REFORM CLAIMS IN FAMILY LAW AND LEGAL STRUGGLES OF THE BUND DEUTSCHER FRAUENVEREINE WITHIN THE INTERNATIONAL COUNCIL OF WOMEN, 1888-1914

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One of the major topics for international feminism during the last decades of the nineteenth and the first decades of the twentieth century was the reform of family law. A patriarchal foundation of civil law that legalized the subordination of married women permeated all Western legal cultures. Though the legal cultures and means were different in each country, women found themselves in a common struggle.¹

This article analyzes the campaign for transnational family reform by investigating the actions and ideas of the German National Council, the “Bund Deutscher Frauenvereine” (BDF), within the International Council of Women (ICW) in the years between 1888 and the outbreak of World War I on the basis of the published congress material of the ICW and the German women’s movement as well as archival material from the Helene Lange Archive at the Landesarchiv in Berlin. When the German civil code came up for codification in the 1870s, the legal aspects of women’s equality became a focus of the women’s movement, next to education and welfare matters. From its founding in 1894, the BDF was also open to international cooperation and tried to transfer its concrete ideas and working strategies into the ICW. However, these attempts failed at the first international conferences, as the English and American feminists, in particular, opted for broader legal definitions and set different priorities.² But the BDF managed to place family law as a focus on the schedule of the ICW by establishing a legal standing committee at its second quinquennial in London in 1899, which was headed by the German Olga von Beschwitz until 1904. On the transnational level, feminists struggled to find a common denominator, especially for legal reform that would be valid for all countries involved. Eventually, they reported their collective findings in Women’s Position in the Law of Nations (1912), but the arrival of World War I halted the search for common solutions.

In this history of the battle for equality in family law, it is especially rewarding to examine the different strategies that evolved around the internal fighting and dissidence in the ICW through the lens of the German feminists. This perspective relates to one aspect in transnational women’s history that has been largely neglected thus far: the

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² In this article, the term “American feminists” refers to feminists from the USA. As the term US-American feminists sounds awkward, I prefer to use “American feminists,” although I am aware that all feminists from Canada to Argentina are also “American.”

3 Cited in Marie Stritt, *Der Internationale Frauenbund (International Council of Women),* Centrallätt 5, no. 9 (1903): 65-67, 67. All quotes are translated by the author.

political and legal change. For the campaigns, in particular, feminists created a classical space for the transnational transfer of knowledge, which made common political action on legal questions increasingly possible and changed the identity of the national actors into global players. The legal debates in the ICW at the turn of the century were one of the first instances of trans- and international common legislative work beyond the national level and were only surpassed in the twentieth century by the international law conferences of the Hague or the League of Nations.

It would be beyond the scope of this article to describe the different status of women in family law in the different countries in detail; therefore, my focus in the first part of the essay will be on the use of family law relating to German women’s politics within the ICW, comparing their ideas and tactics to those of feminists from other countries. The second part will highlight the two different levels of feminist action on legal issues — one related to the “legal matter of family law”; the other, the “political level,” characterized by the use of family law as a tool for gaining influence within the ICW, making it a double-edged sword. After all, the ICW was not only a platform for the exchange of ideas but also for learning how to take political action and to make allies and — inadvertently — enemies.

The Social and Legal Background for the Women’s Struggle in Germany

In order to better understand German women’s struggle for emancipation, we have to compare the range of actions German women took to those within the English and U.S.-American women’s movements. These struggles took place in different political systems. Unlike their English and American counterparts, German women had to deal with issues like freedom of speech, censorship, and the right of assembly. Answered the ICW’s call to the founding congress in 1888, the “Allgemeiner Deutscher Frauenbund” stated: “In Germany we have to work with great tact and by conservative methods … The difference between our position and that of our American sisters is largely due to the fact that you live in a Republic, we in a monarchy — you in a young country where everything is new, we in a land centuries old, where the ideas and habits of thought are, so to speak, encrusted in the people.” German activist Minna Cauer pointed out another difference in 1899 when she explained to her German readers that the English women’s movement was based on the notion of personal freedom as one of the basic features of the English system:


