Chapter 1

Freedom and Equality: Issues of the Enlightenment Thought

This chapter is an engagement with the concepts of freedom and equality in Enlightenment thought. It constitutes the literature review of the dissertation and the scaffolding of my subsequent analysis of caste, race, and the Holocaust. It provides the conceptual framework for the study of the literary texts that I examine as representative works that are shaped by an engagement with these two critical concepts.

For 18th century thinkers, Enlightenment was not an historical period, but a process of social, psychological or spiritual development, unbound to time or place. Kant defines Enlightenment as "humankind's release from its self-incurred immaturity […] and identifies it with the process of undertaking to think for oneself, to employ and rely on one's own intellectual capacities in determining what to believe and how to act" (Bristow, Fall 2017). Kant in his essay "What is Enlightenment?" considers freedom as the necessity for Enlightenment. He believed that men would come out of their barbarity once they are enlightened. Enlightenment, he says, will follow freedom and if men were given freedom, they will be enlightened and there will be no need to order them because they will obey without the order to obey. He says freedom is the only option of guaranteed obedience (Kant 2013). The Enlightenment is marked by three political revolutions, the English Revolution (1688), the American Revolution (1775-83), and the French Revolution (1789-99), which are responsible for the fundamental changes in the history of humankind. These revolutions led to reformations and changes in the social as well as political environment all over Europe (Bristow, Fall 2017).

Ernst Cassirer writes that the Enlightenment should not be considered only as what it used or interpreted to produce in its historicity nor the totality it was accused of creating or promoting. Instead, the Enlightenment should be accepted for the depth of the concepts it provided to the world of thought. These concepts provided by the Enlightenment have capabilities of bringing changes which would be unthinkable without the Enlightenment. The philosophical depth and

the ever widening conceptual and structural foundations provided by the Enlightenment are much more important and valuable than the results that accrued from it:

> The Enlightenment had, therefore, to be approached in its characteristic depth rather than in its breadth, and to be presented in the light of the unity of its conceptual origin and of its underlying principle rather than of the totality of its historical manifestations and results […] The Enlightenment age has given philosophy a new definition now philosophy is not just the specific knowledge or the principle of natural science or law or government but all comprehensive medium in which such concepts were developed, formulated and founded (Cassirer V).

For him, Enlightenment was not just a historical event or era but it was the process which has severely affected the human nature. It made radical changes in the thinking of man. Man started thinking rationally; man became the centre of everything instead of nature or supernatural entities. He defines the Enlightenment thought as an undefinable and ever widening world of concept. It cannot be trapped in strict definitions as it is not only those teachings and thoughts provided by the major thinkers of the Enlightenment such as John Locke, François-Marie Arouet also known as Voltaire, David Hume, Denis Diderot and others have provided. Enlightenment for Cassirer is an ungraspable entity which cannot be characterised or defined by a given set of concepts, because Enlightenment itself is a concept giving category.:

> Enlightenment, the true nature of Enlightenment thinking cannot be seen in its purest and clearest form where it is formulated into particular doctrines, axioms, and theorems but rather where it is in process, where it is doubting and seeking, tearing down and building up. All this constantly fluctuating activity cannot be resolved into a mere summation of individual teachings (Cassirer IX).

He also writes that this sudden change of thought was just the start of the evolutionary process; this evolution of the process of thought is rather felt than defined. He writes that, "The fundamental intellectual forces with which we are here concerned can be grasped only in action and in the constantly evolving process of thought; only in process can the pulsation of the inner intellectual life of the Enlightenment be felt" (Cassirer IX). This evolution affected the social and political life of the seventeenth and eighteenth centuries. The change in the social as well as political environment became palpable. It was an environment in which Kant's motto "Supere Aude" (dare to know) was felt in all sectors of life. Men seemed to have come out of

their self-imposed immaturity (or minority), this was the beginning of an era when those who were governed started to occupy the centres of thought; it was the time when the voice of the governed and their voice had the strength of "reason" supported by Enlightenment thought. Michel Foucault, in his essay "What is Critique?" gives us his concept of critique. Critique, he says, is "putting forth universal and indefeasible rights to which every government, whatever it may be, whether a monarch, a magistrate, and educator or a *Pater Familias*, will have to submit" (Foucault, *The Politics of Truth* 46). He raises the question of government and the role of critique in it. He says that critique is, when 'the governed choose not to be governed like that' (Foucault, *The Politics of Truth* 46), rejecting the illegitimacy of the rule and establishing more rightful order. The British Revolution of 1688 is a perfect example of this idea of critique; they had not rejected the power over them but they had rejected the way they were governed; on the other hand, the American Revolution of 1775 and the French Revolution of 1789 were example of critique when the governed rejected every power over them and asserted that they do not want to be governed by the existing order.

At the centre of the Enlightenment, we find three main themes: government, laws, and rights. These three themes are at the centre of many major works by Enlightenment thinkers. Locke has written *Two Treatises of Government* (1689) and Montesquieu, *The Spirits of Laws* (1750) where, one finds, these themes at the centre. How to govern is the major question of the Enlightenment. Sir Robert Filmer defended absolute monarchy in his *Patriarcha* (1680) as a divine right, and therefore, beyond any challenge. Locke wrote two treatises in defence of the freedom of people based on natural right. He rejected absolute monarchy as government, because it is arbitrary and violates men's liberties. He gave his theory of liberty, government and laws in his second treatise. He writes that:

> The liberty of man, in society, is to be under no other legislative power, but that established, by consent, in the commonwealth; nor under the dominion of any will, or restraint of any law, but what that legislative shall enact, according to the trust put in it. Freedom, then, is…to have a standing rule to live by, common to every one of the society, and made by the legislative power erected in it; a liberty to follow my own will in all things, where the rule prescribes not; and not to be subject to the inconstant, uncertain, unknown, arbitrary will of another man: as freedom of nature is, to be under no other restraint but the law of nature (Locke et al. 109-110).

Locke sees humans as equal and free because of natural law and natural right. Locke in his theory of the State of Nature stripped every man from the actual restraints and inequality and found them free and equal (Locke xix). Such a State of Nature became the basis on which he built his theory of natural right and natural law. He believed that the state of nature is not the state of might but right, and that natural law orders it. He thought that men have the right to property, liberty and lives, which is given to them by God and so it is their natural right and law. But this puts the idea of a state and government rolling. For example, in order to have a proper government as well as order you will need a state. Without state it is nearly impossible to maintain order. So, Locke proposes that there should be state to maintain government, law and order as well as for the protection of the natural rights of the man. But, for Locke the State is only the judicial body and the protector of rights of men, who by giving their consent have themselves created it. Thomas Cook observes that for Locke, men are the source of power and not the state, it is men who are responsible for the creation of state not the vice-versa. The authority and power of the state originates from the consent of the men, who are holders of the natural rights, which are not to be violated in any way (Locke, *Two Treatises of Government*). The state is only a form of system which is created by the people by giving the power of their consent to the state, which needs to act neutrally to govern everyone where no one's natural rights would be violated and no one will be able to violate "others" as state is there to prevent that:

> The state is an organization voluntarily created by the consent of natural men who abandon and hand over their right to their own interpretation and enforcement of their own natural rights. For Locke the state is thus a judicial body, interpreting the law of nature for individuals who have not surrendered one iota of their natural rights, but who have by their own consent created that state simply and solely that it may, without favour to any man or group, and without bias against any man or group, interpret objectively those rights and use the collective authority to enforce their observance (Locke, *Two Treatises of Government* xviii).

The ideal government for Locke is when the government works by the consent of the governed. He also emphasized on the majority rule or the rule of people, we may call it democracy, and the right of the people to rebel and establish majority rule if government is tyrannical. Charles de Montesquieu in his *The Spirit of Laws* gives us three different kinds of system of government: the republican, the monarchic and the despotic. While republican and monarchical government has some sort of order and reason, the despotic government is the worst kind of

government according to Montesquieu. Montesquieu's ideas are identical with ideas of Locke about liberty and government. For him, like Locke, "Liberty is not the freedom to do whatever we want…. Liberty involves living under laws that protect us from harm while leaving us at liberty to do as much as possible, and that enable us to feel the greatest possible confidence if we obey those laws, the power of the state will not be directed against us" (Bok Summer 2014). For Locke "absolute monarchy is bad because under it the executive and legislative branches are not separated, and so rights are not protected within institutions of government themselves" (*Two Treatises of Government* xix). Montesquieu fears the same that man/institution with absolute power are apt to misuse it and in order to avoid it, we have to separate executive, legislative, and judicial powers of government. In this context, Cassirer notes:

> The aim of Montesquieu's work is not simply to describe the forms and types of state constitutions—despotism, constitutional monarchy, and the republican constitution—…. Knowledge of these forces is necessary if they are to be put to their proper use, if we are to show how they can be employed in the making of a state constitution which realizes the demand of the greatest possible freedom (Cassirer 20).

