

## New (Sex) Work? Digitalization, Circular Mobility, and Recognition in the Regulation of Sex Work in Switzerland

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*Abstract:* With the rise of digital technologies, changing mobility regimes, and the transformation of social and sexual norms, the sex industry has become an employment sector for many. This article looks at the regulation of sex work in eleven Swiss cantons and a city since 1992 from a New Work perspective using Critical Frame Analysis. I argue that the regulation only marginally considered these recent changes. It focussed on traditional forms of sex work associated with migrant women and failed to address material conditions in a diversifying industry.

*Keywords:* Sex work, New Work, digitalization, circular mobility, care

### Nouveau travail (du sexe)? Digitalisation, mobilité circulaire et reconnaissance dans la réglementation du travail du sexe en Suisse

*Résumé:* La digitalisation, l'évolution des régimes de mobilité et des normes sociales et sexuelles ont fait de l'industrie du sexe un secteur d'emploi pour de nombreuses personnes. Cet article étudie la réglementation du travail du sexe dans onze cantons et une ville suisse depuis 1992 dans l'optique du Nouveau Travail. L'analyse critique du cadre montre que la réglementation considérait à peine ces changements, se focalisant sur le travail du sexe traditionnel associé aux migrantes plutôt que sur les conditions matérielles dans un secteur diversifié.

*Mots-clés:* Travail du sexe, nouveau travail, digitalisation, mobilité circulaire, care

### Neue (Sex-)Arbeit? Digitalisierung, zirkuläre Mobilität und Anerkennung in der Regulierung der Sexarbeit in der Schweiz

*Zusammenfassung:* Digitalisierung, sich verändernde Mobilitätsregime und der Wandel sozialer und sexueller Normen haben die Sexindustrie zu einem Beschäftigungssektor für viele gemacht. Dieser Artikel analysiert die Regulierung der Sexarbeit in elf Schweizer Kantonen und einer Stadt seit 1992 aus einer Neue-Arbeit-Perspektive. Anhand einer kritischen Frame-Analyse zeige ich auf, dass neuste Veränderungen kaum Beachtung fanden. Reguliert wurde die mit Migrantinnen assoziierte traditionelle Sexarbeit und weniger die materiellen Bedingungen in einer diversifizierenden Branche.

*Schlüsselwörter:* Sexarbeit, neue Arbeit, Digitalisierung, zirkuläre Mobilität, Care

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## 1 Introduction

The sex industry in Switzerland has undergone profound changes in recent decades due to the development of digital spaces where sexual services are marketized and provided, the liberalization of intra-European mobilities and increasing restrictions imposed on the mobilities of people without EU/EFTA citizenship, and evolving legal and social norms regarding sexuality in general and paid sexual services in particular. These transformations led to an increase in the number of sex workers and businesses in Switzerland, but also to a diversification of the offer, venues (indoor, online), and modalities of sex work (temporary, part-time, independent or salaried employment) (Biberstein & Killias, 2015). While these changes are not unique to Switzerland, its consistently liberal regulation of sex work contrast with the growing tendency to criminalize the selling and/or buying of sexual services in Europe and beyond (Chimienti & Bugnon, 2018; Rubio Grundell, 2022; Wagenaar, 2018). Switzerland largely decriminalized sex work in 1992. Since then, it developed what has been described as a “largely humane form of light-touch regulation” (Wagenaar, 2018, p. 14), primarily at the level of cantons and municipalities. Between 1994 and 2022, ten out of 26 Swiss cantons adopted specific policies on sex work. This article looks at this subnational regulation of a transforming sex industry and ask to what extent the regulation served the workers in this industry.

Despite its legality, sex work in Switzerland remains a socially stigmatized occupation, associated in public discourse with violence and crime – especially in the context of migration (Chimienti & Bugnon, 2018, p. 139). This association has translated into a body of academic literature on sex work in Switzerland that adopts a harm reduction perspective, asking how and under what conditions sex workers experience violence, including human trafficking and forced prostitution, and how they can be protected from it (Biberstein & Killias, 2015; Büschi, 2014; Chimienti, 2009; Chimienti & Lieber, 2018; Le Breton, 2011; Molnar & Aebi, 2023; Molnar & Ros, 2022). I do not intend to dismiss the harm reduction approach, since sex work as a form of migrantized care work has been shown to be prone to exploitative conditions (Agustín, 2003; De Rivière & Schrader, 2021; Ehrenreich & Hochschild, 2003). However, an exclusive focus on the risks neglects important aspects of the transformation of the sex industry into a multifaceted employment sector.

