

Mannheim’s Pendulum: Refiguring Legal Cosmopolitanism

Thomas Kemple*

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I. THE REVIVAL OF STOIC COSMOPOLITANISM

*Cosmopolitanism is a compulsory re-education programme in openness to the world.*¹

In recent intellectual debates, the emergence of the modern cosmopolitan worldview has often been traced back to the period beginning with the Treaty of Westphalia in 1648, which established the European nation-state system and its principles of territorial sovereignty and tolerance for religious beliefs. The confirmation and disintegration of this worldview is said to have been commemorated by the Universal Declaration of Human Rights of 1948, which was built into the United Nations Charter with a pledge to protect fundamental freedoms and promote personal dignity independently of and ultimately beyond the borders of the nation-state. These historical parameters—1648–1948—are taken to mark the moment when citizenship rights guaranteed by state sovereignty were superseded or at least complemented by the liberal principle of respect for personal autonomy beyond collective self-determination; in effect, they anticipate the affirmation of *the rights of people* in contrast to the enforcement of *the laws of nations*.² Overlapping with or even exceeding these temporal (and textual)

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1. ULRICH BECK, *COSMOPOLITAN VISION* 102 (Ciaran Cronin trans., Polity Press 2006) (2004).

2. *See* IMMANUEL WALLERSTEIN, *AFTER LIBERALISM* 145–61 (1995).

indicators of the modern political imagination are the French Declaration of the Rights of Man and Citizen of 1789 on the one hand, which juxtaposed the natural rights of all humans with the national rights of citizens to liberty, equality, and solidarity, and the popular challenges of 1989 from Berlin to Beijing on the other, which demanded the realization of these rights through the breakup of the Socialist-Communist bloc and its territorial state-system.³ From the perspective of these apparently complementary frames of reference—defined by the geocultural axes of east/west and north/south, and along the historico-political timeline of the rise and fall of the modern world system—“cosmopolitanism” seems to be a relatively recent worldview and a primarily occidental project for recognizing common human aspirations, over and against the all-too-human tendency to see the larger world from the restricted standpoint of local prejudices and parochial preoccupations. In Ulrich Beck’s influential formulation, the cosmopolitan perspective “contradicts and replaces” provincial prejudices, but at the same time it also “entails and extends” the nationalist worldview, with cosmopolitanism encompassing and reinterpreting nationalist parochialism by revealing its blindness or shortsightedness.⁴ To resolve this dilemma, we need to recognize the complementarity and indispensability of both particular and universal “visions” from the perspective of their ultimate and inevitable purpose: “cosmopolitanism without provincialism is empty, provincialism without cosmopolitanism is blind.”⁵

Although I cannot fully develop the point here, I want to consider what might be gained by expanding the debate over cosmopolitanism beyond conventional references to the historico-political and geocultural framework of the occidental nation-state and its “European experimental protocol.”⁶ Is it possible to radicalize this culturally specific inheritance by imagining its nonmodern roots in a scientific-cosmic conception of the warring factions and peaceful settlements between subhuman entities and superhuman powers?⁷ And can we extend the conventional notion of a cultural and moral cosmopolitanism, which fosters universal concern and respect for legitimate differences between humans, to include a legal and scientific “cosmopolitics,” which acknowledges local rights and extends obligations grounded in attachments between human and nonhuman agents alike? In a controversial statement that inaugurated the cosmopolitanism debates of the last few decades, Martha Nussbaum implicitly both invokes and

3. See NANCY FRASER, SCALES OF JUSTICE: REIMAGINING POLITICAL SPACE IN A GLOBALIZING WORLD 12–14 (2009).

4. Ulrich Beck, *The Cosmopolitan Perspective: Sociology of the Second Age of Modernity*, 51 BRIT. J. SOC. 79, 90, 92 (2000).

5. BECK, *supra* note 1, at 7; cf. IMMANUEL KANT, *Idea for a Universal History with a Cosmopolitan Purpose*, in KANT’S POLITICAL WRITINGS 41, 41–53 (Hans Reiss ed., H.B. Nisbet trans., Cambridge Univ. Press 1970) (1784).

6. BECK, *supra* note 1, at 176.

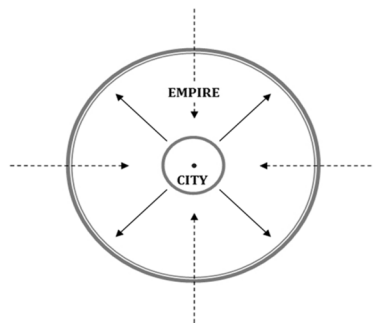
7. ISABELLE STENGERS, COSMOPOLITICS I, at 26–27, 61 (Robert Bononno trans., Univ. of Minn. Press 2010) (1997); Bruno Latour, *Whose Cosmos, Which Cosmopolitics?: Comments on the Peace Terms of Ulrich Beck*, 10 COMMON KNOWLEDGE 450, 450–62 (2004).

sets aside these questions while adopting and revising the Stoic model for expanding parochial worldviews and developing personal capacities within a global or universal framework:

The Stoics stress that to be a citizen of the world one does not need to give up local identifications, which can be a source of great richness in life. They suggest that we think of ourselves not as devoid of local affiliations, but as surrounded by a series of concentric circles. The first one encircles the self, the next takes in the immediate family, then follows the extended family, then, in order, neighbors or local groups, fellow city-dwellers, and fellow countrymen—and we can easily add to this list of groupings based on ethnic, linguistic, historical, professional, gender, or sexual identities. Outside all these circles is the largest one, humanity as a whole. Our task as citizens of the world will be to “draw the circles somehow toward the center” (Stoic philosopher Hierocles, 1st–2nd CE) making all human beings more like our fellow city-dwellers, and so on.⁸

As the reference to group affiliations and personal identities suggests, Nussbaum places more stress on the political than on the cosmic aspect of cosmopolitanism. As critics have noted, the problem with this Stoic figure of concentric circles of civic identifications lies in the implied need for an imperial center of control, in which a powerful city-state radiates political power and cultural influence centrifugally outward while maintaining its boundaries through military and social enforcement against centripetal countercurrents directed inward (see fig. 1). In this conception, “cosmopolitanism” can plausibly be construed as an expression of American patriotism, for instance, understood not as a form of ethnocentric particularism or racist coercion, but rather as liberal tolerance in defense of national and personal autonomy, or even as “a compulsory re-education programme in openness to the world” applied to illiberal, aggressive, intolerant, or simply ignorant regimes abroad, as in Beck’s telling formulation.⁹

Figure 1: Stoic Cosmopolitanism



8. MARTHA C. NUSSBAUM, *Patriotism and Cosmopolitanism*, in FOR LOVE OF COUNTRY? 3, 9 (Joshua Cohen ed., 1996).

9. BECK, *supra* note 1, at 102; see, e.g., Noah Feldman, *Cosmopolitan Law?*, 116 YALE L.J. 1022, 1060–71 (2007).

As others have argued, from a legal point of view, the cosmopolitan vision does not necessarily contradict, but may rather be the condition for a form of “constitutional patriotism.”¹⁰ That is, cosmopolitan principles may entail, rather than eliminate, the localized expression of loyalty to legally enforced rights and the commitment to procedural norms grounded in a political culture of democratic institution building and decision making.¹¹ A vision of expanding concentric circles is simultaneously the product and the presupposition of a public sphere “that includes within it *both* a dimension of rational-critical discourse and a dimension of social imagination and promising.”¹² Even in this admirably liberal formulation, however, a well-meaning and legitimate universal aspiration to justice and equality could potentially endanger otherwise benign or emancipatory ways of being and thinking, ideologically promoting particular and powerful local ways of seeing, knowing, and acting while suppressing others, as Marx and Engels had already argued in *The Communist Manifesto*: “The bourgeoisie has through its exploitation of the world-market given a cosmopolitan character to production and consumption in every country. . . . In place of the old local and national seclusion and self-sufficiency, we have intercourse in every direction, universal interdependence of nations.”¹³ Today, we might add that, insofar as even “the intellectual creations of individual nations have become common property,”¹⁴ a “cosmo-theory” or global worldview that professes to speak beyond local interests in the name of universal ideals and a global social imagination cannot remain aloof from the privileges of class inequalities and status hierarchies.