Montesquieu looks at the state as a system which protects laws, rights, as well as provides more possibilities for human freedom. His emphasis is on the structure of law where citizens will obey law, not fear the people or body of institutions.

Enlightenment thinkers have liberty and equality at the core of their ideas and works. Man's liberty and equality was the question of the age. And Locke was considered as the champion of it as he advanced the rights of property and rights of lives. As Ernst Cassirer rightly interprets Locke's ideas about liberty and equality were very important. He writes praising Locke's ideas about human rights and shows how it resonates with Voltaire and his concept of freedom:

> the English constitution …offered real protection for the property of every citizen and for his personal safety. Whoever has once understood these blessings and recognized their reasonable necessity, will of himself find the strength to preserve them. The essential concept of freedom for Voltaire is therefore synonymous with the concept of human rights. 'In fact, what does it mean to be free? It means to know the rights of man, for to know them is to defend them' (251).

If we look closely at the writing and focus of these works of and on Enlightenment, we find that the concepts of rights, government, and law are interlinked and connected. Rights that are inherent to men (which many Enlightenment thinkers had emphasized as natural rights) are only enjoyed in the proper government; and to protect these rights within government we need laws. Therefore, they have simultaneous existence; if we remove one or if one is weak than the liberty is at danger. This system of rights, government and laws is for the protection of liberty and if any one of them is malfunctioning, it affects men's liberty. This system is always present in every form of government, be it monarchy, aristocracy, or democracy. In monarchy, particularly in absolute monarchy, this system works at its lowest level where the liberty of men is in constant and unpredictable danger, the monarch rules arbitrarily and the governed are deprived of their liberty and are forced to obey. As Locke opposes it saying, "absolute monarchy is bad because under it the executive and legislative branches are not separated, and so rights are not protected within the institutions of government themselves" (*Two Treatises of Government*, xix). On the other hand, democracy is the highest form where the consent of the governed is at the centre and they have a share in government. So, the questions that arise here is what if this system of government especially in democracy gets corrupted and monopolized by tyranny. What happens when the liberty of the people is snatched away by governments and laws? What happens when the rights are there but men cannot enjoy them? Here Locke gives us a solution, as Paul Kelly has observed: "he (Locke) argues we have a right to resist against illegitimate uses of political power and a right to rebel against regimes that threaten our rights and civil interest" (128). He says people can resist against illegitimate governments and systems by rebellions or revolutions, to establish a proper government, one that helps to sustain and protect men's liberty and natural rights. Starting from the British revolution of 1688 or the Glorious Revolution, the question of government became more important in political thought. The governed who were at the margins of thought and seemed to obey silently became actors starting to resist and agitate enabled as they were by enlightenment thought, they entered into the space of political debate claiming their authority in the choice of how they wanted to be governed. In fact, the British Revolution debarred British monarchy of its absolute and arbitrary power and made it somewhat answerable and accountable to the system of governance. The absolute monarchy gave its place to partial monarchy where the governed has some part in the government. The American Revolution of 1775 also resisted against external rule over the governed, they also rejected external power and rules, they rejected the British rule over them. The 1789 French Revolution too rejected the monarchical rule and established a government of the governed. The revolution does not take place when people come together overnight; it

is a gradual change in social and psychological mindset of the people. The French Revolution, which is the epitome of Enlightenment thinking and has at its centre Enlightenment ideas of freedom and equality ended up in violence that some critics thought was the end of the Enlightenment as a historical period (Bristow, Fall 2017).

Edmund Burke was one of the most prominent critics of the French revolution. He feared the germ of revolution and regicide will infect England, this is the hidden subtext of his book *Reflections of the French Revolution*. He defended monarchy and condemned the French Revolution saying it will collapse, and there will be no system of government. Anarchy will follow the revolution, and what the people are fighting for, that is freedom and equality, will never be achieved. Mary Wollstonecraft and Thomas Paine defended The French revolution, criticizing Burke, by publishing *Vindication of Rights of Man* (1790) and *Rights of Man* (1791). Wollstonecraft criticized Burke giving historical and developmental account of emergence of rights and saying it has its origin in English liberties, and even that the American Revolution was based on the argument of the British liberties. She says about Burke that he was delirious for power and had self-centred interest for his property. Paine on the other hand criticized Burke by giving the example of the success of American Revolution, and by the way the French Revolution contributed to the rights and liberty of men.

At the end of the French Revolution, the National Assembly of France declared *The Rights of Man and of Citizens*, and what people fought for were achieved. The Rights of man emerged from the chaos and anarchy to give birth to a new system of government, based on the consent of the governed, and to secure their liberty. Many critics had criticized that the declaration of the human rights by the French assembly had connection with American "bill of rights" rather than the philosophy of 17th and 18th centuries. But Ernst Cassirer defended the declaration by elaborating that the ideas of freedom, equality and human rights endorsed by the French constitutional assembly developed from American Revolution and also has its origin in writing of Locke and the concept of Natural rights provided by him which declares that natural rights are the authority of any contract and it has the authority to annul any and all contracts, social or political, which violate natural rights of man and that "There are natural rights of man which existed before all foundations of social and political organizations; and in view of these the real function and purpose of the state consists in admitting such rights into its order and in preserving and guaranteeing them thereby" (Cassirer, 249).

Although Enlightenment proposes reason, rationality and protection for the freedom and equality of man, it has its critics who criticize the Enlightenment. The most severe critique of the Enlightenment comes from Friedrich Nietzsche, Theodor Adorno, Max Horkheimer, and Michel Foucault. Foucault criticizes the Enlightenment ideas by raising the points against its notions of order and reason. The same argument is raised by Adorno and Horkheimer who interpreted "Nazi death camps as the results of 'the dialectic of Enlightenment', as what historically becomes of the supremacy of instrumental reason asserted in Enlightenment" (Bristow, Fall 2017). We can extend the argument by asking what kind of ideas Enlightenment promoted that leads to subjugation of women, Jim Crow laws and horrors of Colonialism and of capitalism. William Bristow criticizes Enlightenment thought saying that the Enlightenment thought and its thinkers on the one hand promote freedom and equality for all, but on the other hand they maintain silence on the issues regarding colonialism, slavery, oppression of minorities, and exploitations of workers. Enlightenment thinkers talk about the universality of the concept of freedom, equality and fraternity and reason but their writings show racist attitudes, prejudice against women, and exclusivity of what it means to be man, citizen and holder of the rights (Bristow, Fall 2017). Bristow rightly points out that:

> It is striking how unenlightened many of the Enlightenment's celebrated thinkers are concerning issues of race and of gender. For all the public concern with the allegedly universal "rights of man" in the Enlightenment, the rights of women and of non-white people are generally overlooked in the period. (Mary Wollstonecraft's Vindication of the Rights of Woman (1792) is a noteworthy exception.) When Enlightenment thinkers do turn their attention to the social standing of women or of non-white people, they tend to spout unreasoned prejudice (Bristow, Fall 2017).

However, the Enlightenment ideas of liberty and equality are still fundamental, concepts of liberty, government, and its legal and political ideas and concepts are still relevant. The problem is that they are not absolute, they are not natural but artificial. Some critics like Bristow criticize it as male centric and Eurocentric (Ibid). While the Enlightenment ideas of liberty and equality are presented as universal, they are not found to be real. These ideas excluded women, non-white, colonized, and other minorities making it exclusive for white (mostly European) rich men. The rights are formed in such a way that they systematically excluded other

minorities. In fact, one of the characteristics of Enlightenment reason is that it systematically excludes differences.

Most of the Enlightenment thinkers believed that women are not fit for reason and that they are only fit for the pleasures of men– a view shared by Rousseau (Johnson 37). The idea of freedom and equality of slaves was rejected on the grounds that– they are not humans and are property of someone else. Partha Chatterjee criticizes the French Revolution and hollowness of its promises of freedom and equality by way of an anecdote in his book *The Politics of the Governed* that when the Haitian slaves took the ideas of French Revolution particularly freedom and equality seriously and declared themselves to be free men, the French government of that time responded by arguing that the rights of man and rights of citizens are not extended to Negroes as they are not considered to be men. The French government through their might re-enslaved those who declared themselves free (Chatterjee 28-29). Chatterjee also notes that:

> The historian Michel-Rolph Trouillot has said that the Haitian revolution occurred before its time. The entire spectrum of Western discourse in the age of Enlightenment had no place for black slaves claiming self-government by taking up arms: the idea was simply unthinkable (cited in Chatterjee 28-29).