This article looks at the regulation of sex work through the lens of *New Work*, which refers to an ideal of work that serves the worker (Bergmann, 2019). A *New Work* perspective starts from the assumption that sex work can be meaningful work that benefits the worker if the right conditions are in place. It responds to the need to revalorize different forms of care, affective, and reproductive work in the context of the unfolding social and ecological crises emerging under the productivity-centred capitalist model. I draw a connection between sex work and (paid) care work, arguing that the fight against the intersecting inequalities that underpin sex work as well

as other forms of care work should not result in fighting against the work itself, but rather in changing the organization of society.

The article is structured as follows: In section 2, I introduce the concept of New Work and discuss its relevance for sex work in the context of digitalization, circular mobility, and shifting social norms. Section 3 provides an overview of the data and methods used for this article. Section 4 analyses the regulation of sex work in Switzerland through the lens of New Work and in the light of three major developments affecting the sex industry: the rise of digital technologies, intra-European circular mobility, and the recognition of sex work. I conclude and summarize my findings in section 5.

## 2 Theoretical Framework: New Work and the Sex/Care Industry

Sex work encompasses a wide range of practices that involve the satisfaction of sexual human needs in return for payment. Some have placed sex work in the realm of paid care work: It entails emotional work that takes care of diverse needs for affection and intimacy which people consider fundamental to their wellbeing but may not be able to satisfy alone (De Rivière & Schrader, 2021; Ehrenreich & Hochschild, 2003; Siegmann, 2020). Sex work may be considered similar to work in the informal care sector, such as domestic work and privately organized child and elderly care, in that it is typically carried out by women and takes place in intimate and isolated private spaces (Agustín, 2003). This negatively affects the recognition of sex work and care work as “real work” and may be an obstacle to collective organizing among workers (Chau et al., 2018; Schwenken, 2006). Both care work and sex work are devalued and stigmatized, albeit to varying degrees depending on the modalities and social position of the worker (Agustín, 2003; De Rivière & Schrader, 2021).

The question of meaningful work in the sex industry becomes crucial when sex work is understood as a form of paid care work. Against the common perception of commercial sex as an “unavoidable evil” (Euchner & Knill, 2015) that would not exist in an ideal world because it reflects economic and gendered inequalities, it could be argued that in a more equal society, sex work would be economically valued and socially recognized as essential, and a vocational option that anybody may choose. Feminist politics and scholarship have reimagined forms of social and economic organization which would put care work at the centre and create the conditions for this work to be rewarding for whom engages in it. In this context, the concept of New Work, developed by Frithjof Bergmann in the 1980s, provides a useful analytical lens. In a New Work conception of work, both paid and unpaid work are sources of energy for the worker, an enhancing component of people’s life, and perceived as meaningful and fulfilling. Paid work allows the worker to be economically independent while disposing of enough time to engage in meaning-

ful unpaid work, enjoy leisure time, and develop their own projects (Bergmann, 1990; 2019). In relation to sex work, the “new” in New Work may also be read as a reference to new modalities of work that emerged in recent decades. These new modalities offer an opportunity to rethink work in the sex industry.

In the following pages, I introduce three vignettes to show how sex work may fit within a New Work conception of work. The vignettes are excerpts from portraits of three sex workers in Switzerland published in a book (Hürlimann et al., 2020, p. 99–110), a television reportage (Carlin & Kohler, 2021), and a podcast (Héron & Nussbaum, 2019). They provide examples of sex work that is meaningful for the person doing it (vignettes 1 and 3) or a temporary, part-time, and flexible employment that sustains the worker’s meaningful projects outside of sex work (vignette 2). These vignettes also illustrate three fundamental changes that took place in the sex industry over the past decades – digitalization, intra-European circular mobility, and the recognition of sex work – as well as some of the challenges that came with these transformations.

