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SETTING, *SETZUNG*, SEDIMENTATION

Political Conflict and Radical Democracy in Urban Planning

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This chapter aims to unfold the concept of 'setting-in-dispute' within a post-foundational understanding of the practice and theory of planning. Explicit *settings* in democratic struggles over public space become especially important in times when hegemonic power is itself unsettling in the sense of the general loss of welfare-state securities and—closer to the field of planning—of liberalizing urban development for financialization. Rather than avoiding contestation, planning propositions as explicit *settings* remain open to conflict and to dispute and they can act as a means for articulating dissensus.

Among the several contemporary approaches to planning theory, the two predominant tendencies stand out as conceptually and politically opposed to each other. First, we are confronted with the current hegemony of the communicative and collaborative paradigm in planning, informed by Jürgen Habermas' theory of deliberation and "grounded in interest-based negotiation and mediation" (Innes 2004: 5). The translation of this paradigm into a communicative planning agenda is—often in spite of its intentions—quite supportive of the neoliberal agenda of competition, growth, and, frequently, the privatization of public spaces and goods. As the logic of deliberation and participation rests on the shared aim of *consensus*, it logically gears toward reducing or incorporating dissensus, radical criticism or critique (Hillier 2003; Purcell 2009). Moreover, the hegemonic position of those who can take part in deliberation—those who have information, time and access to it or the respective position—is being reproduced: all too often, it is the position of white middle-classes in participatory processes and investing parties in cooperative planning processes (Arnstein 1969; Gabauer 2018). Secondly, the concept of agonistic pluralism, or 'agonistic planning theory' that is opposed to this paradigm, is based on Chantal Mouffe's concept of agonism, which maintains that *conflict*, not exclusively physically violent, is to be accepted and to be enabled as something that can be acted out (within certain frameworks) rather

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than being suppressed, in order to arrive at a shared public sphere (Mouffe 2013). Instead of being seen as the opposite of togetherness, conflict is what produces public spheres and, ultimately, societies.

By following the path of agonistic pluralism, this chapter focuses on agendas in planning public space that could be called 'dissensus-friendly'. This involves a notion of planning as a somewhat paradoxical program: it involves planning as a contingent 'setting' [*Setzung*] in dispute. The German word *Setzung* is difficult to translate, generally meaning the context and disposition motivating one's actions. *Setzung* is a practical and theoretical act of making valid or even bringing into existence. The word stems from the Latin word *ponere* for setting and placing, from which 'position' is also derived. What is essential for our purpose here is the position, which actors claim and mark in their *Setzung*, their setting, within planning politics. Any such claiming, any pointing toward a position, is always already undertaken *from* and *on* a certain position. With such a notion of positioning being always already there, not to be gotten rid of, we start to enter two tricky fields: the always stratified field, on which a confrontation of positions is carried out—and secondly the field of paradoxes that are put into play in post-foundational political theory.

Oliver Marchart's (2010) conceptual cues regarding political and social theorizing look to the paradox of foundation or founding in post-foundational theory: We are never done with negotiating with foundations because there are no stable foundations in our society. Foundations—the actions as well as the objects produced by them—are seen as no secure guarantees from which anything would follow with necessity. Three notions about foundations follow from this bundle of theorems. One is the paradox according to which the impossibility of something entails its condition of possibility (Derrida 2006). If we unfold this deconstructive point with a political eye on society, this means: It is impossible to give societies an ultimate, stable, all-defining ground or basic order. If a society were once and forever totally founded, there would be no change in it, thus no history, no human collective life as we know it, thus ultimately no society. Society is impossible as something fully founded, and yet, there are societies, and there are always *some* basic orders and foundations, and as we know, they change in the course of time. This impossibility of a comprehensive foundation requires partial foundations—and also makes societies possible in the first place. Societies and social spaces are never entirely without order. The second notion concerns the fact that foundations are neither stable nor simply absent. Social foundations are *contingent*—and politics is the way of dealing with this very contingency. Contingency does not mean 'accidental' or 'just any way we please' or 'doesn't matter'. In conceptualizing society, and thus planning politics, we are far from saying that foundations are something that is there just by accident or that in social ordering and planning anything goes (or flows). Here is where we depart from any outright anti-fundamentalist approach, post-modernist playfulness or outright nihilism: It is not that in society everything is in total flux, or total dispersal; there is always some degree of stabilization and identification.

