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Travelling Types and the Law: Minarets, Caravans and Suicide Hospices

This article analyses how the law influences the circulation of building types in Switzerland.[1] The chapter builds on three case studies involving conflicts about travelling building types and zoning law. The cases concern the erection of minarets on mosques, the right of gypsies to park their caravans and the practice of assisted suicide in flats and industrial buildings. Each highlights different aspects of how building types and zoning law interacts with each other.

Buildings do not travel. It is the very essence of buildings that they are stable. If we talk about building types as travelling, we refer to abstractions that travel with the help of media, such as images or textual descriptions. How then do we know that a new or a changed building represents a travelling building type? The notion depends on the fact that some person has to observe these types as travelling. This is not a trivial fact, since buildings constantly change form, style and materials and it is often difficult to know, socially, geographically, or in other ways, just "where" a change comes from. The new is often new for a specific place; it is an import, and conversely, what is labelled an import is often the new.

Many of the contributions in this volume attribute the defining power to note changes in building types to the academic observer who sees, and often documents, the circulation of architects, plans, images and materials. The notion of a building type is taken as a given and then the circulation of the type can be observed. However, this methodology pays little

attention to the often very contested processes of constituting classes of buildings as types and subsequently as types that are familiar and other, unfamiliar types as “foreign”, by which I mean that they are not seen as normally belong to a particular locality or culture.

One way to observe such contested processes is by analyzing debates about zoning law. Zoning laws are the legal instruments used to define building types as “not belonging” and therefore, foreign. Since, there are no border controls, immigration laws or customs duties for buildings (as there are for people), states do not have any legal means to prevent new building types from entering their territories. Using the case studies mentioned above, in this chapter I examine how Swiss law identifies building types as “foreign” and how conflicts about “foreign” building types are, or are not, resolved.

Before moving to the main argument, a note on Switzerland as the empirical focus of the chapter is necessary: on a basic level, conflicts regarding zoning law follow very similar lines in different countries, as these conflicts depend, as we will see, on the ambiguous notion of “zones”. As regards the case studies presented here, conflicts surrounding mosques and the travellers’ caravans are not specific to Switzerland, though the solutions to these conflicts obviously are. In the case of assisted suicide, however, this is unique to Switzerland because no other country permits this form of ‘death tourism’. However, the aim of the chapter is not to highlight the specificity of these conflicts to Switzerland but rather to show how the law mediates conflicts about travelling building types.

The chapter starts by elucidating the relationship between building types and the law in general. I then give a very brief overview of Swiss building law. This is followed by three different case studies and finally, by a comparison between them..

Building Types as Quasi-Technologies: How Travelling Types Pose a Problem for Zoning Law

Why do travelling building types become a problem for the law? A building type refers to a concept and a term that classifies a group of buildings according to their material form and their use. For example the building type bank identifies the word "bank" with the material form of a building comprised, in most Swiss cities, of tellers' windows, reflecting glass facades, offices and the use, mainly, of lending and borrowing money. The classification of a building as a bank performs the two operations of identifying the building with the use and with the appropriate material form at the same time. We assume that the material form, the tellers' windows, the offices and the glass facades are needed to make the lending and borrowing possible. If there were no glass facades, teller's windows and offices, there would be no lending and borrowing and we would not classify the building as a bank.

Following Francescato we can differentiate between form-type and use-type (Francescato 1994). I use the term form-type to designate typified building forms and use-type to designate typified uses. As I have illustrated above, in most of the cases these two coincide, because forms are identified with uses. Indeed, our perception of buildings and our orientation in a city routinely depends on this identification. But there are also instances where they do not coincide. This happens most notably in building conversion. Thus there are buildings whose form-type we might classify as a bank but which are used as a court of law. Depending on whether we call such a building a bank or a court, it either shows that a form-type bank does not enforce its use as a bank or that the use-type court does not depend on a typological material structure identified with a court.

This leads to the question of what functions a building can perform, that is, whether they are technologies or mere objects. Following Niklas Luhmann and Bruno Latour, I define

technology as an assemblage of things and practices that produces with the same input the same output and thus makes processes predictable (Latour 1991; Luhmann 2000). There is a commonsense belief, shared by many assumptions in architectural theory and architectural sociology, that the material form of a building in this sense is a technology that enables, structures and enforces certain uses. This is specifically true about the notion of building types that are supposed to make their uses predictable, and architects sometimes actively seek to turn building types into technologies. But this belief is in many cases empirically not justified. Sometimes buildings are indeed technologies that structure, enable or even enforce practices, but sometimes they are not. Because of this feature I call buildings quasi-technologies, thereby indicating that buildings, in some instances work as technologies and in others they do not (Guggenheim 2009; Guggenheim, forthcoming).

The fact that buildings are quasi-technologies is important to understand legal conflicts about zoning. This is so, because the legal definition of a zone relates areas of land classified as a specific zone to a use taking place on this land and the buildings situated on it. Thus for example a zone reserved for industry means that buildings in that zone can only be used for industrial uses, but not for housing. In theory, the definitions of specific zones in zoning law only relate to uses and not to building forms. But those uses are often attributed to the form of the buildings, as we will see in the case studies.[2] For example, a zone reserved for industry results in conflicts about whether the buildings in those zones are industrial *buildings*, because it is assumed that the buildings define the uses. Thus in legal conflicts about zoning law we see the consequences of the peculiar properties of buildings as quasi-technologies. This problem of quasi-technology linked to zoning is central to understand why and how travelling use-types and form-types pose such intricate problems for both society in general and the law in particular.