The same ideas are shared by James Baldwin on "The Dick Cavett Show" when he was discussing Racism and the treatment of African Americans in America. He writes that "When any White man in the world says, give me liberty or give me death, the entire White world applauds. When a Black man says exactly the same thing he is judged a criminal and treated like one" (James Baldwin Discusses Racism). When we think about liberty, we should not miss the voice of minorities or subaltern groups. The Enlightenment ideas about liberty are of the majority and very exclusive. We will get more clear ideas about liberty by putting side by side the ideas of liberty by Enlightenment thinkers with the ideas about liberty by the thinkers of the minority, excluded groups, and then analysing it properly.

Reason and rationality are the main characteristics of the Enlightenment. Reason and rationality started to become the new standards of human thought and everything which was not approved by the principle of reason and rationality was found to be unacceptable. Cassirer has observed

how reason came to the centre of thought and how reason gradually started reflecting on itself as power. Reason became the centre of the all activities of man:

> When the eighteenth century wants to characterize this power in a single word, it calls it 'reason.' 'Reason' becomes the unifying and central point of this century, expressing all that it longs and strives for, and all that it achieves (Cassirer 5).

Cassirer also tries to locate what went wrong with the Enlightenment reason. He noticed that instrumental reason dissolves everything and it does not rest till everything is dissolved. When one looks at reason as an instrument, everything turns into facts, people transform into numbers, happiness, growth development, everything turns out to be mere data, and numbers. Everything is quantifiable and that's why, where everything is mere data and numbers and facts, everything else that does not form a part of the data and numbers start to become unreliable, worthless, not reasonable, and not true (Cassirer 5).

Nietzsche criticizes the Enlightenment morality and the idea of democracy. His views on Enlightenment change from a position in favour of Enlightenment to a position against the Enlightenment throughout his life. He criticizes Rousseau and his ideas as well as his concept (system) of democracy. Nietzsche had his own doubts regarding the democracy's promises of power to the people. When people or majority decides or the popular will decides who will rule, he argues that there is equal risk of turning a government into a tyrannical system. H.W. Siemens articulates this point of Nietzsche more clearly by asking "does democracy not run the risk of replacing one kind of tyranny, the tyranny of the despotic genius with another: the tyranny of the people? Under democracy, … 'all parties are now required to flatter the 'people' and to give it all kinds of reliefs and freedoms, whereby it finally becomes omnipotent'" (Siemens 25). Nietzsche believed that without genuine pluralism, freedom is impossible, and democracy promises that pluralism, but Nietzsche doubts that too. Nietzsche, according to Siemens, also believed that democracy systematically eradicates the difference and so the possibility of pluralism becomes non-achievable (29). It advances the uniformity and singularity making everything similar. Siemens notes that "Democracy only emancipates us from the tyranny of despotic power by establishing a tyranny of the mob, and the underlying realization that democracy promotes uniformity, 'the sand of humanity,' rather than genuine plurality and difference" (27). He believed that hatred for authority is the main character of

democracy and the concept of freedom and equality are based on such an idea. Nietzsche's ideas on democracy finally turn out to be somewhat ambiguous since he believed that "democracy represents the worst conditions for a caste of higher humans capable of the trans-valuation of all values and that it offers the best conditions for them, indeed, he argues for a whole range of positions between these two extremes" (33). For Nietzsche the Enlightenment and the Revolutions have taken the wrong turn and they have slipped into a process of degeneration and violence, they have turned into exact opposite of their fundamental characteristics. Graeme Garrard in his essay "Nietzsche for and Against the Enlightenment" notes that:

> For Nietzsche, the French Revolution is 'the last great slave revolt'... he argues that the French Revolutionaries, inspired by the utopian dreams of 'political and social fantasists' such as undertook 'a revolutionary overturning of all social orders' with the belief that this would liberate the supposed natural goodness of human beings from corrupt and repressive social and political institutional ties. In reality, it merely brought about 'the resurrection of the energies in the shape of the long-buried dreadfulness and excesses of a distant age' (601-602).

Nietzsche's ideas and thought about the critique of the Enlightenment reason and morality was at the backdrop of many critics, but out of them, Adorno and Horkheimer's were most severe and influential. Adorno and Horkheimer explained what Enlightenment is and what its process was. They defined it as "Enlightenment, understood in the widest sense as the advance of thought, has always aimed at liberating human beings from fear and installing them as masters" (Horkheimer et al 1) Adorno and Horkheimer criticized Enlightenment reason with their thesis that "scientific Enlightenment rationality, as it dominates nature, inevitably dominates humanity, which is also nature" (Villa 5). *Dialectic of Enlightenment* first published in 1944, when they were in exile, tries to trace the process of the degeneration of the Enlightenment thought from a liberating to a dominating stage. Lambert Zuidervaart notes that their Horkheimer's and Adorno's argument throughout their book was:

> Enlightenment, understood in the widest sense as the advance of thought, has always aimed at liberating human beings from fear and installing them as masters. Yet the wholly enlightened earth radiates under the sign of disaster triumphant.' How can this be, [the authors ask] How can the progress of modern science and medicine and industry promise to liberate people from ignorance, disease, and brutal, mind-numbing work,

> yet help create a world where people willingly swallow fascist ideology, knowingly practice deliberate genocide, and energetically develop lethal weapons of mass destruction? Reason, they answer, has become irrational. (Zuidervaart, Winter 2015)

They were not rejecting the Enlightenment as a historical process. But they were seeking the answer for the questions of what went wrong in this process of Enlightenment and when. As they clearly state in the preface to their book: "What we had set out to do was nothing less than to explain why humanity, instead of entering a truly human state, is sinking into a new kind of barbarism" (Horkheimer et al. xiv). They argue that although the Enlightenment thought has put forward reason for disenchantment of the world but this domination of nature by man and domination of nature of man has always resulted in Enlightenment becoming a totalitarian instead of being a liberating force. They argue that even Enlightenment is based on myth and/or it became myth which, on the contrary, it opposes. Enlightenment, by putting reason at the centre, produced standards and measures to judge/compare and in the process anything that did not meet those standards was treated with suspicion. They further argued that Enlightenment itself became totalitarian. They wrote:

> For enlightenment, anything which does not conform to the standard of calculability and utility must be viewed with suspicion...The reason is that enlightenment also recognizes itself in the old myths. No matter which myths are invoked against it, by being used as arguments they are made to acknowledge the very principle of corrosive rationality of which enlightenment stands accused. enlightenment is totalitarian. (Horkheimer et al. 4-5)

Adorno and Horkheimer believed that the system which Enlightenment put together in the name of reason has allowed a system of triple domination where first, men have dominated nature, second, nature has dominated man, and third, men have dominated men. They write that this is the basis of all the systematic oppression from which the whole western world suffers (Zuidervaart, Winter 2015). They try to expose the hollowness of the ideas and concepts of freedom and equality which were main promises of the Enlightenment. Enlightenment, no doubt, presented ideas of freedom and equality as fruits of tireless struggle and hard work for creating a system on the basis of reason, a system that rejected all old structures and systems of governance. However, they argue that these ideas were never fulfilled in their essence and just became the illusionary symbols they write that:

> The enslavement to nature of people today cannot be separated from social progress. The increase in economic productivity which creates the conditions for a more just world also affords the technical apparatus and the social groups controlling it a disproportionate advantage over the rest of the population. The individual is entirely nullified in face of the economic powers (Horkheimer et al. xvii).

For them "Power and Knowledge are synonymous" (Horkheimer et al. 2). We can connect this to Locke's majority rule where majority has the power to decide what is right and what is wrong. But here the majority itself is seen as the source of tyranny. They observe that the majority has replaced the tyranny and it itself has become tyrannical. Where knowledge creation is controlled by majority and majority systematizes oppression, the consequences are very drastic for any system of governance:

> What is done to all by the few always takes the form of the subduing of individuals by the many: the oppression of society always bears the features of oppression by a collective. It is this unity of collectivity and power, and not the immediate social universal, solidarity, which is precipitated in intellectual forms (Horkheimer et al. 16).