Hence the position of women, their work, and their struggles are entirely different from here in Germany or in other countries. English women do find support for their struggles in the aristocracy, in the church, in public opinion, and in the parliaments; with real English humor they ponder the pros and cons of women’s questions and are amused about the brave fight their women are putting up even though the fights might be strongly criticized and counteracted. But everybody does understand that English women do have a right to fight for their rights, and this is a big difference to the German women’s movement.8

The idea that women could fight for their rights as a matter of principle was certainly a minority position within Germany. The German gender ideology and ideas about the roles of men and women within the family and the state were far more rigid than British and American women could imagine. German women who traveled within the U.S. and encountered the way men behaved towards women often expressed great amazement about these differences, not only about the fact that middle-class women were gainfully employed in meaningful numbers or the professionalism with which British and American women acted in public functions, but also about gender roles in everyday family life. Alice Salomon, for example, mentioned one episode from her trip to the ICW congress in Canada in 1909 in her biography: “I shall never forget the wife of a young scholar who, when I rose to help clear the table, said indignantly: ‘In our house the men do that work!’ Off he went with the male guests to wash the dishes while his wife entertained the women in the living room. I had never seen anything like this before. It would have shocked a strong German male!”9

Just like German men would not have washed the dishes, they would also rarely collaborate in the cause for women’s emancipation, and few men supported women’s rights in principle. The English and American women’s movement, on the other hand, had early on joined the cause with other reform movements; U.S. feminists, for example, joined forces with the anti-slavery movement; in 1850s England, the Langham Place Group around Barbara Leigh Smith cooperated with the Law Amendment Society, which fought to end the double standard in common law and equity justice.10 This kind of collaboration was generally not practiced in Germany; advocates for women’s causes worked in isolation.11 Furthermore, had the German women’s movement assumed

11 Especially in the very beginning of the German women’s movement, men took an active role in the different organizations like the Lette Verein and also within the ADF. There were individual male supporters of the women’s cause but no institutional support as in England and the U.S. For the individual support, see Katherine E. Hubler, “Man’s Duty to Woman: Men and the First Wave Of German Feminism, 1865-1919,” PhD thesis, Boston College, 2012.
an inter- or transnational perspective, it could have hurt its standing since “internationalism” was associated primarily with the international socialist movement. To be “international” in an imperialist, national, and colonial society was perceived as anti-nationalist.12

Like the socialist movement, the women’s movement was not very popular with the government or with society at large in Germany, so German women, like socialists, had to steer their ship carefully through troubled political waters. Therefore, it does not come as a surprise that German women chose to focus on topics that were not as openly political as “voting rights” but were more in line with the traditional “female sphere” of influence: education and welfare. A remark Käthe Schirmacher, who attended the ICW congress 1893 in Chicago, made about her observations confirms this focus: “[I would like to summarize that the six German delegates represented all the claims of the German women’s movement in the areas of professional education, higher education and their demands in the context of the kindergarten movement and universities. All of these are naturally the areas in which the women’s movement focuses at home as well.]”13 Many English and American women considered the approaches of their German sisters to be conservative, backward, and tame14 and felt like pioneers when it came to enlightening the women of the other nations, as suggested in this comment by Marie Stritt in her report on the ICW congress in London: “[I don’t think that our gracious English and American sisters in spirit will deduce any kind of obligation on their part to be better informed about the work of their like-minded sisters in the future. The pleasant awareness to have brought the ‘late-comers’ onto the right way should remain enough prospect for them.]”15

German women were strongly aware of (and hurt by) these judgments and often mentioned that other feminists were amazed by the fact that the interests of German women went beyond “Kinder, Küche, Kirche,” the infamous “children, kitchen, church.”16

There was another difference we have to keep in mind when comparing the ranges of action of German feminists with their American and English counterparts, who dominated the ICW: the legal difference. The respective legal cultures strongly shaped the fights women waged and their approaches to legal struggles.


14 E.g., as mentioned in Bäumer, Lebensweg, 207, as well as the other examples in the main text.


Common law in England and the U.S. is based on case law, which means individual women could construct strong cases that carried consequences for other women. An example in family law was Caroline Norton; she pushed for the first changes in English custody law, the Custody Infants Act in 1839, as an individual — a wronged wife — rather than as a representative of the broader women’s movement. Likewise, in the U.S., Ann Hora Connelly pushed a similar case successfully through the courts in New Jersey when the efforts of the women’s movement, which had worked tirelessly to achieve the same success with their petitions, had come to nothing. Common law provided a framework within which women were able to obtain individual decisions, which then had a tremendous impact on women’s rights.

