CHAPTER III
COSMOPOLITANISM IN THE 21ST CENTURY

3.1 BRIEF INTRODUCTION

There has been a significant increase in the amount of academic literature on cosmopolitanism in the recent past. This trend reflects the upswing in general interest in cosmopolitanism as an idea. It has been said to have been prompted by certain conditions that create a favourable environment for the coming about of cosmopolitanism and of encounters that transcend traditional barriers i.e. the newfound ease in covering large distances, varied societies and cultures establishing contact and interacting with each other on an unprecedented scale, and novel reformulations of global structures of governance.

Aside from the interest in cosmopolitanism as an idea, the more important aspect can perhaps be said to be about the extent to which the cosmopolitan ideal is, in fact, reflected in the contemporary day and age. The question then arises as to how can an estimation of this contemporary status be made? This question can perhaps be best answered by setting a benchmark as to what constitutes the cosmopolitan ideal in the context of this particular examination. There is no gainsaying the fact that the cosmopolitan vision appeals to the idea of a greater humanity above all else. Therefore, it can be

225 The present thesis is perhaps one example. See further in this regard: ZLATKO SKRBIS & IAN WOODWARD, COSMOPOLITANISM: USES OF THE IDEA ix (2013).
226 Id. at ix.
said that institutions and ideals or values that reflect this universality in their organization and the scope of their activities can be broadly tagged under the rubric of representing the cosmopolitan ideal. Their ultimate project, it might be concisely summarized, is to bring together humanity as a whole under a common umbrella for the achievement of certain goals that have global and all-pervasive ramifications. It would therefore be important to consider a few contemporary international institutions and other related endeavours that might be said to reflect this cosmopolitan ideal in order to answer the broad question of the relevance and standing of cosmopolitanism in the 21st century. After an examination of certain contemporary international institutions is carried out, reference can further be made to more subtle and underlying indicators of the prevalence and influence of cosmopolitanism in the 21st century in the form of certain processes.

It may be clarified at this very stage that the examination that is proposed to be made is not concerned with the level of ‘perfection’ with which each of these international institutions or other endeavours represent cosmopolitan values. Though this aspect would be noted at the relevant places, the proposed examination is more concerned with attempting to discern as to whether the contemporary scenario reflects at least a basic acceptance of the fundamental principles of cosmopolitanism as opposed to a comparative lack of the same in previous eras in human history.
Proceeding with the proposed examination, the first port of call when considering a truly international organization can, without any doubt, be said to be the United Nations. This is in large part due to its nearly universal nature as represented in the membership of nation states. However, considering the wide range of bodies and agencies that the United Nations subsumes within itself, the focus for the purpose of the present study may be restricted to two bodies of the United Nations i.e. the United Nations General Assembly and the United Nations Security Council.

3.2 UNITED NATIONS GENERAL ASSEMBLY

The United Nations General Assembly can be termed as the most representative political body in the world today, on account of the fact that it comprises all of the United Nations member states i.e. a total of 193 in number. This number not only denotes near universal membership but also represents a significant increase from the original 51 nation states that were members of the General Assembly at the stage of its establishment in 1945 under the Charter of the United Nations.

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227 Vincent Wei-Cheng Wang, *All dressed up but not invited to the party - can Taiwan join the United Nations now the Cold War is over?*, in *THE INTERNATIONAL STATUS OF TAIWAN IN THE NEW WORLD ORDER: LEGAL AND POLITICAL CONSIDERATIONS*, 87 (Jean-Marie Henckaerts ed., 1996).


229 *Id.* at 294.
Each of these nation states have equal standing within the General Assembly, in the sense that each nation state is entitled to one vote, though the delegation that each nation sends may be comprised of up to five members. Deliberations on far ranging issues that are crucial and relevant for the world as a whole are conducted in the General Assembly. Certain vital issues such as those relevant to the maintenance of international peace and security, the addition of nation-states as new members and those relating to the budget of the United Nations necessitate that a two-thirds majority be reached before any decision can be said to have been taken by the General Assembly. However, on other less significant matters only a simple majority is necessary.

Though the decisions of the General Assembly are not considered to be legally binding, except for aspects such as the budget and the induction of new members, they nonetheless enjoy significant legitimacy and moral weight, and have formed the basis of several future multilateral conventions and treaties.

The General Assembly, to a significant extent, reflects an embodiment of the Kantian vision of nation states co-operating with each other for the attainment of peace and security and global harmony. Perhaps the most

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230 Id. at 295.  
important role that is served by the General Assembly is of providing a forum for worldwide debate and deliberation on issues that have significant import for the global community as a whole. This spirit of debate and deliberation, and the attempt to formulate a consensus, is also evident in the various functions that the General Assembly is required to discharge which, as per the Charter of the United Nations, include important functions such as deliberating upon and making recommendations for the path to be followed in attaining and preserving global peace and security.233

It may be noted that the General Assembly is not only involved in policy making, but also plays the very important symbolic role of providing a moral leadership to the various nations and peoples of the world.234 The working of the General Assembly is however not an exercise in mere tokenism, in as much as the General Assembly plays a vital role in the standardization and development of international law as well.235

There have been various legitimate criticisms of the efficacy of the General Assembly, and there have accordingly been various proposals for reforming it. However, what cannot be doubted is that it is for the first time in the history of the world that a political body with such universal membership has been established. The United Nations General Assembly is in this very light often referred to as the most legitimate and representative body in the

233 CAROLYN LADELLE BENNETT, UNCONSCIONABLE 196 (2014).
235 Id. at 118.
The General Assembly can be said to best embody the cosmopolitan ideal of a united and inter-connected humanity, despite the various shortcomings that it may have in its organization and working. It reflects the fundamental cosmopolitan notion of humanity coming together for debate and deliberation with the aim of achieving the common good.

3.3 UNITED NATIONS SECURITY COUNCIL

Another United Nations body that requires special attention is the Security Council. It needs no mention that the United Nations Security Council sits at the very zenith of the United Nations system and has the crucial role of being the guardian of global peace. Under the charter of the United Nations, the Security Council is endowed with the key duty of the preservation of international peace and security. The Security Council has 15 Members, and each Member has one vote. However, it can be seen that the five permanent members of the Security Council have the power of veto, which the rotating ten non-permanent members do not, and this situation has been completely unchanged since the very institution of the Security Council in the year 1945.

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238 Id. at 271.

239 SUZANNE XIAO YANG, CHINA IN UN SECURITY COUNCIL DECISION-MAKING ON IRAQ: CONFLICTING UNDERSTANDINGS, COMPETING PREFERENCES 62 (2013).
These five permanent member-states viz. Russia, China, the United Kingdom, the United States and France, reflect the scenario that prevailed immediately after the Second World War in as much they owe their position to having been on the victorious side in the War.\textsuperscript{240} Though it is widely accepted that the composition of the permanent members requires significant revision in light of the geo-political and economic realities of the 21\textsuperscript{st} century, the exact manner in which such revision or reform should be carried is a matter of significant debate, and along with the reluctance of the existing five member states to dilute or give up their existing powerful status, has ensured a continuing deadlock in this regard.\textsuperscript{241}

Nonetheless, despite this apparent imbalance of power, the Security Council performs several pivotal functions that have universal ramifications throughout the United Nations as a whole, and by extension over the world community. The Security Council recommends the names of a proposed new Secretary General of the United Nations.\textsuperscript{242} The Security Council also recommends nation-states for inclusion as new members of the United Nations. The Security Council also elects judges to the International Court of Justice, in conjunction with the United Nations General Assembly.\textsuperscript{243} However, the most important role that is performed by the Security Council relates to its preservation of international peace and security. Whenever any