A further question I want to consider is whether this concentric model of cosmopolitanism is either too narrow or too static to account for a world system in which shifting local and uprooted cosmic affiliations encompass collectivities of human and nonhuman agents governed by the naturally occurring as well as socially enacted laws of *cosmos* and *polis* alike. To approach these issues, I turn to some classical theorists in the sociology of knowledge and culture who argue that ideas, beliefs, and values of all kinds—including those that inform laws ordering human and natural affairs—never exist in the realm of pure mind or in the brain of a disinterested thinker free of particular ties and material demands. Rather, nature and society are constituted by multiple yet finite provinces of meaning—law and science, for instance—each with their own distinctive cognitive styles, accents of reality, objects of concern, and principles of transcendence and immanence, and all of which are inhabited by citizens or denizens of several

10. Craig Calhoun, *Imagining Solidarity: Cosmopolitanism, Constitutional Patriotism, and the Public Sphere*, 14 PUB. CULTURE 147, 149 (2002).

11. *Id.*

12. *Id.* at 170.

13. Karl Marx & Friedrich Engels, *The Communist Manifesto*, in KARL MARX: SELECTED WRITINGS 219, 224 (David McLellan ed., 1977).

14. *Id.*

worlds at the same time.¹⁵ Neither in law nor in science can there be an unattached thought or thing that is completely solitary and free; rather, subjects and objects exist within actor-networks, which are collectives of organisms and machines that can be seen to be relatively “displaced and vacillating” or “distributed yet centered” with respect to others inhabiting the same or adjacent fields, depending on the “angle” in which they are viewed and experienced.¹⁶ Following the lessons of some classic texts in the sociology of knowledge, both ancient and modern, I propose to examine a few cases or exempla not as value-ideals for us to emulate, but rather as types or models illuminating some of the impasses and implications of the recent revival of cosmopolitanism. The significance of this exercise lies in acknowledging how the irreducibly particular character of legal knowledge, which can be seen in the difficulty of translating laws between jurisdictions, for example, does not negate but may even provide a necessary condition for its universalist aspirations, as we can see when we recover the specific circumstances under which human rights or even natural laws are formulated or discovered.

To begin complicating the legal issues implied by the Stoic model invoked in general terms above, I take the situation of “the stranger” as a cultural figure or social type that is both familiar and foreign, close yet distant, rooted as well as homeless, and simultaneously inside and outside networks of intersecting social circles.¹⁷ The legal-cultural manifestations of the modern stranger confront us with the experiences of the exile, the immigrant, and the refugee on one end of the social scale, and with the tourist, the human rights officer, and the cosmopolitan intellectual on the other.¹⁸ Georg Simmel traces the metropolitan and modern sources of the legal status of the new cosmopolitan resident of the medieval commercial town, who lives by the principle that *Stadtluft macht frei* (city air makes one free), and so experiences the expansion of spatial and temporal horizons beyond the physical and personal boundaries of the self, tribe, or village:

Just as in feudal times the “free” man was he who stood under the law of the land, that is, under the law of the largest social unit, but he was unfree who derived his legal rights only from the narrow circle of a feudal community—so today in an intellectualized and refined sense the citizen of the metropolis is “free” in contrast with the trivialities and prejudices which bind the small town person. . . . It is not only the immediate size of the area and population which, on the basis of the world-historical

15. ALFRED SCHUTZ, *Transcendences and Multiple Realities*, in ON PHENOMENOLOGY AND SOCIAL RELATIONS 245, 253–56 (Helmut R. Wagner ed., 1970).

16. See HÉLÈNE MIALET, HAWKING INCORPORATED: STEPHEN HAWKING AND THE ANTHROPOLOGY OF THE KNOWING SUBJECT 192–94, 197 (2012).

17. 2 GEORG SIMMEL, SOCIOLOGY: INQUIRIES INTO THE CONSTRUCTION OF SOCIAL FORMS 601, 604–05 (Anthony J. Blasi et al. eds. & trans., Brill 2009) (1908).

18. See KWAME ANTHONY APPIAH, COSMOPOLITANISM: ETHICS IN A WORLD OF STRANGERS 89–92, 94–99 (2006); Michelle A. McKinley, *Conviviality, Cosmopolitan Citizenship, and Hospitality*, 5 UNBOUND: HARV. J. LEGAL LEFT 55, 76–77, 80–83 (2009).

correlation between the increase in the size of the social unit and the degree of personal inner and outer freedom, makes the metropolis the locus of this condition. It is rather in transcending this purely tangible extensiveness that the metropolis also becomes the seat of cosmopolitanism.¹⁹

In what follows, I want to elaborate on Simmel's image of the metropolitan type as both a member of a *globalizing society of strangers* and as *the local seat of cosmopolitan intellectuality*. As Tim Brennan²⁰ notes with reference to this passage, "cosmo-theory" can be described as an attempt to grapple with the paradox that a cosmopolitan outlook is necessarily local even as it disavows its local appeal, particularly when a diasporic intelligentsia tries to export its own "psychogeography of modernity" through expanding linkages of cultural and economic capital (a point I return to in the conclusion). Rather than attempting to map the many paths that have led to the revival of cosmopolitan discourse since 1945, I focus on the work of exiled intellectuals from the interwar period in the generation after Simmel, especially Karl Mannheim and his student Norbert Elias, whose arguments can be understood to anticipate the regime of international law, human rights, and cosmopolitan ethics of the postwar era. The "homeless" position of the intellectual in the grips of the crisis of the nation-state, I argue, can help us to locate legal knowledge within an increasingly cosmopolitan worldview.

II. LIBERAL COSMOPOLITANISM BETWEEN IDEOLOGY AND UTOPIA

*This unanchored, relatively classless stratum is, to use Alfred Weber's terminology, the "socially unattached intelligentsia" (freischwebende Intelligenz). . . . Participation in a common educational heritage progressively tends to suppress differences of birth, status, profession, and wealth, and to unite the individual educated people on the basis of the education they have received.*²¹

The cosmopolitan worldview espoused in various ways by intellectuals today is largely the expression of a particular form of *liberalism*, typically situated as a kind of alternative middle path, vital center, or "third way" struggling to assert democratic values of freedom and equality between the older extremes of conservatism (including its "bureaucratic," "romantic," and "fascist" variants) and communism (and other forms of radicalism, including "anarchism" and "socialism"). Karl Mannheim's German-language writings from the Weimar period (he had immigrated from Hungary to study in Heidelberg), culminating in his masterwork *Ideology and Utopia* (the English translation of 1936 is an expanded version of the 1929 edition), stress that despite their political and intellectual differences, conservatives, liberals, and communists tend to agree that history is

19. GEORG SIMMEL, *The Metropolis and Mental Life*, in ON INDIVIDUALITY AND SOCIAL FORMS: SELECTED WRITINGS 324, 334 (Donald N. Levine ed., Univ. of Chi. Press 1971) (1903).

