

CASE OF ABU HANIFAH  
IN THE AXIS OF THE STRUGGLE OF ULAMA AND UMERA

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## **PLAGIARISM**

**I hereby declare that all information in this thesis has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work; otherwise I accept all legal responsibility.**

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## **ABSTRACT**

CASE OF ABU HANIFAH

IN THE AXIS OF THE STRUGGLE OF ULAMA AND UMERA

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Abu Hanifah is one of the most influential scholars and thinkers in the Islamic world. Both the political struggle he has put forward and the fiqh system he has developed continue to shed light on our day. In this dissertation, the position of Abu Hanifah against state power and rulers in the framework of Abu Hanifah's philosophy and understanding of knowledge, society, state, power, as a jurist and ulama, will be put forward politically and philosophically and his perspective on the basic concepts of political theory will be analyzed.

Keywords : Abu Hanifah, Islam, struggle of Ulama-Umera, political fiqh, political struggle.

## ÖZET

### ULEMA VE UMERİ MÜCADELESİ EKSENİNDE EBU HANİFE ÖRNEĐİ

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Ebu Hanife İslam dünyasının yetiştirmiş olduđu en etkili mütefekkir alimlerden biridir. Gerek ortaya koymuş olduđu politik mücadelesi gerekse de geliştirmiş olduđu fıkıh sistemi günümüze ışık tutmaya devam etmektedir. Bu çalışmada, Ebu Hanife'nin bilgi, toplum, devlet ve iktidar anlayış ve felsefesi çerçevesinde bir fakih ve ulema olarak iktidar ve emir sahipleri karşısındaki konumu siyasal ve felsefe açıdan ele alınacak ve Ebu Hanife'nin siyaset teorisinin temel kavramlarına bakış açısı analiz edilecektir.

Anahtar Kelimeler : Ebu Hanife, İslam, Ulema-Umera mücadelesi, siyasal fıkıh, siyasi mücadele.

## DEDICATION

To Abu Hanifah, the great scholar who put the desire to live in the lands that are not usurped to our hearths.

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## TABLE OF CONTENTS

PLAGIARISM.....	iii
ABSTRACT .....	iv
ÖZET.....	v
DEDICATION.....	vi
ACKNOWLEDGMENTS.....	viii
TABLE OF CONTENT.....	ix

### CHAPTER I

#### INTRODUCTION

1. INTRODUCTION	
1.1. Subject of Thesis.....	1
1.2. Purpose of Thesis.....	2
1.3. Scope and Limits of Thesis.....	3
1.4. Method of Thesis.....	4

### CHAPTER II

#### CONCEPTUAL AND THEORITICAL FRAMEWORK

2. BASIC QUESTIONS OF POLITICAL THEORY FROM PAST TO PRESENT...6	
2.1. Classical Political Philosophy.....	6
2.2. Medieval Political Philosophy.....	9
2.3. Modern Political Philosophy.....	14
2.4. Post-Modern Political Philosophy and Michel Foucault.....	16
2.5. Occurence of Struggle of Ulama and Umera within Historical Process in the axis of Knowledge and Power.....	17



## **CHAPTER III**

### **DRIVING FORCES BEHIND ABU HANIFAH'S POLITICAL IDENTITY**

3.1. A Brief Overview of Abu Hanifah's Life.....	26
3.2. Historical Process Towards Cleavages of Muslim Ummah.....	29
3.3. Kufa's Sociological Atmosphere.....	35
3.4. Conflict of Arab and Mawali.....	37
3.5. School of Ahl- al Ra'y.....	47

## **CHAPTER IV**

### **ABU HANIFAH'S POLITICAL THEORY**

4.1. Methodological Dinamics.....	52
4.2. Responsibility of Political Power at the framework of the Schools of Jabariyyah and Qadariyyah.....	57
4.3. Opposition and Resistance.....	62
4.4. Justice.....	67
4.5. Freedom and Property.....	74

## **CHAPTER V**

### **CONCLUSIONS**

CONCLUSION.....	79
REFERENCES.....	81
TEZ FOTOKOPİSİ İZİN FORMU.....	91

**CHAPTER I**  
**INTRODUCTION**



## 1. INTRODUCTION

In Islamic history, clash of Ulama and the Umera is one of the fault lines that have influenced the political jurisprudence of Abu Hanifah and put forward his position in this sphere. Ulama (scholars) was representing religious group having knowledge while Umera (rulers) was representing state authoritative power within the historical process. Certainly the most important function of the religious group was knowledge and guidance while rulers of state keep the elements of power. The most important mission of the Ulama within the political structure was to express opinions in a religious sense, that is to say fatwa. Taking a fatwa reflects the religious sensibility of the sultans as well as the idea of giving legitimacy to their actions. However, despite this dignity, the Ulama could not be more than a consultant, a bureaucrat or a legitimizing mechanism within the political structure. Despite their important position in terms of legitimization, the influence of scholars was limited. To make a general claim at this point, it is possible to say that political power can never give up ulama's legitimizing role but at the same time it is in favor of not having the ulama directly intervene in the state affairs. The sultans have always considered the authority of the ulama as a spiritual authority and opposed the interference of this spiritual authority with the material authority. If we make a generalization, it is possible to say that the ulama have developed two strategies. The first is a passive attitude that prevents to take part in the state service in any way. The second strategy is to stay close to power. Ulama's general attitude is not to get involved directly in politics. But indirectly, the struggle for influence has always continued.

