area of legislation. However, the consequences of the old marriage law on other material spheres such as the traditional husband-wife pattern continue to dominate a series of enactments in Confederation and cantons, and even of the orders and regulations of the communes.

This trend is most evident in the field of social insurance. Here, at the very summit of the legal rights hierarchy is the AHV (OAI, Old-Age and Survivors Insurance) which, like an erratic block, stands in front of endeavours towards equality of rights. For example, married women have no independent legal claim to an old-age retirement pension. Another political bone of contention is the different retirement age which, today, is 62 for women and 65 for men – the outcome of a process of biological-protection thinking. What is more, the man-woman, husband-wife leitmotif runs through the finest ramifications of this proud Swiss social achievement.

A cursory analysis shows up the problems: if the retirement age for both sexes were to be set at 65, the woman becomes dis-

criminated against – or at least placed at a disadvantage – compared with her position today. If, on the other hand, the pensionable age were lowered, the financing of the classic old-age pension scheme would be thrown



out of joint. Likewise, a splitting, which (actuarially) would give wives their own claim to a pension, and thus independence, would cost too much.

### More patience is wanted

The summing up of the Federal Council in the Legislative Programme: equality of rights in the AHV must for the time being run aground for «political and financial reasons». It is intended, however, to attack the goal afresh in a next-but-one revision in the nineties. Even with the demand for equal rights, Swiss democracy is thus the polity of patience, for, after the AHV, other laws and regulations stand in line: disability insurance, for example, and the occupational pension scheme, part of the public service code of duties for thousands of men and women civil servants. Wherever the AHV does not make provision for dealing with inequities and inequalities, the old marriage law has direct repercussions: in sickness insurance, accident insurance and relief and welfare legislation. And in the cantons, for example, public assistance measures, provisions governing vocational practice and also family allowances are shaped by the old marriage law.

The list of inequalities could be extended almost indefinitely (for citizenship law, see article in the

official communications). The Federal Council's targets for revision are always the same: it will be years, decades even, until equal rights are enforced in laws and decrees.

### Protection of men, too?

Another result of the Federal Council's deliberations is that the Legislative Programme, which is primarily intended to ensure betterment of women's rights, reveals, as do a few other Government papers, injustices to which men are exposed too, but perhaps in another way. There is a ban on night work for women, for example; should, then, the legal protection which women enjoy in the professional field (but which adversely affects their wage demands) now be extended to men or be abolished for women? Or the other way round: should women have to take over duties in the army, for example?

Yet another result is that without further (legal) measures the demand by women for equal pay, for example, is not realizable – a fact which now clearly emerges. What is lacking is a wieldy instrument for the enforcement of rights for



women. The model of an HQ for women's policies has been lying in the pigeon-holes of the Federal Commission for Women, an advisory organ, for years. Other European states have long since introduced such an instrument. On this point, however, the Federal Council maintains silence, in its Legislative Programme. ●

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