\textsuperscript{241} Id. at 107.
\textsuperscript{242} JOEL KRIEGER, THE OXFORD COMPANION TO POLITICS OF THE WORLD 759 (2001).
\textsuperscript{243} Id. at 759.
potential infraction or violation of global peace is perceived, then it is the Security Council that is requited to take necessary action to remedy the situation that may arise or has already arisen. The Security Council may call upon the concerned nation states who are parties to the ongoing or anticipated event that threatens global peace and security to settle the disputes without the use of force.\textsuperscript{244} The Security Council may also suggest the terms or the framework of a possible resolution of the dispute. Failing these attempts at peaceful resolution, the Security Council can resort to coercive mechanisms such as imposing sanctions. Yet further, it can even authorize the use of force and deploy UN peace-keeping forces to maintain or restore international peace and security.\textsuperscript{245}

However, the most important facet of the Security Council for the purpose of the present study is related to its ability to lay down decisions and norms that have global application and legitimacy. This is because the United Nations Charter, as per Article 25, mandates that the Members of the United Nations agree to accept and carry out the decisions of the United Nations Security Council. This represents, at least in theory, a significant dilution of the traditional norms of state sovereignty at the altar of an over-arching global obligation for the maintenance of peace and security. With the rise of global security threats such as terrorism, this mandate of the United Nations Security Council can be expected to frequently over-ride considerations of

\textsuperscript{244} Id. at 759.  
\textsuperscript{245} Id. at 759.
state sovereignty\textsuperscript{246} provided of course that there is unanimity within the Security Council, in the form of the non-exercise of the power of veto, as to the course of action to be adopted.

The constitution of the Security Council, and the powers granted to it, can also be said to reflect an avowedly cosmopolitan ideal of global obligations trumping particularistic attachments and obligations. This however should not be read as a validation of the unequal and skewed composition of the five permanent members of the Security Council and the power of veto exercised by them, which is undoubtedly problematic and in urgent need of reform. However, the point that is sought to be made is not so much about the operationalization of the system but rather its normative underpinnings which are that the individual interests of nation states are subordinated to the global interest in the preservation of international peace and security.

3.4 INTERNATIONAL COURT OF JUSTICE

In line with the trend of the blurring of the erstwhile rigid boundaries of state sovereignty and the corresponding growth of global obligations and norms, the International Court of Justice, which was established in the year 1945 by the Charter of the United Nations, resolves disputes between nations which are submitted to it, by means of the application of the principles of

\textsuperscript{246} Nigel D. White, The Security Council, the security imperative and international law, in INTERNATIONAL LAW IN A MULTIPOLAR WORLD, 13 (Matthew Happold ed., 2013).
international law. All members of the United Nations are parties to the statute of the International Court of Justice, and non-members may also become parties. The International Court of Justice decides disputes in accordance with international law as reflected in international conventions, international custom, general principles of law recognized by civilized nations, judicial decisions, and writings of the most highly qualified experts on international law.

A caveat would of course be required to be lodged at this stage that it would be a misnomer to label the International Court of Justice as a sort of ‘world court’. This is for two reasons. Firstly, only nation-states may be parties in cases before the Court, and therefore access to individuals and other entities is almost non-existent. Secondly, even as regards nation-states, no nation state can be sued before the International Court of Justice unless the said State has consented to such an action. Under article 36 of the court’s statute, any state may give its assent to the court’s compulsory jurisdiction in advance by filing an affirmation to that effect with the United Nations Secretary General. This declaration or affirmation may be unconditional, or it may be subject to certain reservations such as that other nation states should also reciprocate in their submission to the jurisdiction of the

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248 Id. at 28.
249 Id. at 27.
International Court of Justice. As of today, 70 countries accept the jurisdiction of the International Court of Justice as being compulsory.\footnote{Declarations Recognizing the Jurisdiction of the Court as Compulsory, , http://www.icj-cij.org/jurisdiction/?p1=5&p2=1&p3=3 (last visited Oct 15, 2014).}

The mode of enforcement of the decisions of the International Court of Justice, in case of a refusal to comply with the decision by a losing party, is provided in article 94 of the Charter of the United Nations as per which the winning side can approach the Security Council for the implementation of the necessary measures to ensure compliance with the decision of the International Court of Justice.

There has been much criticism of the International Court of Justice, focussed primarily on its lack of effectiveness i.e. in the sense of the difficulty in ensuring compliance with its decisions.\footnote{JUDITH RESNIK & DENNIS EDWARD CURTIS, REPRESENTING JUSTICE: INVENTION, CONTOVERSY, AND RIGHTS IN CITY-STATES AND DEMOCRATIC COURTROOMS 264–265 (2011).} However, what cannot be overlooked is that the International Court of Justice is the judicial body with the largest breadth and scope of jurisdiction in the world today.\footnote{MOHAMED SAMEH M. AMR, THE ROLE OF THE INTERNATIONAL COURT OF JUSTICE AS THE PRINCIPAL JUDICIAL ORGAN OF THE UNITED NATIONS 394 (2003).} Further, the very existence of the International Court of Justice represents an acceptance of the presence of certain global principles of law and justice that can be identified and subsequently applied to hard facts and disputes.
3.5 INTERNATIONAL CRIMINAL COURT

In what can be said to be a significant step down the path of establishing over-arching judicial mechanisms supplanting sovereign identities in the scope of their jurisdictions, the International Criminal Court is a permanent international court that has been brought into existence with the aim of directly investigating, prosecuting and trying individuals, instead of nation-states, accused of committing the most grave wrongdoings which shock the conscience of the global community, namely the crime of genocide, crimes against humanity, war crimes and the crime of aggression.253

The International Criminal Court was brought into existence in 1998 by means of a decision taken in a conference of 160 states.254 The treaty that was adopted in the course of the proceedings of the conference is known as the Rome Statute of the International Criminal Court. This Statute enumerates the functioning and activities of the International Criminal Court, most importantly by setting out the crimes that fall within its jurisdiction.255

It was in the year 2002, when the required number of sixty ratifications was received by the International Criminal Court, that it began to have permanent jurisdiction in relation to the crime of genocide, crimes against humanity,

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255 Id.
war crimes and the crime of aggression.\textsuperscript{256} As of 1 July 2012, 122 countries are parties to the Rome Statute. Of these, 34 hail from Africa, 18 hail from the Asia-Pacific region, 18 hail from Eastern Europe, 26 hail from Latin America and the Caribbean and 25 hail from Western Europe and North America.\textsuperscript{257}

The International Criminal Court is supposed to be supplementary to the national courts and is only required to interfere when the national courts are unable or unwilling to act against the alleged perpetrators.\textsuperscript{258} It may be noted that the International Criminal Court is a permanent autonomous court, whereas the ad hoc tribunals for the former Yugoslavia and Rwanda, as well as other similar courts established within the framework of the United Nations to deal with specific situations only have a limited mandate and jurisdiction.\textsuperscript{259}

There are those who are of the view that the International Criminal Court is the best example of a cosmopolitan political structure. Such a sentiment has been expressed as under:

“…(The ICC) has a global reach that rises above national sovereignty. It seeks to enforce international standards of behaviour in war, and bring the perpetrators of genocide and

\textsuperscript{256} Id.
\textsuperscript{257} The States Parties to the Rome Statute, \textsuperscript{258} Id.
\textsuperscript{259} Id.
tyranny to justice. In short it aims to uphold the moral certainty’s of western and cosmopolitan thought.”