The only thing that gives legitimacy to the sultans before the scholars is religious and worldly affairs. The legitimizing of the sultans politically (free from the caliphate) through the charge of the public good made it difficult to maintain their authority in the religious sphere, while saving their secular authority. In this sense, we see that the influence of the ulama, which represents the religious domain defined within the authority field of politics during the early periods. The religious domain that the Ulema had in hand included not only the faith and the moral sphere, but also the legal sphere. This situation inevitably led to a secret rivalry between ulama and umeru. This process,

which can be welcomed in terms of the development and flexibility of the legal system, will cause the ulama to act independently from the state, which is the only legitimate representative of the legal structure.

Abu Hanifah, on the other hand, was among the group of scholars who preferred not to live jointly with the administration by rejecting all the opportunities and fame offered by the ruling class for the sake of justice and fairness. Abu Hanifah's political resistance and, more importantly, the wing he preferred in the struggle of Ulama and Umera shed light on how a fair administration should be. So, Abu Hanifah's life, discourses and activities formed a prototype of such an ideal.

Abu Hanifah's life philosophy based on reason -knowledge-jurisprudence, his ideal of constructing a rational society and state, his desire toward an administration with an emphasis on personal rights and freedoms, his attitude of opposition and protest that does not consent to any persecution and only focused on justice and equity, made him a scholar and action man far ahead of his time. However, this study focuses on the political struggle of Abu Hanifah that brings him beyond his era. Factors that politicize Abu Hanifah in the axis of the struggle of Ulama and Umera and also his perspective on basic concepts of political theory regarding his position against despotic rules will be tried to be analyzed in the light his political fiqh.

### **1.1. Subject of the Thesis**

The subject of this thesis is an analysis of Abu Hanifah's political struggle against Umayyad- Abbasid reign and political theory of Abu Hanifah in the axis of the struggle of Ulama that has Knowledge and Umera that has Power. Since Plato, political thinkers have sought to find answers to some of the problems that have occupied their minds and to produce new ideas for solving problems. Abu Hanifah is one of the political theorists who searched for solutions to the problems faced by the geography and era he lived with his fiqh system and approach to events. However, Abu Hanifah is the first political thinker who develops the understanding and philosophy regarding knowledge, state, society and power at micro level in Islam political thought.

## **1.2. The Purpose of Thesis**

Purpose of the this study is to examine the political struggle of Abu Hanifah against despotic rules and his perspective on the basic concepts of political theory within the framework of the original methods he used. Abu Hanifah, like other political thinkers, dealt with the basic problems of political philosophy such as; What principles should political administration be based on?, What is the source of legitimacy?, How just and rational rule should be?, Which qualifications a ruler should have?, What are the limits and conditions of the right to resist despotic rule?, What does political responsibility and accountability mean in a fair administration?, Can the state interfere with individuals' right to liberty and property? What should be the relationship between the state, society and the individual ? That is why, Abu Hanifah proposed original ideas that will shed light on our day.

## **1.3. Scope and Limits of Thesis**

In the third chapter of the research, driving forces behind Abu Hanifah's political identity will be discussed in the axis of the struggle of Ulama (knowledge) and Umera (power) in Islamic world. The distinction points of Ulama and Umera and also Abu Hanifah's position in this debate will be determined. Under this title, cleavages of Muslim ummah with historical process, Kufa's sociological importance, conflict of Arab and Mawali and the school of Ra'y are detected as five determinants that politicize Abu Hanifah. All of them had great significance in terms of creating Abu Hanifah's political struggle and philosophy.

In the fourth chapter of the research, Abu Hanifah's political theory will be tried to be examined. His methodological dynamics for understanding his desire about rational individual, society and state; his emphasis on political responsibility and accountability at the framework of Jabariyyah and Qadariyyah from the discussion of the 'fate and free will' of the period; his original views on opposition, resistance, justice against despotic rules ; his approachment to freedom and property, will be analyzed.

#### **1.4. Method of Thesis**

In the preparation process of this study, it has been prepared by using the documentation method and techniques including collection, interpretation and analysis of written materials related to the cases and events that are aimed to be investigated. After a detailed literature review on the political struggle of Abu Hanifah and its contributions to political theory, a comprehensive analysis of the obtained data was made. Qualitative and descriptive research technique was used in this research. Because people and societies's behaviours will be discussed here. Therefore, in this study, Abu Hanifa's period and his fundamental dynamics influencing his philosophy have been tried to be clarified by using historical and descriptive research techniques. Data collection technique was used by making use of books, scientific articles, newspapers, research centers and master's and doctoral theses both in Turkish and other foreign languages.