20. Timothy Brennan, *Cosmo-Theory*, 100 S. ATLANTIC Q. 659, 660, 674 (2001).

21. KARL MANNHEIM, IDEOLOGY AND UTOPIA: AN INTRODUCTION TO THE SOCIOLOGY OF KNOWLEDGE 155 (Harcourt, Brace & World, Inc. 1936) (1929).

composed of intelligible interrelations, and that an understanding of these connections can provide “a measuring-rod for conduct.”²² Broadly speaking, all three practical-intellectual positions can be located within the contrast that Mannheim draws between *ideology*—the thought-form that present reality invalidates as outdated—and *utopia*—the thought-form that present reality invalidates as being premature. Where ideology expresses a consciousness of the emergence of things as they are, if only partially and after the fact, utopia expresses a state of mind that is incongruous with existence, if only with the aim of shattering the status quo as a way of preparing for some future order of things. The two conflicting tendencies of the modern world can be described as an attitude that is relatively complacent with the sociogenesis of existence and one that aspires to transcend reality through the psychogenesis of thought, but without losing touch with the present reality.²³ Ironically, the general or *total* concepts of ideology and utopia—as opposed to their critical, partial, and distorted variants—can themselves be traced to a particular thought-form and practical orientation, namely communism (rather than liberalism or conservatism) as expressed by Marx and Engels in *The German Ideology*: “Consciousness [*das Bewusstsein*] can never be anything else than conscious existence [*das bewusste Sein*], and the existence of men is their actual life-process.”²⁴ Notwithstanding this genealogy of the modern Weltanschauung, Mannheim argues that only the liberalism of certain progressive intellectuals (such as those of his elite Heidelberg circle) can offer the best hope for surmounting the antinomies of authoritarian conservatism and communism. As he notes in his lyrical “Heidelberg Letters” (written in Hungarian), the history of the soul and culture of this new cosmopolitan outlook entails “only reporting the adventures of a few trailblazers and we act as if we and these few select persons were the axis of the world.”²⁵

Almost exactly halfway into *Ideology and Utopia*, Mannheim introduces his famous figure for this quintessentially modern form of “conscious-being”: “the socially unattached,” or (as it is often cited) free-floating intelligentsia (*freischwebende Intelligenz*), a phrase that I will also translate as “oscillating intelligence” in order to highlight Mannheim’s stress on the general, dynamic, and *relational* character of this concept. “*Intelligenz*” here is understood both in the general sense of “intelligence” as a capacity for reason, abstraction, and mental acuteness, and in the specific meaning of “intelligentsia” as a particular stratum of thinkers, speakers, readers, and writers, whether professionals or amateurs, organic or elite, rebels or functionaries, who enjoy varying degrees of autonomy or dependence on national cultures and local traditions. At one extreme, *Intelligenz* may be disciplined

22. *Id.* at 136.

23. *Id.* at 261.

24. Karl Marx & Friedrich Engels, *The German Ideology*, in KARL MARX: SELECTED WRITINGS, *supra* note 13, at 159, 164.

25. KARL MANNHEIM, *SOCIOLOGY AS POLITICAL EDUCATION* 81 (David Kettler & Colin Loader eds., Transaction Publishers 2001) (1930).

and pressed into the service of gathering information for the strategic purposes of combat, defense, and surveillance (the military meaning of “intelligence” in English); at the other extreme, the task of a free and enlightened intellectual stratum—from its beginnings as a bourgeois pursuit to its democratization among the working classes, subordinate ethnic groups, women, and youth—is “to change the world through rational means and to transform ourselves into self-conscious human actors.”²⁶ At each end of the spectrum, forms of thought—from the scientific to the commonsense—will have a vitality and intellectuality of their own that is never entirely pure or fixed: “The life of mind is a constant flux, oscillating between the theoretical and a-theoretical pole, involving a constant intermingling and re-arranging of the most disparate categories of many different origins.”²⁷ And yet, “[i]t is precisely in times of crisis that we need the undogmatic fluidity of intellectuals who relativize everything and are capable of understanding others.”²⁸ Mannheim’s vision of *freischwebende Intelligenz*—a *relatively* classless intelligentsia and a *partially* oscillating intelligence suspended over the conflicts and commitments of the age, though never entirely released from them—thus combines the cosmopolitan humanism of sixteenth-century European thought with the scientific rationalism of the seventeenth century, in the tradition of what Stephen Toulmin has called “the hidden agenda of modernity.”²⁹

Most commentators on Mannheim’s image of the “*freischwebende Intelligenz*” assume that it refers simply to a kind of formless drifting or aimless hovering of thought in a void, completely without ties to material existence and without perspective on reality, despite Mannheim’s insistence that it is *not* “suspended into a vacuum into which social interests do not penetrate.”³⁰ Resituated within the context of his larger argument, this figure suggests an alternating vacillation or wavering between extremes *from a relatively fixed point suspended between them*, and thus something hanging from a *grounded position* located at a particular moment in time and space. As Mannheim stresses throughout *Ideology and Utopia*, what distinguishes this unresolved, or “hovering,” mode of thinking is not its complete detachment from existence, but rather its potential for transcending particularist or partial perspectives while nevertheless remaining bound to them. In his words, the cardinal rule of the sociology of knowledge is to acknowledge the situational or “existential determination of knowledge” (*Seinsverbundenheit des Wissens*), which is itself relative to and bounded by “the concrete standpoint of the thinker” (*Standartsgebundenheit des Denkers*).³¹ In figure 2, I have attempted to depict this

26. Karl Mannheim, *The Sociology of Intellectuals*, 10 THEORY, CULTURE & SOC’Y 69, 69–80 (1993).

27. KARL MANNHEIM, *On the Interpretation of Weltanschauung*, in FROM KARL MANNHEIM 136, 143 (Kurt H. Wolff ed., Oxford Univ. Press 2d expanded ed. 1993) (1923).

28. *Id.* at 80.

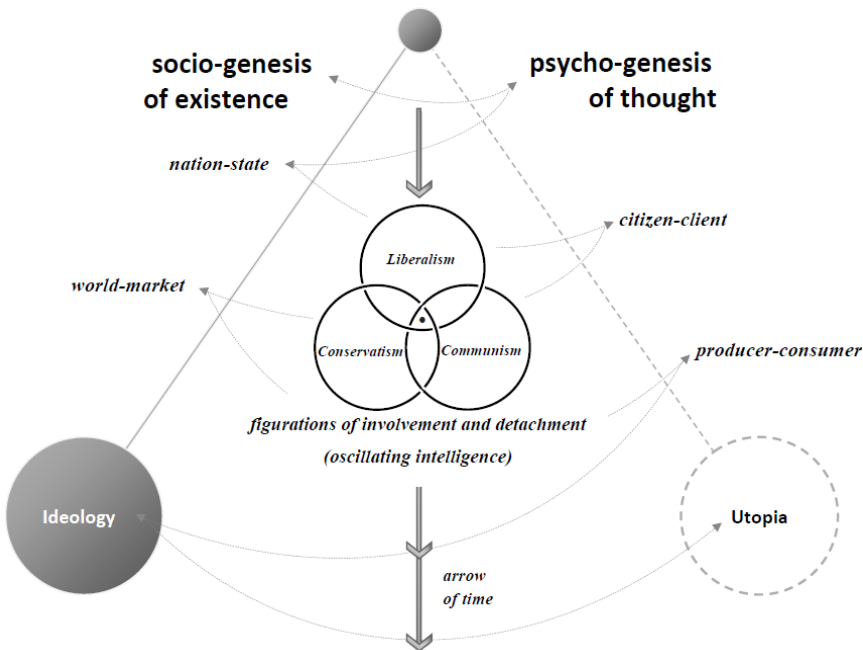
29. STEPHEN TOULMIN, COSMOPOLIS: THE HIDDEN AGENDA OF MODERNITY 117–29 (1990).

30. MANNHEIM, *supra* note 21, at 157.

31. *Id.* at 78–79, 267.

“oscillating intelligence” or “vacillating intelligentsia” as a kind of pendulum-swing that entails such objective and intersubjective shifts in perspective. Here I present the intersecting value-spheres, cultural domains, or social circles of liberalism, conservatism, and communism as figurations of involvement and detachment (to use a phrase from Norbert Elias, discussed in the next section). Each swing or standpoint articulates theory connected to action, just as practical fields become the “clarifying medium” through which theory is tested, altered, and developed through time.³² A thought style, worldview, or mindset is more or less bound up with the macrostructures of states and markets, for instance, even as it is embodied in the particular micromilieus, experiential domains, and thought-worlds of citizens, clients, producers, and consumers. Like Galileo’s pendulum, which was designed as a cosmological model for measuring space-time from a fixed point while linking the infinity of the heavens to a finite earthly domain,³³ Mannheim’s pendulum sutures thought to the social world by demonstrating the contradiction and complementarity between the little worlds of everyday experience and the extended structures of institutionally organized thought and existence.