The following case studies demonstrate these intricacies with examples where forms of buildings and others where building uses provide the starting point. They are all objects of my study because they have become law cases, demonstrating that zoning law does not focus strictly on either use or form. Also, neither society nor zoning law provides a method to identify new or foreign use- or form-types.[3] Indeed, there is not even a method to identify a type at all. The disputes discussed below thus show how the law in action produces foreign types by accepting them as the subject of disputes.

In each case I thus focus on how building types are contested because of their quasi-technological character. We are faced with a contested object that is either changed in its use or material form and then these changes become the subject of lawsuits. In each case, the use or the building is defined as being ”foreign”. The courts have to decide whether the uses and changes conform to the existing classifications of zoning or not. By doing so, they also have to take decisions about whether a specific imported use or material form can be accommodated to existing laws.

I pose the following questions for each example:

– What is the travelling element?

– Which law does the travelling element break?

– What makes the element foreign?

– How does the law categorize the travelling element (as being a use or a form)?

– What are the legal claims of the opponents to show that their use, practices or changes of building form conforms to the law? Or, if they do not, how do they argue that their case cannot fit the existing laws and how do they legitimate the need to change the law?

– What results from the legal case? Are the laws, the objects, or the practices changed?

The argument I wish to make here is not that (Swiss) zoning law is ill-suited to deal with travelling building types or that foreign building types pose a problem for the spatial order of society. Rather, I want to show that because travelling building types are quasi-technologies, they result in difficult legal conflicts where buildings and uses are sometimes identified with each other and sometimes kept apart. Furthermore I wish to show that those processes of identification or keeping apart are not stable across cases.

A Brief Introduction to Swiss Zoning Law

Before introducing the four case studies, some minimal information on the Swiss legal and political system is necessary. Swiss government is organised on three different levels: the municipalities (called „Gemeinde“), the 26 Cantons and the federal state. Each of these levels has different courts. Switzerland is a very federalist country, and this is clearly visible in it's building and zoning laws. The federal planning law structures only the most basic legal aspects of building. The planning law from 1979 asks the state, the Cantons and the political communities to coordinate their planning. The different levels of the state have different roles, whereby the state level defines the broadest categories; the Cantons create basic zoning plans based on these categories and can create further categories, if they like; the municipalities create a final detailed zoning plan. The state level only differentiates between four different zones: building sites, agricultural land, protected land (neither building nor agriculture), and others. For building zones most Cantons have established at least the following zones: business (usually divided into industry and offices), habitation and public buildings, usually comprised of government offices, courts, schools, and churches. The municipalities then detail a zoning plan based on these categories.

Switzerland also has a strong tradition of direct democracy. Every decision by an executive body on any of the three levels can be overthrown by asking for a referendum. A referendum

is initiated by collecting a certain number of signatures in a predefined time. Furthermore a so-called initiative can be triggered on any subject with the same procedures but requiring usually twice the number of signatures as a referendum. In case of conflict in a municipality, local courts decide on the issue. After such a decision, the cases can be taken to the Cantonal courts and then, as a last step, to the federal court. On any level, an initiative can also be organised to deal with the issue.

Types and Building Parts: Minarets and Mosques

The discussion of architectural types usually follows a trajectory where new practices are accommodated in material form. For example, the invention of the modern prison, as Michel Foucault has shown, is a function of the invention of new modes of punishment (Foucault, 1975). But in many ways, the circulation of building types follows widely established practices, as is the case with mosques in Western countries. The mosque provides a case to look at the problem of identifying and defining use-types. The migration of Muslims to Western Europe has resulted in the fact that they find places to come together and to pray very often without having the built form to do so at hand. A mosque, in this sense, is less a building form than simply a place where Muslims gather to pray, literally, a house of prayer. Gradually, the building is converted into "a mosque". The circulation of the building type "mosque" is in most cases not related to a knowledge of the community that gradually converts a building step by step into a mosque, by indicating the direction of Mecca with carpets or by hanging notes of prayer times on the walls (see also the chapter by Kuppinger). For the law, the question arises: When is a building a mosque? When it looks like a mosque, or when it is used to pray?

In Switzerland, the case of the community of Wangen has created a nation-wide public controversy, since the local Muslim community wanted to add a minaret to a factory building

that it used as a cultural centre and prayer space. The local administration opposed the minaret. In a meeting of the local town council, Roland Kissling, the vice-president of the right wing party, SVP, argued, "a minaret is a mosque-tower. Thus with the minaret, the building […] is turned into a mosque. And a mosque is something different than the existing building which is a cultural centre with a prayer space in the basement" (Wildi 2005, 9). He further explained that the minaret is a „dominant testimonial" that "constantly tells something that the neighbours do not want to hear" (Wildi, 2005, 9). He went on to argue that the erection of the minaret would be the last straw that would turn the Swiss inhabitants against the Muslims and undermine all efforts at integration.