**CHAPTER II**  
**CONCEPTUAL AND THEORITICAL FRAMEWORK**



## **2. BASIC QUESTIONS OF POLITICAL THEORY FROM PAST TO PRESENT**

Throughout the history, political philosophers argued the nature of politics under the fundamental questions such as ; ‘What is just rule?’, ‘Who rules?’, ‘What principles should political administration be based on?’, ‘What is the source of legitimacy?’, ‘How just and rational rule should be?’, ‘Which qualifications a ruler should have?’, ‘What are the limits and conditions of the right to resist against despotic rule?’, ‘What does political responsibility and accountability mean in a fair administration?’, ‘Can the state interfere with individuals' right to liberty and property?’, ‘What should be the relationship between the state, society and the individual?’ etc. In this part, the contributions of philosophers, including classical, medieval and modern period, to this discussion will be examined in the context of conceptual framework.

### **2.1. Classical Political Philosophy**

Classical political philosophy is based on the basic question of ‘What is the best rule?’. The goal of classical political philosophy to achieve the best regime is undoubtedly about the goal of raising virtuous citizens. For classical political philosophers, the good of the regime and the good of man are identical. Virtuous man can only exist under the virtuous regime, otherwise it is not possible. The highest social virtue is justice. Democracy is rejected because it opens the door to the ruling of free but uneducated people. Briefly, classical political philosophy dealt with the knowledge of the whole regarding human activities. The target of all knowledges is virtue and political order that will lead to virtue (Toku, 2012: 38-40). Socrates, Plato, Aristotle and Farabi constitute an important place among classical political philosophers. According to Socrates (469-399 B.C.), state (Polis) is the social-political unity or the whole that will provide happiness, which is the basic goal of man. Happiness is real purpose of human kind initiated by merit and true knowledge. Polis offers general framework that will provide this happiness for people. Law is general will of the whole pointing to this framework. Polis tries to provide happiness of its citizens by legal rules. So, real happiness can be actualized only within the Polis. The duty of the citizens is to unconditionally obey the



law even if the laws come to a conclusion against themselves. In this sense, Sokrates sees the police as a sacred, organic being and the greatest goodness on earth. Within this framework, Sokrates has been critical of Athenian regimes throughout his life. But it is important to note that the attitude of Sokrates here is not against the Polis, but against how the state is governed by uneadequate people. State (Polis) must be ruled by virtuous people. On the other hand, the fact that Sokrates positions virtue as something learnable and does not relate it to the lineage, based on the identity of virtue-knowledge, appears to be a democratic tendency in general. In this context, it can be said that Sokrates preferred an intellectual elitism. However, the main problem of Sokrates is not the rule of minority or majority but real problem is that politics must be operated by virtuous rulers. Politics, in this miening, is the most difficult art. So, politics should not perish in the hands of ignorant people. For Plato (427-347 B.C.), there is no any distance between good state-good society-good person or citizen. A good person is only a good citizen and a good citizen is a need for a good state. In this respect, two separate living spaces, private or public, cannot be mentioned. For Plato, state is natural and organic structure (not artificial) because society is natural. People is not self-sufficient beings. This weakness directs people to come together. Since Plato sees the state as an inevitable consequence of the division of labor among people who necessarily need one another, it places the ideal state design on this basis. From the division of labor, Plato places the ideal state on a class social ground divided into three main occupational groups. These are producers (depend on material desires), guardians( based on courage and braveness) and rulers (wisdom). In the ideal state of classes with these virtues, there are thus three basic virtues as wisdom, bravery and proportionality. So, the ideal state is justice itself. To the extent that each class plays its appropriate role within the hiearchial order, the state or the police as an organism will emerge as a holistic form. Freedom is to do what needs to be done. Plato presents the ideal state as both a self-sufficient, closed-out, minimized relationship with other states, and assigns the state's guardians against the demands of internal change. According to Plato, just and right rule based on the rule of Philosopher King (the top position of hiearchy). The philosopher's right to govern arises from his cognition, his universal discourse, and his knowledge of the universal. Since the statesman or king has the highest knowledge, that is, the knowledge of politics, everyone should be subject to the statesman. For Plato, the wickedness of