Figure 2: Liberal Cosmopolitanism (Mannheim’s Pendulum)



32. *Id.* at 133.

33. See DUŠAN BJELIĆ, GALILEO’S PENDULUM: SCIENCE, SEXUALITY, AND THE BODY-INSTRUMENT LINK 116–17, 123 (2003).

In Mannheim's terms, critical thinking and transformative action take shape through what he calls "scientific politics," that is, within the alternation between the conscious reflection ("theory") and public engagement ("practice") of situated agents and thinkers. Scientific politics in the modern world requires a kind of methodical organon or intellectual instrument for "put[ting] the world at a distance," and thus for separating existence from thought so that "[a]n altogether peculiar relationship comes into being."³⁴ The purpose of such a device is to discover networks and trace attachments between agents by focusing on the tense and dynamic interplay between reality-complacent and reality-transcendent modes of thought. Figuratively speaking, this movement can be expressed as the swaying back-and-forth between ideology and utopia in which no position remains forever fixed at the extremes and no idea or deed becomes stagnant through the passage of time and flow of history:

[W]hereas the decline of ideology represents a crisis only for certain strata, and the objectivity which comes from the unmasking of ideologies always takes the form of self-clarification for society as a whole, the complete disappearance of the utopian element from human thought and action would mean that human nature and human development would take on a totally new character . . . a static state of affairs in which man himself becomes no more than a thing.³⁵

Today we might say that the liberal intelligentsia and its generalized cultural medium sustain an *interest in disinterestedness* and a *value for value-freedom*, but ideally from a particular cultural and social location that privileges ethical self-cultivation and openness to the world over narrow economic necessity or inexorable political expediency. As Pierre Bourdieu argues after Mannheim, the collective mission of the intelligentsia and the critical function of its enlightened intelligence are measured by its distance from practical engagement, even as it is ultimately driven by political commitments for establishing institutional forms of access to *universal* values and for ensuring the production of *rational* thought.³⁶

With the demise of the Weimar Republic and the rise of the Third Reich, Mannheim came to place more stress on the view that the cosmopolitan ethos of modernity should not remain the specialist preserve of an elite intelligentsia, but that the institutionalization of its reflexive and critical intelligence should be guided by a practical plan for the implementation of these ideals. His other great work, *Man and Society in an Age of Reconstruction*, written in the years after his exile to London in 1933 and published in German in 1935, followed by an expanded English edition in 1940, assumes a didactic and instructional tone that commands political participation, education, and mobilization, in contrast to the contemplative style of his earlier work, which was marked by "the dramatic

34. MANNHEIM, *supra* note 25, at 21.

35. MANNHEIM, *supra* note 21, at 262–63.

36. Pierre Bourdieu, *Fourth Lecture. Universal Corporatism: The Role of Intellectuals in the Modern World*, 12 *POETICS TODAY* 655, 660–62 (1991).

imagery and essayistic subtlety of a thinking formulated on dialectical antitheses and paradoxical reversals.”³⁷ As Bryan S. Green³⁸ notes, the concrete imaging of abstract ideas characteristic of Mannheim’s writings from the Weimar period, such as the pendulum-swing of ideology and utopia that I have depicted above, invites readers to make their own connections between intellectual discourse and everyday speech, and between political theory and social practice. This subtle style and open mode of address of the earlier period gives way in the later work to a more impersonal and objective posture of mastery, urgency, and mindful adjustment to shifting demands. Rather than sketching out the dynamic relation between existence and thought, or proposing a loosely formulated sociology of intellect or culture (*Geist*) and “conscious existence” (*bewusste Sein*), Mannheim now offers a systematic typology of intellectuals and a standard of rationality methodically marked off by a sliding scale between local ties and cosmic freedoms:

The influence of the mobile type saves from intellectual provincialism those indigenous types whom property, sentimental attachment to the native soil, and the consciousness of a secure future have rendered not only more stable, but also more comfortable and satisfied. At the same time, the latter type forces the more abstract and over-mobile elements to take account of the concrete facts, locality and slowly growing traditions of their immediate surroundings and to assimilate them psychologically.³⁹

When the educated stratum of trained functionaries is no longer caught up in tightly bound mutual relationships, in static social circles defined by class and status, or in closed cultural spheres of economic and political interests, it can better respond to the urgency and chaos of current crises by rationally interpreting the interdependence of parts in light of an ever-changing whole.⁴⁰ From the perspective of macrostructural historical stages of thought—from the trial and error of chance discovery (*Finden*) and the goal-setting project of foresight of invention (*Erfinden*), to the reflexive mediations of planning (*Planen*) and its implementation—modern intelligence can learn to train itself to comprehend the complexities of unique events while acting against the background of general processes. The project of “democratic planning for freedom” requires that any conflict between the functional rationalization of organizational needs or demands and the substantial reason of value judgments or emotions be managed through the coordination of competing goals.

Mannheim’s thought represents both the classic form of liberal cosmopolitanism, which champions the intellectual ideal of free personality, and

37. DAVID KETTLER & VOLKER MEJA, *KARL MANNHEIM AND THE CRISIS OF LIBERALISM* 137 (1995).

38. Bryan S. Green, *Karl Mannheim: A Case Study in Textual Decline*, 9 J. CLASSICAL SOC. 234, 239–40 (2009).

39. KARL MANNHEIM, *MAN AND SOCIETY IN AN AGE OF RECONSTRUCTION* 94 (Harcourt, Brace & World, Inc., 1940) (1935).

40. *Id.* at 153.

its crisis and demise, insofar as he advocated the integration of an enlightened critical ideal into an institutionalized complex of regulated objectives. Although his focus is on the contemporary situation of economic crisis, world war, and political dictatorship on the Continent, his outlook is decidedly global and even “cosmic” while stopping short of any call for “the end of ideology,” which became the rallying cry of later neoconservatives and neoliberals.⁴¹ In his view, the social technique of “planning for freedom” is the most that can be salvaged from the wreckage of *laissez-faire* individualism, if only through a process that may stimulate “a new experimental attitude in social affairs, a readiness to learn from all the lessons of history.”⁴² Figuratively speaking, the most urgent task of planning in “the age of reconstruction” entails drafting rules and laws for defining and ordering the creation of newly organized *fields* out of the old “spheres,” each with its own distinctive properties and forces:

Whenever society, instead of expanding in concentric circles, develops new spheres of action which traverse the boundaries of the concrete groups, we speak of a *field structure*. Where fresh markets must be won after economic or political conquest overseas, where new industries create fresh trade at home, or propaganda is needed to persuade people to take up unfamiliar work, the predetermined patterns adopted by the concrete groups are apt to break down. Whenever conflict and competition are in full swing, and individuals have to make their own adjustments, whenever it is impossible to foresee the trend of events, *the laws which govern the magnetic waves of the field structure* have more effect on human nature than established custom or rational organization.⁴³

The kind of “interdependent thinking” called for with the emergence of a cosmopolitan worldview and a global civil society will therefore involve the creation of legal structures and the reinvigoration of bureaucracies in ways that enhance the capacity of institutions to foster care and concern, but without sacrificing the virtues of efficiency and objectivity.⁴⁴ Echoing some of the arguments of the “ordoliberals” of the Freiburg School writing around the same time,⁴⁵ Mannheim suggests a middle way between market anarchy and socialist or fascist authoritarianism by envisioning a liberal parliamentary state that would absorb and regulate the institutions of civil society while adapting to the fluctuating orders of the free market and free enterprise, thereby pacifying class war though perhaps only postponing world war. The history of parliamentarism,

41. H.T. WILSON, *Functional Rationality and ‘Sense of Function’: Critical Comments on an Ideological Distortion*, in THE VOCATION OF REASON: STUDIES IN CRITICAL THEORY AND SOCIAL SCIENCE IN THE AGE OF MAX WEBER 111, 133–37 (Thomas M. Kemple ed., 2004).

42. See MANNHEIM, *supra* note 39, at 365.

43. *Id.* at 297 (emphasis added).