Though the identification of the International Criminal Court as a ‘western institution’ may be contested by some, there is unanimity on the view that the International Criminal Court represents a drive towards universality.

Despite the raging debate surrounding its effectiveness, it is clear that the International Criminal Court has brought about a regime in which national identity is no longer material for culpability of individuals, and which applies over-arching normative standards of what is acceptable conduct over individual persons in relation to certain activities. It can be said that there is a clear underlying notion of ‘international' criminal justice, though in a limited sphere of culpability, that is espoused by the setting up of the International Criminal Court.

3.6 UNIVERSAL DECLARATION OF HUMAN RIGHTS

Having considered certain international institutions as regards their purported resonance with the tenets of cosmopolitanism and the call to a larger humanity, it would also be apt to refer to certain declarations or


261 Antonio Cassese, The International Criminal Court five years on: Andante or Moderato, in THE EMERGING PRACTICE OF THE INTERNATIONAL CRIMINAL COURT, 22 (Carsten Stahn & Göran Sluiter eds., 2009).
conventions that have contributed to the generation of universal norms and rights. Reference in this regard should first be made to the Universal Declaration of Human Rights. The Universal Declaration of Human Rights is often referred to as a watershed moment and a seminal development in the history of human rights.\textsuperscript{262} This is primarily for the reason that the Declaration manages to enunciate certain core and universal human rights while transcending the seemingly unsurmountable diversity of concerns, histories, philosophies, politics and cultures that the various nation states of the world represent.\textsuperscript{263}

It can be seen that the process of drafting and adoption of the Universal Declaration of Human Rights was in itself as extensive a process, as are the protections provide in the Declaration. Voting was carried out in excess of a thousand times on the various components of the text of the Declaration and these were all preceded by long debates.\textsuperscript{264} There were differences of opinion on certain issues with certain states objecting to the articles providing equality in the sphere of marriage rights and on the right to convert to another religion; while certain other countries disapproved of the text of the Declaration making a reference to economic, social and cultural rights.\textsuperscript{265}

\textsuperscript{262} EVA BREMS, HUMAN RIGHTS: UNIVERSALITY AND DIVERSITY 4 (2001).
\textsuperscript{265} Id.
The Universal Declaration of Human Rights covers a wide range of human rights over 30 Articles. The first two articles are the most important, in as much as they lay the foundation for equal and fundamental rights for all human beings. Article 1 of the Universal Declaration of Human Rights is as under:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

Article 2 of the Universal Declaration of Human Rights is as under:

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.”

These 30 Articles can be divided into certain categories. The first category of Articles, which range from 3 to 21, enunciates universal civil and political rights. The second category of Articles, which range from 22 to 27,
enunciates universal economic, social and cultural rights.\textsuperscript{269} The third category of Articles, which range from 28 to 30, establishes a wider normative structure in which the universal rights can be fully realized.\textsuperscript{270}

There has been criticism of the effectiveness of the Universal Declaration of Human Rights in as much it does not lay down any binding obligations on the nation states nor enjoins them to implement measures in their domestic systems to bring about the fulfilment of the rights enumerated in the Declaration.\textsuperscript{271}

However, it is also significant to note that the Declaration is path-breaking and without precedent in the sense that it talks about universal human rights that are available to every member of the human community irrespective of local affiliations or national memberships.\textsuperscript{272} It is said that, at least theoretically, the Universal Declaration of Human Rights marks the step when humanity moved from a vision of international justice that was premised on being guaranteed by multilateral treaties or conventions, to a cosmopolitan vision wherein international justice and rights were specified as inherent on account of membership in the larger human community.\textsuperscript{273}

\textsuperscript{269} Id.
\textsuperscript{270} Id.
\textsuperscript{272} Id. at 307.
\textsuperscript{273} NAMSOON KANG, COSMOPOLITAN THEOLOGY: RECONSTITUTING PLANETARY HOSPITALITY, NEIGHBOUR-LOVE, AND SOLIDARITY IN AN UNEVEN WORLD 88 (2013).
3.7 KYOTO PROTOCOL

The Kyoto Protocol is an international agreement connected to the United Nations Framework Convention on Climate Change, which imposes binding obligations on states parties aimed at the reduction of emissions that would otherwise contribute to global warming.274 The adoption of the Kyoto Protocol occurred in Kyoto, Japan, on 11th December, 1997 though quite some time more passed before it entered into force on 16th February, 2005.275 The detailed rules for the implementation of the Protocol were adopted at Marrakesh, Morocco, in 2001, and are referred to as the 'Marrakesh Accords'.276 Its first commitment period started in 2008 and ended in 2012.277

Perhaps the most significant norm creation under the Kyoto regime is that of the principle of ‘common but differentiated responsibilities’, which places a higher burden of emission control on the developed countries of the world considering their industrial past, and a lower burden on the developing world taking into the fact that they should be given more leeway in developing their economies through the process of industrialization.278

The Kyoto protocol has also set up a comprehensive system of documenting and monitoring the actual emissions by each state party so as to keep a track of the success achieved in fulfilling the obligations under the Protocol. This

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275 Id.
276 Id.
277 Id.
278 Id.
has also led to a flourishing market for ‘carbon credits’, in which the credits secured as a result of exceeding emission targets are valuable goods that can be freely traded.\textsuperscript{279}

The Kyoto Protocol also requires member states to submit annual emission reports for its scrutiny at regular intervals. This system is not only designed to ensure accountability in meeting the emission targets but is also geared towards helping state parties take early corrective steps in case they are having difficulties in meeting their targets.\textsuperscript{280} In addition to its role as an enforcer of the obligations of member states, the Kyoto Protocol is also entrusted with the wider mandate of supporting countries in adjusting to the reality of the negative effects of climate change. With a view to advancing such a goal, it encourages and supports the development and operationalization of technologies that can help obviate the impacts of climate change to the maximum extent possible.\textsuperscript{281} To be able to render further assistance in this regard, an adaptation fund has also been set up to finance adaptation projects and programmes in developing countries that are parties to the Kyoto Protocol.\textsuperscript{282}

The Kyoto Protocol is fascinating in the sense that it represents a coming together of the global community, in a cosmopolitan sense, to attempt to tackle a concrete universal problem. The nature of the problem of global

\textsuperscript{279} Gurmit Singh, Understanding Carbon Credits 35 (2009).
\textsuperscript{280} Kyoto Protocol, supra note 274.
\textsuperscript{281} Id.
\textsuperscript{282} Id.
warming is such that its debilitating effects are global in nature, and the remedies therefore must also be pursued on a global scale.

3.8 INTERNATIONAL ECONOMIC ORDER

The increasing inter-connectedness of nation states and societies in the 21st century is best reflected in the rapid growth of international trade and commerce. This growth has ensured that the majority of nation states, barring certain isolated examples such as North Korea, now have their economic and political stability dependent on the health of the world economy, in general, and the health of the economy of nations with whom they transact most of their foreign trade, in particular.

Though it is difficult to discern a concrete unitary structure within which 21st century international trade and commerce operates, however there is widespread identification of three multi-lateral organizations that exert the maximum influence system on the system, namely the International Monetary Fund, the World Bank and the World Trade Organisation.