A severe critique of Enlightenment system of governance has also come from Michel Foucault, whose works have influenced and affected various disciplines of thought. The French historian and thinker devoted his life studying the governmentality and the systems of power and knowledge. He extensively worked on how government works and how the system of government controls the governed or generates consent through power and knowledge. He also wrote about the rise of medicine, madness and asylums, the surveillance system and its implications on human life. He devoted his life to tracing out the abnormalities in the western thought and what went wrong with the Enlightenment thought and mentality. He worked to elaborate the concepts of control of humans and how knowledge and power works to sustain this control in most of his works:

> While recognizing the element of genuinely enlightened reform, Foucault particularly emphasizes how such reform also becomes a vehicle of more effective control: 'to punish less, perhaps; but certainly, to punish better' (Gutting and Oksala, Summer 2018).

He has extensively elaborated various techniques of control. "At the core of Foucault's picture of modern disciplinary society are three primary techniques of control: hierarchical

observation, normalizing judgment, and the examination. To a great extent, control over people (power) can be achieved merely by observing them," observe Gutting and Oskala (Summer 2018). So, all the activities which seems otherwise normal, like code of conduct, and rules for behaviour in public place, are really just other ways to discipline and control people. The prisons, schools and factories, the offices and clubs, hospitals everything runs with certain standard rules of behaviour, of conduct and every human activity are being keenly observed and analysed. They also detect the abnormalities which do not meet with the standards and such actions are taken up for correction. In this system, differences are seen as a threat to homogeneity and singularity, as otherness and is alienated as well as marginalized. Foucault has also observed how after reason became the centre of all the studies by man, standards were set and hierarchies of sane and insane were created. For him these prisons and asylums and the hospitals which particularly focused on mental illness were examples of the degeneration of the Enlightenment thought and reason. They reveal the totalitarian character of the Enlightenment as Adorno conceived it. What we came to be recognized as mental illness, a condition which was never ever considered as a disease before Enlightenment became an instrument and consequently became a base for separation from society, alienation from self and of degrading experiments on human beings (Gutting and Oksala, Summer 2018).

The whole new disciplines were created and founded, new structures were built in order to control those who do not meet or pass the standards created by instrumental reason. "Foucault's point is rather that, at least for the study of human beings, the goals of power and the goals of knowledge cannot be separated: in knowing we control and in controlling we know," observe Gutting and Oskala (Summer 2018). Foulcault's ideas on Enlightenment and the task before men are expressed in the following manner:

> I think that the Enlightenment, as a set of political, economic, social, institutional, and cultural events on which we still are depending large part, constitutes a privileged domain for analysis...But that does not mean that one has to be 'for' or 'against' the Enlightenment. It even means precisely that one has to refuse everything that might present itself in the form of a simplistic and authoritarian alternative: you either accept the Enlightenment and remain within the tradition of its rationalism; or else you criticize the Enlightenment and then try to escape from its principles of rationality (Foucault, *The Foucault Reader* 42-43).

Another French philosopher Jacques Derrida has studied the concept of law very systematically. In his three essays, "The Law of the Genre" (1980), "Before the Law" (1982) and "Force of Law" (1989) he has traced down the origin of the authority of law and also the working and functions of the law. He writes that we cannot face law. Law is present as well as absent. Even when we are in court facing the judge, we are not facing the law but the representatives of the law. He also traced down the authority of the law not in the reason and logic but in myths and tales (sometimes traditions). So, he argues that how can something be logical and reasonable when its foundations are on something illogical or opposite to reason. He writes that law is present as well as absent at the same time. It is there but it also lacks the substantiality of its origin, law itself defies every history proving its origin, it does not sanction any possibilities of its history of origin (Derrida, *Acts of Literature* 194).

How can we face law? How can we get face to face with law? Where is law present? These questions are very fundamental in determining the nature of law in our modern judicial system, which puts law at the highest position, sometimes even considers it as sacred. Is law sacred? How did this sanctity of law originate? If law is sacred how does it function? This law or that cluster of laws provides the basis of rights, identity, entitlements etc. These laws have their own history and it is even sometimes argued that their origin is in natural laws. But this text of law is connected with the writer of the text, the physical, historical and non-divine entity, which raises the question of originality of the laws. He also questions the very idea of the law; he says that law is everywhere and nowhere. Man can break it or obey it. It provides conditions and possibilities of freedom and equality, but confrontation with law is never possible. Derrida elaborates it by saying:

> In German as in French and English, the expression 'before the law' commonly describes the position of a subject who respectfully and submissively comes before the representatives or guardians of the law. The law requires an agent or representative to make it appear, the law makers, the officers of law, the police, the judge, the criminal/accused. This constant need of agent or representative makes the law accessible and inaccessible at the same time. S/he presents himself or herself before representatives: the law in person, so to speak, is never present, even though the expression 'before the law' seems to signify 'in the presence of the law.' The man is

> therefore in front of the law without ever facing it; while he may be in front of it, he thus never confronts it (Derrida, *Acts of Literature* 201).

When a moment comes and man tries to enter the law, instead of entering it he faces it and in facing the law he becomes subject to the law (in literal and metaphorical ways) and at the same time he becomes the outlaw that is outside the law. So, in this way law is everywhere and nowhere, it may be everywhere but you may never face it. Even, by facing it you become outlaw, deferring every possibility of facing the law or entering the law (Derrida, *Acts of Literature* 204). But all these discussions lead to an understanding that law can make itself present through the narrative of the everyday life through text, through the ordinance, through news, through media, through the unwritten rule that "one must obey law", this very narrativity makes law present everywhere, yet at the same time absent, not appearing anywhere, before anyone. This is law of the laws, meta-law, which always tries to hide itself, so that it can provide existence to other laws. Derrida notes that "It is neither natural nor institutional. One never arrives there and, ultimately within its original and its own taking-place, it never arrives" (Derrida, *Before the Law* 53-54). But this meta law presents itself, as if it does not have an origin or place of location, trying to evade its historicity, hiding its source of authority, in order to preserve it. This will be discussed later in this chapter.

The law obliges all to accede to its knowledge, that it demands that it should be obeyed, law demands that it should not be ignored, ignorance of the law does not exclude one from the purview of the law. That is why in earlier times laws were announced loudly in public places so those who were illiterate and those who are not, both would come to know about its existence. Knowledge of the law's existence does not make it accessible, law as a text is tangible but at the same time it is perceptible, interpretable, modifiable, this intangibility of the law makes it inaccessible. It is inaccessible in the sense that law as a text is there which is present but at the same time it does need an agent/representative to interpret, explain, impose, revoke etc. in this sense, we always deal with the representative and not directly with the law, even that representative cannot deal directly with the law, law always demands multiple representatives, none of them have any absolute knowledge, understanding or absolute power over the law themselves. This inaccessibility of law can be understood in this way to whenever the question of appearing before the law arise, facing the law, one is never facing the law but is facing the representative of law, the representative on the other hand is facing the one who

is accused or who demands to appear before the law in this sense they both are facing each other, they both in this manner appear before the law but does not face it. They remain exact opposite to it. This law is eternal *defferance*, it is always in its own making, specifying anything about it except the existence, which is presence and absence at the same time, it is inaccessible in this sense. It is in the words of Derrida is "a nothing that always defers access to itself" (Derrida, *Before the Law* 53-54).

Derrida in his essay "Force of Law: the Mystical Foundation of Authority" which he delivered as a lecture in English where he criticizes the very characteristics of the law as accepted by majority and in some sense democracy itself which he says (like Nietzsche has already proclaimed) that law systematically excludes the difference or minorities (Cornell et al.). It was the moment or situation when majority audience was English speaking and, Derrida was compelled to give his lecture in English. Although he can give it in French but as he says it will be more "just" for him to speak in English for the audience. This situation defines the situation of individual or the minority group in the system of democracy where majority rules. Sometimes democracy/majority compels individual and minority to their rules and standards and sometimes one must speak in the language of the other to be more just. He says that:

> *Je dois* speak English (how does one translate this "*dois*," this *devoir*? I must? I should, I ought to, I have to?) because it has been imposed on me as a sort of obligation or condition by a sort of symbolic force or law in a situation I do not control. A sort of *polemos* already concerns the appropriation of language: if, at least, I want to make myself understood, it is necessary that I speak your language, I must (Cornell et al. 4).

Derrida asks us following questions 'What is unjust force and what is just force?' Rather I should put it as 'what is unjust violence of law and what is just violence of law?' These two questions lead to a third question 'what is just force or non-violent force?' (Cornell et al. 6). These questions point to a very congenial relationship between violence, law and Justice. In fact, the question of just and unjust are based on the fundamentally violent nature of the law. While the question of justice is always of its being non-violent, by its being non-violent controlling/being both the divine violence as well as the law. The justice by controlling the violence and law and being non-violent in nature is violent and non-violent at the same time.