44. See, e.g., *id.* at 229–36.

45. MICHEL FOUCAULT, THE BIRTH OF BIOPOLITICS: LECTURES AT THE COLLÈGE DE FRANCE, 1978–1979, at 176–79 (Michel Senellart ed., Graham Burchell trans., Palgrave MacMillan 2008) (1978–1979).

he argues, can be characterized as “the control of controls,” especially over the legal and economic frameworks that govern social relations.⁴⁶ Realizing such a project may require not just the passion to plan characteristic of the trained functionary, but also the cultivated enlightenment of the intellectual courtier and the civil manners of the educated citizen.

III. THE CIVIL MANNERS OF LIBERAL COSMOPOLITANISM

*The conception of the individual as homo clausus, a little world in himself who ultimately exists quite independently of the great world outside, determines the image of human beings in general. Every other human being is likewise seen as a homo clausus; his core, his being, his true self appears likewise as something divided within him by an invisible wall from everything outside, including every other human being.*⁴⁷

Although Mannheim did not live to see the Nuremberg Trials, the subsequent establishment of the United Nations, or the ratification of the Universal Declaration of Human Rights, the sociology of liberal intelligence that he sketched in the 1920s and the social techniques of democratic planning that he outlined in the 1930s arguably anticipate and frame the renewal of “legal cosmopolitanism” in the decades to come. Following Mannheim, I argue that the cosmopolitan consciousness does not simply hover freely in the heavenly ideals of universalism and disinterestedness without some practical tie and political grounding in particular times and places. To ensure that this point does not itself get lost in decontextualized abstractions, I want to consider briefly how one such exemplary moment can be seen in the clash between Mannheim and his mentor, Alfred Weber, at the German Sociological Society Meetings in Zurich in September 1928 and at their joint seminars in February 1929.⁴⁸ For my purposes, these scenes are significant first because Mannheim credits Weber with the notion of “*freischwebende Intelligenz*?” (in the passage from *Ideology of Utopia* referred to above, but for which Mannheim offers no citation), and second because the dispute between them is both a comment on and an enactment of their contrasting intellectual views regarding the standpoint of the intellectual and the social foundations of intelligence. Ironically, each assumes a position within a cultural field defined by intellectual competition and generational conflict (Mannheim’s preoccupations during this period, and the topic of his Zurich talk), while questioning whether universal ideas and “ultimate attitudes” can exist independently of class interests, socioeconomic locations, and political views

46. MANNHEIM, *supra* note 39, at 330.

47. NORBERT ELIAS, *THE CIVILIZING PROCESS* 472 (Eric Dunning et al. eds., Edmond Jephcott trans., Blackwell Publishers 1994) (1939).

48. KARL MANNHEIM, *Competition as a Cultural Phenomenon*, in *ESSAYS ON THE SOCIOLOGY OF KNOWLEDGE* 191, 191–229 (Paul Kecskemeti ed. & trans., 1952) [hereinafter MANNHEIM, *Competition as a Cultural Phenomenon*]; KARL MANNHEIM, *The Intellectualism Dispute*, in *SOCIOLOGY AS POLITICAL EDUCATION*, *supra* note 25, at 109, 109–29.

(Weber's primary question, and the substance of his responses on both occasions). Each starts out by addressing the problem that Georg Lukács had posed in his *History and Class Consciousness* of how knowledge is bounded by material processes,⁴⁹ a thesis already posed by Marx and Engels in *The German Ideology* and *The Communist Manifesto*: "The ideas of the ruling class are in every epoch the ruling ideas, i.e. the class which is the ruling *material* force of society is at the same time its ruling *intellectual* force."⁵⁰ In reply to Mannheim's argument that civilized ideals and cultured values cannot attain anything more than relative autonomy from material social forces, Weber accuses Mannheim of falsely assuming that the intellectual commitment to "value-freedom" (*Wertfreiheit*) necessarily entails a radically liberal stance of ethical neutrality, cultural relativism, or methodological perceptualism, rather than a genuine commitment to universal ideas or transhistorical truth. For both Weber and Mannheim the question is not *whether* but *in what ways and to what degree* the liberal-cosmopolitan ideal of "*freischwebende Intelligenz*" can be realized for all practical purposes. Viewed as an exemplary moment in the cultural politics and intellectual struggles of the Weimar era, the intense dispute between these men is symptomatic of how "matter-of-factness" (*Sachlichkeit*) itself becomes an element within the increasingly pervasive personal and social style of the era, as well as a weapon within a polemical battle for mobilizing the minds of the coming generation.⁵¹

In a curious way, Norbert Elias—Mannheim's younger colleague and research assistant at the time, who in later years recalled his reaction to this public confrontation between his two mentors—frames each position as a sociological and intellectual event in the history of thought with enormous personal significance for each of them, and as a crucial turning point in his own thinking. As Elias remembers it, the dispute between his former Habilitation supervisor (Weber) and current research supervisor (Mannheim) at the Zurich meetings had the effect of repeating timeworn conceptual dualisms between consciousness and existence, which both thinkers otherwise attempted to overcome even as they violated the codes of civilized propriety governing scholarly debate.⁵² Mannheim's lecture in Zurich treats "competition" not just in the traditional way as a technical problem within the economic sphere, but also more broadly as a cultural

49. GEORG LUKÁCS, *HISTORY AND CLASS CONSCIOUSNESS* 2–5, 189 (Rodney Livingstone trans., Merlin Press 1971) (1922); MANNHEIM, *supra* note 25, at 110–12.

50. Marx & Engels, *supra* note 24, at 176 (emphasis added); Marx & Engels, *supra* note 13, at 236.

51. Cf. Andreas Huyssen, *Foreword* to PETER SLOTERDIJK, *CRITIQUE OF CYNICAL REASON*, at ix (Michael Eldred trans., Univ. of Minn. Press 1987) (1983) (discussing the "new objectivity" as a weapon in the generational battle between intellectuals of the interwar period).

52. See generally NORBERT ELIAS, *REFLECTIONS ON A LIFE* (Edmund Jephcott trans., Polity Press 1994) (1987) [hereinafter ELIAS, *REFLECTIONS ON A LIFE*]; NORBERT ELIAS, *Contribution to the Debate on Karl Mannheim: The Importance of Competition in the Intellectual Field*, in *EARLY WRITINGS* 67, 68–70 (Edmund Jephcott trans., Univ. Coll. Dublin Press 2006) (1929) [hereinafter ELIAS, *EARLY WRITINGS*]; Richard Kilminster, *Norbert Elias and Karl Mannheim: Closeness and Distance*, 10 *THEORY, CULTURE & SOC'Y* 81, 84, 93–96 (1993).

phenomenon that determines the existential struggle for truth in an intellectual realm, and thus as a topic for the sociology of knowledge,⁵³ an argument that had earlier been outlined in general terms by his teacher, Georg Simmel.⁵⁴ To illustrate the point, he considers the controversy over “value-freedom” in the intellectual field, a debate that Alfred Weber and his brother Max had been engaged in years before, from the perspectives of liberalism, conservatism, and socialism, understood not just as ideological or political positions, but also as styles of thought and cultural currents (*Geistesströmungen*).⁵⁵ The life of the mind is not just a technique for achieving tacit consensus or quiet contemplation inasmuch as it is defined by conflicts (*Streiten*) between opposing intellectual forces, leading to their fragmentation or concentration, polarization or synthesis, and monopolization or democratization. In Weber’s indignant reply to this argument (which, ironically, he contradicts while confirming through his own performance), he accuses his junior colleague of simply refining vulgar materialism and reasserts his position that universal categories and ultimate values are not existentially bounded. Elias’s subsequent response to both speakers—in his remarks at the time and in his memoirs decades later⁵⁶—avoids overtly taking sides in the dispute by affirming what he calls the “revolutionary” value of disciplined observation and intellectual objectivity, which he considers to be a necessary detour on the way toward intelligent practical evaluation and critical engagement.