This was not the case in Germany or in France. An advantageous individual court ruling had no precedence whatsoever for other women, even in similar cases. That meant women could not use the courts to change the law, nor could they file petitions officially in the parliaments; they needed male allies in the legislative bodies, since their petitions were not legally binding. Only after their enfranchisement in 1918 could German women file their own petitions from outside and inside the legislative bodies. The character of these petitions differed again from those of their English and American sisters. German women’s petitions were generally not based on individual cases of breaches of family law, though the feminists broadly knew these cases. They had even asked for a collection of these cases as “material for female martyrdom” but were unable to use it. Instead, they used only the essence of the cases in drafting their legal bill, which was written by Louise Otto-Peters. Because of their legal system, German women had to proceed in a highly abstract way but also to the point as they filed “legal petitions” that already contained legal changes and paragraphs. Thus, the German women’s movement acted as a legislator in its own right.

In this context, I would like to turn to the concrete family law struggles, as it was in this area that the German women started to practice their work as “imagined legislators.” When the first draft of the new German Civil Code was published in the 1870s, women within the movement slowly came to realize that the new draft provided no progress for married women in terms of equal rights within the family, neither as mothers nor as wives. Indeed, the opposite was the case: the Civil Code was retrograde compared to the legal


position of women in earlier legal codes. Especially in the 1890s, it
dawned on German feminists that they had to put all their efforts,
which had previously been focused on women’s education and social
charity work, into fighting the newly drafted Civil Code, making the
women’s question also and foremost a legal question. As lawyer Anita
Augspurg once put it: “The women’s question is to a considerable
degree a question of economics, but maybe to an even greater extent
a question of culture . . . but first and foremost it is a legal ques-
tion because only upon the foundation of warranted rights, not the
imaginary ones . . . can a definite solution even be thought about.”

German feminists realized that women only had a chance for equal
social, civic, and political rights if they achieved legal equality with
men. In order to do so, the movement needed its own female lawyers
who were able to lead this fight on equal terms with male lawyers,
to change the law gradually from within the justice system as judges
and attorneys, and to bring forth women legislators who would work
for legislative progress.

Women’s legal struggle not only involved improving their under-
standing of the important role the law had in women’s lives, but also
united the BDF more quickly into a strong working group than other
national councils of the ICW. In a way the struggle around family
law was the bond that tied the women together and made the BDF a
success, as Marie Stritt pointed out in 1899:

Undoubtedly, the common danger of the new Civil Code
has brought the different [women’s] movements closer to
each other and has awakened the long-missed awareness of
solidarity .... This rally of women [about the family law],
which has no precedence, shows most clearly how, in a
short time of two years, also the most tentative members
grew into the work of the national council, and it proves
how the common work on some few areas made us aware
and promoted the inner connection of all women’s interest
and goals.

Family Law on the Agenda of the ICW Congresses
Perhaps BDF women came to understand at this point that the
struggle for equal rights in family law might turn out to be more
difficult than the struggle for suffrage in the long run. In any case,
they had found the topic they wanted to lobby for within the ICW,
understanding the importance it carried not only for them nationally but for all women globally. Women were more immediately affected by these laws in their self-image as mothers and wives in everyday life than by the limitations of having or not having the franchise or other civil rights. BDF feminists might have believed that family law as a general focus in the ICW could eventually serve the same function as it had for the BDF in Germany: to reunite the disparate ICW around one common topic that seemed to be — at least superficially — less political than suffrage or peace, the two topics broadly discussed in the ICW around the turn of the century. These were both issues the BDF and other German women’s movements inside and outside the BDF disagreed upon so that German women could not possibly join the cause. Yet, they strove to leave their mark in the work of the ICW. Women’s education, another important BDF priority, was also a central focus on the ICW agenda, but it was not a unique selling point — almost all the member councils of the ICW worked for more educational opportunities for women.23 The BDF could not win points in the debate about women’s labor protection, either, as it took a conservative stand in supporting women’s labor protection.24 But family law gave German feminists in the ICW the topic they could pursue in order to gain competence and influence within the ICW.