Violent in the sense that it always needs law through which it can be achieved if it can be achieved and non-violent in the sense that it is always pending, always to come.

He argues that the very foundation of the law is violence, of origin or of preservation. You cannot have law without violence. He writes that:

> After the ceremony of war, the ceremony of peace signifies that the victory establishes a new law. And war, which passes for originary and archetypal …violence in pursuit of natural ends, is in fact a violence that serves to found law or right (*rechtsetzende*, 'law making'). From the moment that this positive, positional (*setzende*) and founding character of another law is recognized, modern law (*droit*) refuses the individual subject all right to violence. But the distinction between the two types of violence (founding and conserving) will be very difficult to trace, to found or to conserve... For if violence is at the origin of law, we must take the critique of this double violence to its logical conclusion (Cornell et al. 40).

Take any revolution in the history of the world where you have violence either of origin or of/for the preservation of the law. Drawing from Benjamin's "Towards the Critique of Violence" and Derrida's "Force of Law," one can argue that at point of the origin of Law which holds authority, power and force, one finds violence. This violence is of two kind it is either law positing or law preserving violence. Benjamin connects this law positing violence and law preserving violence with mythic violence. This mythic violence of law, according to Benjamin, can be seen as the law and its superstructure, founding and preserving the economic and political interests of the dominant forces of the society (Cornell et al.10). In other words, mythic violence is part of a complex where law as a founding principle works in tandem with law as an annihilating and destructive principle and therefore preservation of law at this complex turns out to be a sacred and divine positioning of law. Thus, with reference to these two principles of law, the idea of justice turns out to be a divine positioning of law as well as power, which is actually a principle of mythical positioning of *droit* (Cornell et al. 31). This divine violence is always monopolized by law. In the state which is created by the law, violence is only used by it to preserve the law. The state forbids the use of violence by anyone except itself, this is not in the sense of protecting some legal or just ends but it is in the sense of protecting the law. The law makes it a criminal act of the use of violence and punishes the act of violence by the

act of violence. One is justified and the other is not, which one is justified and which one is not, that alone opens out the question of justice. The state forbids the use of violence because it (violence) threatens the authenticity of the state, the state can be founded by the founding violence of the law, this founding violence can justify the use of violence in the retrospective, nevertheless it questions our conception of justice. This founding violence, which manifests itself in in the contexts of revolutions is always a threat to state and is always the reason behind the founding of the state. Revolutionary action can create conditions for a founding violence which can replace the law, the authority of the law, and therefore, the state. Thus, the law which revolutionary action can posit as law was present in the past, and was always to come in future like justice. Always providing possibilities of its founding and re-founding by the revolutionary performative actions.

Criticizing democracy and its spirit, Derrida says that in democracy sometimes violence surpasses its every limit and there may be instances when democracy itself is unable to control the violence and power it sustains and therefore breaks every promise that it has made. There were cases in the history of the world where democracy degenerated into worst kinds of system, where violence has legitimised itself through law and where one will not find an iota of freedom or equality. He argues that Democracy is yet to come, yet to engender (Cornell et al. 46). "This does not mean that one must simply renounce Enlightenment and the language of communication or of representation in favour of the language of expression" (Cornell et al. 61). Derrida, as every major Enlightenment thinker, and even the major critics of Enlightenment, proposes that we cannot and should not refuse or disown the Enlightenment but we should accept it as it is. No doubt, it has degenerated from its very reason of existence of freedom and equality of men as well as liberation of mankind, but it has left us the tools for their protection and to fight for them. For Derrida, it is deconstruction which, he argues, makes possibility of justice via creating a structure where law is deconstructible and reconstructible. He writes:

> The structure I am describing here is a structure in which law (*droit*) is essentially deconstructible, whether because it is founded, constructed on interpretable and transformable textual strata, or because its ultimate foundation is by definition unfounded. The fact that law is deconstrucrible is not bad news. We may even see in this a stroke of luck for politics, for all historical progress. .... Justice in itself, if such a

> thing exists, outside or beyond law, is not deconstructible. No more than deconstruction itself, if such a thing exists. Deconstruction is justice... (1) The deconstructibility of law (*droit),* of legality, legitimacy or legitimation makes deconstruction possible. (2) The undeconstructibility of justice also makes deconstruction possible, indeed is inseparable from it. (3) The result: deconstruction takes place in the Interval that separates the undeconstructibility of justice from the deconstructibility of *droit* (authority, legitimacy, and so on). It is possible as an experience of the impossible, there where, even if it does not exist (or does not yet exist, or never does exist), *there is* justice (Cornell et al.14-15).

He argues that this very deconstruction of law leaves hopes for justice and provides paths to make it possible. Further, this deconstruction leaves possibility for reconstruction as well as reconsideration and hope for justice for everyone. He writes that "each advance in politicization obliges one to reconsider, and so to reinterpret the very foundations of law such as they had previously been calculated or delimited. This was true for example in the Declaration of the Rights of Man, in the abolition of slavery, in all the emancipator battles that remain and will have to remain in progress, everywhere in the world, for men and for women" (Cornell et al. 28).

Justice in the Derridean terms is not a conceptual entity but rather a performative act. He looks at justice as not having the characteristics of a Noun but the characteristics of a Verb, as a performative act or action. Justice is in this sense is achievable but it cannot be achieved as it is always in future, always to come. Justice in this sense is concrete but it cannot be defined in any concrete terms. Somewhere he even goes to say that justice has become a common noun pertaining to the question of right as well as law. But he also emphasizes that justice can be a verb. For Derrida, Justice:

> designates a way of being, of shining forth, of radiating, and of acting, a way of doing things, most often with words, with the performative force of a speech act: to justice. To do justice would be to produce justice, cause it to prevail, make it come about, as an event, but without instrumentalizing it in a transitive fashion, without objectifying it, but rather making it proceed from itself even as one keeps it close itself, to what one is,

> namely just, closest to what one thinks, says, does, shows, and manifests (Derrida, *Critical Inquiry* 692).

Justice for him is immanent and emanant. To be just is to be one with justice. Justice is always an act of faith. There is a very peculiar relationship between faith and justice, which we will discuss later, but to be just and to have faith is fundamental conditions of justice, one is performative act and the other is the symbolic act of the belief in the performative act.

Such an idea of Justice, "Derridean Justice", is not complementary to law but it separates and maintains itself as a unique position with Law, this position is not higher than the law but of equal and of continuous friction, where law could be seen suppressing justice and justice deconstructing law. But as justice is undefinable and always to come, law cannot always suppress justice because law is a text, a work made up of language, criteria, rules, calculable entities. It can only suppress the calculable things or until they are calculable. Law has rules to follow boundaries to maintain, while Justice always remains in a place where law can go only to push that further in this process extending its boundaries, remodifying its calculable entities and inventing new language or text for itself.

Christophe Menke in his “Ability and faith: on the possibility of justice” (2005) provides an alternate reading of the deconstructibility of law and non-deconstructibility of justice. For him law and justice both are bound in an act of “making possible” one another. He claims that the deconstructibility of law is its ability to make justice possible. This is to say that the object of deconstruction is not law but law as the making possible of justice. In this sense he claims that justice is also deconstructible, in the sense of making possible. But it will be different than the deconstruction of law.

Derrida while referring to Montaigne writes that “even our law, it is said, has Legitimate fictions on which it founds the truth of its Justice” (qtd in Cornell et al. 12). These legitimate fictions can also be interpreted as myths. Laws have their origin and as their mystical foundation of authority “Myths.” Myths, tradition, Cultural practices are the foundation of the

mythical authorities of law, of their founding violence of their applicatory violence. The caste system of India, for example, has its origin, its foundation in the myth of the *Purusha Shukta*, which acts as the legitimate fiction of the authority of the Caste system and its rules and regulations. Similarly, the myth of "race", the superiority and inferiority of races, the fundamental difference between the races become legitimate fictions of authority for the African-Americans, the foundation for slavery, Jim Crow laws, segregation and the violence related to them. Jews were confronted with two myths, the myth of killing Jesus, son of God, and the myth of becoming an inferior race in the Nazi Germany which acted as legitimate fictions for violence against them. Legitimate fictions or myths are always at the moment of the origin of violent laws, authoritarian laws or cruel laws, unjust laws.

Law holds the key to justice. without law you cannot achieve justice. But, law is dependent on its representatives. Law has certain limitations, it cannot function on its own, it always needs someone to make it, modify it, implement it, break it, upheld it or interpret it. This dependency of laws is the key aspect in the field of provisions of justice. Law and justice are not opposite in nature. Law as Derrida suggests is deconstructible while Justice is not. Law can be changed or modified but justice remains same. But it is law without which you cannot have justice and it is the law which can suppress justice. So, the question here is why there is a close intimacy between these two concepts and how this relationship is sustained.