forms of state is not from laws or styles of rulings; they are directly deprived of episteme. So, democracy is the worst ruling model for him. Democracy is not in fact a just form of state because it is apparently based on equality. It is not fair because anybody can aspire to any job regardless of his / her knowledge of politics, his / her abilities and his / her place in the society. This situation drags the society into only chaos. For him, real equality is not quantitative equality but real equality is proportional equality regarding people's abilities, virtues and lineages. The extremism created by democracy will bring a tougher extremism to the stage, namely oligarchy and tyranny. Consequently, for Plato, there is no any ideal state on earth. The good state is out of history, neither past nor future. It is the philosopher king who knows a good state out of history and brings it down to earth. For Aristo (384-322 B.C.), the state is the only moral and intellectual life opportunity that seeks the best for man. The only way for a citizen to develop his / her own nature, to reach a good life and to become competent is in the political life, only possible within the state. In this sense, Aristotle says that man is a political animal, tends to be politicized by nature and we should look for his unique feature that distinguishes him from the animal. It is the common good that brings citizens together in the state or ensures the unity of the state. Another criterion that he uses to differentiate management forms is justice. So, Aristotle signified the Politeia that is called 'moderative democracy' between Oligarchy and Democracy. He focused on proportional equality, like Plato, that is to say 'equality between equals' for actualizing an ideal and just ruling. For him, legal rules that aims the common good, is suitable for absolute justice. Politeia will be a regime in which property does not go to extremes and whereby governors are subject to constant control by law. Politeia, which he sees as an installable political order but not ideal, is a middle-class form of administration that creates a compromise between the democratic and oligarchic tendencies underlying the political unrest of the polis (Ağaoğulları, 2013: 78-152). Farabi (870-950) also answered the question of 'which political formation should be?' in a similar way to Plato. For him, presence of a virtuous person is bound to virtuous state. In this framework, Farabi stressed 'virtuous society' (madīna fādila) as an adjunct to Plato's ideal state. Virtuous society is also hierarchical from the organism metaphor. Farabi also answered the question of 'who rules?' by taking the support from the argument of 'qualitative natural inequality'. So, human beings have been created as distinct and

superior to each other in having certain abilities. Those who in superior creation must rule and the others must be ruled. However, Farabi's ideal ruler is not only philosopher, wise or expert; this ruler is also a prophet who guides for people and establishes a connection with absolute ruler (God). Farabi believes that true happiness is to be ruled by the absolute administrator and that true virtue can be realized under this rule. There are some innate qualifications that rulers must have. These can be summarized as being healthy, intelligent and smart, knowledgeable, right, fair, brave and honourable, just etc. However, Farabi is aware that it is very difficult to combine these features in a single person. Therefore, if there is no such person in the Farabi's virtuous society, then the person or persons who carry the most of these qualities should be rulers. Main mission of virtuous society's ruler is to prevent degeneration that will make the society unstable (Toku, 2012: 85-90).

## **2.2. Medieval Political Philosophy**

When medieval political philosophy is examined, we see that there are two distinctions: religious and worldly power. Religious power provides religious and spiritual salvation of human kind while worldly power focused on secular targets. However, legitimacy source of both religious and worldly power comes from God. Religion constitutes the backbone of social and political order in this period. Social and political order are regulated by religious texts and Church in medieval era. Basic feature of political theology is absolute sovereignty of religion on politics. Political theology finds its best defense in the 'City of God' of St. Augustine (354-430). Life is a field of struggle between the supporters of Kingdom of God and the Kingdom of Satan. For St. Augustine, the state to be established in the world is not a purpose, but a means of providing service to God only and has no value beyond that. It would not be wrong to say that this concept of medieval Christianity is applicable to all religions in that period (Toku, 2012: 125-127). For instance, it is not difficult to say that religion is a fixed element at the basis of Mawardi's thought system, as a muslim faqih. Mawardi (975-1058) argued that state's main purpose is to provide people's happiness and benefit both in the world and hereafter. So, religion and state are apparatus that will provide eternal happiness for human kind. The authority of ruling has been given to head of the state by

God. So, he focused on a system in which religion and state integrated in one hand. Head of state is successor of prophet and shadow of God on earth. That is why, people must obey the political power due to religious responsibility. According to him, religion does not gain meaning without state and state cannot stand without religion. Religion creates state and provides legitimacy for it. State must prevent the deterioration and corruption of religion in order to maintain its existence in the state and must provide material welfare in a just manner. For this reason, in order to be happy both in the world and in the hereafter, a structure in which religion and state support and integrate each other is essential (Çiftçi, 2012: 97-98). Ghazali (1058-1111) from influential muslim scholars, state is an organization that establishes and maintains an order, also provides happiness of afterlife. Ghazali stressed that human beings can do unfair behaviours due to their bad nature. This clearly shows that there should be a mechanism like the state. Ghazali emphasized a political authority that will provide the order beside of a powerful legal system and government. At the same time, the merit, talented, knowledgeable and fair people should be at the head of this authority as a leader or ruler. According to Ghazali, main duties of state are preventing conflicts and disagreements among people, providing unity, togetherness, safe and peace among them, establishing a just atmosphere and offering a virtuous life for people. Ghazali stated that ruling class and public should always be in good dialogue. Imam Ghazali has established a functioning link between the fair state order and the human order. If the survival of human beings depends on the functioning of the limbs in the body, the existence of the state is bound to fulfill its responsibilities for citizens. He stated that justice will not work in incompatible societies and in such cases justice will be replaced by persecution. Imam Ghazali, who said that things were done with cruelty in unjust societies, has given great importance everybody to fulfill their responsibilities with right. In Imam Ghazali's understanding of the state, the sovereign and justice are intertwined. A good ruler should never forget the temporality of the world, death and commandments of God and prophet. According to him, if the monarch is fair, becomes the source of trust for his public, otherwise, if he is cruel, will become the source of hatred. For Ghazali, the president's gaining public support and trust depends on the establishment of justice by observing the law. The practices of governments applying violence and oppression instead of justice, invited to anarchy. So justice must be