Foundations are contingent, which means: *They matter.* Social reality and its foundations could always be different because people or groups 'do care' and 'do dispute' and struggle and even fight about this. The third notion focuses on political understanding, where any foundation is 'in dispute'. In German, I call it *strittig* [*im Streit*]. It is something arrived at in a *Setzung*, which is a *Durchsetzung*, a setting which is a 'making-valid by pushing-through' of a certain aim, of a certain form of order, against another form of order that has been advocated, struggled for by another group of society. Yet, these other voices, positioned propositions, *Setzungen* are not silenced forever, but there is always the possibility of a given ground, an existing order being disputed and contested again.

So, if it was stated that people are always already positioned, we can now complement this point with the following: A position is always in dispute, that is, is never done with the necessity of having to (re-)state a point. The act of positioning is open to contestation by others.

An architectural setting is positioned and propositional in that it embraces contingency—which is haunting it anyway: so architects and planners must confront it. Architectural *strittige Setzung* [setting-in-dispute] is not something that manifests, exerts, or presupposes any autonomy of the author or interiority of architecture. While it is clear that architects act as experts, not as anonymous beings in some existential 'thrownness', what is being aimed at here is understanding planning as *Setzung:* as contingent and in dispute. Far from being a reason to give up planning, this contingency and being-conditioned, its uncertainty and precariousness harbor chances. According to Jeremy Till (2009: 56), "[o]rder and certainty close down [as] contingency and uncertainty open up". This is not a relativistic approach. What is necessary is, much rather, deliberately positioned, strong claims: "uncertainty demands to choose" (ibid.: 60). Instead of a playground of *anything goes*, we enter a field of productive tensions. "Because contingent choices are grounded in concrete reality, we are made to be aware of the effect of any decisions we come to" (ibid.: 60). This asks what decisions can be made at all—but also which decisions definitely *have to* be made. What can or cannot architecture determine, what shall and shall not architecture determine? Being contingency-conscious opens one's eyes to the dependencies of architecture, but also for its powers and possibilities, however limited and compromised, and for the problematic terrain on which they are acted out in planning.

Much of the renewed opposition of politics as dissensus and post-political consensus has been owed to Jacques Rancière's concept of radical democracy (see Dikeç 2005; Swyngedouw 2009). I want to take up only a few specific motifs and notions by Rancière specifically valuable to this chapter. One is the *sense* in dissensus, that is, the way in which political dispute emphasizes the sensory experience of social space, the issue of who can become perceptible in what role, whose voice is heard as a contribution and whose voice only counts as noise, what he labels the "distribution of the sensible" (Rancière 2004: 12). This also involves a question that is important to urban space: Whose space appears in what quality?—some people's spaces of culturally rarified value and beauty,

while other people's spaces are seen as just gathering grounds for the many who are presumed to lack taste. Rancière also characterizes democracy as a negotiation of appearances: the "transgressive appearance of unauthorized speakers on the public stage" (ibid.: 18), of subjects, whose claims are unfounded within the present distribution of power.

Turning to Hannah Arendt who proposes to understand public space as a space of appearance: e.g., the Greek polis is a space where equality can be instituted (Arendt 2005: 30). This focus on institution, however, does not mean that with Arendt, we have to see society as resting merely on stability, on cemented fundamentals. Rather, public space for Arendt is contingent 'because it is constructed', and it is at the same time a 'space for contingency'. As a space, it opens up an in-between in which the political can take place and in which freedom is possible: Arendt sees freedom as presupposing 'laws' [*Gesetze*] (Arendt 2017: 611).[1] In order to emphasize her argument Arendt employs the spatial figure of the 'fence'. This fence may well be described as a setting in space and it places *Setzung* right next to 'instituting': Arendt's concept of instituting provides for the minimum measure of stability without which public space would disappear.[2] This is where we confront something close to another paradox: Public space requires forms of stability in order to remain open, in order to remain free, open space. For public space to become and remain a space for contingency (and for conflict), it takes *Setzung*, which is shared and put out for debate. This involves a number of questions: How to decide which setting, on what grounds? How to remain in-dispute, open to conflict? What is the role of city planning and architectural design in this field of problems? Nikolai Roskamm (2017) addresses this notion by calling for leaving the city unoccupied [*unbesetzt*]. He refers to the Lacanian concept of the lack, lack as enabling desire—which is at the core of the argument of the impossibility as the condition of possibility: "Were the city to be occupied and the experience of lack gone, then not only would planning and urbanism become superfluous, but also the city itself (as a site of lack and of desire)" (ibid.: 205, own translation).