Here, it is important to discuss Desmond Manderson and his exposition of the relationship the process of myth making in society and law. Although law places its force/authority in itself, this authority, according to Manderson, is placed somewhere else, in fact the authority of law is and can be traced down to the realm of myth: "The reconciliation of 'civilized' law to its subjects and victims would appear to be a very important myth indeed" (Manderson 88). Manderson defines myths as the collective narratives which are world-creating, world-legitimizing, and world-harmonizing. Myths present themselves as natural and as attributed by gods, in that they become the legitimizing force which carries a sacred attribute and is used to defuse conflicts and oppositions if in case it faces one. This narrativity of myth, Manderson notes, provides the foundation for all normative systems filling the cracks with aestheticization and dramatization of the process of law. According to Manderson, myths are in constant need for reaffirmations of "the stories that sanctify the moment of origin and the structural choices of a society" (Manderson 89). Manderson in this sense defines myth as "narratives about the

gods—that which is eternal and foundational—that are sustained by their constant echoes in the everyday, that which is contingent and responsive" (Manderson 89). In this way myth also disseminates itself into everyday reality, providing legitimate grounds to law. It provides authority to law. Myth uses stories and our imaginative powers to deduce sense out of random social facts, which provides us with what Manderson calls "a frame of reference" that allow us to identify the patterns of meaning from the randomized and arbitrary world around us. In this sense myth becomes the founding and interconnecting part of our social structures making us true to their promises and premises (Manderson 90). Thus, myth presents themselves not as prescriptive, dictating us rules of behavior, but as inscriptive, internalizing it in our behaviors and leading us. Manderson proposes that myth is fusion between law and literature. The stories which are told in society play an important part in creation and preservation of the authority of the myth by naturalizing it in the world and internalizing it in the people, and thereby, strengthening the authority of the law. This authority demands that one submits to the instructions of another without having one's own decisions, on the other hand disobedience is an act of defiance against the authority, this authority which is originated from the law. This puts emphasis on the textuality of law which needs be obeyed, Manderson notes that this demand for obedience to words from people/citizens/anyone becomes the basis of injustice when not all member of the community shares the same idiom (Manderson 109). This text and its interpretation are controlled by the few, the text/book in some cases is not made available to the other, the book/text of law is not always available for the other, but this absence contains its present of its authority over all, which in itself also includes the others too. This text is continuously interpreted and reinterpreted in relation to the parties which it affects and attempts to establish its sovereignty and authority. This also brings into the context the existence of law into the everyday activity, designing our actions and moves and establishing itself into the reality. When this kind of situation is fixed when the person/the other born into this system, he comes to take this reality as naturally as the nature, the rules of the society, authority of the law and system created by it seems and presented as natural, sacred, and permanent in the sense it has preceded the person and will succeed him after death. This naturalization of law through myths, hides the artificiality of its creation, its authority, understanding of which is very crucial for the change.

Law requires constant control of the interpretive and re-interpretive knowledge of the text of law, keeping itself more and more distanced and out of reach, hiding its origin, its authority. Against such an authoritarian model of the law which is violent at its origin, Manderson proposes a more affirmative model of law which has love and responsibility at its origin. He defines this as:

> Once obedience is understood to derive not from the 'command of the sovereign' *qua* sovereign but, conditionally, in terms of the *benefits* it makes possible to a community, destabilizing elements of critique—equality, justice, and participation—have already been injected into our understanding of law. For the love that is offered in return for obedience is already social, is enduringly purposive (Manderson 121).

This affirmative model of law does not demand obedience by authority of the law as sovereign but demands obedience on the concept of responsibility and love. As Manderson emphasizes "love and citizenship are correlative" (Manderson 120). Without commitment to love, this social and interpretive justice, which is already present in the act of obedience, authoritarian law cannot sustain its legitimacy, even if it does, it will be of ephemeral existence. In this sense the ruler and the ruled, the governor and the governed must be seen as collaborators, and not as master and slaves, otherwise the system of law does not remain a cooperative and mutually beneficial system but an oppressive system where the ruler becomes the oppressor and those who are ruled become the oppressed.

This leads to the question of the social system which should be just to the others and, in this context, a reading of John Rawls and his take on the relationship between law and morality would be very productive. According to Rawls, in a modern democratic state, justice as moral conception cannot provide any substantial base to function because there have been many complications created due to the origin and preservation of the state throughout history which makes it contradictory in nature to make any moral conception of justice functional or achievable (Rawls 225).

Rawls has conceptualized the Conception of Justice as fairness, as a special concept created only for the use by the social, political and democratic institutions. This concept has its origin

in political traditions and it takes its ideas from the constitutional democratic states. Rawls emphasizes that this conception of justice as fairness provides an alternative to the dominant utilitarianism of our tradition of political thought by providing "a more secure and acceptable basis for constitutional principles and basic rights and liberties" (Rawls 226). For Rawls political justice provided environment where each citizen can perceive himself as having the "requisite power of the moral personality" that enables them to participate in the society which they see as system of fair cooperation and mutually advantageous, where they can be free and equal (Rawls 227). Rawls has provided two following principles as the guidelines for creating such socio-political system they are:

> (1) Each person has an equal right to a fully adequate scheme of equal basic rights and liberties; which scheme is compatible with a similar scheme for all. (2) Social and economic inequalities are to satisfy two conditions: first, they must be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they must be to the greatest benefit of the least advantaged members of society (Rawls 227).

To achieve this, Rawls notes that "conception of the citizens as free and equal person should not involve the question of philosophical psychology or metaphysical doctrine of natural self" (Rawls 230-231). It could be understood as the philosophical and metaphysical understanding of the citizens may bring the socio-historical elements in describing the citizens, which in their inherent characteristic may bring the inequal and restrictive understanding of person. Justice as fairness conceptualizes a society as a fair and cooperative system and it adopts the idea as a person in such a way. In this manner an idea of the person is one who can be a citizen and also be totally cooperative/cooperating member of the society over the complete life. In this regard a citizen or person should have two characteristics which are fundamental in creation of the society which is accepted as cooperating and fair, they are (1) a sense of justice and (2) an idea or conception of good. Rawls points out that "A sense of justice is the capacity to understand, to apply, and to act from the public conception of justice which characterizes the fair terms of social cooperation." And "The capacity for a conception of the good is the capacity to form, to revise, and rationally to pursue a conception of one's rational advantage, or good" (Rawls 233). These two characteristics emphasize that the citizens view each other (especially marginalized) as equal and free citizens and act accordingly with responsibility towards the other. In this kind

of society, the "other" is not only someone who is marginalized or excluded but also one who is very central to the existence and persistent of free and equal social environment.

This brings to the foreground, the idea of the responsibility towards the other, responsibility of the memory of the other, those who were lost in founding or preserving violence, those who were lost in the other language. In many countries in past as well as present this founding violence of law, or/and law preserving violence has imposed language on the other national or ethnic minorities regrouped by the state (Cornell et al. 21). Derrida tries to locate justice with Levinas' justice which is based on the Jewish humanism, which does not base it on the concept of man but on the other. He quotes Levinas, "the extent of the right of the other is a practically infinite right" (Cornell et al. 22). For him, this equity, this justice is ultimate responsibility towards the other. Derrida locates that *droit* (law, right, law as right, right as law) claims its exercise in the name of justice and justice establishes itself through the law which is "enforced", "enforceable". For Derrida justice is ultimately is *avenir*, a "to-come" always in the future which reproduces the present. This is like ever expanding justice with ever including others in it. Derrida emphasized it as noting that "Justice as the experience of absolute alterity is unpresentable, but it is the chance of the event and the condition of history…whether it's a matter of social, ideological, political, juridical or some other history" (Cornell et al. 28). This suggests that constant advancement in the politicization obliges us to reconsider and reinterpret the foundations of law as they were previously calculated and delimited, with each advancement of politicization the boundaries of the law should be extended, it should be calculated and recalculated with new political foundations present which were not present in the past or not recognized. This presents before us the opportunity to see the other as one of us as well as the other. This also provides us the opportunity to see other as exclusive and yet make it possible to include under the purview of the law. This constant inclusion of other is like the horizon of justice, which proposes and makes possible the impossible experience of justice.