always provided in the public interest. One of the first philosopher who systematically defends the thesis that law is only holy texts and religion constitutes the backbone of political and legal order, is John of Salisbury who lived in 1120-1180. As long as the monarch represents divine law, he is exempt from the obligation of all worldly rules to be judged. But this does not mean that their unjust, unjust acts are lawful. A king is the king of the subjects, the servants, but at the same time the servant of God, and his duty is to serve his subjects faithfully. John of Salisbury's attempt to make worldly power tied to the theological law, revealed a separation between the sovereign and the tyrant, which establishes its power over power and oppression. This distinction also sheds light on the problem of the 'obligation to submit to power' that is not so important in medieval political thought. John of Salisbury argued that source of worldly and religious power comes from God and two swords symbolizing these two powers given to the Church by God. So, The Church, which has both swords, uses the sword representing worldly power by the way of king. A King who breaks the God's and Church's commandments, is accepted as tyrant. When viewed from this angle; it would be very accurate to say that the first thinker and theorist John of Salisbury who emphasized importance of conditional obedience and justice versus absolute obedience ; divine justice as source of political authority and also right of resistance against tyrant (Toku, 2017: 79-80). Ibn Rushd (1126-1198) focused on the relationship of moral and politics. He tries to form the metaphsic of morality and political etique is also based on this principle. The principle of goodness and merit of the institution of politics has been established by revelation. In Ibn Rushd, the politics of morality integrates with political idealism. He approaches politics in terms of service, litigation and ideals. It tries to improve the political field. In this respect, politics is an activity that represents the "common good" of public. Purpose of morality is to provide people to be justly ruled at the framework of virtues. The aim of politics is to prepare and rule the city to make it virtuous. Ibn Rushd took politics and morality as a whole in one aspect (Aşkit, 2018: 63-64). Nasiruddin Tusi (1201-1274) also studied on the basic systematic that 'How should the ideal society structure that will provide people to live peacefully, justly, happy and safely be ?'. For Tusi, in order to idealize society, firstly socio-economic and political problems needs to be resolved. Another issue that will ensure social maturity is the elimination of unrest and injustice in a society. According to Tusi,

political, religious, economical and legal structure that is guarantee of coming together, social harmony and sustainability, should be created and developed; otherwise social collapse, division and dissolution would be inevitable (Alkan, 2019: 19-17). Taking Aristotle as an example in many respects, Thomas Aquinas (1225-1274) saw human beings as a political and social creature by nature. He argued that people should form political groups for meeting some needs and reason has great importance for establishing these groups. He also stated that political organizations should consist of free individuals and be operated by rulers who works for the interest of the whole. Thomas shows a theocratic view by supporting that source of political power is divinity. However, people chooses who uses the political power on earth even if the source of power comes from God. This means naturally that the source of power, in the world, is humanity. According to Aquinas, power is supported by divine intervention. State has some duties such as ;providing people's safety, establishing social justice, meeting people's needs and providing their happiness etc. Rulers fulfills these duties and responsibilities by the way of law. Legal rules and power owners check each other. Rulers are responsible for people's good life standart. So, rulers must work for public benefit. Thomas Aquinas argues that society will only have the right to elect rulers as long as they remain committed to the common good and the principles of justice. Aquinas suggested that obedience of rulers is necessary in order to ensure the order of justice. However, obedience of people must be based on the principles of justice. If the rules of rulers are appropriate for the reason and purpose of common good, these rulers are fair. If the administrator has pushed the limits of authority, There is no possibility to consider that this law is fair. Also, legitimacy of political power should base on principles of justice. Ruling that does not comply with the principles of justice, even if authority belongs to the public, is not fair. That is why, people has the right to resist against such an administration. So, Aquinas conceptualized the 'right of resistance against despotic rules' in middle ages (Kömür, 2019: 162-177). According to Ibn Khaldun (1332-1406), who states that there is a need for political authority and the state both for the safety and maintenance of social life and for the establishment of justice in relations between people, Asabiyyah is the founding element that provides the emergence of political authority (Toku, 2012: 78-103). Ibn Khaldun considers the state, which is one of the fundamental subjects of political science, as a living being.