The International Monetary Fund, established in 1945 by international treaty, oversees the international monetary system and aims to prevent any crisis from developing within it.283 It also acts as a source of funding for

member states who may need to remedy certain difficulties in balance of payments by accessing temporary financing.284

The World Bank, which is the common term for the International Bank for Reconstruction and Development, is an international financial institution was also established in 1945 along with the International Monetary Fund.285 Though primarily intended to help reconstruction in nations that were shattered by the Second World War, it gradually shifted its focus to the financing of infrastructure projects in the developing world.286

The World Trade Organization is an international organization that has been created with a mandate to administer and, in the process, liberalize international trade.287 With its establishment in the year 1997, it replaced the General Agreement on Tariffs and Trade.288 A crucial role that the Organization plays is in negotiating and bringing into force trade agreements between nation states and also ensuring that the signatory states comply with the obligations that the trade agreements entail.289

284 Id. at 2.
288 Id. at 119.
289 Id. at 119.
It has been said that these institutions play the most significant role in the creation of norms for international economic law. However, on account of their alleged promotion of the economic ideology of neoliberalism there has been significant criticism that has also been directed at these institutions, and they have been labelled by critics as representing an ‘unholy trinity’. There is constant criticism of the International Monetary Fund and the World Bank to the effect that they serve western political and economic interests and through the means of foreign aid and external debt help in perpetuating the powerlessness and financially subservient position of the Third World countries.

Such a contestation is also visible today in several other areas of contemporary international economic ordering. For instance, reference may be made to the global Intellectual Property Rights regime as manifested in the Agreement on Trade-Related Aspects of Intellectual Property Rights. The developed world has staunchly advocated for the establishment of a global uniform system of Intellectual Property Rights protection, which would secure a world-wide market for its goods and products. Refusal on the part of developing countries to adopt strong Intellectual Property Rights

290 Joyner, supra note232 at 256.
protection regimes is often responded to with trade retaliation and other politico-economic pressures by the developed world.\textsuperscript{295}

Probably in light of this tussle, it has been said that the international system of Intellectual Property Rights protection is primarily concerned with the dynamic between developed and developing countries.\textsuperscript{296} It has been further noted in this regard that the developing countries are wary of the overarching standards of Intellectual Property Rights protection sought to be implemented by way of the Trade-Related Aspects of Intellectual Property Rights, and they call for a differentiated approach to the problem with the level of economic development of respective countries being taken into account when determining the exact contours of the Intellectual Property Rights protection regime to be implemented.\textsuperscript{297} There is thus a call for the development of standards that are flexible and that do not stress on a blanket uniformity irrespective of the socio-economic context. This perspective has been linked to the demand by developing countries that the Trade-Related Aspects of Intellectual Property Rights standards impose a heavy economic and social cost on developing economies that are even otherwise battling various other odds, and that some corrective action is required to be undertaken in order for this burden to be reduced and for the developing

\textsuperscript{295} Id. at 40–41.
\textsuperscript{296} WEI SHI, INTELLECTUAL PROPERTY IN THE GLOBAL TRADING SYSTEM: EU-CHINA PERSPECTIVE 55 (2008).
\textsuperscript{297} Id. at 55.
countries to be able to benefit from the international Intellectual Property Rights protection regime.298

However, despite the various ideological positions that might be taken while analysing the international economic and trading system, it is a recorded fact that there has been an explosive growth in global trade and commerce which is without precedent in all of previous human history.299 This explosive growth has not been matched by a corresponding increase in domestic products of nation states and this has led to an undeniable linkage of domestic economies with the global economy at a level not seen before.300 Thus, though the world cannot be said to be borderless in the physical or political sense, there is definitely an increasing and pronounced obscurification of economic boundaries as a ‘world economy’ gradually takes shape.

3.9 GLOBALIZATION

Linked intimately with the spurt in world trade, is the concept of globalization. Globalization, however, is quite difficult to define because it represents several processes and ideas. It can perhaps be most broadly defined as the increasing global transfer of goods, services, wealth, philosophies, information and persons that transcends national borders and results in an intermingling and mixing between various otherwise stratified

298 Id. at 55.
300 Id. at 457.
cultural, political and social groups.\textsuperscript{301} There is a level of unanimity on the broad factors that contribute to this trend, which are:

\textit{First}, trade liberalization and the spurt in global commerce,

\textit{Second}, advancements in technology and reduction in costs of communication and travel,

\textit{Third}, emergence of global social networks, and

\textit{Fourth}, the growth of entrepreneurship.\textsuperscript{302}

Amongst all the conceptions of globalization that rest upon the aforesaid core factors, the most widely accepted understating of globalization in contemporary times however is of globalization having originated from and being driven by the capitalist free-market system and technical advancement.\textsuperscript{303}

Representations of this form of globalization are visible all around us. There are global brands which are available across the world and find acceptance in diverse societies. Similarly, Hollywood churns out movies that transcend the local English-language markets and find takers all over the world. Modern forms of communication makes it possible to easily communicate with persons who are otherwise situated thousands of miles away. The


\textsuperscript{302} \textit{Id.} at 18.

internet makes the dissemination of information and cultural influences possible at a scale not imaginable before. Modern means of transportation makes travelling over large distances, which might otherwise have taken months or years, possible in a matter of a few hours. Global events and news are broadcast live to billions of viewers around the world at the same time.

It has been remarked that this state of inter-connectedness and exchange is without any historical precedent, and is representative of the presence of a wide-spread and influential form of cultural globalization. This cultural globalization is said to evoke three distinct reactions.

First, this cultural globalization is seen as reflective of the creeping domination and homogenizing face of western culture which seems almost unstoppable. Second, in marked contrast to the above view, this cultural globalization is seen as vacuous and exaggerated in its influence. National and local cultures are still very strong in comparison, it is said, and therefore continue to exert the maximum influence on the daily lives of individuals. Third, this cultural globalization is seen as fundamentally reordering established notions of culture and identity owing to the large scale exchange of ideas and influences, and creating novel global networks.

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305 *Id.* at 327.
306 *Id.* at 327.
307 *Id.* at 327.
An interesting, and very pertinent, observation that has been made about globalization is that its influence is not at all uniform. For instance, in developing counties urban areas are far more exposed to its influence than are rural ones.\(^\text{308}\) Yet further, an elite position in society offers a better chance of access to the fruits of globalization as compared to people who are lower down the ladder in terms of economic well-being and social standing.\(^\text{309}\) Hence, it should be noted that cultural globalization, though increasingly pervasive, is still gridlocked by several factors in terms of its reach across society.

### 3.10  HAS COSMOPOLITANISM LEAD TO THE OBLITERATION OF GROUP IDENTITY?

The increasing cosmopolitan nature of the contemporary world has been discussed in some detail in the preceding part of the present chapter. The march of cosmopolitanism, though slow, is undeniable. However, an important question emerges in this context. Whether this increasing cosmopolitanism is bringing along with it a gradual fading away or outright rejection of the prevalent factors of group identity, such as those based on ethnicity, religion, language, nationality etc.?  