For Derrida "Justice is an experience of the impossible" (Cornell et al. 16). It means that it is achievable but cannot be achieved, it can be experienced but we are not able to experience it. Justice is something present as well as absent at the sometime. Unlike law which refuses to

come forward, justice is achievable through a performative act, as justice is always present, but at the same time always to come. It is a performative act which leads towards its experience. Justice in this sense is always an incalculable in opposition to the law which is calculable and can only work according to its calculability, justice on the other hand escapes its calculability or any attempt of making it calculable, remaining incalculable and present only in the future, to come. As Manderson points out that "A rule can never capture the complex process of judgment that must always be experienced as both bound and unbound, unique and universal" (Manderson 123). Justice, if anything like that even exists, is always present in the future. The justice we want or deserve is always to come, it is always achievable in the future, time to come. On the other hand, when justice is reached it is not the justice we are reaching, we are just reaching the copy of the justice which is the copy of justice which existed in the past. Justice is always a copy without the original. Justice is singular in a sense but is always possible in future. Only replicas of justice are available in the present, if that kind of thing is ever achieved.

Justice is an unending exercise of knowing the other. The maxim of "know thyself" has emphasized the self-centric notion of the world, where the world is interpreted through the perspective of the one/self. This notion can create narcissistic and self-centered world views, putting self in the centre and other at the merging, creating the other, the excluded, the one apart, who is at distance. This distance of other has created the identities which were set apart, segregated and isolated. In the world created by this notion we have seen that ample attempts have been made for creating space between the self and the other, this other has become the field which should not be included, discussed. But it was always present in the self itself, one can never think about self without the other. The understanding of the self is incomplete without the knowledge of the other. The self does not exist without the other, the self can never excel without the other, the problem of self can never be solved without solving the problem of the other.

Derrida here brings the question of the Other in the question of justice rather to say injustice. What is just, is to speak to the other in the language of the other. Making an indirect comment on colonialism, Derrida notes that this injustice of language assumes that the other is also

speaking animal just like we are the speaking animal who can understand the language the way we can understand. Here "We" for the long time is strictly defined as "White", "Male", "European" and "Rich" sometimes altogether as capable of sacrifice (Cornell et al.18) or supposed that is capable of doing justice to the other in the language of the other, which is actually in the structure is language of not the other, but forced on the other. Here he raises the question of this language of the oppressor which still excludes some from its semantics, does not recognize/consider/accept them as subjects, as victims of the inhuman and animal like treatment. This non-recognition, exclusion, ignorance of acceptance of the subjectivity of the certain subjects in the structure of subjectivity is very essential characteristics of our modernity. This structure has created the other, with the infinite numbers of other in this structure with which deconstruction deals.

According to Mariana Valverde the question of justice for Derrida is not of the definition rather it is of practice, for him "justice is not a matter of universal definition but is rather following question: How can we, in our particular time and place, work toward justice?" (Valverde 655) This brings in the question of what is justice? Justice in the Derridean and Deconstructionist theory is undefinable, it works in very strange manners. It always evades any attempt of its calculability, it is incalculable. The relationship between law and justice is dialectical in the sense that each is the possibility of other's existence, but while law seems to enact justice it only negates it, defers it, in the process of preserving itself, while justice always goes out of reach to expand the reach of law. The experience of justice is only possible through law, but this experience of justice is experience of impossible as mentioned (Valverde 658). The law at the one hand prohibits one and restraints one towards certain movements, justice moves people to engage, pursue, and promote real performative actions. This movement or performative action is justice, justice in this very sense is an earthly force and not a platonic concept in abstraction (Valverde 659). This idea of justice puts emphasis on the memory of the past, it raises the memory of all the oppressed in the past, all those who are dead, those who are murdered, those who were excluded, those who were discriminated against, those who were segregated, systematically suppressed, those who were otherised, those who are not present right now but still present. These others demand response and responsibility of proper burial, of acknowledgement of their fair share of justice which was denied to them, deferred. Those all justices which were deferred in the past were disseminated, they have become now the

renvoi which leads to the past, but also to the future (Derrida, *Social Research* 294–326). This responsibility towards the other, dead and alive, demands actions which leads to the social movements, but this question of the other demands also of the plurality of the recognition, the recognition of the intersubjectivity of the subject. The recognition of the plurality, of the identity, of the subject, the plurality of the system of oppressive systems and also of the plurality of the justice. This understanding of the plurality may help to avoid the authoritative division of the just and unjust by the social movement, this recognition of the plurality may help the social movements to see and understand the calculability of law, which prevents them (social movements) being just like the law, and incalculability of justice. This understanding of the plurality may also promote the heterogeneity of the practices they should practice, realizing the constant change of practice demanded by justice, evading homogeneity. This recognition of the plurality may also help to understand that all the identities which these various social movements denote and which this intersubjectivity includes are artificial, yet not in the sense that they are not real, they are fictional, changeable, and changing.

This brings us towards the question of freedom and government, the question of the governmentality and the governed. The state which holds monopoly over power, always faces the resistance to it from those on whom it tries to use it. The governed always resist every aspect of the governmentality by force, and it generates constant protest, struggle, and resistance to it. This dialectical behavior between power and resistance is congenial/inherent. This is why the state provides the means of freedom, free action and even protest and resistance to subvert the protest and sophisticating its ways of governing. The identification of the existence of power in the resistance of recognizing resistance as the power may provide some insights in to the workings of the state, the power which state holds derives from the law and it holds monopoly over itself, while on the other hand the power of the protest, of the revolutionary law founding violence is always subjected to the suppression or disguised or presented as unjust by the state. The permission of the free action only in the purview of the law by the state is the process of undermining/suppressing the revolutionary violence, which is suppressed by the law preserving violence by the state.

The origin of the critique is simultaneous with the art of governing men, the critique is the assertion of the governed not to be governed like that. The negation of the means of governance by the governed was found historically in three examples or three different historical categories. First the questioning of the authenticity and authority of the scriptures which led to the critique of the governmentality by the church. Second, the critiques of the authenticity and illegitimacy of the sovereign authority of the law, rejection of the law which demanded obedience putting forward universal and indefeasible rights. Third, the critique of the truth given by the state, the non-acceptance of the truth presented by the state which demanded its acceptance, the critique is only accepting it when one finds it valid to do so. The critique is exposing the lie of the state (Foucault, *The Politics of Truth* 45-47). Critique is speaking truth to power. Speaking truth to power "aims to wield the power of "truth" against the powerful, be it an imperial power or even an all- powerful State. Crucially, the assumption is that the act of speaking the "truth" will counter-act power, and obviate a predisposition towards tyranny" (Chandrachud. "Speaking truth to power: citizens and the Law"). This speaking truth to power is the act of voluntary insubordination of the subject/citizen, if it is subjugated on the name, authority of the truth, it may question/protest the legitimacy of that truth, by providing rights to do so. The critique is giving rights to oneself to question the truth, in that sense question the power. This critique, as Foucault as hailed it, is "the politics of truth" (Foucault, *The Politics of Truth* 47).

Knowledge of the truth demands objectification from the side of the citizens. Citizens should know and know how to distinguish between the truth and opinions. The subjectification of truth sometimes leads to origination of the subjective truth which should be more properly termed as opinions. There have been instances that when these opinions are accepted as the truth by the general public, it leads to discrimination and exploitation of certain groups, they are Jews, African American, Dalits, Women, and there are many more which are still not included as the subjects in these lists. We should know and maintain the clear demarcation of the opinion and facts. This also puts on the emphasis on the nature of facts in plural societies which hold varieties of interconnected subjects with different perspectives and varied/unique experience of the same situations. This recognition of plurality of the same experience from different vantage points creates possibility of strengthening the society on the basis of its diversities and differences. This need an effort of understanding, recognition, response and responsibility

towards "the other" in the society on the side of the citizens. This also need to keep in check those who holds power (ruling class/caste), who tries to impose the opinions as facts which later on can be accepted as the truth which used to govern its governed. Understanding and recognizing that power, however powerful and treacherous it should be, always submits before the truth. This exercise of speaking truth to power will bring changes which will be beneficial for all in the plural society.