*Vignette 1:* Mrs. Nice, online sexual content creator

*Journalist:* *At one point, you started with the creation of sexual content. What had you been doing before?*

*Mrs. Nice:* *Before, I was a watchmaker. So, something completely different, I would say. And then I considered whether I should take the risk and bet on this [sexual content creation].*

*Journalist:* *You did it.*

*Mrs. Nice:* *Exactly, and it was worth it.*

*Journalist:* *You never regret this decision?*

*Mrs. Nice:* *[No,] I like life much better like this. I have much more time, I am much, much happier.*

(Carlin & Kohler 2021, 06:28–07:05, own translation)

The first vignette refers to the digitalization of sex work. By digitalization I mean the increasing importance of digital technologies, such as the Internet and online platforms, in the marketing of in-person sexual services, recorded performances, or online live interactions (Swords et al. 2023). Emerging digital platform economies mediating between formally independent workers and clients opened up opportunities for flexible and remote work that allow people to balance paid work with other activities, including unpaid child or elderly care. On the downside, labour norms and protections are not extended to these economies (Koutsimpogiorgos et al., 2023; Rand 2018; Swords et al., 2023). Sex workers are vulnerable to the decisions of online platforms such as *OnlyFans* to ban explicit content (Cardoso et al., 2022; Easterbrook-Smith, 2023). This has reinforced precarity and social hierarchies in already precarious industries, such as the sex industry, in which migrants and women are overrepresented (Jones, 2015; Rand, 2018).

*Vignette 2: Emma, escort girl*

*Emma originally studied tourism and works part-time in a hotel in Spain. She does half and half: two weeks in Spain, two weeks in Switzerland. 'When I am at home, everything is about my part-time job, my family, my friends. Then I come to Switzerland, I change my SIM-card, and I am Emma.' If you want to have fun working as an escort, you need two lives, she says. 'Otherwise it destroys you. You need time to disconnect.'* (Hürlimann et al. 2020, 101–2, own translation)

The second vignette illustrates transnational mobility in the sex industry. With the introduction and gradual expansion of intra-European freedom of movement, circular mobility has become a common pattern in Western European care industries (Chau, 2019; Triandafyllidou & Marchetti, 2013), including the sex industry. This has had important repercussions on work arrangements: Sex work in Switzerland has increasingly taken the form of a temporary employment, and jobs in the sex industry are typically shared by several workers throughout the year (Biberstein & Killias, 2015). These circular labour mobility arrangements may bring advantages to workers in terms of improving their economic position (Chimienti, 2009) and being able to spend time on their own projects and family during the months in which they are not working abroad (Schilliger & Medici, 2012). However, labour rights of circularly mobile workers, such as time off, access to unemployment benefits, and other forms of social security, are often limited (Chau et al., 2018).

*Vignette 3: Claire, sexual assistant for persons with disabilities*

*It is true that if you want to make a career out of it [sexual assistance for persons with disabilities], there is nothing more fragile as a profession. It is not regular, you cannot make a living, you are not going to eat with that. But for the moment, I absolutely do not regret that I did it. The assistance has never emptied me of my energy, never. On the contrary, in fact I find that it is a wonderful, I mean, that it really gives me something, it doesn't take from me, it gives me. [...] I will always remember that during the years I have been working as a sexual assistant with all these people, they have felt good, it did them good.* (Héron & Nussbaum 2019, 20:20–21:34, own translation)

The third vignette illustrates a form of work in the sex industry that has been increasingly socially recognized in the past years. This growing recognition may be understood in the context of a liberalization of social and sexual norms and in relation to calls for more inclusion of people with disabilities (De Rivière & Schrader, 2021; Garofalo Geymonat, 2019). However, it has also been pointed out that the recognition of sexual assistance for persons with disabilities builds on a distinction between “good” and “bad” sex work, where the former is presented as an act of

charity towards people who “really need it” (De Rivière & Schrader, 2021, p. 255). This reinforces differences among sex workers based on class and migrant status, recognizing as professionals only those whose motivation is not primarily economic.

As the three vignettes and previous research on digitalization, circular mobility, and recognition in relation to care and sex work suggest, regulation shapes the conditions under which people engage in paid care and sex work. State intervention (including at the subnational level) can promote the structural conditions for meaningful work by protecting workers’ autonomy of choice and strengthening their social position (Osawa, 2022). The former implies that any form of regulation does not infringe on people’s autonomous life choices based on general normative considerations; the second means to secure the material conditions that allow people to make these choices (Osawa, 2022). With the revision of the Swiss Penal Code in 1992, state regulation of sexuality – including sex work – in Switzerland prioritized the protection of individual sexual liberty over the protection of public morals (Brown et al., 2017). This, in theory, constitutes a viable foundation for New Work, because it limits state interference with individual life choices. But in view of the challenges outlined above, it is important to analyse regulation also in terms of its role in securing the material conditions for New Work in the sex industry.

