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A brief discussion on the evolution of human rights in the context of state- rights negotiations in India.

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Abstract: There are numerous studies on human rights and human rights movements in modern social science studies. It is an established fact today that the state has a major role to play in protecting human rights. Issues related to democratic rights and civil rights become relevant in the discussion of state and human rights negotiation. It is true that the state gives rights to the citizens although sometimes the state is revealed as the usurper of rights. Human rights are also a relative concept, because different countries are fighting to secure and protect different types of human rights. Looking at the history of the evolution of human rights there are three stages can be observed. In some countries in Asia and Africa, fighting for first generation of rights, while in some countries in Europe, including the United States, there is a third generation human rights movement ongoing. These third generation human rights include various aspects of minority rights. It is said that the tension of the human rights state has taken different levels in different regions of the world. India also has a long history of human rights and civil rights movements. The emergence of an educated middle class in the middle of 19th century was a direct result of the spread of Western education in India. They formed various political associations and civil societies and became conscious of protecting their rights. After independence, the Constitution of India gave various rights to the citizens under Chapter III titled Fundamental Rights. Human Rights Commission has been formed to protect civil rights. Besides, the High Court and the Supreme Court is also acting as protectors of fundamental rights. But still human rights violations are happening in different parts of the country. It is noticed that sometimes by torturing inmates in prisons while in captivity, sometimes by violating the rights of women and children. We will briefly discuss the history of the evolution of human rights in our brief discussion, and also try to highlight the issue of state -human rights tension.

Keywords: Rights, Human rights, State, Society, India,Constitution**.**

When the human being became conscious of himself as a human and as a social and rational being, he began becoming more aware of his individuality and of certain necessary claims or conditions for his development. These emerged as natural claims of an individual. The claim later recognized as rights of the individual. Protection and promotion of human rights has been a top priority of the international community of the 21st century. According to Oxford Dictionary of Politics Human rights are a special sort of inalienable moral entitlement. It attach to all persons equally , by virtue of their humanity, irrespective of race, nationality or membership of any particular social group. They specify the minimum dignity and a tolerable life. Human rights are not only a discourse it is a practice. Practice to protect human life, liberty and property. The first generation of human rights are basically deals with civil and political rights and the second generation of human rights are deals with socio-economic rights , third generation of human rights are basically group rights which secure minority rights. Human rights stand accepted and advocated as the natural and essential rights of each human being living in every part of the world.

According to James Nickel '' Human rights aim to secure for individuals the necessary conditions for leading a good life''. These constitute a bunch of essential rights like, civic, social, political, economic. Each human person is entitled to all Human rights simply by virtue of the fact that he is a human being. The Universal declaration of Human rights (UDHR 1948) has been considered as a registered milestone achievement for the importance of human rights in daily lives. UDHR is an international document adopted by the United Nations General Assembly that enshrines the rights and freedoms

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of all human beings for all. It was Drafted by a UN committee chaired by Eleanor Roosevelt and accepted by the General Assembly, on 10 December 1948 in Paris, France. Of the 58 members of the United Nations at the time, 48 voted in favour, none against, eight abstained, and two did not vote. Universal Declaration of Human Rights Preamble Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people, Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, Whereas it is essential to promote the development of friendly relations between nations, Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom, Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms, Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge, Now, therefore, The General Assembly, Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction. Article I 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 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. Article 3 Everyone has the right to life, liberty and the security of person. Article 4 No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5 No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6 Everyone has the right to recognition everywhere as a person before the law. Article 7 All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8 Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9 No one shall be subjected to arbitrary arrest, detention or exile. Article 10 Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11 . Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. . No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed. Article 12 No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks. Article 13 . Everyone has the right to freedom of movement and residence within the borders of each State. . Everyone has the right to leave any country, including his own, and to return to his country. Article 14 . Everyone has the right to seek and to enjoy in other countries asylum from persecution. . This right may not be invoked

in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations. Article 15 . Everyone has the right to a nationality. . No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality. Article 16 . Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution. . Marriage shall be entered into only with the free and full consent of the intending spouses. . The family is the natural and fundamental group unit of society and is entitled to protection by society and the State. Article 17 . Everyone has the right to own property alone as well as in association with others. . No one shall be arbitrarily deprived of his property. Article 18 Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. Article 19 Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Article 20 . Everyone has the right to freedom of peaceful assembly and association. 2. No one may be compelled to belong to an association. Article 21 . Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. . Everyone has the right to equal access to public service in his country. . The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures. Article 22 Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality. Article 23 . Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. . Everyone, without any discrimination, has the right to equal pay for equal work. 3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. . Everyone has the right to form and to join trade unions for the protection of his interests. Article 24 Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay. Article 25 . Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. . Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection. Article 26 . Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. . Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. . Parents have a prior right to choose the kind of education that shall be given to their children. Article 27 . Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits. . Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. Article 28 Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized. Article 29 . Everyone has duties to the community in which alone the free and full development of his personality is possible. . In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. . These rights and freedoms may in no case be exercised

contrary to the purposes and principles of the United Nations. Article 30 Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