Figure 1 Near Here

The building authorities subsequently denied the building permit for the minaret arguing that the addition of a minaret constitutes a „relevant change of use" (Bau- und Planungskommission Wangen bei Olten 2006). According to the authorities the minaret is a „constitutive part of a mosque" turning the building into a „sacred building" (Bau- und Planungskommission Wangen bei Olten 2006). They explained that the Christian churches in the town are in „zones for public buildings" and thus the mosque, which is in a zone for commercial buildings, could not be allowed. The Muslim community argued that the minaret is just a "symbolic minaret" "like a small chimney" that they do not use to call for prayers (Bleicher 2006). The Muslim community appealed to the Canton, which allowed the minaret. It argued that the municipality already allowed the conversion of the factory building into a prayer space and – echoing the Muslim community – called the minaret an "exterior symbol" of this transformation (Staatskanzlei des Kanton Solothurn 2006). The Canton saw proof of these merely symbolic qualities in the fact that the minaret could not be used for prayer calls either by unamplified human voice or loudspeaker.

After the further courts confirmed this judgement, a committee composed of right-wing politicians started a nation-wide initiative. The initiative would add the sentence „ the building of minarets is prohibited“ to Article 72 of the Swiss constitution that deals with religious freedom (Gegen den Bau von Minaretten 2007). The logo of the committee's webpage shows a minaret that cuts like a spear through a Swiss flag in the shape of Switzerland. It also shows a sequence of pictures, the first depicting the building in Wangen, the second a group of dark minarets against a glowing sky, and the third a group of veiled women seen from behind. The authors of the initiative write in the accompanying text, „we have to stop the spread of Islam. A ban of minarets is necessary.“ But they also add: „The minaret as a building has no religious character. It is not mentioned in the Koran or in other holy scripture of Islam“ (Gegen den Bau von Minaretten, 2007). Thus, the ban of minarets would not contradict the freedom of religion in Switzerland. Rather, they argue, that the minaret is a sign of a "religious-political claim to power", using religious freedom to fight the equality of citizens and thus contradicting the equality of humankind granted by the law. On 8 July 2008 the initiative was submitted with 114'895 signatures to the federal office and the Swiss population will vote on it in the year 2009.

The case shows the difficulty of defining and identifying a building type. Throughout the conflict a constant shift between use-type and form-type is at play and also changes in identifying these types by reference to different parts of a building. Roland Kissling and the town authorities first assume that the use of the factory building as a prayer space does not constitute a change of use, since they explicitly allowed it, when they allowed the use of the factory building to be used as a cultural centre. Only the addition of a minaret turns a factory used as a cultural centre with a prayer space into a mosque, thus changing the building type.

For the Muslim community and also for the Cantonal court, the building type is defined by its use. The factory building is already a mosque even before a minaret is added. The minaret itself is only "symbolic" because it cannot be used to call for prayer. The minaret does not define the building type. The campaign to ban minarets agrees that the minaret is only symbolic and does not define the building type, which is exactly the reason why the initiative supposedly does not violate religious freedom. For the committee, the minaret has been represented as a political symbol for the anti-democratic tendencies of Islam, and is not necessary for the exercise of Islamic religion. The initiative, if passed, would not stop the building of mosques defined as prayer spaces but without minarets. But then the webpage also states that the spread of Islam should be stopped with the help of the initiative. This implicitly assumes that if mosques did not have minarets they would be less useful in spreading the message of Islam.

If we ask whether the law prohibits the immigration of building types an irritating answer emerges: if the initiative succeeds, Switzerland will most likely not prevent the immigration of the mosque as a building type, if it is defined as a use-type. Rather, a new form of mosque without minarets will emerge and become stabilised. The banning of minarets might probably also trigger new legal battles about which building forms count as minarets, since they are not defined in the initiative. If a church were to be turned into a mosque – which has never happened so far in Switzerland – the question would arise whether the church tower is now a minaret and would have to be taken down. As the debate about the "symbolic" minaret in Wangen shows, a "chimney" can be a symbolic minaret, even if it is not used as minaret. This again poses the question whether a minaret is a use-type or a form-type and leads to the question: how can a chimney be a sign for Muslim domination?

Moving Types: of Travellers and Caravans

As I write in the introduction, buildings do not move, but representations of buildings do. Building law is thus created to deal primarily with immovable objects in mind. However, there is the special case of actually moving buildings and this creates massive problems for building law. Buildings that do move are usually trailer homes or caravans. This case study thus looks at the very foundation of zoning ex-negativo, namely through the lens of travellers who have problems finding a place to stop with their caravans. For this reason, travellers are a challenge for the law, because they expose the extent to which building law is based on the assumption that buildings are immobile.

Travellers are a minority with a very difficult relationship to the authorities and the law. In the 1850s the growing nation state forced many travellers to become sedentary citizens of random municipalities. From the 1920s until 1972, the private organisation *Pro Juventute* ('for the youth') pursued a program *Kinder der Landstrasse* (children of the country road) taking away children of travellers with the support of the authorities. *Pro Juventute* claimed that what it assumed was a backward lifestyle of the travellers could be improved by making them sedentary (Siegfried, 1963). It sent the children of travellers to psychiatrists who testified that they were retarded. The medical opinion gave *Pro Juventute* the legal right to take the children away from their parents and to give them to sedentary families or orphanages. There, they supposedly would have a better childhood and become "proper citizens". Many of the children were sterilized and badly treated by their stepparents (Leimgruber et al. 1998).