\(^{309}\) *Id.* at 43.
The case of ethnicity may be considered first. Wsevolod W. Isajiw has examined the case of ethnicity as a component of identity in various groups in the closing years of the 20th century and he makes certain interesting observations. He says that there has been a reassertion of ethnic identity in various groups around the world. Many societies in which ethnic minority groups exist have in the recent past seen a re-emergence of politics and concerted action based on the ethnic identity of these minority groups, though such sentiments have been presumed to have become subdued. He notes a survey carried out of such groups which seems to suggest that the number of minority ethnic groups in the world who are involved in some sort of a stand-off or are in an adversarial position with the larger society which they inhabit, stands at a very high figure of 233, and that most of these minority groups have some form of discrimination directed toward them. It was also found that the majority of these ethnic minority groups were robustly loyal to their respective identities. The survey further reveals that out of 127 countries in the world that had been he examined in this regard, 3/4th of these countries had one or more highly visible and politicized minorities. Isajiw makes further reference to other surveys, one of which posits the startling fact that on the basis of ethnicity there are between three

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311 Id. at 1.
312 Id. at 1.
313 Id. at 1.
314 Id. at 1.
thousand to five thousand distinct nations or ethnic groups in the world today.  

What is the scenario regarding religion? It has been generally accepted that the power and influence of religion has significantly weakened in the modern age as compared to the past. Though this might be true in many cultures in as far as control over political institutions is concerned, what is more relevant for the present study is an examination of the unifying power of religion as a means of identity. Even in this area it was being increasingly felt that religious identity had become irrelevant in the past half century in as much as the greatest fault-lines of the era were premised upon competing political and economic ideologies, ethnicities, nationalist claims etc.  

However, in the early 21st century religious conflicts have come to the fore once again. Looking at religion as more of a measure of identity, rather than through the prism of conflict, the situation is not much different. As against the fading away of religion that was widely expected in an era marked by blazing technological advancement and rampant ‘western secularism’, a global religious revival has in fact been documented in the 21st century. It is being said that the notion that religion and modernity strike a discordant note has been shown to be wrong in as much as religion is now thriving in

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315 Id. at 1.
317 Id. at 47.
areas of the world that are rapidly modernizing.\textsuperscript{319} Though this new religious landscape is marked by religious pluralism, unlike the past, it still represents a strong factor of group identity for its adherents.\textsuperscript{320} The vitality that religion has shown in the face of the forces of modernity is similarly reflected in the case of language. When one considers one of the foremost politico-economic unions in the world today i.e. the European Union, there is a policy of strong multilingualism that is in fact seen as part of the guarantee of equality that every member state is promised on having joined the European Union.\textsuperscript{321} The European Union’s stated policy is that linguistic diversity within the Union should be protected at all costs in as much as it is innately tied to the wider notion of democratic citizenship.\textsuperscript{322} In this regard, it is said:

“\textquote{It is this diversity that makes the European Union what it is: not a ‘melting pot’ in which differences are rendered down, but a common home in which diversity is celebrated, and where our many mother tongues are a source of wealth and a bridge to greater solidarity and mutual understanding.}”\textsuperscript{323}

\textsuperscript{319} Id. at 354. \\
\textsuperscript{320} Id. at 355. \\
\textsuperscript{321} FRANCESCA RUGGIERI, CRIMINAL PROCEEDINGS, LANGUAGES AND THE EUROPEAN UNION: LINGUISTIC AND LEGAL ISSUES 19 (2013). \\
\textsuperscript{322} Christine Helot, Linguistic Diversity and Education, in THE ROUTLEDGE HANDBOOK OF MULTILINGUALISM, 219 (Marilyn Martin-Jones, Adrian Blackledge, & Angela Creese eds., 2012). \\
\textsuperscript{323} Id. at 219.
As far as national identities are concerned, it is clear right at the very outset that the seemingly cosmopolitan international institutions of today such as the United Nations, basically represent a collection of different nation states. These international institutions therefore mediate and operationalize their cosmopolitanism through the group identity of nationality. There has been undoubted growth in international movements that have linked people to each other on the basis of common ideologies and ideals which in many cases may compete with national loyalties, however this process is not even remotely as widespread as is required to predict an irrecoverable descent into irrelevance for national identities. In this regard, one may also note the universal attraction that sports represents for people across the world, thereby rendering their fans and followers as citizens of cosmopolitan ‘sporting world’. However, this universalization has not stopped fans and followers from retaining their local, regional, and national loyalties. Sporting icons have fans across the world belonging to diverse nationalities and cultural groups. However, whenever a particular nation is part of a sporting match then the stage is set for an outpouring of national sentiment from its citizens irrespective of the adulation that they may reserve for sportspersons of other nationalities.

The aforesaid elucidation is not to suggest that group identities are to be viewed in the same strait-jacketed and immutable way that they were in the

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past. Saying so in a world marked by global exchanges and much improved means of mobility and communication would be very far from the truth. However, what is also equally clear is that any argument that presupposes that the sense of belonging or attachment to a particular group, culture or nation is not of critical significance to individuals in the modern world is plainly utopian.

3.11 IS COSMOPOLITANISM HERE TO STAY?

The discussion in the preceding part of the present chapter has revealed that there are certainly various concrete manifestations of cosmopolitanism in the world today. This cosmopolitanism is of various hues, from political (Security Council) to the legal (Universal Declaration of Human Rights); and even a combination of the two (International Criminal Court); to the cultural (Globalization).

This is not to say that a state of cosmopolitan perfection has been achieved. The reality is far from it. It has been observed for instance that thought the world can be said to be a united ‘whole’ in the physical sense in as much as distances have been rendered comparatively meaningless, however there are still various divisions and fragmentations in terms of ideas and identities.325

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Nonetheless, what is certainly trite is that the cosmopolitan ideals are reflected in the contemporary world in far stronger and widespread terms than they have ever been in the past, and humanity is more inter-connected and inter-dependent today than it has ever been in any previous era in history.

What is perhaps most relevant for the present study is to map the future path that this phenomenon of cosmopolitanism is likely to follow in the 21st century. What do the indicators point towards? Has the peak of cosmopolitan achievement been scaled already? Or have we only just begun on a journey towards a far more robust and pervasive cosmopolitan future for humanity? It would seem that the latter is the more likely scenario.

In this regard, scholars have gone so far as to say that the 21st century is the era of cosmopolitanism.326 This assessment has some stout reasoning to back it up. It is premised on the fact that several of the previous categorizations which were presumed to be set in stone, such as the global as compared to the local and the international as compared to the national, have gradually melted away with the effect that the cosmopolitan project is now far easier to achieve in the 21st century than at any time previously. An important example that is cited in this regard is the increasing trend of nation-states ceding power and influence to large multi-national corporations that are in turn becoming progressively more dominant.327 These multi-national

326 BAERT AND SILVA, supra note 1 at 260.
327 Id. at 260.
corporations, in many instances, can effectively dictate policy to nation-states in as much as if their wishes, say for instance an investor friendly policy, are not granted then they have the option of withdrawing from and not doing business in that particular nation-state thereby giving them a strong bargaining position.\textsuperscript{328} This emergence of powerful new ‘global’ actors is also manifested in other spheres. For example, the emergence of non-governmental entities, such as Amnesty International and Greenpeace, and the growing prominence of collectivities of nation-states such as the European Union.\textsuperscript{329} It is also relevant to note that in the present day, the global and all-encompassing nature of risks is also suggestive of the large degree to which the world has become entwined, like for example the rapid spread of bird-flu and the worldwide panic that it sparked.\textsuperscript{330}

This understanding of cosmopolitanism being an increasingly intrinsic part of 21\textsuperscript{st} century life can be understood with reference to David Harvey’s theory of ‘time-space compression’, which he coined in the context of globalization. This theory posits that space and distance have been significantly contracted due to recent developments such as means of jet air travel, the discovery of modern information and communication technologies and other rapid economic and social developments.\textsuperscript{331} With the break-neck speed of technological innovation and the increasingly accessible means of communication and information gathering, it seems likely that this

\textsuperscript{328} Id. at 260.
\textsuperscript{329} Id. at 260.
\textsuperscript{330} Id. at 260.
\textsuperscript{331} PAUL HOPPER, UNDERSTANDING DEVELOPMENT 244 (2012).
time-space compression will only get more and more pronounced in the future.