### 3 Data and Methods

This article builds on my doctoral research on the regulation of sex work in Switzerland from 1992 to 2022. The data that I used for this article consists of 109 publicly accessible policy documents collected from all cantons in which a substantial debate on sex work took place during the period under study (Basel-Stadt, Bern, Fribourg, Geneva, Jura, Lucerne, Neuchâtel, Solothurn, Ticino, Valais, Vaud) and the largest Swiss city (Zurich). I included the City of Zurich because its comprehensive law on sex work resembles cantonal regulations and made the adoption of a law by the Canton of Zurich obsolete. Documents were selected so as to include at least one document of the following categories per canton/city: interventions by members of parliament (motion, postulate, interpellation), government reports, parliamentary debates, and laws specifically on sex work. Moreover, documents were selected according to the criteria that they (1) directly contributed to regulation (or the decision not to regulate as in the Canton of Basel-Stadt), and (2) are as substantial as possible and include as many different voices as possible.

I analysed the data using Critical Frame Analysis (CFA) (Roggeband & Verloo, 2007; Verloo, 2005). CFA focusses on how actors define policy problems and propose solutions, considering that how problems are defined in the first place is crucial for understanding potential outcomes (Verloo 2005). Roggeband and Verloo (2007) asked “sensitizing questions” to the material under study as a concrete way

of working with CFA. In this article, I built on their approach focussing on the diagnosis (sensitizing questions: *What is the problem? What is not a problem? Whose problem is it?*) and on the prognosis (sensitizing question: *What needs to be done?*). I asked these sensitizing questions in relation to the three transformations in the sex industry – digitalization, circular mobility, and recognition – that I discussed in the theoretical section. This allowed me to examine the extent to which the creation of conditions that serve workers in the sex industry was at the centre of the debates and which factors enabled or prevented such a focus.

## 4 Analysis: Regulating New (Sex) Work in Switzerland

### 4.1 Digitalization

Digitalization, as a first major development shaping the sex industry since the 1990s, has affected its regulation to a lesser extent than what might be expected in the light of the scope of the impact of digitalization on sex markets (see Donzallaz & Crevoisier, 2022). In the analysed policy texts, the focus was primarily on those services that are provided in person. Emerging forms of sex work enabled through digital technologies, such as the production of porn videos and escort services, were either excluded or addressed through the extension of measures designed for “traditional” forms of sex work, as I am going to show in this section. Digitalization played a role in the regulation of sex work by contributing to raising the salience of the issue in Swiss cantons. With the increasing relocation of the sex industry to massage parlours, Champaign bars, cabarets, private apartments, and online platforms, Swiss cantons feared a loss of control over the sex industry. They shifted their focus away from street-based sex work to these new venues. A member of the Green party and rapporteur of a parliamentary commission in the Canton of Geneva described this shift as follows:

*[...] there has been a displacement of prostitution into spaces that are less identifiable, and therefore less controllable. We spoke very little about street prostitution, which seems to be well under control. The displacement that we have observed can be classified as follows: on the one hand, the cabarets and Champaign bars; on the other hand, the massage parlours. (Grand Conseil du Canton de Genève, 1998, p. 11)*

Digitalization was not diagnosed as the cause of the problem in the quote above. But the quote illustrates a shifting concern from the visible forms of sex work in public space towards those forms of sex work that are hidden from public view. Since the 1990s, an interest grew in the forms of commercial sex taking place in private spaces,

as well as a desire to bring to the light, expose, and regulate sex work taking place in these venues: All cantonal policies adopted since 1992 and the law on sex work of the City of Zurich regulated indoor sex businesses, introducing an obligation for these businesses to register or obtain a licence.

While policy actors defined the relocation of the sex industry as a problem, they simultaneously tried to exempt some of these emerging forms of and venues for commercial sex from regulation. This namely applied to “luxury” escort services provided in hotels and clients’ homes (Conseil d’État du Canton de Neuchâtel 2004, 8), sex work practiced independently by one or two sex workers in a private apartment (Grosser Rat des Kantons Bern, 2012, p. 153), or occasional sex work that students and housewives were thought to engage in to top up their income (Grand Conseil de l’État de Fribourg, 2010, p. 244). These exemptions were justified, as in a report by the cantonal government of Fribourg, by the claim that people engaging in these “unconventional” forms of sex work were not subject to any particular risks.