Kinder der Landstrasse was only the worst proof of the difficult relationship between sedentary citizens and travellers. An empirical study from 1983 shows how travellers, authorities and the sedentary population still viewed each other with distrust (Rattaggi, 1983). The travellers had difficulties in finding places to stay, mostly because they violated zoning laws. One interviewee in the research summarized their feelings towards the majority: "You

sedentary people take away our living space" (Rattaggi, 1983, 35). The authorities complained that the travellers did not ask where they could camp, that they came in large groups and that towns did not have enough space or sanitary installations to cater for them, also that the travellers left the spaces dirty, that the authorities could not trust them, and that, if they were allowed to stay, they always stayed longer than agreed, or that they camped outside the building zones (Rattaggi, 1983, 47-50).

Apart from mistrust and prejudices the conflict is based on the increasing strictness of building codes that leaves no space for travellers to stay. Traditionally, travellers would ask farmers in a village to be allowed to stop with their carriage or later their car and be allowed to stay on their premises The new federal planning law of 1979 introduced a strict separation of building and non-building zones (Schweizerische Eidgenossenschaft, 1979, Art. 14-18). Most of the land in the building zones where one could once park caravans is now built over. Furthermore, farmers' land was considered to be a non-building zone and only the farmers' buildings were allowed as structures to prevent further building on scarce land. Otherwise, there remained camping sites or parking spaces. The cantonal laws usually regulate camping sites and only allow staying on these sites for short periods for recreation. In any case, it is forbidden to stay on a camping site and work, which is what the travellers routinely do.

In the wake of the scandal that *Kinder der Landstrasse* provoked, the legal problems of the travellers became prominent in the 1990s. In 2001 the government-backed organisation *Stiftung Zukunft für Schweizer Fahrende* (Foundation for the Future of Swiss Travellers) asked a law firm to provide a report on "travellers and land use planning" (Eigenmann Rey Rietmann BSP/FSU 2001). The report surveyed the possibilities of travellers staying in the different Cantons and concluded that among the 48 spaces used by travellers only one was designated as good. The other 47 were either too expensive for travellers, not available at the

right time, lacked infrastructure or were only partly legal. The latter two categories applied to all 47 spaces.

The Cantons and municipalities greatly differed in how they dealt with the problems. At the time, only the Cantons Lucerne, Berne and Schwyz cantons granted the towns the right to allow travellers outside camping facilities. The cantons also had differing views on which were the zones where travellers could stop. They proposed or already allowed stops in the following zones: “zone for habitation and commerce”, “zone for commerce”, “zone for public buildings”, “zone for camping”, “intensive zone for recreation”, “isolated zone for small buildings”, among others (Eigenmann Rey Rietmann BSP/FSU, 2001, 26). Only Graubünden defined a specific “zone for travellers” in which “only operationally necessary buildings and facilities, such as sanitary facilities and facilities for working” are allowed (Eigenmann Rey Rietmann BSP/FSU, 2001, 26, FN 21).

Basel-Land tried to establish a space for travellers, but the affected municipalities resisted the plans until they were dropped. All the other Cantons did not even attempt to provide spaces for travellers. The case of Basel-Land also hints at the problem of a federalist state: local authorities and the local population have a lot of power and possibilities to resist the Cantons and have no incentive to look after the travellers. Furthermore, since travellers are a minority and they are travelling, it is very difficult for them to exercise their rights. The direct democracy of Switzerland asserts the right to vote on petitions and initiatives according to the place of habitation. Even if travellers were a sizable number, they could never vote for their rights in a specific municipality or Canton, since their place of habitation is not concentrated.[4] Furthermore, legal disputes and political fights are place-based, since they take place in courts that are again immovable buildings subject to zoning law.[5] Travellers would have to stay for a long time or repeatedly return to the same place to deal with lawyers and courts.

Nonetheless, in 2003, the problem finally made it to the federal court (Schweizerisches Bundesgericht 2003): the traveller "Michel B." had bought 7000 m^2 of land in the agricultural zone in Céligny, Canton of Geneva. He subsequently built a "new church of Céligny", made from a few containers and some caravans to live there with his family and make it a meeting place for other travellers. On eight occasions, the Geneva canton authorities sent a decree to stop him violating the building laws. Michel B. took the case to the federal court. The federal court ruled that indeed Michel B. violated all different kinds of building codes. But it also noted that the federal building law states that "the zones reserved for habitation and commerce should be used according to the needs of the population" and that the travellers are part of the population (Schweizerisches Bundesgericht 2003: 327, 3.2).

According to the court, the zoning plans have to provide for "appropriate zones" that "conform to the traditions" of the travellers (Schweizerisches Bundesgericht, 2003, 327, 3.2). As a reaction to this fundamental ruling, the federal government issued a report to alleviate the situation (Eidgenössisches Departement des Inneren and Bundesamt für Kultur 2006). It proposes that the Cantons establish zones for travellers and finance the places because the municipalities often turned places down because of costs. So far, this project has not been put into place.

The case of the travellers demonstrates how much building and zoning law assumes that buildings are immovable and how people circulate between buildings to pursue different tasks. At a given place, a zone is defined and the buildings that are located in this zone serve a predefined use. Furthermore, the idea of zoning assumes that the buildings themselves as building types are technologies to stabilise this use. The law conceives of persons as not being attached to buildings but rather to move from one immovable building to the other. By

moving between buildings persons are assumed to change their practices according to the uses required by the specific building and zone.