The question is if every lack-suspending 'setting' is not just something temporal and transient. I maintain that public planning is an ever-recurring (and ever contested) setting-in-dispute for the cause of allowing the city to remain 'unoccupied'. Yet, on what grounds do we decide which settings should be made for public space to remain open and 'dissensus-friendly'? By orienting planning politics toward the concepts of radical democracy and spatial justice (in terms of a fairer distribution of space and agency), a question evolves if this is not only postponing the problem. For, what is *justice*? For democratic politics of planning, especially within a post-foundational framework, in the absence of foundations, a partial solution must do.[3] That is, in the absence of a 'good ground', we may turn to a 'problematic historical constellation', one in which we do not arrive at a full-blown grasp of justice, but at a contestation of political cases of *injustice*.

Occupying is, of course, not precisely the same as setting, rather: Setting is a step before occupation. When it comes to public space, setting is the instituting

of publicness. That means that it still leaves the form and duration of occupation open. Setting prepares the set, the space of appearance. Setting provides with infrastructure, definition, design for public space—for the space to be able to be occupied temporarily by its users.

Within this outlined context, I propose to refer to a 'tragedy of non-occupation' (*Unbesetzung* as *Nicht-Setzung*), and with regard to setting, 'tragedy of non-setting'. Why tragedy? In the urban tragedy, urban space is always occupied within the plays of political and economic forces in historical constellations. Non-occupation (as openness for undefined activity) is possible only as one that is firmly instituted, strongly set. This is again the paradox: If space is not occupied, it will be occupied. If there is no recognizable, 'to-be-acknowledged' institution of publicness as openness, then public space is ever so often diagnosed as a space with a lack. We know the cases of a deficiency being conjured up, a 'discourse of uglification', a constructed 'emergency' (be that rhetorically or by means of neglect) that calls upon neoliberal appropriation for 'problem-solving' or beautifying these places, and possibly pacifying (Zukin 1995; Springer 2016; Heindl 2020). And finally, cities today claim to be no longer capable of dealing with what is said to be the problem due to public scarcity. As a result, there is a surrender of public agendas into a dependency on private investors who themselves are in search of profitable terrains for capital-surplus production and absorption (Harvey 2007), especially in culturally rich urban centers.

In Vienna, the *Heumarkt project* is a much disputed and telling case for contextual analysis of such dynamics.[4] The project plans to erect a high-rise building with exclusive luxury condominiums in Vienna's historical heritage center. According to its opponents, this speculative investors' project, should it be built, would mean a(nother) slippery slope for extensive speculative high-rise building activity within Vienna's UNESCO world cultural heritage zone; it would also stand for on-demand city planning concessions, since the binding land-use and zoning plan would have to be changed for it. Right from the start of the planning process in 2013, the decades-old ice-skating rink on the site and especially that site's summer-time usage as an urban beach under the name *Sand in the City* was labeled an eyesore by the investor, some city officials and politicians and this 'deficiency' was used as one of the arguments for the urgency of the planned development (Heindl 2020: 140). An accompanying official masterplanning document *Masterplan Glacis* from the year 2014—commissioned by the city of Vienna during the public debate around the project—labeled this very zone an 'urban repair zone', along with other areas along Vienna's Ringstraße. This plan, which is paid for by public money, identifies inner city areas of lack—to which investors are invited 'to come to the rescue'.

In such a context, planning is called upon—in cooperation with investors—to identify a lack in definition but also setting. According to Roskamm,

> the lack ascertained—a lack in security, competitiveness or sustainability—legitimizes and necessitates planning. In this perspective, planning is

> there to establish a lack and then to offer remedies. [...] 'Planning' is thus responsible for identifying the problem (thus for creating it) as well as for providing a solution.
>
> *(Roskamm 2017: 189, 199, own translation)*

What serves to legitimize one kind of planning, the one motivated by private enterprise, contributes to reducing and de-legitimizing another kind: sovereign public planning, which is supposed to be acting upon a public mandate. In cities of interest for global capital, one can witness rhetorically induced devaluations as a means of increasing potential profit margins. A place is 'talked down' for devaluation in order to increase the (virtual) 'rent gap' (Smith 2008) as the difference of the value before and after the investment. The 'worse' and 'uglier' a place is before regeneration, the higher the rent gap. This strategy of occupation also addresses the public and planning authorities as their support of the investment is crucial: as they are to be convinced that 'beautification' or 'sanitation' is an urgent necessity. Or, more generally that *there is no alternative* to privatization through Public-Private Partnerships, Privately Owned Public Spaces or Business Improvement Districts.