*People who only occasionally engage in prostitution are not subject to any particular risks, and therefore there is no justification for requiring them to report their activity to the authorities. (Conseil d’État du Canton de Fribourg, 2008, p. 10)*

As the quote suggests, the focus was on the risks of sex work. What is more, regulation was framed as stigmatizing for those whose participation in the sex industry was considered an autonomous choice (Grand Conseil de l’État de Fribourg, 2010, p. 244) and tailored to those who were seen as potential victims of “forced prostitution” and “acts of exploitation” (Conseil d’État du Canton de Fribourg, 2008, p. 3). The latter category was primarily made up, as a member of the cantonal government of Fribourg put it, of “foreign prostitutes in an irregular situation, who are particularly exposed to abuse and violence, which demands the adoption of protection and control measures” (Grand Conseil de l’État de Fribourg, 2010, p. 237).

In the Canton of Neuchâtel, at a time when the Internet favoured the development of a platform economy in the sex industry in the form of escort agencies that acted as intermediaries matching sex workers with clients, escorts and agencies were exempt from regulation (Conseil d’État du Canton de Neuchâtel, 2004, p. 8). Framed as “unproblematic” because working in a “luxury” segment of the sex market, escorts did not match the image of the typical, at-risk migrant sex worker. Only during the revision of the Canton’s sex work policy in 2016 were escort agencies included in the list of sex businesses that needed to obtain a license. The cantonal government argued in 2016 that the escort sector had expanded in recent years and threatened to escape the control of the cantonal police.

*The ads on the Internet show clearly an increase in the offer, especially of escort services. Our current regulation has become outdated and could, in*



*the short or mid run, make us risk a loss of control.* (Grand Conseil du Canton de Neuchâtel, 2016, p. 2)

In 2016, escort agencies were included in the category of a sex business and subjected to the regulations applicable to these businesses, namely the obligation to obtain a license, keep a list of workers, and ensure that the latter were not subjected to any form of pressure compromising their individual sexual liberty (Grand Conseil du Canton de Neuchâtel, 2016). This inclusion meant an extension of the cantonal law's original logic of controlling migrant sex workers, framed as at risk, to the escort sector. It was not accompanied by an evaluation of or debate on the particular opportunities and challenges of work in the escort sector.

Pornography is another part of the sex industry that grew exponentially with the development of digital technologies. Pornography was, however, exclusively discussed and regulated in Swiss cantons in terms of protecting underage consumers, rather than the workers producing and performing in it. The cantonal laws on sex work of Neuchâtel and Jura included a chapter aimed at protecting minors from consuming pornography. The cantons of Lucerne and Solothurn excluded the work of porn actresses and actors from the definition of sex work (Regierungsrat des Kantons Luzern, 2018, p. 5; Regierungsrat des Kantons Solothurn, 2012, p. 44). In a report accompanying a project to introduce an article on sex work in the cantonal labour and economy law, the government of the Canton of Solothurn stated that

*Pornography is [...] not considered sex work. It is characterised by the fact that the sexual act is depicted in a performance in the form of films, texts, audio recordings, or images. This means that pornography involves the consumption of the performance as such, whereas sex work involves the direct consumption of a sexual act.* (Regierungsrat des Kantons Solothurn, 2012, p. 44)

The quote above stresses the importance of physical co-presence of the worker and the client in a given time and space in the definition of sex work. Cantonal laws on sex work narrowly defined sex work as an “act *on the human body* which aims to stimulate or satisfy the sexual instinct of at least one of the participants” (Conseil d'État du Canton du Valais, 2012, p. 3, emphasis added). From the early 2010s, there was a shift in the discourse of members of parliaments, government reports, and laws from the use of the term prostitution to the potentially larger term of sex work. But this did not go in hand with a diversification of the practices considered as sex work. By emphasising the body and the physical co-presence of workers and clients, subnational regulation continued to focus on the forms of sex work associated with and that can be part of a migration project.

Digitalization of the sex industry raised the salience of sex work in Swiss cantons, as it contributed to the relocation of sex work to indoor venues and to anxieties about the effects of pornography on youth. The diversification of the sex

industry and emerging forms of sex work as a result of this digitalization, however, were rarely addressed as an object of regulation. Despite a growing density of policies at the subnational level in Switzerland, the scarce attention paid to services that are provided with the use of digital technologies left large parts of the sex industry unregulated.