But travellers do not live this way. Once buildings such as caravans literally move and allow for different tasks in these buildings, zoning law ceases to work. Zoning law helps to fix the uses of *stable* buildings. But travellers move their buildings and they perform everything they do, working, habitation, and religion in the same building. Their buildings remain the same through all these changes and the *form* of their buildings is not specific for the different uses. If the travellers wanted to conform to zoning laws, they would have to move their caravans if they change their practices. They would have to work in their caravan in the industrial zone and move it to the zone of habitation to sleep and prepare food.

Zoning law cannot provide a conceptual apparatus to accommodate the lifestyle of travellers. The proposed solutions – to introduce specific zones for travellers – create legal exceptions for a certain group of people, travellers, by designating specific zones for them. These zones however, differ from all other zones, because they do not identify a place with a use and a building type, but with a group of people. This then leads to the question of who counts as a traveller, thereby turning the problem away from zoning law to identifying groups with lifestyles and ethnicities. The question now is no more: which kind of *building* or *use* on this land? But rather: *who* is allowed to do what on this land?

A webpage defending the rights of the travellers states: “Even the travellers themselves do not want official places at all costs, because these are also used by passing Sinti and Roma, clans from the east, that often do not adhere to our customs. These clans come in large caravans that lead to a shortage of space on the existing places. The resulting problems are then attributed to all travellers ” (Bolliger-Sahli and Grass, n.D.). The Swiss travellers, now having a right to

park their caravans by being defined as travellers, thus resort to the same kind of arguments that were previously used against themselves to fence off foreign Sinti and Roma. And whereas before, according to the law, the logic of arguments referred to uses and buildings, it now changes accordingly and refers to the ethnicity of the other travellers. Whereas the law was not prepared to deal with travelling buildings, once it allows those travels for travellers, the Swiss travellers themselves seem not to be prepared to deal with other people travelling with their buildings.

Types and Practices: Assisted Suicide as an Object of Building Codes

The last is an extreme case, since it shows how zoning laws can be used to ban social practices without any reference to the forms of buildings. Other than the examples discussed elsewhere in this book, the case of assisted suicide shows that the legal definition of types is in fact as much related to social practices as to buildings themselves and that the circulation of persons, bodies and social practices can create new "building types".

Switzerland is one of the few countries that allow assisted suicide. Current law only prohibits active assisted suicide (Art. 114 of the criminal code), but it is silent about passive assisted suicide. If a helper does not act for selfish reasons, she is allowed to give deadly substances to people who are able to commit suicide by their own hands. Two organisations, "Exit" and "Dignitas", use this law to provide their members with the barbiturate Sodium-Pento-Barbital, which is only available on prescription. After checking the will to die repeated times, a doctor visits the person at home and prescribes the barbiturate. Only Dignitas practices assisted suicide with foreigners – mostly Germans – who come to Switzerland because they are not allowed to commit assisted suicide in their home countries. The practice is known as "death tourism", which became the "Swiss word of the year 2007" (ap. 2007).

Since the foreigners cannot be visited at home, they have to come to a specific place to commit suicide. Until September 2007 Dignitas assisted 670 suicides in a small flat in Zürich (Cajacob 2007). After protests by neighbours the landlord terminated the contract. Dignitas then moved to a flat in Stäfa, a small town on Lake Zürich, where neighbours immediately prevented suicidal candidates from entering the house. Finally, the police shut the flat down after Dignitas refused to apply for a building permit to change the flat into what the authorities called "a death flat", arguing that assisted suicide is a business and therefore not allowed in a zone for habitation (Gemeinde Stäfa 2007). The administrative court of the Canton of Zürich later confirmed this decision (Verwaltungsgericht des Kantons Zürich, 2007a). Meanwhile, Ludwig A. Minelli, the head of Dignitas, wrote in an article that a person should be granted the possibility to die in a flat, since this provides a „familiar atmosphere", and not in an office building (Minelli 2007).

Deprived of a building, Dignitas next organised assisted suicides in a car on a parking lot and in hotels (a, 2007; Minor 2007) and reasoned that people from Germany should arrive in their own caravans in the future (Ley and Michel, 2007). Both cases were legal, as it turned out. Legally, it is neither possible to control what is happening in a parked car, nor is it possible to ban an organisation – only persons – from a hotel. A little later, Dignitas rented an industrial building in Schwerzenbach, where the authorities immediately prohibited further suicides, arguing that Dignitas would need a building permit for change of use (Rütsch 2007). The administrative court overturned this decision claiming that the practice of Dignitas only „marginally differs" from „the activities allowed in an industrial and commercial zone" (Verwaltungsgericht des Kantons Zürich, 2007b, 4.3, p.11). The court observed ironically, that the suicides would rather not produce "excessive immissions", as the municipality claimed, if the same municipality allowed the biggest brothel of Switzerland only a hundred meters away (Baurekurskommission des Kantons Zürich, 2008, p.3, 4.1).