This speaking truth to power has always created many truths and kept the truth hidden somewhere, the religious institutions, social practices, the modern organizational institutions, the surveillance, the biopolitics of the state, these are the means through which the truths are generated, disseminated and preserved by the state. Rationality, science, scientific processes, technological advancement, these all are the apparatus of the state, which creates and recreates the notion of the authenticity of the truth, persuade the subjects for the voluntary subjugation to the truth provided by the state. For this process *Aufklarung* is important, Foucault considers it as "a period without fixed dates, with multiple points of entry since one can also define it by the formation of capitalism, the constitution of bourgeois world, the establishment of state systems, the foundation of modern science with all its correlatives techniques, the organization of a confrontation between the art of being governed and that of not being quite so governed" (Foucault, *The Politics of Truth* 57). This has created the system of knowledge and power, we should understand that when we talk about knowledge and power, we should look at the mechanism of coercion and content to which it is connected as pointed out by Foucault (Foucault, *The Politics of Truth* 59). More clearly the dialectical relationship between these mechanisms of coercion and the knowledges it creates, are used to legitimate powers of the state. This system of knowledge and power generation, should be located in the historical events or acts. This system of knowledge and power generation is not singular and isolated, but plural and interconnected. This interconnectedness creates the institutions which are interconnected, dialectical and interdependent, society, legal system, security, education, health, social welfare etc.

The concept of the critique leads to the concept of protest, social as well as political. Protests are seen as standing apart from the power in direct confrontation with power. As protest and

government are interconnected, power and resistance are congenial and co-existent. The binary relation of freedom and power should be understood by the process of governmentality by the governments. The governmentality tries to control the conduct of the conduct which means it provides space for certain activities in a very limited way, the more the demand of free act the more stringent the ways of governmentality. The work of the resistance is promoted, allowed and tolerated by the government in certain ways within certain limits. The state is in constant threat of law founding violence, the revolutionary violence so as to not to deal with that, it creates a space where micro-resistances is approved/allowed only to avoid the expansion of these into law founding violence. The state always keeps separate the protests and protestors in ideology as well as real situations, the solidarity between these protests/movements and its members were kept apart in order to avoid the solidarity which may lead to larger protests as well as revolutions. In this way freedom is also seen as technique of maintaining the dominant power relations. Carl Death notes in his essay "Counter-Conducts: A Foucauldian Analytics of Protest" that "resistance, commonly seen as an assertion of freedom, is itself bound up within networks of governmentality; and liberal democracy's toleration of dissent and protest within certain limits works, paradoxically, to reinforce as well as challenge dominant power relations" (239). The Government has four dimensions as drawn by Mitchell Dean in his *Governmentality: Power and Rule in Modern Society* (1999) such as "the fields of visibility it creates and the ends to which it aims; the forms of knowledge it relies upon; the particular technologies and apparatuses it mobilizes; and the subjectivities or identities it produces (cited in Death 240). This can also be applied to the study of the protests. In a protest. the identities and social roles are inverted and subverted. The social identities and categories and label the state creates may drastically change in the situation of the protest, for creation of the means of coercion. But at the same time "protests have their own discursive norms of behavior – of conduct – such as humility, imagination, patriotism, ecological sustainability or revolutionary fervor, and employ 'techniques of responsibilization' in a similar way to regimes of advanced liberal government" (Death 242). The protest is a creation of the political space where performative actions take place by the citizens for certain premeditated goals, but this action of protest is unpredictable and does not lead to one particular of premeditated target. It also strengthens the fabric of relationships between the participants or more actively we can say actors. The process of protest, dissent, and revolution denies the blind obedience of the said rule or law, and demands on the other hand for the change in the rule, law or situations.

Yet there is an inherent coercive nature of the Enlightenment rationality which tries to dominate every possibility of discourse it faced with through rational or irrational means. This dynamic nature of rationality promotes constant innovation by the side of the protestors yet at the same time, learning new ways to dominate and coerce them, this reciprocal relationship between the rationality which tries to dominate and the protests which innovates cannot escape this vicious relationship in the discourse of knowledge and power which is generated in the Enlightenment. As Carl death notes that "By shifting debates into the register of aesthetic, emotive or moral truths, protestors can subvert dominant regimes of expert knowledge; yet escaping modernist, Enlightenment discourses of knowledge and rationality is never completely possible – nor perhaps always desirable" (244). This coercive nature of Enlightenment cannot be escaped because it is ingrained in language as well as psyche or mentality of the institutions which was generated on the basis of the Enlightenment. Yet this Enlightenment cannot be renounced it as Derrida has pointed out that the language and thought of Enlightenment is contradictory in nature; that is, on the one hand it promotes freedom, inclusion, plurality and hope, on the other hand, it promotes totality, generality, domination and compulsion of obedience (Cornell et al. 61). This contradictory nature of Enlightenment thought provides a hope for the compromise between these two, this compromise cannot be located and defined but it is felt in the constant action when on the one hand through the force of justice the law which promotes/forces the uniqueness of action on the law while the law also tries to withhold the uniqueness and attempt its reinscription into generality by force or coercion (Cornell et al. 61).

Valverde notes that Foucault's historical works shed light on the Greco-Roman ethics that preferentially put self-care before and prioritized narcissism, providing structural base for inequality and injustices which presented rich white male elite as free, as citizens, as superior, degrading others on the basis of gender, slavery, and exclusion of citizenship. Justice is not served by similar practices as of the freedom, and many members who are fighting for the social cause might not follow or accept the responsibility and justice owed to "infinite others". She points out that:

> Justice is not always served by the same practices that serve freedom, Derrida might say. And although movements fighting for racial, economic, and sexual justice might not follow Derrida in his more speculative, quasi-transcendental interests in the justice owed to the "infinite Other," nevertheless such movements have their own reasons to

> think that Foucault's freedom is not sufficient for their ethical-political purposes. To that extent, Derrida's thoughts about justice may help to illuminate some of the limits of Foucault's own work, to cast some light on ethical and political work that still remains to be done (671).

As Derrida (1982) in his essay "Sending: On Representation" said that representation is copy without original. Liberty and equality and all the subsequent concepts related to both also are copy without original so all are copies because original doesn't exist. We cannot put our thumb or finger on certain ideas and things and say that this is freedom and this is equality. They both are constantly evolving concepts and you can only find them in process, they have always rejected the rules and certainty of Enlightenment or of any other system. We can draw some clarity some from these lines from Derrida, he writes that, "Obliquely, as at this very moment, in which I'm preparing to demonstrate that one cannot speak directly about justice, thematize or objectivize justice, say 'this is just' and even less 'I am just,' without immediately betraying justice, if not law (*droit*)" (Cornell et al. 10). The same way we cannot say that 'this is freedom' and 'this is equality' or 'I am free', 'I am equal' or 'I am Just.' These concepts are in constant evolution at the very moment one defines that this is freedom and this is equality. He/she defies himself/herself because at that very moment of definition it has evolved into something more, something different than its definition. These concepts from their very origin of dissemination into every direction, if this kind of thing ever happened, has rejected or deferred any attempt of their definition. These concepts are always work in progress and this ever or constant evolution is their *raison d'être.* Because this constant evolution and change leaves possibilities for the pluralism, hope for individuals and minorities through which they can deconstruct the very law and reconstruct or made it reconsider for the time when it needed or required.

What are the complexities in the relationship of the Enlightenment, liberty, and equality? Enlightenment which proposes the ideas of freedom and equality of men also proposes for the state. Today, in the modern world, state has not just remained the maintaining body but has surpassed every legitimately defined works/tasks/reason. The state as the 'Mortal God' the term appropriately given by Thomas Hobbes depicts the possibilities of its omnipotence at that time and near reality of its omnipotence in this modern world. On the one hand, Enlightenment has advocated the concept of liberty and equality as universal and fundamental for all, on the other hand, reason and intellectual power started giving omnipotence and omnipresent and now

moving ahead for making it omniscient in this digital age. Foucault has always talked about surveillance or observation by the state as means of control and maintenance of its supremacy. The state is overshadowing every form of government in its control of the governed. The state is on its way to omnipotence. But this does not leave us hopeless for freedom and equality of man. If Enlightenment gives power to state, if it has made it totalitarian in the words of Adorno, it also provides tools for protection from it as well as fight. If there is majority rule, there is always hope and possibility of dissent if there is homogeneity, there is always hope for pluralism, if there is state, there is law too; which by its very deconstructible nature leaves countless possibilities for the justice to the minorities to the individuals, to that every voice for freedom and equality, which are being suppressed by the majority or the government or the state. It is like disseminated ideas of freedom and equality raising voices for their entitlements, and there are so many voices that they cannot be suppressed and they will not stop raising their voices.

The above exposition on the Enlightenment idea of freedom and equality is foundational to the reading of caste, race, and antisemitism that I undertake in the following chapters. I subsequently read theorists on caste (Dr. Ambedkar), race (W. E. B. Du Bois) and antisemitism (Hannah Arendt) in the light of their engagement with Enlightenment concepts to show that while they were alive to the contradictions that lay at the heart of the Enlightenment project, they, nevertheless, recognized the value of Enlightenment concepts such as freedom and equality to the claims on the state made by the marginalized groups that they sought to represent.