According to him, the state is born like a human being, grows, develops, and if the necessary precautions are not taken, it collapses and a new state is established instead. In addition to a sense of unity, Asabiyyah is also a form of collective living and organizing behavior. According to the thought system of Ibn Khaldun, Asabiyyah expresses a collective activity that mobilizes this emotion. Ibn Khaldun used this conceptualization in order to explain the democratic, egalitarian, and fairistic governance of the Bedouin-barbarian societies and the repressive and demanding nature of the reign established in hadari societies. Bedouin-barbarian societies, which have a production style and social structure based on meeting the basic needs necessary to sustain their lives, will likewise be in a simple political organization appropriate for itself. This organization is briefly presidency. Presidency (Riyaset) is a rule that does not have a broad political and bureaucratic structure, but rather does not have a state organization. The presidency is from a family with a strong asabiyyah so that this family can rule over the others. The President, who is regarded as a father, has the honor and nobility and maintains his power as the duty and obligation of this nobility. Since the chief does not have political and legal institutions and power, the chief takes decisions with the persuasion and consultation of the society. The President is the first among the equals (primus inter pares). Ibn Khaldun's idealized paternalist state, leader has a strong sense of leadership (based on merit, knowledge, justice and competence) and guides the society. There is no persecution in such societies, and justice is essential. The people of this society are valiant, brave, honest, solidarity and egalitarian. Ibn Khaldun makes a separation between rational politics (depend on property) and religious politics (Sharia). For him, politics that ground only on rational motives, will be barbaric and cruel. That is why, political rule which is a requirement of political wisdom, is bad because it does not take into account the Sharia and only worldly interests are considered. Khaldun's natural conclusion is that good rule is one that can only be implemented by considering both the world and the hereafter of those who are ruled. This can only be Islamic administration. For Allah is the one who knows best the interests of people both world and the Hereafter (Çiftçi & Yılmaz, 2013: 83-93).

### **2.3. Modern Political Philosophy**

The first wave of modernization in political philosophy has shown itself with Machiavelli, the second wave has started with Hobbes, Locke and Rousseau, and has reached its highest point with Hegel and Marx. Although modern political philosophy is not much concerned with the problem of virtuous rule, it seeks to examine politics with empirical and concrete data by considering the state as an artificial organization (not organic as Classical philosophers claimed). For instance, Machiavelli (1496-1527) was not interested in idealistic conception of the state. His chief interest was concentrated in the unity of body politic and power. He adopted an empirical method. Machiavelli completely divorced religion from politics. He broke the medieval tradition that the political authority is under the control of church. He made the state totally independent of the church by saying that the state has its own rules of conduct to follow, state is highest, supreme and autonomous. He said the state is superior to all associations in the human society. He rejected the feudal system and propounded all powerful central authority, who is supreme over all institutions. The central theme of Machiavelli's political ideas is power. He highlighted power as an essential ingredient of politics. According to him moral code of individual prescribed by the church cannot provide guidelines to the ruler. According to Machiavelli a ruler must remember that whatever brings success is due to power. For acquiring political power he can use any type of Means. He said politics is a constant struggle for power. All politics is power politics. For Machiavelli absolute state was the End; and for this Means was power. He said the sole aim of the „Prince“ was to make the country strong and united, establish peace and order and expel the foreign invader. To achieve this end any means would be satisfactory. Thus Machiavelli divorced politics from theology and government from politics. He gave the state non-religious character. He did not view the state as having a moral end and purpose but gave importance to man's worldly life. He believed that politics is an independent activity with its own principles and laws. Consequently, Machiavelli laid the foundation of secular state. Thomas Hobbes advocated absolutism i.e. all powerful supreme state. In his social contract theory he wanted to show that people need to be governed for their own protection by a `Leviathan“ i.e. the all



powerful and supreme authority. Thomas Hobbes (1588-1679) is regarded as a „contractualist“, who explains the origin of the state and nature of sovereign power. It means he was the first who said origin of the state is manmade; and not God-gifted. For him, Sovereignty is a necessary attribute of the state- As a result of the social contract, the state came into being. It possessed absolute and unlimited sovereign powers. In civil society sovereignty must exist. Hobbes believes that without the sovereign power, law, order peace and security could not be maintained in society and without these, individuals cannot survive. Sovereignty means“ the all powerful authority within the state – It is absolute, irrevocable, unlimited, non-transferable and inalienable. Hobbes state is Authoritarian i.e. having authority but not totalitarian i.e. government controlled by one political party. Hence Hobbes absolutism can not equate with modern totalitarian systems. John Locke (1632-1704)’s objective was to justify limited and constitutional government. Each individual contracted with others to unite and constitute a community to end inconveniences of the state of nature. Main purpose of the contract, the protection and preservation of natural rights i.e. life, liberty and property. The sovereign power created by the contract vests not in a single man but in the community as a whole. After the establishment of the state every man will retain natural rights. The state will have an obligation to uphold these rights. The natural rights of people are inviolable and must be protected by the government. If the government fails to protect these rights it deserves to be changed. Locke opposed the idea of absolute sovereignty. He advocated government based division of powers and subjected to number of limitations. Locke depicted a constitutional state where the relationship between people and government and among people themselves will be determined by the rule of law not by arbitrariness. The idea of consent occupies a very important place in the political philosophy of Locke. He has challenged the autocratic rule of the king by emphasising that government is to be run according to the consent of the people. Locke wanted to place people’s cause at a high point. According to Locke people are the source of political power. The community retains the supreme power. Thus Locke’s political philosophy reflect the crisis of liberty during the 17th century and Locke is a key thinker in the development of Liberalism, placing emphasis on ‘Natural Rights’. J. J. Rousseau (1712-1778) defended the concept of equality, justice and popular sovereignty in his social contract theory. Thus Rousseau’s theory of General will is connected with