From the perspective of this pivotal debate, Elias’s classic work in the 1930s on the rise of the court society and the dynamics of the civilizing process from the Middle Ages to the modern era can be read as an attempt to find some middle ground between the theoretical positions of his former mentors by exploring the common history that produced them. Elias’s studies provide a broad framework for examining the rise of a liberal cosmopolitan consciousness: first, by tracing its intellectual, political, and legal manifestations as they emerge from the centrifugal and centripetal dynamics of social regulation through state formation; and second, by examining the intensification of self-control that emerged through the cultivation of personal relations of tolerance, order, and propriety in the shift from the canons of noble *courtoisie* to the codes of bourgeois *civilité*.⁵⁷ This “psychogenetic” dimension specifies how “sociogenetic” processes can be traced across large-scale geocultural and institutional transformations, and affords us a useful insight into the personal relations of power and politeness at stake in the transformation of the norms of justice and sovereignty from the royal court to the

53. See MANNHEIM, *Competition as a Cultural Phenomenon*, *supra* note 48, at 191–94.

54. See 1 GEORG SIMMEL, *SOCIOLOGY: INQUIRIES INTO THE CONSTRUCTION OF SOCIAL FORMS* 258–78 (Anthony J. Blasi et al. eds. & trans., Brill 2009) (1908).

55. See *id.* at 216–21.

56. See ELIAS, *REFLECTIONS ON A LIFE*, *supra* note 52, at 101–20; ELIAS, *EARLY WRITINGS*, *supra* note 52, at 67–70.

57. See ELIAS, *supra* note 47, at 47–72.

court of law, as in the following excerpt from Elias's account of the transition from medieval kingship to modern government:

[T]he meaning of etiquette for Louis XIV . . . is not a matter of ceremonial, but an instrument for the ruling of subjects. If power exists but is not visible in the appearance of the ruler, the people will not believe in it. They must see in order to believe. The more a prince distances himself, the greater will be the respect shown to him by the people.⁵⁸

Caught between the royal ruler and his subjects was the nobility, whose shrinking financial basis left it vulnerable to the challenge of the emerging bourgeoisie and its growing wealth, and who in turn needed the king to protect it against the threats and presumptions of the nobility.⁵⁹ As Simmel remarked a generation before, each stratum occupied an intermediary position in the social hierarchy, but where “the middle class can expand upward or downward, the nobility repulses both.”⁶⁰ And where the aristocracy of the early modern period offered a historically unique solution to the balance between the inherited interdependencies of the social whole and the autonomous aspirations of the individual, the bourgeoisie of the late eighteenth century adopted a more “cosmopolitan attitude” in which the equality of a common “humanity” was combined with the freedom of the personality and against the constraints of national solidarity and its cultural impositions.⁶¹ Both bourgeois and noble “figurations” of individuality would then find new and modified expression in the nineteenth century in the conception of the individual law (*das individuelle Gesetz*) that governs the expansion of the spheres of action and existence to the extent that the social circles around the individual open up and become both more autonomous and more interdependent. As the grip of custom and morality loosens and the horizons of thinking and doing widen with the expansion of the industrial metropolis, the qualitative singularity and uniquely irreplaceable character of each human being is potentially enhanced along with the self-legislating capacity of the individual.

In Elias's terms, it was the sociogenesis of the modern state out of the dynamics of feudalization that gave rise to the “power figurations” of finance, law, and science, and that eventually found expression in flexible personal attitudes regarding the values of rank and order within the cosmic and social scales of both human and nonhuman nature. The pendulum-swing of the liberal attitude of oscillating intelligence thus finds a precedent in Galileo's astronomical investigations of the late medieval and early modern period, which were the concern of Elias's later study of mechanical time and technical knowledge that extends his account of the civilizing process to address the rise of natural science

58. NORBERT ELIAS, *THE COURT SOCIETY* 128 (Edmund Jephcott trans., Univ. Coll. Dublin Press rev. ed. 2006) (1933).

59. *Id.* at 181.

60. 2 SIMMEL, *supra* note 17, at 642.

61. *Id.* at 648.

and the modern cosmopolitan worldview. Insofar as Galileo's inquiries were facilitated by the magnifying device of the telescope and mediated by the experimental mechanism of the pendulum, for instance, they reconfigure the relationship between cosmos and polis, heaven and earth, by introducing a "new common sense" with respect to the laws governing both the natural and human worlds:

Galileo's innovatory imagination led him to change the function of the ancient timing device by using it systematically as a gauge for the flux not of social but of natural events. In that way a new concept of 'time', that of 'physical time', began to branch off from the older, relatively more unitary human-centered concept. It was the corollary of a corresponding change in people's concept of nature. Increasingly, 'nature' assumed in people's eyes the character of an autonomous, mechanical nexus of events which was purposeless, but well-ordered: it obeyed 'laws'.⁶²

Just as the modern judge adjudicates tensions between human beings by invoking the formal (mechanical) and substantive (material) dimensions of law, so does modern science try to bridge the gap between the empirical and experiential observations of nature in an attempt to discover nature's own laws, thereby shattering the image of an inanimate, uniform, and unchangeable order of existence that appears to hold everything in an irreversible double-bind.⁶³ In this regard, the judge and the scientist each maneuvers between the value-ideals of charisma and casuistry, courtliness and civility, the natural and civil virtues that Max Weber appreciated in the English tradition of justice, and that are often cited as the hallmarks of the cosmopolitan sensibility.⁶⁴ The notion of "physical time," which the modern age reveals through the movement of the pendulum, is then instituted as a pattern of cosmic order and social control, and is internalized as a technique of self-constraint regulating the individual personality.⁶⁵

Elias's attempt to deepen our understanding of the existential determination of knowledge from its cultural-political to its natural-scientific dimension returns us to what I am calling "Mannheim's pendulum," understood as a figuration for the modulating and often mechanized intelligence of liberal cosmopolitanism generally, and for its manifestation as legal cosmopolitanism more specifically. Elias's project reconfigures the standard account of the rise of a distinctively modern scientific worldview by considering how the sociogenetic dynamic of institution-building shapes the psychogenetic processes of self-formation—in

62. 9 NORBERT ELIAS, *An Essay on Time*, in THE COLLECTED WORKS OF NORBERT ELIAS 31, 94 (Steven Loyal & Stephen Mennell eds., Univ. Coll. Dublin Press rev. ed. 2007) (1984).

63. 8 NORBERT ELIAS, *Involvement and Detachment*, in THE COLLECTED WORKS OF NORBERT ELIAS 3, 162 (Stephen Quilley ed., Univ. Coll. Dublin Press rev. ed. 2007) (1983).

64. See generally EDWARD SHILS, THE VIRTUE OF CIVILITY 63–102 (Steven Grosby ed., 1997); 2 MAX WEBER, ECONOMY AND SOCIETY 1111–57 (Guenther Roth & Claus Wittich eds., Univ. of Cal. Press 1978) (1910); Paul Sahni, *Max Weber's Sociology of Law: Judge as Mediator*, 9 J. CLASSICAL SOC. 209, 209–33 (2009).

65. See 9 ELIAS, *supra* note 62, at 10–11.

terms of the struggle for a pure self-consciousness, a “we-less I,” and a self-contained individuality—as a distinctively occidental product of the civilizing process.⁶⁶ Viewed in this light as the outcome of a network of interdependences, the solitary and self-subsisting individual of modernity—*homo clausus*—appears without body or history, as a momentary relay within interdependent and shifting networks; a vector of energy between past and future; a vacillating perspective between universalism and particularism; or a shifting figuration of involvement and detachment (as he argues in his follow-up study on the civilizing process⁶⁷). Galileo’s pendulum already prefigures the revolutions of cosmos and polis implied by the approach that Mannheim and Elias take with respect to the constitution of social and natural laws:

In the simple pendulum swing, the Greek cosmos of sacred qualities collapsed and was replaced by measurable, profane quantities. The emancipational force of the pendulum came precisely because it *was* successful in demonstrating an abstract law of motion, the point at which the geometrical and experiential coincide into a mathematized experience.⁶⁸