Figure 2 about here

After this decision, at least in the Canton of Zürich, the situation implies that assisted suicide is legal in zones reserved for business and industry, but not in residential zones. The government of the Canton repeatedly asked the federal council of Switzerland to regulate the issue at federal level, but so far, the federal council has refused to deal with it. The issue has became so confusing that a law firm even issued a leaflet with the title "Where is it possible to die without a permit?" (Rabenhaus Rechtsanwälte et al. n.D. /2007).

Compared to the other cases where resistance to the immigration of building types and legal discussion was tied to different mixes of building forms and practices, in the case of assisted suicide, building *forms* are absent. In fact, the problem, as a problem for zoning law, emerges because of *both* the *lack* of a legal category and a form. For the assisted suicide of people living in Switzerland, residential buildings provide adequate places and since they happen in every case in a different place, they do not stir the resistance of neighbours. Assisted suicides are thus not linked to a specific building type; they are simply an extension of habitation. Only the migration of foreigners without a building to die in produces the problem, the question of a zone for committing assisted suicide.

By requesting building permits in *any* zone, the opposing authorities show that they are *generally* opposed to the practice, rather than to the practice in specific zones. Their resistance amounts up to a societal taboo, leading to assisted suicides in cars and it denies the suicides of any buildings. Furthermore, dying is a practice that fits squarely into zoning categories that differentiate between habitation, business and industry. When the administrative court of the Canton of Zürich establishes assisted suicide as fitting into the industrial zones and compares this activity with what goes on in brothels, it further moves it into the twilight.

Assisted suicide has become a practice without buildings, because society cannot imagine an appropriate building or zone for a practice it does not want to see. At the height of the controversy, one architecture critic of the Neue Zürcher Zeitung, the most respected newspaper of the country, wrote a review of the newly built hospice “St. Martin” of the architects, Aldinger & Aldinger, in the German city of Stuttgart. He put the review in direct context of the controversy when he wrote : “In the contemporary discussion about assisted suicide, we tend to forget that there are houses, in which the terminally ill are cared for until their death” (Hollenstein, 2007). He noted that historically, the hospices were usually converted residential buildings or villas, and that the architects defined a “new architectural typology” with their building. He also observed the “almost transcendental hilariousness” of the architecture and that the architecture is at pains to avoid any resemblance with a hospital (Hollenstein 2007). For the architecture critic, a new typology appeared, but this typology did not develop with the migrating candidates for assisted suicide, but it emerged where they came from, as an answer to their problematic travels. However, for the architectural critic, the hospice may provide the most adequate architectural means to die but it is built for a slow death, exactly the death that those who create the problem tried to flee from.

Conclusion: A Comparison

The three cases present a complex picture of how the law relates to travelling building types. As a summary, I compare the cases with respect to the results of the different controversies. The table lists, for each of the cases, first the travelling element initiating the controversy, second, the legal category invoked to stop or regulate the travelling element, and third ,the claims of the concerned groups why their object should be permitted and lastly the result. As we can see from the table, there is no rule as to which type of element creates which result.

Figure 3 about here

In the case of minarets, the initiating element is a form, the minaret, but then, the controversy relates the form in very complex ways to practices. The first result, the court decision to allow the minaret, is that minarets are fitted to already existing zones. By decision, minarets are considered to be mere towers that do not change the use of the building. The second result, the initiative, is eventually a banning of minarets – and not the use of buildings as mosques – Muslim symbols to gain power in Switzerland. However, the result of the initiative if it were accepted, would be the legal stabilisation of a new form of mosques, namely mosques without minarets.

In the case of travellers, the travelling object is a lifestyle plus a specified building, namely caravans. But the objects are not specific for the lifestyle, they are not technologies to enforce it. The result then is a special zone for the lifestyle, not the object. Thus forms remain excluded from the whole case, because caravans are not considered to be technologies.

In the case of assisted suicides, as with the travellers, only practices cause the conflict. However, the result is more similar to the case of minarets. The first result, the court decisions that assisted suicide conforms to business zones, consists in a new fit between assisted suicides and already existing zones. The second result is the emergence of a new building type, namely hospices.

The different results are all related to the fact that buildings are quasi-technologies. The immigrating elements can be either practices or building forms: in case they meet local resistance, they become discussed in the light of building codes, where they inevitably start to move from being a practice to being a technology and back ad infinitum. Practices instantiate

forms and forms instantiate practices. In this process the travelling element itself starts to blur. It is no longer clear whether the Muslims or the mosques, the travellers or the caravans, the death tourists or the death flats are the problem. Both the proponents of the immigrating elements and their opponents can each resort to both stances: that it is practices that matter because buildings are only objects but not technologies *and* that buildings matter, because they are indeed technical.

Proponents of minarets argue that they need minarets *and* that the minaret they want is not really a minaret, but is merely symbolic. Opponents of minarets argue that minarets are symbols of Islam for conquering Europe *and* that they are not against Muslims, but care only about the height, size and colour of the proposed minaret. Proponents of assisted suicide argue that they need fitting places for their clients to die *and* demonstrate by performing assisted suicides in the most unusual places that they do not depend on these. Their opponents decry the suicides in cars as inhuman *and* produce these situations by not letting Dignitas use other buildings.