the concept of popular sovereignty. He reconciled absolutism with the liberal doctrine. Sovereignty must reside only in the community as a whole. It cannot be divided. According to Rousseau Sovereignty is absolute; but it resided in the general will of the people. People (community) cannot surrender their sovereign power to an individual or a group of individuals. Sovereignty which is vested in the people must be exercised by people themselves. By insisting on this Rousseau is thinking about direct democracy. Thus, Rousseau's ideas of General Will and the common interest are the most important features of every state. Rousseau has added a new aspect to the national state i.e. state is a collective moral person and its objective is moral upliftment of its subjects (Ağaoğulları, 2011).

#### **2.4. Postmodern Political Philosophy and Michel Foucault**

Modern political philosophy is shaped by 'Enlightenment Project' that relieves the pressure of religion (religious bigotry, Church's domination, inquisition) and traditional thoughts (superstitions) and practices and tells us the determination of people to act and solve problems in their own minds in every field. The free mind, which survived the hindrance of religion, was regarded as the only means of achieving human dignity in all fields. Immanuel Kant determined the motto of this period as 'Sapere Aude' (Dare to know!). Enlightenment is ground on absolute power of knowledge, the belief of science's adequacy for understanding universe and social events, humanism, rationalism, developmentalism and unlimited optimism. However, postmodern philosophy, which in time turned into a total questioning against modernism (especially reason and science), went on the path of reversing the progressive, objective and realistic aspect of the enlightenment understanding on which modernism was based, and emphasizing the fact that modernism did not fulfill any of the achievements promised to the individual and to establish a stance against critical identity. In this context, the traditional concept of truth will be replaced by a creative interpretation, and any claim of knowledge and truth will only consist of discourse. As Nietzsche stated, any kind of knowing activity consists of interpretation. In spite of the isolated human understanding of modern philosophy, postmodernism has adopted the principle of pluralism and locality against the claims of absolutism, general validity.

In postmodern discourse, there is no any absolute centre. From this perspective, postmodern discourse is in clear opposition to the categorization of the mind as the only necessary criterion and its acceptance as apriori. According to F. Jameson, the subject blessed by modernism has now been replaced by the multiple and conflicting identities and the sense of division and self-decentralization in the new era. From the perspective of postmodernists, the concept that marked the process is the decentralization of the subject as Foucault claimed (Gül, 2011) Subjects are product of historical process and different conditions produce different type of subjects. For Faucault, there is an inseparable relationship between subject and power. Subjects are shaped by power and produced within the social relations. He argues that knowledge is a power imposed on others and therefore defines others. Knowledge becomes a mode for observing, ordering and discipline by cutting the way to liberation. Because, sustainability of power can be only provided by knowledge that is produced and structured for a purpose. In this context, for Foucault, unlike enlightenment thinkers, knowledge is not a means of emancipation, but rather a control mechanism of power and imprisones individuals. Knowledge is discursive and produced by power (Çelebi, 2013: 512-515). The use of knowledge for power and its power for transforming power have been included in the conceptualization of 'Gramsci's Organic Intellectuals'. Knowledge is undoubtedly apparatus of cultural hegemony. For instance, Mussolini gave information about how cultural devices such as religion and art can be used to create a new society by stating that 'We have established Italy, now it is time to create Italians!'. Power tries to shape and control society using all cultural and economic devices. That is why, organic intellectuals are intellectuals who jointed with power and provide the cultural apparatus of the hegemony of power in order to produce and maintain power (Büyükbay, 2008).

## **2.5. Occurence of Struggle of Ulama and Umera within Historical Process in the Axis of Knowledge and Power**

Relationship between knowledge and power constitutes the backbone of the struggle of 'Ulama and Umera' that is the main subject of this thesis. Ulama means a class of educated religious scholars in Muslim countries. The ulama class has profound knowledge of fiqh and sharia (Islamic Law), and some scholars are also practitioners of

sharia. Umera is the name given to president, governor or high ranking officers in islamic countries. The Ulama class provides religious, administrative, military and financial services where they are located. It can be formulated that Ulama class is composed of scholars who are engaged with scientific activities and Umera class is composed of rulers who deals with ruling and administration. To analyze Abu Hanifah and his philosophy of knowledge-power-state in the axis of the struggle of the Ulama and Umera within the framework of the knowledge-power relationship is of great importance in terms of the findings of this thesis. How the Ulama that represents the 'religious power' and Umera that represents the 'wordly power' are separated in the historical process, their breaking points and their mission and goals have also great importance for this thesis and understanding Abu Hanifah's political thought and struggle.