As Dušan Bjelić has shown in examining the simultaneously mechanical-mathematical and social-pedagogical aspects of Galileo’s revolutionary device—its character as an instrument for demonstrating a physical law (of motion and velocity) within an experimental setting and as a social performance (in the disciplined trials of the Jesuits, for instance, or in Galileo’s own instructions)—the pendulum serves as a model for measuring space and time in nature and society from a standpoint that is not divorced from either physical friction or human interests.⁶⁹ Like the famous pendulum that Leon Foucault unveiled in 1851 to a fascinated public in Paris’s Pantheon Dome,⁷⁰ Mannheim’s Pendulum simultaneously projects local and cosmic perspectives for observing rotational movement from a suspended yet fixed point where one can “watch the world go round,” so to speak. In contrast to Foucault’s or Galileo’s pendulum, however, the perspective that Mannheim’s experimental machine affords ultimately directs our attention inward around the axis of historical time, and along a developmental path determined by the necessary limits to the agency of things and the essential contingency of human and nonhuman beings alike. In any case, the oscillating intelligence objectified in any metaphorical or material instance of the pendulum suggests that the laws of physics no less than the laws of peoples are not set for all

66. ELIAS, *supra* note 47, at 472.

67. See 8 ELIAS, *supra* note 63.

68. BJELIĆ, *supra* note 33, at 116–17 (emphasis added).

69. Cf. STENGERS, *supra* note 7, at 129 (arguing that an aspect of “the vocation of the physicist” is to calculate the degree of friction involved in any given swing of the pendulum).

70. Cf. UNBERTO ECO, *FOUCAULT’S PENDULUM* 5 (William Weaver trans., Harcourt Brace Jovanovich, Inc. 1989) (1988). The merging of these cosmic and local points of view provides the premise of an elaborate fictional narrative.

times and all places, but only become observable and verifiable as an intersubjective and momentary achievement.

IV. THE RETURN OF KYNICAL COSMOPOLITANISM?

[I]t is impossible for a society to exist without law; for without a city no benefit can be derived from that which is civilized . . . and there is no advantage in law without the city The only true commonwealth was, [Diogenes] said, that which is as wide as the universe.⁷¹

I want to conclude by suggesting that this new figure of thought set adrift—but never completely cut off from all natural bonds or unattached from all social ties—should not be dismissed as the contemptuously distrustful and ultimately capitulatory attitude of the modern cynic. Nevertheless, such was the judgment of Mannheim by two of his critics and successors, Hannah Arendt and Theodor Adorno, each of whom charges him with relinquishing the responsibility of the intellectual in favor of a homeless mode of thinking and existence that passes endlessly to and fro between ideology and utopia. Where Arendt accuses Mannheim of falling prey to the paradox of declaring that all thought is situation-bound while taking no position himself, Adorno charges him with calling for a reactionary return to the rootedness of being, rather than making a radical appeal to change the being in which thought is rooted.⁷² Adorno—whose Institute for Social Research shared a building with Mannheim, Elias, and their colleagues in Frankfurt in the early 1930s—is especially harsh in condemning the sociology of knowledge for setting up “indoctrination camps for the homeless intelligentsia where it can learn to forget itself.”⁷³ He and Arendt depict the liberal cosmopolitanism of the intellect that Mannheim seems to exemplify as a kind of freewheeling mobility of thought that cynically ignores or even knowingly disavows its rootedness in mundane times and material places. Such a perspectival and pluralist theory of knowledge and culture would therefore seem to find its counterpart in the actually existing cosmopolitanism of contemporary global tourism and metropolitan consumerism, where international goodwill, entrepreneurial travel, and leisurely mobility, along with an expanding set of omnivorous culinary, artistic, and cultural tastes seem to defy market inequalities and pass through state borders with ease: “Aided by the frequent-flyer lounges . . . contemporary cosmopolitans meet others of different backgrounds in spaces that retain familiarity. . . . Food, tourism, music, literature, and clothes are all easy faces of cosmopolitanism . . . but they are not hard tests for the relationship between

71. 2 DIOGENES LAERTIUS, *LIVES OF EMINENT PHILOSOPHERS* 73–75 (R.D. Hicks trans., 1925).

72. THEODOR W. ADORNO, *The Sociology of Knowledge and Its Consciousness*, in *PRISMS* 35, 37 (Samuel & Shierry Weber trans., 1967); HANNAH ARENDT, *Philosophy and Sociology*, in *ESSAYS IN UNDERSTANDING, 1930–1954*, at 28, 41 (Jerome Kohn ed., 1994).

73. ADORNO, *supra* note 72, at 49.

local solidarity and international civil society.”⁷⁴ Far from resembling today’s constantly connected, electronically wired intellectuals or perpetually distracted frequent-flyer cosmopolitans, however, Mannheim and Elias exemplify instead a restless, curious, and disciplined spirit of open inquiry in search of a cultural and spiritual home outside of its place of origin, each ultimately finding refuge in the universities of England. In light of their experiences, I have been arguing that each was well situated and predisposed to reflect critically upon the responsibilities and the freedoms of local and global citizenship with its liberal conventions of debate, modes of deliberation, and institutions of decision making and action.⁷⁵

If we reflect for a moment on the fact that Mannheim and Elias, as well as Adorno, Arendt, and others of their generation, did not simply choose to migrate in the 1930s, but rather, as Jewish intellectuals, were forced from Germany into exile abroad, then their situation should draw our attention to that aspect of cosmopolitanism that expresses the dignity of the person, rather than just the duty of the educated individual or the collective rights of people. Generally speaking, the global order of the *jus cosmopolitanum* that emerged in the last century as the moral and institutional foundation of international law provided the necessary *habitat* (milieu) and *habitus* (disposition) of liberal cosmopolitanism, in both its legal and intellectual dimensions. To borrow from Michelle McKinley’s eloquent appeal, such an ethos should strive to move beyond the antinomies of foreignness versus familiarity and intimacy versus anonymity, which have characterized the “cosmopolitan” debates of recent years by imagining a more complex and comprehensive view of global solidarity and local conviviality:

If cosmopolitanism is to have a future beyond a proto-naturalist basis for spreading goodwill, it needs to ground itself in the kinds of attachments and connections that engender global solidarity. This integrative move mirrors the production of “rooted cosmopolitans” in that it recognizes our special responsibility to those with whom we have significant interpersonal ties but at the same time argues from the point of equity and cosmopolitan fairness that justice requires global redistributive measures.⁷⁶

The burdens of citizenship and the entitlements of law that cosmopolitan thinkers have embraced in the past century have largely been animated by the spirit of hospitality that Kant formulated as the most fundamental of cosmopolitan rights: “[T]he right of a stranger not to be treated with hostility when he arrives on someone else’s territory.”⁷⁷ But where Kant’s rule of global citizenship (*Weltbürgertum*) at least implicitly assumed that the territorial bonds of trust,

74. Craig Calhoun, *The Class Consciousness of Frequent Travelers: Toward a Critique of Actually Existing Cosmopolitanism*, 101 S. ATLANTIC Q. 869, 887–89 (2002).

75. David Held, *Democracy and the New International Order*, in COSMOPOLITAN DEMOCRACY: AN AGENDA FOR A NEW WORLD ORDER 96 (Daniele Archibugi & David Held eds., 1995).