Family-related questions had been on the agenda of the ICW congresses from the beginning as such laws hurt women most around the globe. In Washington in 1888, a section on “legal conditions” chaired by Susan B. Anthony focused on women in common law in the USA, Great Britain, Ireland, and India.25 But at that time it was a minor topic, and other areas clearly took precedence. In 1893 at the ICW Congress in Chicago, for example, 23 out of the 77 panels dealt with religious questions. The rest were overwhelmingly concerned with questions related to alcohol, education, moral issues, working conditions, and politics.26 Consequently, in the 1890s French, Belgian, and German women organized international congresses outside the ICW that were primarily dedicated to legal issues. The international congress of Brussels in 1897, for example, organized by the Belgian League for Women’s Rights, was dedicated to the legal situation of women and headed by the Belgian lawyer Marie Popelin. All the leading figures in the German women’s movement gave talks on family law, including Selma Proelss, Marie Stritt, Anita Augspurg, and Minna Cauer. They lectured on German women’s fight against the Civil Code and on one of the women’s movement’s...
informal petitions on the discrimination of women in family law in the Bundesgesetzbuch to the Reichstag, although the recent submission had not been successful. By this time, they were fully aware that equality was foremost a legal question: “Women have to keep going on fighting.” Marie Stritt concluded her talk, “because they can only achieve full equality if they gain equal rights to men in the laws and legislation.”

The London Congress in 1899

When the ICW congress took place in London in 1899, the BDF was ready to launch a project with a twofold purpose: First, to strengthen the position of the BDF within the board of the ICW in terms of improving the position of the single national councils within the ICW, and, second, to provide its own area of focus for women’s equal rights: family law.

The German national council was founded in 1894 and joined the ICW in 1896. It was one of the first members of the ICW, which was reflected in German being one of the three official languages of the ICW, along with English and French. At the time of the London Congress in 1899, the BDF was greatly disappointed in the ICW and the leadership of Lady Aberdeen and especially in her corresponding secretary, Teresa Wilson, with whom Germany’s corresponding secretary, Anna Simson, had strongly disagreed on numerous issues.

The German women thought that the English leadership was responsible for the disorganized state of the council, that the English women’s movement was not strong enough to unite the different countries, and that the ICW simply needed a broader common idea to achieve such unity. German feminists also thought that the ICW had accomplished so little up to that point because it lacked real solidarity among the member nations. They were convinced that a strong common idea and fight like the one the BDF was waging against the Civil Code in Germany would also give ICW member nations a chance to grow together on the international level. Another German proposal was to have each of the national councils submit status reports twice a year that would then be distributed to all member councils so they would be informed about each other’s activities on a regular basis and thus strengthen their international ties. The Austrian, Swiss, and German women all considered the ICW too disorganized and too apolitical; yet at the same time they saw its aim as primarily to be an umbrella organization founded

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28 Marie Stritt, Letter of June 8, 1899, HLA Abt 17 IV, 83-328.

29 Ibid.
Furthermore, BDF women thought that Lady Aberdeen’s position as the president of the ICW tipped “the principle of checks and balances in the different nations” of the ICW too much in favor of English women. Moreover, living in a monarchy themselves, they resented the influence of the large number of noble women in the English movement and did not want to be represented by one. As Anna Simson informed Teresa Wilson in 1899: “The German women’s movement is a thoroughly ‘bourgeois’ one and as a women’s movement rejects all mere charity work by aristocrats, the conservatives, and the Church.” As most European councils were not yet established and the ICW was dominated by English-speaking councils that were somewhat prejudiced against the German movement, the German women were realistic enough to see no German woman would get elected as president in that climate. This was especially upsetting as there seemed to have been an earlier agreement dating from the executive meeting in London 1898 (or even earlier) that the BDF’s offer to host the 1903 congress in Berlin would go hand in hand with the ICW presidency. Lady Aberdeen seemed to be willing to go along with this agreement and suggested that the German empress Victoria be elected president of the council. Teresa Wilson suggested that, if not the empress, then perhaps the German council could “nominate some well known & outstanding German woman, of rank & social position,” someone such as the Austrian baroness Bertha von Suttner or the Finnish Baroness Alexandra Gripenberg. Simson, in turn, suggested that German women valued achievements over social position. As they could not agree on a German candidate, the BDF realized that they would not be able to obtain enough votes for a German candidacy. Thus, they decided to work against the reelection of Lady Aberdeen as president and supported the candidacy of the American May Wright Sewall instead, not only because of her personality and her middle-class background, but also because no representative of the US council had yet been at the helm of the ICW. Sewall prevailed, becoming the new president, and the German Jeannette Schwerin was elected treasurer and thus a member of the executive board.