In line with the above estimation, there is a growing acceptance of the fact that the contemporary social, political and economic scenario is increasingly cosmopolitan. It is interesting to note that not all of these cosmopolitan societies being produced as a result of this phenomenon are rich developed societies and it is the case that certain emerging economies from the developing world are also displaying increasing signs of cosmopolitanism, like for example South Africa. Progressively cosmopolitan societies are also being brought about in countries such as the United Arab Emirates. Certain counties, such as Singapore, have in fact sought overt rebranding as cosmopolitan societies for various reasons, for instance to attract global capital, to encourage local persons looking to emigrate to stay back, to persuade skilled nationals of other countries to come and live there etc.

From an understating of the reasons for the spread of cosmopolitanism in the 21st century, it seems clear that the factors that are powering this growth are far from depleted and on the contrary seem to be increasing in strength. It may therefore be said, with a modicum of certainty, that whatever be the

333 PIPPA NORRIS & RONALD INGLEHART, COSMOPOLITAN COMMUNICATIONS: CULTURAL DIVERSITY IN A GLOBALIZED WORLD 160 (2009).
335 SELVARAJ VELAYUTHAM, RESPONDING TO GLOBALIZATION: NATION, CULTURE, AND IDENTITY IN SINGAPORE 120 (2007).
form that it may take i.e. moral, cultural, legal or political, cosmopolitanism is here to stay in the modern world and irrespective of the level of success that it achieves in the days going forward, it shall be at the forefront of the great and enduring debates of our times.

3.12 THE ARGUMENT FOR AN ‘EXTREME’ COSMOPOLITANISM

With the almost inevitable march of cosmopolitanism in the future, there arises a very important question as to the normative framework within which such a cosmopolitan expansion must be charted. What should be the guiding spirit of this ‘future’ cosmopolitanism? What face should cosmopolitanism adopt when it expands and becomes more and more pervasive in everyday human life? The question, at its core, is of course theoretical. However, its practical implications are immense. For instance, should cosmopolitanism focus on a world state as its primary motto? Or should it engage more with the creation of universalistic legal norms? Yet further, should it restrict itself to the economic arena, and aim for truly free and unrestricted global trade and commerce? Within this very option, should cosmopolitanism shed the capital-oriented influence of economic globalization and stress on the free movement of people across national borders and guaranteed rights for those who are worse off in the newly emerging economic and cultural equations? A choice between each one of the aforesaid options, would mean making a crucial decision as to how a future world would be conceptualized. Therefore, this crucial decision, though couched in theoretical terms, has very real-world implications. That having been said, the philosophical,
cultural, legal and political issues that each of the aforesaid questions raise, are immense. It is therefore beyond the scope of the present study to provide an answer as to what is the exact path that cosmopolitanism should tread in the 21st century. The present thesis is, on the other hand, concerned with a more modest goal, which is to identify a particular path that this cosmopolitanism should not take.

This path is what is being propounded by a conceptualization of cosmopolitanism that is witnessing significant levels of propagation in western legal and political theory. This argument can perhaps be best summarized as an ‘extreme’ cosmopolitanism. Samuel Scheffler elucidates the forceful claim that such a form of cosmopolitanism can make. This is the claim that cosmopolitanism is the ‘only’ conceivable and rewarding choice of living life in the modern day and age. The differences between this extreme formulation of cosmopolitanism and a more moderate formulation become quite evident when the two are juxtaposed. While the soft or moderate form of cosmopolitanism remains ambivalent and relatively non-judgmental about cultural rootedness, and membership in various communities based on nationality, language, religion etc., the extreme form of cosmopolitanism berates devotion and loyalty to a cultural and institutional framework of a particular community as an outdated and unrealistic way of life.

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336 Scheffler, supra note26.
337 Etinson, supra note159 at 27.
These two formulations or conceptualizations of cosmopolitanism are
different on two fundamental levels, namely on the level of the justification
that they offer for preferring a particular way of life and as to what must
constitute cosmopolitan justice. As far as the justificatory basis is
concerned, the strongest or most extreme variant of cosmopolitanism
considers only the cosmopolitan ideal to be of any value and all other
principles and values are to be judged and benchmarked against their role in
the achievement of a cosmopolitan milieu. This can be contrasted with the
outlook of moderate cosmopolitanism which has a more tolerant take on
things in as much as there is an acceptance of the fact that non-cosmopolitan
ideals may also be possessed of ultimate value. There is also a wide level
of divergence between these two variants of cosmopolitanism as far as the
content of cosmopolitan justice is concerned. The strongest or most extreme
variant of cosmopolitanism denies outright the possibility that there might be
any principles or norms of justice that may be not be applicable or feasible
on a global level but are perfectly apposite to an individual society.

Moderate cosmopolitanism however is of the belief that the existence or
viability of such a differentiated regime of norms and values is not at all an
impossibility

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339 *Id. at 587.*
340 *Id. at 587.*
341 *Id. at 587.*
342 *Id. at 587.*
It may be noted that this distinction between moderate and extreme cosmopolitanism has been mirrored by other scholars also, though through the use of slightly different terminology. For instance, Simon Caney distinguishes between radical and mild forms of cosmopolitanism, and David Miller distinguishes between strong and weak forms of cosmopolitanism.\(^{343}\)

The varying conceptions of moderate and extreme cosmopolitanism would evidence that the relationship, or the internal balance of power, between the ideal that is rooted in group rights and the ideal that is rooted in cosmopolitanism varies widely within each of these conceptions. For instance, it has been noted that cultural cosmopolitanism may, in one form, meet some of the demands of cultural preservation without foregoing the value of public reason or by diluting the importance of individual liberty and freedom.\(^{344}\)

However, it is also quite evident that there can be a less tolerant or extreme conceptualization of cosmopolitanism. Such a conceptualization may seek to queer the balance in such a way that the ideal that is rooted in group rights and the ideal that is rooted in cosmopolitanism can only be viewed in a manner that is mutually-exclusive. Group rights in this sense have to be understood as a reference to minority status in as much as the ‘uniform’ cosmopolitanism identity would be largely representative of majoritarian


interests, whether cultural, economic, linguistic etc. Such a conceptualization might therefore posit the existence of a cosmopolitan society in the complete absence of any form of minority groups or in terms of the protections extended to them. Such a conceptualization might even go further to state that minority groups and the protections extended to them are not just unessential to the ordering of a peaceful and just society but that they are, in fact, stumbling blocks to one. Concomitant with such a conceptualization would be the yearning for the complete obliteration of any legal status based on group membership and allegiances i.e. group differentiated rights. It is an examination of such an extreme conceptualization of cosmopolitanism that the present study is most concerned with. Attention may therefore now be focussed on one of the foremost views that has emanated in support of this conceptualization of cosmopolitanism.