#### 4.2 Circular Mobility

Sex workers' circular mobility is not a new phenomenon: Already in the 1980s, erotic dancers employed on temporary visas in Swiss cabarets travelled back and forth between their countries of origin and places in Switzerland, Europe, and elsewhere (Dahinden, 2010, p. 324). With the Agreement on the Free Movement of People between Switzerland and the EU in 2002 and the gradual extension of intra-European freedom of movement to Eastern Europe, circular mobility in the sex industry gained new proportions. It became a dominant form of engaging in sex work in Switzerland (Biberstein & Killias, 2015). Policy debates on sex work in Switzerland increasingly focussed on mobile EU citizens working in the Swiss sex industry on a temporary basis. This temporariness of sex workers' stay was strongly emphasized in the debates.

Temporariness was put forward as an argument to question the legitimacy of the interest of mobile sex workers in comparison to those of Swiss sex workers, established migrant workers, or the general population. In particular starting from the early 2010s, sex workers were problematized as highly mobile, temporary workers. The growing supply of commercial sexual services put pressure on prices. Cantonal authorities struggled to tax circularly mobile, self-employed sex workers staying on a temporary basis and working in a stigmatized economic sector. Policy actors therefore increasingly framed mobile sex workers as unfair or even fraudulent competitors for Swiss (sex) workers.

*How can you make a mountain farmer or a manual worker in the city understand that he has to pay taxes when at the same time a sex worker from Romania, who registers with the foreigners' police in the City of Bern and states – and this is no exception! – that she earns an average of 10'000 to 12'000 francs a month, does not have to pay taxes on any of it? Where is the justice in that, where is the compensation for Swiss sex workers? (Grosser Rat des Kantons Bern, 2012, p. 138)*

Swiss sex workers, who had previously been dismissed as unproblematic in the regulation of sex work, became the group that cantonal policies claimed to protect. In contrast, mobile EU citizens working in the Swiss sex industry were ambiguously

portrayed as both calculating subjects and passive objects. On the one hand, they were accused of misusing freedom of movement; on the other hand, they were framed as potential victims who, unlike Swiss women (and men), were unable to choose sex work independently. Policymakers expressed this ambiguity in particular in relation to women from the “new” EU member states in the East of Europe:

*The fact that in the course of the liberalization of the labour market a relatively large number of sex workers from EU-10 countries [mostly Eastern European member states who joined the EU in 2004] enter Switzerland and only pretend to be self-employed (so-called bogus self-employment) has proven to be a problem. Experience shows that there are often people behind the sex workers who, to varying degrees, determine where or how they work.* (Regierungsrat des Kantons Bern, 2010, p. 997)

The EU enlargement process did not automatically extend equal mobility rights (to which Swiss citizens, too, have access since 2002) to citizens of the “new” EU member states. It delayed access to these rights, creating a regime of differential inclusion between “old” and “new” EU member states, and between fully European and *not yet* fully European citizens (Andrijasevic, 2009, p. 400). In policy debates in Switzerland, EU sex workers continued to be framed more often as victims or involved in illegal practices than as mobile workers and agentic subjects engaging in a legal economic activity. The temporality of European integration, but also of circular mobility fed into this differential treatment of transnationally mobile sex workers. Due to their temporary stay, policymakers questioned the need to guarantee full labour rights to mobile EU citizens whose formal right to move to Switzerland to engage in sex work was, nonetheless, acknowledged. As the government of the Canton of Bern noted in its policy report in 2011, “it should also not be overlooked that many sex workers from the EU region only work in Switzerland for a few weeks, which puts the social security aspect into perspective” (Regierungsrat des Kantons Bern, 2011, p. 137).

The discursively reinforced temporariness of circularly mobile sex workers had implications for the importance given in policy debates to their labour rights and social security. When the Covid-19 pandemic hit in 2020, EU citizens working in the Swiss sex industry on a 90-days short-term permit did not have access to any form of compensation for the loss of their income, while also workers with a more stable (C or B) permit often abstained from claiming benefits because of the risk of having their permit degraded, the administrative hurdles, the stigma, or the difficulty of proving their pre-pandemic income as independent service providers (Brüesch et al., 2021, p. 29; ProCoRe, 2021). Subnational sex work regulations in Switzerland had not secured the material conditions that would have enabled circularly mobile sex

workers to choose to stop sex work during the pandemic. Many sex workers had to continue working illegally and under precarious conditions to meet their financial needs (Brüesch et al., 2021).

The surge of circular mobility in the sex industry was a reason to deny certain categories of sex workers access to labour rights and social security, rather than a reason for cantonal and municipal policymakers to adjust regulation to the realities of circularly mobile sex workers. These workers were, as Chau, Pelzelmayer, and Schwiter (2018) and Palumbo, Corrado, and Triandafyllidou (2022) argued for care and other circularly mobile workers, discursively placed in their countries of origin, rather than recognized as residents of the city where they live for periods of time. Sex workers' temporariness served as an argument for policymakers who, based on moral or financial considerations, sought to prioritize certain interests in the city at the expense of sex workers.