31 Marie Stritt, Letter of June 8, 1899, LA Berlin, HLA Abt 17 IV, 83-328.

32 Letter from Anna Simson to Teresa Wilson, Feb. 4, 1899, ibid.

33 Marie Stritt, Letter of June 8, 1899, LA Berlin, ibid.

34 “In consideration of the desire of the German Council that in view of the International Conference of 1903 meeting in Berlin, it would be well for the President to be in or near Germany, so not to be far from the place of Conference, it was suggested ...” International- al Council of Women, Pam- phlets, nos. 1-7, Report of the Executive Committee (London, 1898), 5.


36 Anna Simson to Teresa Wilson, Feb. 4, 1899, ibid.

37 To the BDF they sold the election as a “sole exchange of of- fices” between Lady Aberdeen and May Wright Sewall. See Anna Pappritz, “Die Neuwahl des International Council of Women,” Neues Frauenblatt 3, no. 2 (1899): 559-60, 559.
women’s congress could take place in Berlin “as so many subjects were not permitted for discussions by women in Germany” because of the German association laws.38

The other BDF strategy for gaining ground within the ICW was to launch its own area of expertise: family law. To introduce it, the BDF formulated a petition with the character of a bill, complete with legal reasoning and a literature list, reflecting a style and strategy it had acquired in the struggle against the German Civil Code. The petition had “the goal of eliminating the barriers which the laws had drawn against the right of the woman to exercise her rights freely.”39 It is not surprising that German feminists did not follow through with these concrete suggestions, as the ICW had committed to abstaining from adopting concrete political goals, which would obligate member states to pursue them. Another basic ICW principle was that resolutions could only be passed unanimously, without any dissenting vote. And, in fact, how would a common goal be achieved, especially in family law, an area in which countless different legal systems and cultures with different levels of existing equal or discriminating laws for women had to be considered? Progress in one country could be a setback in another. On the other hand, it might have been possible for the ICW to address common characteristics on a general level. There is some evidence that the ICW did this in its first years but less so later, when national priorities became increasingly important. Only in some legal areas, such as the nationality of married women or women’s labor protection, did a broader long-term discourse evolve.40 While the BDF failed to push its concrete petition through in London, it did manage to establish a new legal committee — ironically headed by a German noblewoman, Countess Olga von Beschwitz, who had authored one of the family law petitions to the German Reichstag.41 In addition, the BDF succeeded in determining the appointments of all the legal experts, especially in the “Women in Industrial Life” section; the group for “civil disabilities of women” featured the German lawyer Anita Augspurg and Marie Stritt as well the Belgian lawyer Maria Popelin and the French feminist Jeanne Oddo-Deflou.42

It seems as if BDF delegates also succeeded in getting their second idea taken up in the ICW: to strengthen the bond between the councils by exchanging information on a regular basis. At least the

39 The original handwritten petition from 1899, LA Berlin Fiche 81-322 HLA 3219 BFG.
41 Besides Olga von Beschwitz, it consisted of Dr. phil. Alexandra Skoglund (Sweden), Emily Janes (England), Ragna Schou (Denmark), Rose Scott (New South Wales), Boddaert (Netherlands), Sievwright (New Zealand), Bock-Jeger (Switzerland), Marie d’Abbade d’Arrast (France), Marie Spitzer (Austria), and Dr. iur. Nanna Meyer (Norway). Olga von Beschwitz, Begleitschrift zu der Massenpetition des Bundesschter Frauenvereins, betreffend das Familienrecht des neuen B.G.B. für das Deutsche Recht (Leipzig, 1899); reprint in Centralblatt: Bund Deutscher Frauenvereine 1, no. 5 (1899): 1-36.
The Berlin Congress of 1904