Within this context of financialization of urban space, architectural agency could be conceptualized as an activity that secures public space by way of an 'instituting-in-dispute' rather than be complicit in the planning of its urban strategies: For without public setting, public spaces will disappear. Such a type of setting, far from stopping dissensus, aims at opening and maintaining terrain for *conflict* and *contingency*. Yet, in order to secure space against privatization and for the taking-part of marginalized social groups, we are to add to setting (*Setzung)* another related word, which is *Gesetz*, that is, the law or 'act' in the juridical sense in its relation to political positionings.

Any urban space is a space of laws—and that is also part of the space's very contingent nature. Laws are parts of the social stratifications. Architecture and urban planning are activities guided by laws. Not anybody has the right to carry out the planning of cities or buildings, and of course not freely the way they want. The architectural space comprises legally binding prescriptions: zoning definitions, building laws, norms, etc. The building law, of course, regulates a number of planning aspects, for instance, the minimum height of rooms or the minimum size of a children's playground. Up-zoning, re-zoning or the general capability to define what is allowed and possible on a private piece of land is an official act (which by principle must not be subject to buying or selling, yet unsurprisingly, is all too often subject to some interventions or bargaining with).

The terrain of laws is itself a highly disputed terrain of positions. This becomes especially clear in the context of post-political planning: The discourse that maintains that planning has to be non-ideological is, of course, itself a highly ideological and political act. If projects of urban development are articulated in purely technocratic and numerical planning parameters—often accompanied by the hollow statement that it should not be about ideologies—they often foreclose

the space for other planning goals, such as justice, equal opportunities and sharing communal wealth. While I neither want to collapse politics into legal matters nor am I a fetishist or unconditional supporter of laws, I argue a few key perspectives on entanglements of planning with legal matters should be further explored. In the present situation, neoliberal criticism places legally binding plans increasingly more in correspondence with ideology: something to do away with as a remnant of the high-modernist era seeking the perpetually usher in contemporary, creative buzzing economies. In this way, law becomes politicized *ex negativo*.[5] There are building laws that delimit the maximization of profits—for instance, a minimum height for habitable rooms precludes profit-optimizing investors from squeezing ever more habitable floors into buildings.

In a time when laws are declared to be too abstract, too rigid, too complicated to handle for the exigencies of capital, which is why laws are to be replaced by flexibly adapting guidelines and tailor-made back-room agreements, laws as well as public legal plans have a political advantage. They are—ideally, but also in fact—'settings' that are clearly and publicly stated, in black and white print, transparent and therefore up for public dispute. In the form of official zoning plans, they are settings in the sense of *in die Welt gesetzt* ['posted into the world'] instead of the relative privacy of planning deals. This implies that legal plans also function as a site for publicness, including the voicing of public dissensus.[6] While they are always political, they are not always politicized. They are produced in the conceptual contact zone of legal matters non-congruent with capital's demands, and the discourses and claims of bottom-up movements demanding the 'Right to the City' or the right to public space.

In fact, it was a popular agency that politicized a planning project from my own practice: the urban design and development guidelines *Donaukanal Partitur* (2014, in collaboration with Susan Kraupp). After winning a competition, we were commissioned to develop guidelines for the future development of the central riverbanks along Vienna's Danube Channel—a public space of much interest to the people and to private investment. In order to make sure that the open space was left without gastronomy or urban beaches, we proposed a twofold strategy: to increase and improve public infrastructure and to secure as much of the not-yet-commercialized space as possible. For these goals, we developed a notational tool for public infrastructure and a detailed topographical plan, which we called *Nichtbebauungsplan* ['non-building plan'] referring to the legal urban planning document of a *Bebauungsplan* ['land-use plan']. The plan clearly set red lines around all the zones and movement areas to be 'hedged' for the public and secured from further monopolization e.g. by private gastronomy. However, as the guidelines were not legally binding, it seemed feasible to an investor supported by a local politician to disrespect them and plan a large-scale restaurant on one of the last non-commercialized public meadows with great sunset view onto the water. In terms of devaluative rhetorics, the investor would go so far as to label the place as 'dogshit meadows'. However, this time, capital was prevented from occupying the ground due to grassroots protest initiatives,

in fact by their occupation as sit-in on the site, and by referring to our guidelines that declared this site be kept free for public use in whatever form of appearance.