*It is incomprehensible why the absolutely internationally operating, highly mobile, and very profitable prostitution industry should be protected more than the local population.* (Gemeinderat der Stadt Zürich, 2012, p. 2)

*[The excesses of street prostitution] affect the quality of life of residents, are harmful to business people (hoteliers, shops, etc.), and give tourists an image of Zurich that is unworthy of this city.* (CVP Fraktion des Gemeinderats der Stadt Zürich, 2012)

Although *de facto* residents of the city, sex workers were not included in the notion of “the local population” (*ansässige Bevölkerung*) in the first quote by a member of the liberal right-wing party during a debate in the municipal parliament of Zurich. Nor were sex workers included in the category of “business people” (*Gewerbebetreibende*) in the position paper by the Christian-Democratic party. The latter even put the interests of (by definition) highly mobile tourists before those of sex workers. Despite recognizing circular mobility as a common modality of engaging in sex work, policymakers discursively constructed this mobility as an anomaly, rather than taking it as a basis for regulating the sex industry in line with the reality of the majority of its workers.

### 4.3 Recognition

Since 1992, Swiss cantons and municipalities have adopted what may be described as liberal approaches to regulating sex work (Chimienti & Bugnon, 2018; Wageenaar, 2018), seeking to strike a balance between public interests and the rights of sex workers. In the 1990s and early 2000s, the approaches were based more on the consideration that criminalization would push the sex industry underground and

out of the reach of control authorities than on the conviction that sex work was to be recognized as a profession. Policymakers, on the Left especially, shared the ideological underpinnings of the (neo)abolitionist model of client criminalization that Sweden adopted in 1999 – which, in short, equates prostitution to violence against women – but were hesitant about its practical implications. As the speaker of the Socialist party argued in the cantonal parliament of Neuchâtel in 2005,

*While we can understand that a country like Sweden, which cannot be accused of being backward, has chosen the abolitionist system, [...] this system would have the effect of driving prostitution underground and would therefore not solve any of our concerns, such as prevention, information, etc.*  
(Grand Conseil du Canton de Neuchâtel, 2005, p. 100)

By the early 2010s, the dominant framing started to change from sex work as a social evil that had to be controlled and contained, and workers helped to exit, towards sex work as a legitimate occupation. In the majority German-speaking cantons of Bern, Lucerne, and Solothurn and in the City of Zurich that adopted laws on sex work starting from 2012, the recognition of sex work as work entered the mainstream of the debate. Sex workers were framed as professionals capable of making their own choices, and regulation as – in the words of a member of the right-wing Liberal party in the cantonal parliament of Bern – a way “[...] to put the change in values into practice, free prostitution from its shadow existence, and accept it as a trade.” (Grosser Rat des Kantons Bern, 2012, p. 140).

This change also took place in the French-speaking cantons of Geneva, Jura, Neuchâtel, and Vaud that revised their respective laws on sex work starting from the mid-2010s. Only a minority of members of parliaments, representing mainly religious parties, continued to contest this recognition.

The recognition of sex work in Switzerland as a legal and legitimate occupation did not go so far as to officialize it as a profession. An initiative by a Green party member of parliament in the Canton of Bern in 2006 which called for sex work to be given the status of an officially recognized profession was rejected on the grounds, among others, that vocational training as a sex worker would harm the sexual integrity of the trainee (Regierungsrat des Kantons Bern, 2006). Only one category of sexual service providers has come somewhat close to being recognized as professionals taking on a socially valuable task: sexual assistants for people with disabilities. Today in Switzerland, private associations offer professional training for sexual assistants with entry requirements, a selective admission process, and a certificate (Siffert & Aregger 2023). At a political level, however, sexual assistance has not been regulated. Debates in the cantons of Bern, Geneva, Neuchâtel, and Vaud were limited to the question of whether or not to exclude sexual assistants from the scope of the law on sex work.