3.13 THE ‘COSMOPOLITAN’ CRITIQUE OF MINORITY RIGHTS

A very forthright enunciation of such a conceptualization of cosmopolitanism can be found in the writings of Jeremy Waldron, and one article in particular.345 Waldron’s understanding of cosmopolitanism and minority rights deserves detailed study not just because of the trenchant criticism employed by him, but also because of the innovative nature of the criticism which focusses on the allegedly ‘illiberal’ and ‘anti-cosmopolitan’ nature of minority protections. Waldron begins the articles with a lengthy

345 Waldron, supra note27.
extract from Salman Rushdie’s work titled ‘In Good Faith’, written by Rushdie in defence of ‘The Satanic Verses’, which is considered as Rushdie’s most controversial work. Since the aforesaid extract serves as a launching pad for several of the assertions that Waldron proceeds to make in his article, it would be apt to reproduce a portion of same hereunder:

“The Satanic verses celebrates hybridity, impurity, intermingling, the transformation that comes of new and unexpected combinations of human beings, cultures, ideas, politics, movies, songs. It rejoices in mongrelization and fears the absolutism of the Pure. Mélange, hotchpotch, a bit of this and a bit of that is how newness enters the world. It is the great possibility that mass migration gives the world, as I have tried to embrace it. The Satanic Verses is for change-by-fusion, change-by-conjoining. It is a love-song to our mongrel selves.”

Waldron uses Rushdie’s aforesaid celebration of impurity, hybridity and mongrelization as a springboard from which to posit his understanding of what cosmopolitanism truly is. It is interesting to note, at this stage, that the use of the word ‘mongrelization’ by Rushdie may have intended to transmit a deeper message than merely having been used for literary effect. This is because in white supremacist discourse, mongrelization is viewed as leading to the extinguishment of the superior white race by the process of irreversibly

346 SALMAN RUSHDIE, IN GOOD FAITH (1990).
349 Waldron, supra note27 at 93.
down-breeding with other races that are viewed as hopelessly inferior in comparison. Rushdie wears this mongrelization as a badge of honour, in what is a loaded symbolic message.

Waldron is of the view that a cosmopolitanism way of life is something that is defined by the lack of the need for a singular identity based on some sort of group affiliation like citizenship, location etc. The cosmopolitan person may be based in one place for the entirety of his life, speak only one language and hold citizenship of only one state, however a truly cosmopolitan person refuses to let these factors of place, language, nationality etc. determine or control his or her identity. He explains such an outlook in the following words:

“Though he may live in San Francisco and be of Irish ancestry, he does not take his identity to be compromised when he learns Spanish, eats Chinese, wears clothes made in Korea, listens to arias by Verdi sung by a Maori princess on Japanese equipment, follows Ukrainian politics, and practices Buddhist meditative techniques. He is a creature of modernity, conscious of living in a mixed-up world and having a mixed up self.”

351 Waldron, supra note27 at 95.
352 Id. at 95.
Waldron then proceeds to examine Article 27 of the International Covenant on Civil and Political Rights, 1966 in particular an interpretation of the same that supports the view that special and positive measures are required for the protection of minority cultures and that such measures are to be viewed as being as important, if not more than, as non-discrimination measures in defending the fundamental human rights of the members of these minority groups.\(^{353}\) He describes the principle being promoted by Article 27 of the International Covenant on Civil and Political Rights, 1966 as bearing an implicit claim that there is an immutable human longing or aspiration to belong to a particular group or community and consequently there is a need to support a right of cultural preservation.\(^{354}\)

Though things may have been said to be relatively uncomplicated at this stage, Waldron proceeds to declare that there are now two visions to be considered; on one hand the cosmopolitan vision espoused by Rushdie which is characterized by its celebration of hybridity, and on the other hand the vision of attachment and loyalty to the culture or way of life of a particular group as promoted by the supporters of Article 27 of the International Covenant on Civil and Political Rights, 1966.\(^{355}\) Waldron’s unarticulated premise is clearly that the two visions are somehow mutually exclusive. He subsequently goes on to state explicitly that the two visions, if not actually inconsistent, are certainly opposed to each other in a palpable way.\(^{356}\)

\(^{353}\) Id. at 97.
\(^{354}\) Id. at 97.
\(^{355}\) Id. at 98.
\(^{356}\) Id. at 99.
Waldron then initiates his *first* argument against the ‘value’ of cultural preservation and minority rights by theorizing that if an unrestricted cosmopolitan life, characterized by hybridity and an immersion in varied cultures, represents a rewarding and authentic way of living life in the modern world then a major argument for the protection of minority cultures is dismantled in as much as it could no longer be claimed that all people necessarily require continued membership in their particular cultures in such an urgent and essential way in which they may need other things, like food or clothing.  

This, as per Waldron, then seriously undercuts any claim that minority cultures might have to special support or assistance from the state or from the majority community.  

This is because the argument which is otherwise used in support of minority rights is that in their absence, individuals would suffer the debilitating consequences of having been alienated from their roots, and which argument is now undercut in light of the ‘cosmopolitan alternative’ that is available. Alienation, in this sense, can be defined as a form of involuntary disassociation or of sequestration and separation from the practices and values of one’s society.  

However, Waldron argues that an individual who has embraced a cosmopolitan lifestyle does not suffer from the negative connotations of alienation from one’s roots. This is for the reason that the alienation from these traditional memberships or ways of life is counter-balanced and replaced by new-found memberships in wider and more modern communities which are more

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357 *Id.* at 100.  
358 *Id.* at 100.  
359 LEE STACY, MEXICO AND THE UNITED STATES 36 (2002).
definitive of the identity and existence of a person living in the 21\textsuperscript{st} century; for example the global community of legal scholars, the global community of scientists and researchers, worldwide social movements etc.\textsuperscript{360}

His \textit{second} argument goes even further in as much as he posits that the hybrid lifestyle of the true cosmopolitan is, in fact, the only appropriate response to the modern world in which we live.\textsuperscript{361} For him, from a cosmopolitan point of view, an insistence on conserving the culture and identity of a group in the modern world is like insisting on living in a fairy-tale, divorced from the needs and realities of the real word.\textsuperscript{362}

His \textit{third} argument is that all communities, minority or majority, owe a large part of their history and heritage to the global communities that have existed in the past, for example amongst merchants or writers, and that no community is exclusively self-made or exclusively self-evolved, nor are these communities exclusively moulded by singular national or ethnic groups.\textsuperscript{363} He takes the argument further by stating that similarly in the modern world also, particular cultures and national communities are required to accept their debt to the global social, economic and political structures that in fact help sustain them.\textsuperscript{364}

\textsuperscript{360} Waldron, \textit{supra} note27 at 102.
\textsuperscript{361} \textit{Id.} at 101.
\textsuperscript{362} \textit{Id.} at 101.
\textsuperscript{363} \textit{Id.} at 103.
\textsuperscript{364} \textit{Id.} at 103.
Waldron’s argument can be said to be centred on the inevitability of interdependence and consequent evolution of cultures that renders them open to change, and is open to the possibility of the withering away of a culture in the light of such changes.\textsuperscript{365} He surmises that to attempt to conserve a culture at any cost is the equivalent of quarantining the culture from the realities of modern life and the forces that shape it.\textsuperscript{366} He therefore suggests that a desire for cultural purity is an anachronism in the modern world and derides the effort for cultural preservation in the following words:

“To preserve a culture is often to take a favoured 'snapshot' version of it and insist that this version must persist at all costs, in its defined purity, irrespective of the surrounding social, economic, and political circumstances.”\textsuperscript{367}

Waldron attacks the assumptions that he identifies as central to the pro-minority rights or the multiculturalist discourse i.e. that the world can be neatly sub-divided into, and defined in terms of, various groups or communities that each have their own unique culture, and which unique culture on its own is enough for the members of these groups or communities to lead fulfilling lives.\textsuperscript{368} It is also important to note that he explicitly identifies a significant part of his criticism as being directed at the position taken by Will Kymlicka in favour of minority rights and cultural preservation.\textsuperscript{369}