The 'non-building plan', a *Setzung* within an administrative planning tool, entered a political constellation and was charged with a political content through the movement protesting against a planning deal of commercialization for this specific public space at Vienna's Danube Channel. In their occupation, *Besetzung*, of this piece of urban land up for grabs by capital, it was the people who gave our plan the necessary political edge.

Setzung, finally, also means 'settling' or 'sedimentation'. The everyday reality of a city, even a city as a whole, is settled, or sedimented conflict. Contingency means that nothing ever exists in a pure state, so political conflict is not manifest all the time. Rather, urban spaces and institutions are most of the time 'settled', in sedimentation after a certain contingent, disputedly instituted 'setting' has been successful and met with acceptance. Post-foundational political theorist Ernesto Laclau describes the outright "forgetting of the origins" after the success of an instituting act: "The system of possible alternatives tends to vanish and the traces of the original contingency to fade. In this way, the instituted tends to assume the form of a mere objective presence" (Laclau 1990: 34). But not forever, of course. Politics involves sedimentation as well as the reactivation of settled conflicts. Rancière (1999), in *Disagreement* brings up the inscriptions of equality in public space, be it on the walls of courthouses and other public buildings—a good example of sedimented politics, settled in the everyday to the point of near-invisibility. But, as Rancière maintains, we should not *de*nounce such inscriptions, such as 'Everyone is equal before the law', as just time-worn or being meaningless. Rather, they should be put to the test when constellated with present cases of dissensus and the appearance of unforeseen democratic subjects (as with the occupants in the lawn on Danube Channel). So, there is also this *Setzung*: a literal *mise-en*-scene, 'Sich-in-Szene-Setzen', of popular subjects that affects the unsettling of already or not yet or not entirely settled urban conflicts.

Notes

1 In *The Origins of Totalitarianism* Arendt describes public space as a fragile space, which needs structuring and protection by laws:

> The stability of laws corresponds to the constant motion of all human affairs, a motion which can never end as long as men are born and die. The laws hedge in each new beginning and at the same time assure its freedom of movement, the potentiality of something entirely new and unpredictable; the boundaries of positive laws are for the political existence of man what memory is for his historical existence; they guarantee the pre-existence of a common world, the reality of some continuity which transcends the individual life span of each generation, absorbs all new origins and is nourished by them. […] To abolish the fences of laws between men – as tyranny does – means to take away man´s liberties and destroy freedom as a living political reality; for the space between men as it is hedged in by laws, is the living space of freedom.
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> *(Arendt 2017: 611)*

2 Arendt´s more well-known spatial figure is the table, which, in her definition of the public as the world, "like every in-between, relates and separates men at the same time" (Arendt 1998: 52).
3 Heindl and Robnik (2021) propose to call such a partial, intrinsically disputable solution a "nonsolution", picking up that term from Siegfried Kracauer.
4 The site, including the Hotel Intercontinental and adjacent open-air ice rink, is located within the UNESCO designated area of Vienna. It was originally public, was sold in 2008 from the municipal funds to an international real estate development company, which got incorporated into a Morgan-Stanley-Portfolio, sold to a Libanese investor, from which the Wertinvest Group acquired the site in 2012. Media, like *Die Presse* celebrated that the hotel was back again in the hands of an Austrian investor. The latter agreed to a cooperative planning process and initiated an international architectural competition with a winning project that proposed an extension to the hotel and generally vast expansion of the existing volume including a new luxury apartment tower, by speculating that the UNESCO heritage recommendations for the site could be overturned. The case became a matter of conflict engaging politics, citizens, protest groups and is at this moment not yet settled.
5 Laws probably have to be seen as contingent with respect to their content when it comes to issues of political justice. That is, one cannot say that laws per se contribute to a less unjust social reality.
6 They are something of a 'weak spot' for dissensus to enter, because in contrast to neoliberal guidelines optimally suited to the needs and the vitality of profit-economy, the law still maintains a connection to the political problem of justice. It has not yet bid farewell to justice in the way that the discourses and power techniques of optimization have. The law is still a half-good entry-point for questions of rights, and for the critique of forms of injustice that we encounter every day under conditions of racist, classist, sexist and other types of exclusion. At this point, we would have to delve more deeply, along the lines of Derrida, into a concept of justice as that which is impossible, always in coming, but always *useful* (why not put it so bluntly?) to call into question and dispute the injustices of existing legal forms of power and social order.

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