*[...] Switzerland, like a number of Nordic countries, is a leader in the field of sexual assistance for disabled people. Under the [sex work] law as proposed, these sexual assistants would have been considered as engaging in prostitution and subject to the same rules. But we felt that this activity deserved not regulation as such, [...] but special recognition, in the form of exclusion from the scope of this law. (Grand Conseil du Canton de Genève, 2009, p. 9)*

The Canton of Geneva ultimately excluded sexual assistants for people with disabilities from the target group of its 2009 law on sex work, based on arguments that the former were not exposed to the same risks other sex workers were facing and that their professional activity served a socially useful purpose. The liberal right-wing member of the cantonal parliament of Geneva in the quote above framed the exclusion of sexual assistants from the scope of the cantonal law as a form of recognition in itself, drawing a clear line between sexual assistants and other sex workers, and between “deserving” and “undeserving” sex work. This way of recognizing sexual assistants in the Canton of Geneva was limited to a symbolic form of recognition. Similar to much of the unpaid or low-paid care work that is primarily done by women, it was valued in terms of a personal sacrifice rather than work, and the material working conditions were not addressed by regulation. Moreover, the recognition of certain forms of sex work happened against a constructed “other”: Sexual assistants were recognized as what they were *not*, namely “at risk” migrant sex workers engaging in sex work to earn an income. As the activities and venues for commercial sex associated with Swiss citizens and specialized assistants were excluded from regulation because considered unproblematic, the regulation of sex work was mainly for these “others”.

The shift that took place from an approach that sought to minimize harmful impact of regulation on sex workers in the 1990s and 2000s to an approach that attempted to destigmatize (parts of) the sex industry from the 2010s shaped the terminology of subnational debates and regulations. In 2019, the Canton of Lucerne introduced an article on sex work in an existing cantonal law. The article referred to sex work (*Sexarbeit*) and not prostitution.

*[In this draft law,] the term ‘sex work’ is used. This places the aspect of paid work at the centre, i. e. the offering and provision of sexual services in exchange for payment. (Regierungsrat des Kantons Luzern, 2018, p. 5)*

Four years earlier, in 2015, the cantonal parliament of Lucerne had rejected a comprehensive draft law on sex work that would have introduced a counselling and health prevention centre for sex workers run by the canton. Members of parliament rejected the draft law based on financial arguments, but also on the claim that supporting sex workers was a task for private associations and not the responsibility of the canton (Kantonsrat des Kantons Luzern, 2015, p. 1310). In the article adopted

in 2019, only a licensing system for sex businesses and police competences to control businesses were retained from the original draft law. However, the article used the term sex work, symbolically recognizing sex work as legitimate work and emphasizing the canton's liberal position on commercial sexual services.

Yet, the lack of social recognition and economic disadvantage are intertwined (Fraser, 2020). State intervention for meaningful work not only requires that the state recognizes people as autonomous subjects, but also that it creates the material conditions for people to be able to choose (Osawa, 2022). A liberal approach to sex work that recognizes certain forms of sex work at a symbolic level but fails to address material inequalities only in part creates the conditions for New Work in the sex industry. It reserves recognition and meaningful sex work for those who have the financial and other means to rely solely on themselves, which is at odds with the prevailing precarity in the Swiss sex industry.

## 5 Conclusion

This article used a New Work perspective to examine to what extent the regulation of sex work in Switzerland, in the context of recent transformations of the sex industry, has served those doing this work. It can be argued that Switzerland, by largely decriminalizing sex work in 1992, moved into the direction of protecting sex workers' rights, but only partly succeeded in creating the conditions for New Work – for work that serves the worker – in the sex industry. Over recent decades, digitalization, circular mobility in the context of intra-European freedom of movement, and the recognition of sex work as work created new, flexible, and potentially meaningful opportunities for many. The regulation of sex work at the subnational level considered these transformations of the sex industry, the opportunities, and also the challenges that arise only to a limited extent. The juxtaposition of the interests of Swiss and migrant sex workers in the regulation processes meant that forms of sex work that were framed as unproblematic because associated with Swiss sex workers (occasional sex work, sexual assistants) or because they did not seem directly connected to a migration process (sex work on digital platforms) were largely left unregulated. Circularly mobile sex workers were framed as unfair competitors, and their interests were omitted. And recognition amounted to exempting certain categories of workers from laws that were intended for those engaging in “traditional” forms of sex work. Hence, the regulation of sex work in Switzerland fell short of strengthening workers' socioeconomic position to make autonomous choices – including whether to engage in sex work at all, and if so, under what conditions – through access to labour rights, social security, and measures to combat stigma. This matters because valuing and recognizing sex work, like other forms of care work, as important and potentially meaningful work, and improving the conditions for all people who do

this work, could contribute to a reorganization of society and an economic model that puts life back at the centre.

## 6 References

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