Bibliography

ap (2007) Auf dem Parkplatz in den Tod begleitet. Dignitas weicht auf neue Felder aus. *NZZ online*, 7. November. www.nzz.ch/nachrichten/zuerich/aktuell/parkplatz_dignitas_sterbehilfe_maur_1.580912.html (last accessed 9. November 2007).

ap. (2007) «Sterbetourismus» ist Schweizer Wort des Jahres. *NZZ online*, 5. Dezember. http://www.nzz.ch/nachrichten/panorama/wortdesjahres_schweiz_1.594601.html (last accessed 5. Dezember 2007).

Ashe, M., Jernigan, D., Kline, R. & Galaz, R. (2003) Land Use Planning and the Control of Alcohol, Tobacco, Firearms, and Fast Food Restaurants. *American Journal of Public Health,* 93**,** 1404-1408.

Bau- und Planungskommission Wangen bei Olten (2006) *Medienmitteilung: Minarett erweist sich als nicht bewilligungsfähig*. Wangen. http://www.wangenbo.ch/news.html#medienmitteilung, last accessed (last accessed 17.Februar).

Baurekurskommission des Kantons Zürich (2008) *Entscheid der Baurekurskommission III vom 23. Januar 2008 in Sachen Verein Dignitas gegen Gemeinderat Schwerzenbach betreffend Aufforderung zur Einreichung eines Baugesuches für Nutzungsänderung - Gewerberäume in Räume für Sterbehilfe - und Nutzungsverbot Kanton Zürich*: Zürich, (last accessed 10. April 2008).

Bleicher, A. (2006) Schweizer Gerichte schützen den Minarett-Bau. *SonntagsZeitung*, 12. February, 2.

Bolliger-Sahli, B. & Grass, U. F. (n. D.) *So 'lustig' ist das Zigeunerleben. Auch hier hätte die Schweiz einiges aufzuarbeiten.* http://jenisch.name/die_lage_in_der_schweiz_heute.htm, (last accessed 12. February 2009).

Cajacob, F. (2007) Die Odyssee von Dignitas. *Der Bund*, 8. Oktober.

Donovan, M. (2007) Getting Closer to the Poor: Justice on Wheels. *Action Program for Judicial Reform*. http://apjr.supremecourt.gov.ph/news_2007/archive_featurearticle003.html (last accessed 17. November 2008).

Eidgenössisches Departement des Inneren & Bundesamt für Kultur (2006) *Bericht des Bundesrats über die Situation der Fahrenden in der Schweiz . Teil II:*

Handlungsmöglichkeiten des Bundes zur Schaffung von Stand- und Durchgangsplätzen für Fahrende (EDI/BAK), Bern.

Eigenmann Rey Rietmann BSP/FSU (2001) *Fahrende und Raumplanung*. Gutachten St. Gallen.

Foucault, M. (1975) *Surveiller et punir. Naissance de la prison,* Paris, Gallimard.

Francescato, G. (1994) Type and the Possibility of an Architectural Scholarship. In Franck, K. A. & Schneekloth, L. H. (Eds.) *Ordering Space. Types in Architecture and Design.* New York, Van Nostrand Reinhold.

Gegen den Bau von Minaretten (2007) *Eidgenössische Volksinitiative 'gegen den Bau von Minaretten'*. http://www.minarette.ch/index.php?id=4, (last accessed 12. April 2008).

Gemeinde Stäfa (2007) *Pressemitteilung: Nutzungsverbot für Sterbewohnung der Dignitas*, Stäfa.

Greed, C. (2000) Can Man Plan? Can Women Plan Better? In Hughes, J. & Sadler, S. (Eds.) *Non-Plan. Essays on Freedom, Participation and Change in Modern Architecture and Urbanism.* Oxford, Architectural Press.

Guggenheim, M. (2009) Mutable Immobiles. Change of Use of Buildings and Quasi-Technologies. In Farias, I. & Bender, T. (Eds.) *Urban Assemblages: How Actor Network Changes Urban Studies.* London, Routledge.

Guggenheim, M. (forthcoming) (Un-)Building Social Systems. The Concrete Foundations of Functional Differentiation. In Farias, I. & Ossandon, J. (Eds.) *Observando Systemas Vol 2.* Mexico City.

Hollenstein, R. (2007) In Würde sterben. Das Hospiz St. Martin von Aldinger & Aldinger in Stuttgart. *Neue Zürcher Zeitung*, 15. November, Nr. 266, 47. http://www.nzz.ch/nachrichten/kultur/aktuell/in_wuerde_sterben_1.584624.html (last accessed 17. November 2007).

Latour, Bruno (1991) Technology is Society Made Durable, in Law, J. (ed.) *A Sociology of Monsters.*

Essays on Power, Technology and Domination. London: Routledge.

Leimgruber, W., Meier, T., Sablonier, R., Beratungsstelle für Landesgeschichte (Zürich), Schweiz Eidgenössisches Departement des Innern & Schweizerisches Bundesarchiv (Bern) (1998) *Das Hilfswerk für die Kinder der Landstrasse. Historische Studie aufgrund der Akten der Stiftung Pro Juventute im Schweizerischen Bundesarchiv,* Bern, Schweizerisches Bundesarchiv.

Ley, T. & Michel, B. (2007) Dignitas-Chef Ludwig A. Minelli: 'Habe keine andere Wahl'. *Blick Online*, 8. November. http://www.blick.ch/news/schweiz/habe-keine-andere-wahl-75548 (last accessed 9. November 2007).