In the end, the BDF decided to proceed as planned with hosting the next ICW congress, even though no German woman had become president. They made sure to make a lasting impression on their international guests by organizing the congress themselves. This became possible because unlike previous ICW conferences and in accordance with new bylaws passed in London, the Berlin conference was not organized by the executive board of the ICW but by the hosting national council. As expectations were low, the surprise was great that German women were not, after all, as backwards as their English-speaking peers had thought — not in terms of the program, the organization, or the social events. It was “the most remarkable Congress of Women ever held,” Lady
Aberdeen remarked. The luxury displayed at the Congress once more revealed the split within the German women’s movement. Apparently, there was a significant gap between the BDF, on the one hand, and left-liberal and socialist women, on the other, who did not feel represented by this Congress at all. International socialist, working-class, or trade unionist women like Margaret Bondfield also complained that the luxury “exceeded anything we had ever seen: orchids by the hundred for table decoration, sprays for each guest, many courses, and six glasses for wine, etc. beside each plate,” while she could not detect any delegate who had practical experience with industrial working conditions. The once problematic relationship between Lady Aberdeen and the German council, though, was forgotten, as Helene Lange developed a close friendship with her. Lange had previously been rather suspicious of international meetings and had hardly ever participated in them before.

On legal issues, the standing legal committee gained momentum in Berlin with the appearance of the first feminist lawyers. These delegates knew the dry material of the law and were often able to translate the legal language into concepts that the majority of feminists, most of whom lacked a legal education, could easily understand. The French national council, the Conseil National des Femmes Françaises (CNFF), reestablished in 1901, in particular, had started to address issues related to family law once again following the second international congress on women’s rights in Paris in 1899. In France, where, according to Jeanne Oddo-Deflou, the legal situation was “about the worst in Europe, such as to render any intelligent and energetic woman hesitant to plunge into marriage,” the centennial celebrations of the Code Napoleon and a new extra-parliamentary commission set up to study the possible reform of the code brought family law back to the forefront of public debate. In October 1904,


46 Gertrud Bäumer, Lebensweg durch eine Zeitenwende (Tübingen, 1933), 205; Else Lüders, “Der Internationale Frauenkongress,” Frauenbewegung 10, no. 13 (1904): 34.


48 Helene Lange, Lebenserinnerungen (Berlin, 1925), 234.

49 Kimble and Röwekamp, “Legal Cultures and Communities of Protest,” 1–43; as well as Sara Kimble’s chapter in this volume.


Hubertine Auclert, Caroline Kaufmann, and Jeanne Oddo-Deflou tried to burn a copy of the Code Civil on the Place Vendome in Paris to protest the subordination of married women within the family that this body of laws codified. The French national council founded a standing legal committee chaired by Marie D’Abbadie d’Arrast with Oddo-Deflou as secretary. By the time of the Berlin Congress in 1904, the CNFF was ready to support the German approach to pursuing issues of family law within the ICW. It made this point clear at the congress when d’Arrast took over the chair of the legal standing committee.

The German organizers of the Berlin conference also made sure that one of the four sections on the program was dedicated exclusively to women’s legal position. They divided this section into six panels dedicated to family law questions, including one that compared married women’s property laws in France, the Netherlands, and England, and one that discussed family law as it related to children with talks on parental power, guardianship law, and the status of illegitimate children and their mothers. A number of legal specialists presented their national cases: Marianne Weber opened the section with a talk based on her 1907 study of the comparative historical development of marriage law; Belgian lawyer Marie Popelin talked about the legal position of married women in Belgium; Mrs. Napier discussed “Laws concerning Domestic Relations” in New Zealand; and Mrs. Blankenburg and Susan B. Anthony covered the same topic regarding the U.S. situation. Other presentations included one by Oddo-Deflou on women’s property law in France as well as on illegitimate children, a discussion of German marital property law, illegitimate children and their mothers by German lawyers Marie Raschke and Frieda Duensing; and another on Dutch marital property law by Dutch lawyer Elizabeth van Dorp.