76. See McKinley, *supra* note 18, at 85.

77. IMMANUEL KANT, *Perpetual Peace: A Philosophical Sketch*, in KANT’S POLITICAL WRITINGS 93, 105 (Hans Reiss ed., H.B. Nisbet trans., 1970).

allegiance, and loyalty should ultimately provide the foundational frame of reference for defining the terms of inclusion and membership of the stranger as well as assistance and security in or outside the nation-state, today the “rights of others” must often be addressed in terms of the contradictory relations between local, transnational, and global scales as well.⁷⁸

In my own terms, the “oscillating intelligence” of the cosmopolitan outlook is not only manifested in the (apparently) floating figures of the tourist, the business traveler, and the human rights officer, but also in the bounded situations of the migrant, the refugee, and the exile. Rather than identify some ideal-typical or “ultimate cosmopolitan,” however, I want to extend Edward Said’s representation of the outsider role of the intellectual (and of intelligence more generally) to include the precarious legal status of the exile as well, insofar as the position of the exiled intellectual may be well situated for transmitting sacred culture while questioning forms of patriotic nationalism that promote class, ethnic, racial, and gender privilege:

The pattern that sets the course for the intellectual as outsider is best exemplified by the condition of exile, the state of never being fully adjusted, always feeling outside the chatty, familiar world inhabited by natives, so to speak, tending to avoid and even dislike the trappings of accommodation and national well-being. Exile for the intellectual in this metaphysical sense is *restlessness, movement, constantly being unsettled, and unsettling others*.⁷⁹

In figure 3, I have tried to depict the standpoint of the exile and stranger who does not just wander aimlessly through the city like the traveler, the pilgrim, or the trader, but rather “comes today and stays tomorrow” by moving inside, outside, and along the edges of multiple social circles, as Simmel puts it in the famous excursus he inserted into his discussion of the spatial forms of sociality.⁸⁰ If the back-and-forth movement between home and exile is not to lead to nausea, disorientation, or a hypnotic state of paralysis, then thought must find its place in expanding and intersecting spheres of interaction and influence (*Wechselwirkungen*, in Simmel’s terms). Likewise, if the “dynamic, elastic, . . . [and] constant state of flux”⁸¹ that characterizes the cosmopolitan outlook of the modern mind is not to lead to social dereliction and transgression (which is Said’s concern in criticizing “free-floating” intellectuals in an implicit reference to Mannheim⁸²), then the

78. See FRASER, *supra* note 3, at 12–15, 22; SEYLA BENHABIB, *The Philosophical Foundations of Cosmopolitan Norms*, in ANOTHER COSMOPOLITANISM 13, 18–19, 35–36 (Robert Post ed., 2006); Couze Venn, *Altered States: Post-Enlightenment Cosmopolitanism and Transmodern Socialities*, 19 THEORY, CULTURE & SOC’Y 65, 70–71 (2002).

79. EDWARD W. SAID, REPRESENTATIONS OF THE INTELLECTUAL: THE 1993 REITH LECTURES 52–53 (1994) (emphasis added); cf. 2 SIMMEL, *supra* note 17, at 370, 376–78.

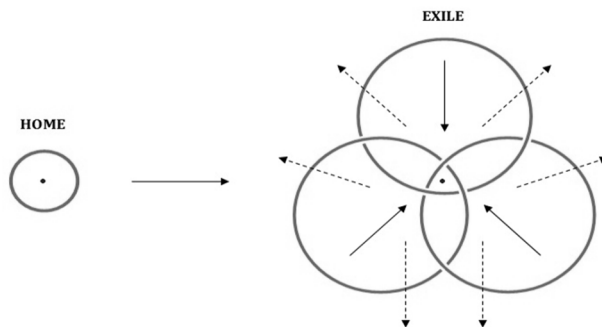
80. See 2 SIMMEL, *supra* note 17, at 601–04; cf. Thomas Kemple, *The Spatial Sense of Empire: Encountering Strangers with Simmel, Tocqueville and Martineau*, 11 J. CLASSICAL SOC. 340, 340–55 (2011).

81. MANNHEIM, *supra* note 21, at 156.

82. SAID, *supra* note 79, at 47.

standpoint it assumes must be relational without being relativist, and perspectival without striving for a transcendental point of view. The cosmopolitan attitude that I am defending here—following Mannheim’s critique of Alfred Weber but in the direction of Elias’s radicalization of Mannheim’s own position—rejects both fundamentalism and libertarianism, both authoritarianism and anarchism, in favor of a strategic universalism that acknowledges the vicissitudes of its own situated particularity.

Figure 3: Kynical Cosmopolitanism



The ethos of legal cosmopolitanism that I am recommending is therefore not that of today’s “cynics” who appear as resentful critics, self-proclaimed outsiders, consumers with a clear conscience, or frequent-flyer cosmopolitans, but rather that of the “kynics” in the sense that this term had in antiquity as applied to Diogenes. Dubbed the “philosopher in a bathtub” who thinks “like a dog” (*kynikos*), Diogenes was welcomed and admired in Athenian social circles despite being their fiercest critic and having been exiled by the people of his native Sinope, allegedly for corrupting the currency. Michel Foucault, in his final lectures at the Collège de France, devoted considerable time reflecting on the life and sayings of Diogenes in an attempt to recover this ethos of self-transformation through the courageous encounter with the truth, as exemplified in a life of scandal, self-improvisation, self-exposure, and confrontations with power that is the condition for speaking freely (*parrhesia*).⁸³ Rather than mourning the loss of this critical ideal, however, Foucault’s concern in examining such an antiquated instance of transformative speech is arguably to consider how it might be mobilized and generalized in the present, perhaps even incorporated as an element of what Marx envisions in his famous figure of “the general intellect”: “The development of fixed capital indicates to what degree general social knowledge has become a *direct force of production*, and to what degree, hence, the conditions of the process of social life itself have come under the control of the general intellect [*des*

83. See, e.g., MICHEL FOUCAULT, THE COURAGE OF TRUTH: LECTURES AT THE COLLEGE DE FRANCE, 1983–1984, at 157–305 (Frédéric Gros ed., Graham Burchell trans., Palgrave Macmillan 2011) (1984).

allgemeinen Intellekts] and been transformed in accordance with it.”⁸⁴ Under conditions in which professional expertise, technical skill, and social knowledge become subject to conformist control, perhaps then free speech and critical thought are possible more as a singular event than as a collective achievement.

Around the same time that Foucault was lecturing on Diogenes, Peter Sloterdijk was developing a “critique of cynical reason” that, he argues, found its first, fullest, and most ambivalent expression in the interwar years of the Weimar era.⁸⁵ Sloterdijk toys with the idea of calling for a return to the “kynical” principles of satire, parody, and cheekiness (*Frechheit*) as they were embodied in the deeds and words of Diogenes, who condemned the citizens of Sinope to a life of “home-staying” while declaring himself “citizen of the universe” (*kosmopolites*):

This grandiose new concept [of the “world citizen”] contains the boldest answer in antiquity to its most unsettling experience: reason’s becoming homeless in the social world and the separation of the idea of true living from the empirical communities. Where socialization for the philosopher becomes synonymous with the unreasonable demand to be satisfied with the partial reason of one’s own random culture and to join the collective irrationality of one’s society, there, the kynic’s refusal has utopian significance. . . . The kynic thus sacrifices his social identity and forgoes the psychic comfort of unquestioned membership in a political group in order to save his existential and cosmic identity. . . . Cosmopolitan sages as bearers of living reason will accordingly only be able to integrate themselves unreservedly into a society when it has become a world-polis. Until then, their role is inevitably that of subversives; they remain the biting conscience of every dominating self-satisfaction and the affliction of every local narrowing.⁸⁶

Diogenes is no free-floating philosopher preaching freedom from all law or arguing that we embrace the chaos within, but rather a new kind of inhabitant of the city, neither citizen nor slave, who boldly rejects the closure of parochial prejudices while tirelessly teaching himself and others “to be prepared for every fortune.”⁸⁷ In the “kynical cosmopolitanism” of the past century, and even in its liberal and neoliberal expressions today, perhaps we might anticipate the rebellious return of a utopian figure protected and “placed” by laws that need not be found everywhere in order to be binding.⁸⁸ Such a figure may serve to remind us that conditions for freedom are not just security and equality, but also an unsettling solidarity and conviviality.

84. KARL MARX, *GRUNDRISSE: FOUNDATIONS OF THE CRITIQUE OF POLITICAL ECONOMY* 706 (Martin Nicolaus trans., Penguin Books 1973) (1939).

85. See generally SLOTERDIJK, *supra* note 51, at 389–539.

86. *Id.* at 164.

87. 2 LAERTIUS, *supra* note 71, at 65.

88. See Feldman, *supra* note 9, at 1066, 1068 (2007); see also BOAVENTURA DE SOUSA SANTOS, *TOWARD A NEW COMMON SENSE: LAW, SCIENCE AND POLITICS IN THE PARADIGMATIC TRANSITION* 478–519 (1995).