Luhmann, Niklas (2000) *Organisation und Entscheidung,* Opladen: Westdeutscher Verlag.

Maurer, Bruno (2001) Carl Weidemeyer und 'die Rationalisten von Ascona', in Bruno Maurer & Letizia Tedeschi (eds.) *Carl Weidemeyer 1882-1976 Künstler und Architekt zwischen Worpswede und Ascona*. Mendrisio: Accademia di architettura Università della Svizzera italiana/Skira.

Minelli, L. A. (2007) Es ist meine Pflicht. *Weltwoche*, Nr. 40, 4. Oktober, http://www.weltwoche.ch/ausgaben/2007-40/artikel-2007-40-es-ist-meine-pflicht.html (last accessed 4. March 2008).

Minor, L. (2007) Interview: «Können Dignitas kein Hausverbot erteilen». *Tages-Anzeiger online*, 5. November. tages-anzeiger.ch/dyn/news/zuerich/810141.html (last accessed 9. November 2007).

Perin, C. (1977) *Everything in its Place. Social Order and Land Use in America,* Princeton: Princeton University Press.

Pevsner, N. (1976) *A History of Building Types,* Princeton: Princeton University Press.

Rabenhaus Rechtsanwälte, Frick, H., Hofer, P. & Hunziker, G. (n.D. /2007) *Wo darf ohne Bewilligung gestorben werden? – Informationen über Freitodbegleitung und Baurecht*

Zürich. http://www.rechtsanwaelte-rabenhaus.ch/01_german/pdf/d0046592.pdf, (last accessed 10. April 2008).

Rattaggi, S. (1983) *Fahrendes Volk heute. Interviews mit Fahrenden und Behörden,* Diploma Thesis. Schule für soziale Arbeit, Solothurn.

Ritzdorf, M. (1994) Zoning as a Tool for Regulating Family Type in American Communities. In Franck, K. A. & Schneekloth, L. H. (Eds.) *Ordering Space. Types in Architecture and Design.* New York: Van Nostrand Reinhold.

Rütsche, K. (2007) *Pressemitteilung: Sterbehilfeorganisation Dignitas. Der Sterbehilfeorganisation Dignitas wird die Sterbebegleitung im Schwerzenbacher Industriegebiet Ifangstrasse untersagt*. Schwerzenbach.

Schneekloth, L. & Bruce, E. M. (1989) Building Typologies: An Inquiry, in G. Hardie, R. Moore & H. Sanoff (eds*.) Changing Paradigms*. School of Design, North Carolina State University.

Schweizerische Eidgenossenschaft (1979) Bundesgesetz vom 22. Juni 1979 über die Raumplanung (Raumplanungsgesetz, RPG), Schweizerische Eidgenossenschaft.

Schweizerisches Bundesgericht (2003) *Extrait de l'arrêt de la Ire Cour de droit public dans la cause B. contre Département de l'aménagement, de l'équipement et du logement et Tribunal administratif de la République et canton de Genève* (recours de droit administratif), BGE 129 II 321.

Siegfried, A. (1963) *Kinder der Landstrasse. Ein Versuch zur Sesshaftmachung von Kindern des fahrenden Volkes,* Zürich, Zentralsekretariat Pro Juventute.

Staatskanzlei des Kanton Solothurn (2006) *Medienmitteilung: Wangen bei Olten - Minarett bewillig*t. Solothurn. http://www.so.ch/de/pub/regierung_departemente/staatskanzlei/content62181.htm, (last accessed 13. Juli 2006).

Verwaltungsgericht des Kantons Zürich (2007a) *Vorsorgliches Nutzungsverbot* (aufschiebende Wirkung), VB.2007.00473.

Verwaltungsgericht des Kantons Zürich (2007b) *Vorsorgliches Nutzungsverbot* (aufschiebende Wirkung), VB.2007.00472

Wildi, B. (2005) *Protokoll Gemeinderat Wangen. 8. Sitzung, Montag, 26. September 2005, 20.00 Uhr, Gemeinderatszimmer, Gemeindekanzlei. Gemeinde Wangen*: Wangen. http://www.wangenbo.ch/behoerden/protokolle_2005.html, (last accessed 17. Februar 2006).

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[2] For other studies analysing the socio-cultural implications of zoning law see Perin (1977) and Schneekloth and Bruce (1989); with special reference on the gendering issues of zoning see Greed (2000) and Ritzdorf (1994). Apart from these sociological analyses that are often critical of the implied values in zoning, there are also attempts to use zoning as an explicit tool for social ordering, for example to prevent obesity, see Ashe et al. (2003).

[3] Often new and foreign types are identified and confused with each other. What is new is foreign and what is foreign is new. For example, at the very beginning of Swiss building codes in the 1920s stood a conflict in Ascona about the then novel flat roofed buildings that opponents decried as „Nordic import“ (Maurer 2001). The building codes in Ascona were introduced to ban flat roofs and enforce pitched roofed, „indigenous“, building forms.

[4] A webpage defending the rights of the travellers mentions that there are more travellers (approx. 5000) in Switzerland than inhabitants in the smallest Cantons (Bolliger-Sahli and Grass, n.D.).

[5] Though many poor countries with bad infrastructure know mobile courts (Donovan 2007).