Other talks related to legal questions included one by Margarete Bennewiz on the first legal aid clinics for women, which had been founded in 1894 in Dresden. She highlighted the incomparability of German legal aid clinics because other nations had not undertaken them to the same extent, and concluded: “It would be a great pleasure to me if my short talk would motivate my foreign sisters in the international women’s movement to establish similar programs in their home countries.” The other legal panels were dedicated to public and social law with a strong focus on the progression of voting laws, from the church to the local level and finally national suffrage.
At the Berlin Congress, not only the ICW but also the BDF committed itself to fully supporting women’s suffrage for the first time. As a result, a new committee on Women’s Suffrage and Rights of Citizenship was established with Anna Howard Shaw as a convener, along with a sub-committee on Married Women’s Nationality led by Camille Vidart. The sub-committee dealt with the legal issue of women’s nationality being determined in almost all countries on the basis of their fathers and later their husbands. It was a problem for women when they automatically lost their nationality once they married a foreigner. Ultimately, family law worked its way onto the ICW’s agenda; the German council was supported by the French council, which would eventually take over the push for family law issues in the ICW.

The Toronto Congress of 1909 and “Women’s position in the Law of the Nations”

At the ICW’s fourth quinquennial conference in Toronto in 1909, the German project went one step further. Based on their earlier critique of the superficiality of the congresses, German delegates suggested focusing on fewer topics and selecting those that were important to all ICW members, and inviting specialists on those issues. For example, Alice Salomon asked the moment had not arrived to leave the “big, general overviews in favor of a focus on some chosen special topics.” French women were absent from this congress, as were unfortunately most of the committee conveners except for Anna Shaw, which made the work more complicated. But the German delegates still managed to recommend that a generalized survey be created of ICW members on the status of women in the law, in “the home, the family, the municipality, and the state.” The Scottish delegate Ogilvie Gordon, seconded by the Austrian Marianne Hainisch, asked that a report on “Women’s Position in the Law of the Nations” be drawn up in the executive committee. When it was generated, the purpose was stated in the introduction as being to educate a broader audience of women in questions of law, and “to provide a clear statement, 58 Catherine Jacques, “Tracking Feminist Interventions in International Law Issues at the League of Nations: From the Nationality of Married Women to Legal Equality in the Family, 1919–1970,” in New Perspectives on European Women’s Legal History, ed. Kimble and Röwekamp, 321-48.


60 Marie Stritt, Dr. Franziska Tiburtius, Dr. Agnes Bluhm, Bertha Pappenheim, Ida Kirch, Eleonore Drenkhahn, Ella Hagemann, Dr. Alice Salomon.

suitable for circulation in many lands, which should serve to show that existing laws often bear adversely and with entire injustice upon women, and can no longer be regarded as in harmony with that higher standard of enlightenment, that broader culture, and stronger grasp of public duties and responsibilities which are characteristic features of present-day womanhood in every great nation of the world. The survey was finally published in Karlsruhe, Germany, in the three official council languages in 1912.

Most of the reports of the 1912 survey dealt with women’s loss of their legal position as soon as they married — that is, they lost the right to manage their own property as well as their salary and income, and there were other disadvantages related to inheritance laws, parental custody, divorce, alimony, personal marriage law, guardianship and illegitimate children, as well as nationality law. While there were slight differences in the treatment of married women in the various ICW membership countries, all of them still had strong legal discriminations against married women. Most member states pointed to problems such as the need for financial independence of married women and equal salaries for equal work. They suggested that women’s housework be recognized as an economic asset to a marriage, that separate property regimes with separate administration of husbands’ and wives’ properties be introduced and that their common assets accumulate during marriage in case of divorce. Most members also pointed to a double moral standard in the existing legal codes, an issue the ICW had addressed as early as 1889, when it established a committee for “equal moral standards.”

A great number of the national reports in the 1912 survey were written by female lawyers, but most remained rather descriptive, not least because some authors wished to focus on women’s suffrage rather than individual laws. The report by the American lawyer Ellen Spencer Mussey, for example, stressed the legal and political achievements of women rather than pointing out the remaining problems. Mussey was convinced that suffrage would lead automatically to equal rights in other areas and stressed public before private rights. Suffrage clearly was the hinge the U.S. women’s movement believed in. While reserved and descriptive, the American report still presented a national action program: suffrage first, then other rights would follow automatically.