The articles of UDHR promotes and secure the life , liberty , property , stop any kind of discrimination on the basis of sex, religion caste, race, colour, gender differently. Many treaties and agreements made on the extract of the UDHRs . Later on in 1956 and 1966 international convention was organized for the promotion on human Rights. Several countries are now seriously aware to protect, promote and secure of Human rights. But the fact is till date human rights are not fully achieved the desired path. There are many kinds of human rights violation are noticed in the different parts of the world. Violations can either be intentionally performed by the state or sometimes come as a result of the state failing to prevent the violation. Both are harmful to human being. When a state engages in human rights violations, various actors can be involved such as police, judges, prosecutors, government officials, and more. The violation can be physically violent in nature, such as police brutality, while rights such as the right to a fair trial can also be violated, where no physical violence is involved. There are many types of human rights violation identified, sometimes gender based, caste based, class based, state control over freedom and speech on the basis of hate speech, child labour, trafficking , custodial torture and many more. But it is true to say the scenario may differ state to state. For example states like Afghanistan still suffering from basic rights like women education to voting rights but the demands of the progressive and first world state like USA, UK are very different, they demanding minority rights , group rights. It means the human rights movement's characteristics are contextual.

Human rights and civil rights movements in India have a long history. For the protection of civil rights in colonial India, educated and conscious citizen movement was developed since the British era. Surendranath Banerjee led **Bharat Sabha** appealed to Parliament to repeal the Press Act. Indians became aware of their civil rights by demanding freedom of the press. Since the establishment of the Indian National Congress in 1885, the moderates of the Congress have demanded various constitutional reforms like- separation of the administration and the judiciary, extension of juridical system in the judiciary, appointment of Indians to high-ranking government jobs, repeal of the Arms Act, etc. Not only laws and reforms but also the conscious attitude of the citizens in various political and administrative matters was observed at that time. An All-Party Convention was held at Kanpur in April 1925 to discuss securing the civil rights of India. A Charter of Human and Civil Rights was adopted in that convention. In addition to the rights stated in the 1918 charter, this charter also mentioned many new rights. Such as right to free primary education, end of gender discrimination, right to freedom of thought and religion etc. In the 1930s British government make many authoritarian laws to control and repression of citizens. Indians started a strong movement against this kind of authoritarian laws. India's first human rights and civil rights organizatition was formed on 24th August 1936. Jawaharlal Nehru took the main role to build the organization. In 1936, the famous socialist leader Ram Manohar Lohia wrote a famous book called ''The struggle for civil liberties''. The Indian Civil Liberties Union was founded in the same year, Rabindranath Tagore elected as its first president. Sarojini Naidu was the working president of that organization. Many such organizations negotiated with the state to protect human rights before the time of independence.

After independence, various struggles and movements were held in India for the protection of human rights. For promoting human rights, Civil Rights Conference was held in Madras on 16 and 17 July 1949. The conference lays emphasis on creating awareness about human rights and civil rights among the people of India. A section of thinkers consider that the declaration of national emergency under Prime Minister Indira Gandhi as the key chapter in the human rights crisis in post-independence India. During this time, several political organizations were banned, and the right to hold meetings was also taken away. Not only this, freedom of press was also restricted during this time. Notable among the human rights organizations that played an important role during this period was the APDR, although the organization was later outlawed. Although many scholars interpret the national emergency in a negative way, one of its positive aspects is that, in view of this, various conscious people and some organization played an active role in protecting the democracy and rights .A human rights and civil rights organization called the People's Union for Civil Liberties (PUCL) was formed in Delhi in October 1976 when the strictures of the National Emergency were eased. The main founder of this organization was Jayaprakash

Narayan. Branches of this organization were opened in many states of India. Later some people broke away from this organization and formed a different human rights organization called People's Union for Democratic Rights (PUDR). There are many human rights organizations are active in India today.Building human rights awareness and organization among citizens at various levels eventually led to the need to build human rights organizations at a national level, resulting in the establishment of the National Human Rights Commission (NHRC) in 1993.

Every sates are now securing rights and protect and promote human rights by their own way, as per as Indian state concern part-III of the Indian Constitution secure rights of the individual , from article 12 to article 35 all the rights has been secure and enforceable by the court of law. All the rights are very much essential and important for the development of the human being. According to the constitution of India all the rights are protected by the Court. According to the scholar and eminent thinkers in this field they thinks that, fundamental rights protect the liberties and freedom of the citizen against any invasion by the state and prevent the establishment of authoritarian and dictatorial rule in the country. These rights directly related to the people by its daily life. The supreme court of India, gave his verdict on Kesavananda Bharati vs state of Kerala(1973) , that, the parliament can amend any and every provision of the constitution subject to condition that the such amendment does not violate basic structure of the constitution . It is observed that fundamental rights belong to the basic structure of the constitution. To prevent Human rights violation in India National Human Rights Commission (NHRC) was build in the year 1993. The twenty years journey of NHRC, it was observed that NHRC played a vital role for the protection of human rights in India. But the goal of a free a fair society not achieved till yet, there are a lot of journey ahead of us .In our daily lives we noticed that everywhere there are many kinds of human rights violation happened in our society, it is true that the sate tried to implement many laws to prevent the human rights violation, but beside this it is also true that only laws and certain progammes not fully erase the stigma from our society, we need lot of consciousness, awareness program, basic idea about fundamental rights among people. Last but not the least, the role of civil society is not negligible in this matter; civil society organizations can play a vital role for the success of Human rights in our society.

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