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\item \textsuperscript{365}\textit{Id.} at 109.
\item \textsuperscript{366}\textit{Id.} at 109.
\item \textsuperscript{367}\textit{Id.} at 110.
\item \textsuperscript{368}\textit{Id.} at 105.
\item \textsuperscript{369}\textit{Id.} at 105–110.
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To summarize Waldron’s critique, it can be said that the long held view that cultural preservation or minority rights offer valuable choices and opportunities for the member of the particular group to lead a fulfilling life no longer stands to reason, in as much as a cosmopolitan lifestyle can very well lead to a fulfilling life, without any need for traditional group membership. Therefore, Waldron seems to say that when the demand itself i.e. membership and immersion in the culture of a traditional group, is non-existent, then the supply i.e. recognition and perpetuation of the right of such a traditional group to preserve itself, need not be artificially sustained. Going even further, he says that minority rights are an unauthentic response to the modern world in as much as they encourage traditional groups to exist in a vacuum, without cultural interaction with the wider society, and are therefore not just bereft of positive value but are in fact, undesirable.

It would be unfair to Waldron to not mention a subsequent development in his thought process. In a subsequent work, he makes an amendment to his original position.\textsuperscript{370} He says now that his original view that there is an intrinsic contradiction between the desire to retain an identity based on traditional group membership and the cosmopolitan vision, was misplaced.\textsuperscript{371} This is because, he admits, cosmopolitanism has already permeated many of the world’s cultures.\textsuperscript{372} Waldron therefore surmises that in order to be a cosmopolitan it is not necessary that one must give up local

\textsuperscript{371} \textit{Id.} at 231.
\textsuperscript{372} \textit{Id.} at 231.
ties and associations.\textsuperscript{373} Instead he says that norms of one’s culture should be seen not as the definite or sole markers of the identity of a person but rather as providing solutions to various difficulties that may confront individuals in the real world.\textsuperscript{374} Therefore, though Waldron does not detract significantly from his original position as to the ‘value’ of minority rights or cultural preservation, he however makes the pertinent concession that immersion in a particular culture is not \textit{per se} anti-cosmopolitan and that the particular culture may have significance as a source of solutions to problems and conflicts encountered in the modern world.

Waldron’s views can be said to be thought provoking because they re-invent the traditional criticism of minority rights, from one founded on an illiberal majoritarian premise to one that has its roots in ‘true liberalism’. Waldron paints the demand for minority rights or cultural preservation as being fundamentally illiberal and unauthentic.

Waldron’s aforesaid critique, or atleast the original version of it, mirrors the twin tenets of extreme cultural cosmopolitanism;

\textit{First}, that minority/group rights are opposed to the ethos of cosmopolitanism and must therefore be obliterated if cosmopolitanism is to truly flourish in today’s day and age; and

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\item\textsuperscript{373} \textit{Id.} at 243.
\item\textsuperscript{374} \textit{Id.} at 243.
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Second, minority/group rights also militate against liberalism and liberal legal theory, which is the driving ideal of modern human societies and of global cosmopolitanism as a whole.

The core question that is thus required to be answered for the purpose of the present study is therefore two-fold, i.e. firstly, as to whether cosmopolitanism has no space for minority/group identities, and secondly, whether these minority/group identities and rights and protections based on the same are illiberal by their very nature.

3.14 CONCLUDING REMARKS

Cosmopolitanism in the 21st century, as expressed through its various manifestations, can be said to have made rapid progress and attained a level of acceptance that is far higher than in any previous era in human history. If one is to visualize the cosmopolitanism project as a voluntary coming together of diverse groups and societies at a global level for achieving certain shared goals, then the 21st century can be said to have witnessed several such examples of cosmopolitan thought in action. Various examples, ranging from the United Nations General Assembly to the Universal Declaration of Human Rights to the Kyoto Protocol, have been considered in the present chapter. Though these various manifestations of the cosmopolitan ethic can be said to have witnessed varying levels of success, the significant influence of cultural and economic cosmopolitanism, as represented in the growth of
globalization, has led to the world being increasingly viewed as a ‘Global Village’.

Despite this pervasive cosmopolitan influence in certain spheres, two facts stand out.

Firstly, that the ‘cosmopolitan institutions’ that exist today do not reflect a state of cosmopolitan perfection in the sense of the cosmopolitan ideal of ‘equal concern’ for all human beings. This lack of perfection is manifested in the fact that several of these institutions exhibit explicit power-biases, for example the dominating influence of the permanent members of the Security Council that is based on a ground reality that existed several decades ago. It is also manifested in the contestation in the economic sphere with the conflicting aims and aspirations of the developed world as compared to the developing world, and the significant clout enjoyed by the former. The contemporary international framework therefore leaves a lot to be desired in terms of the bringing about of a truly cosmopolitan state of affairs.

Secondly, contrary to what many proponents of a conceptualization of cosmopolitanism based on uniformity might believe, the so called ‘old-school’ or traditional group identities are still very relevant, and of great value and import to their members even in the modern age. Despite increasing inter-connectedness and an increase in hybridity, group identity
on the basis of a variety of factors such as ethnicity, language, nationality, religion etc. are still strong.

It is therefore in the aforesaid background that the argument for an ‘extreme cosmopolitanism’ should be considered. This conceptualization of cosmopolitanism posits the doing away of protections and entitlements based on group identities, particularly the entitlements that permit for a modicum of cultural preservation, in as much as they are alleged to be obsolete and a stumbling block to the achievement of a greater cosmopolitan state than what exists at present. It may be noted that universal legal rights bestowed on individuals irrespective of their group identities are viewed as being sufficient from the point of view of this conceptualization. The argument that is made in this regard is that with the advancement of cosmopolitanism in the 21st century, it is now strong enough to provide new markers of identity and belonging for individuals and therefore offer a ‘cosmopolitan alternative’ to the traditional markers of group identity such as ethnicity, religion etc. Since this alternative exists, there is no more need for retaining group rights based on the traditional markers of identity.

Though the normative and justificatory aspects of this dynamic between cosmopolitanism and minority/group rights can be better explored with reference to certain legal relevant jurisprudential concepts, and hence is more apt to be considered in a later chapter of the present study, one observation may be made at this stage itself. This is that the conception of extreme
cosmopolitanism is premised on the fact that there is indeed an existing cosmopolitan community or a cosmopolitan state of affairs that offers alternatives to more traditional forms of community and group identity. However, from a review of cosmopolitan influence in the 21st century, it can be said that such a statement grossly overestimates the purported reach of cosmopolitanism is as much as it is far from the concrete and accessible alternative that it is posited to be by the proponents of extreme cosmopolitanism. In various formulations, such as international political institutions, cosmopolitanism has not been able to rise beyond a level and continues to be gridlocked by the competing claims of nation states; and in other more successful formulations, such as globalization, the access to the cosmopolitan lifestyle is far from easy and the same is inherently skewed in favor of the social elite.

A related question that also arises is as to how the international legal system has looked at the value, or the lack thereof, of minority group identity while putting in place a system of rights and protections. It is important to find an answer to this question in as much as it would reveal the extent of concern shown towards minority rights in the international legal arena and the basis for the same, if any. It would thus be apt to move forward to the next chapter which is devoted to this very theme.