The German report, by contrast, written by Camilla Jellinek, a self-trained lawyer, went beyond merely stating an agenda of action but

62 Ibid., vi.
63 The report has so far rarely been the topic of deeper research. One exception is Arne Duncker, “Die ‘Stellung der Frau im Recht der Kulturstaaten’ 1912. Eine offizielle Bestandsaufnahme nebst Handlungsvorschlägen im Auftrag des International Council of Women,” in Reformforderungen international, ed. Meder and Mecke, 770-83.
64 Aberdeen, Women in Industrial Life, 128.
also included a thoughtful assessment of the legal situation of German women and introduced new ideas that could serve as a common denominator for national and international feminist action. First, Jellinek redefined the rough guideline of topics that all chapters were supposed to deal with, described the differences within the German women’s movement, and called for legal changes in divorce and other laws. Many other reports had merely described the existing legal situation. Jellinek suggested concrete reform changes in the form of a bill, as was quite typical of the German women’s movements. Also typical was her focus on questions related to private law without excluding public law. But what also becomes clear from Jellinek’s report is that German women did not expect rapid legal change but rather hoped to be able to influence male legislators until a change of the political system and, with it, women’s suffrage would eventually improve their situation.\(^{66}\)

Despite the variations in the tone and focus of the individual reports, with the 1912 survey, the ICW committed to the goal of equal laws. For the moment, it prioritized them over protective laws, focusing especially on labor legislation for women, even if more descriptively than prescriptively.\(^{67}\) The descriptive reports nonetheless enabled national members to employ transnational arguments in their national struggles. To my knowledge, this was the first such report ever assembled by a collective international group of women. The BDF finally had its first concrete result, which, although it was not a political guideline for member states of the ICW, could be used politically in the national member states. Moreover, the supposed modernism and progress in other countries in comparison to the backwards situation in Germany that it made apparent did have some impact.

The First World War ended any ICW efforts to promote major legal changes. Only the legal aspects of married women’s nationality survived the war, remaining on the ICW’s agenda. \(^{67}\) The German women’s movement, as almost all other ICW members, returned exclusively to national causes supporting the government’s war efforts, as Minna Cauer wrote sadly at the ICW Congress in Rome in 1914: “There is no news about Germany because even the bigger women’s organizations like the BDF only give lip service to international work, but they purposely, if not to say principally, don’t work on it anymore. Germany is immobilized by the military and the weapons and will always remain so. German women show more enmity than willingness concerning the idea of initiating an international peace of all nations.”\(^{68}\)

\(^{66}\) Ibid., 19-35.
This was a sad conclusion to the BDF’s first contribution to international work within the context of the ICW. All in all, looking at the interaction of the BDF and the ICW reveals three things. First, it shows that it does not suffice to use a top-down approach to describe the history of the transnational women’s movement; we have to involve the national member states and their work and thoughts about the international movement. This is especially so as national and international work originated from the same ideas and actors and consequently influenced each other. The interaction between the national campaigns and the international community clearly needs further study. In addition, the focus on other areas like suffrage provides new perspectives on the history of the international women’s movement, which also clearly needs to be further explored. And finally, the BDF pushed family law on the agenda of the International Council of Women. When Germans withdrew, the French council and especially its legal experts joined the cause and brought it alive, as Karen Offen and Sara Kimble have shown.69 Because of the pressure of the German and the French women’s movements, both nationally and internationally, family law became a focus of international reforms. This was truly a “revolutionary” step.70 Beyond that, the ICW itself was a revolutionary organization, in spite of its self-proclaimed “unpolitical” principles. It worked as a transnational women’s parliament long before the idea of a league of nations was born, as Alice Salomon stressed in her autobiography: The ICW pooled “the efforts of women of all classes, creeds, and nations for the advancement of their sex and the welfare of mankind. It was long before the League of Nations had been conceived, but this was a Women’s League of Nations, with all the birth pangs such an ambitious body was bound to have.”71