Abu Hanifah lived in a process in which struggle of Ulama and Umera concluded in favor of Umera and revealed his political struggle in such a period. It will be useful to comprehend the codes and paradigms of the period by considering the theoretical and practical aspects of how and why the struggle of ulama and umeru emerged within the historical process. The main question was what this conflict meant during the time of Abu Hanifah and how it affected his life. In this title, firstly, theoretical basis of the struggle of Ulama and Umera will be examined and then its emergence and development process within the Islamic history will be assessed in the axis of the relationship of power and knowledge.

First of all, it is necessary to reveal whether there is a distinction between religion and world in order to prove that there is a struggle for influence between rulers of the state (umeru) and religious groups (ulama). This distinction, which is assumed not to exist in Islamic religion, emerges in the Islamic tradition as religion-world, religion-property or religion-state dichotomy. The distinction between religion and wordly affairs in Islam is not the same as the distinction between the church and the world, as in Christian thought. ( Bilgin, 2014: 9 ). In Watt's words, 'ad-Din' ,in Arabic, is completely different from 'religion' and also it comprises all aspect of life not a part. ( Watt, 1968 : 29). However, when this general theoretical approach is adapted to political-practical thinking, it emerges as two separate application areas. One of them is spiritual field and

the other one is political field which includes the administration of country. With a natural distinction, the ulama shifted to the religious sphere and a separate group called "sultan" dominated in state administration. It is quite controversial issue whether there is a religious group or not in Islam. It is common view that there is no 'clergy' in Islam unlike Christian world. In Christian thought, society is divided into two separate groups called 'clerisy' and 'laicus' in the medieval era. While Laicus was a common man, the clerisy was a clergyman, who was blessed with a special training and priest sanctuary. In the classical medieval European social stratification pyramid, the clergy came after the noble class and takes place above the craftsmen, merchants and serfs. ( Bloch, 1995: 241-268). In Islam, however, there is no any clan that has special duties such as understanding religion, interpreting and performing rituals. However, over time, a separate group has emerged like kadi, imam or mudarris due to some practical reasons. So, who exactly are these religious groups meant? In order to define this group, it can be considered as a criterion to devote a significant part of their daily life to religious and scientific activities, even though they have a profession which provides a livelihood in this way. In this case, we encounter a large group of people from dervishes to sheikhs, madrasah students to professors, imams to muftis. Certainly the most important function of the religious group was knowledge and guidance while rulers of state keep the elements of power. The most important mission of the ulama within the political structure was to express opinions in a religious sense, that is to say fatwa. Taking a fatwa reflects the religious sensibility of the sultans as well as the idea of giving legitimacy to their actions. However, despite this dignity, the ulama could not be more than a consultant, a bureaucrat or a legitimizing mechanism within the political structure. In this structure, where the source of legitimacy was always ultimately Islam, the primary goal was to ensure religious authority or to strengthen its position. The allegiance taken from the people, the sultanate certificate obtained from the caliph are the different but complementary manifestations of this quest for legitimacy. Despite their important position in terms of legitimization, the influence of scholars was limited. To make a general claim at this point, it is possible to say that political power can never give up ulama's legitimizing role but at the same time it is in favor of not having the ulama directly intervene in the state affairs. The sultans have always considered the authority of the ulama as a spiritual authority and opposed the interference of this

spiritual authority with the material authority. If we make a generalization, it is possible to say that the ulama have developed two strategies. The first is a passive attitude that prevents to take part in the state service in any way. The second strategy is to stay close to power. Ulama's general attitude is not to get involved directly in politics. But indirectly, the struggle for influence has always continued. This is clearly visible on the language. It is possible to claim that there was a conflict between political power and religious groups that used common concepts since the earlier times. This situation began as a reaction to the illegitimate practices of the Umayyad caliphs in individual and political terms, and also sustained as long as the illegitimate practices of sultans continued. In the sense of illegitimate practices in an individual sense, it is understood that practices such as organizing liquor assemblies, wearing silk dresses, etc., and in political terms, it is understood some implementations such as ; confiscating someone else's property, imposing unfair taxes and looting. Scholars (ulama) see themselves as privileged people originated from Quran and Sunnah. Even in Quran, there are some verses that glorify scholars. The verse of "Only those fear Allah, from among His servants, who have knowledge" has great importance. (Fatir:28). According to one view, Allah glorifies the scholars. This verse is compatible with the hadith of "Scholars are heirs of prophets". (Ebu Davud, ilim,1). Sultans, on the other hand, see themselves "zillullah" that is the shadow of God on earth, as the protector of religion and the world. While the Sultans believed that God's title was manifested on them, scholars thought that they manifested on themselves. Although Ulama has always performed important functions in governance through consultation, fatwa, tedris and bureaucratic activities in the especially Sunni Islamic world, it has consistently lagged behind the political power based on dynasty or military power.(Bilgin, 2017: 10-20). After considering the theoretical dimensions of this struggle, when we focus on its emergence and progress in Islamic history, it is possible to direct our route and interest to the period of Rashidun Caliphs where this struggle has not yet begun.

The period of prophet Mohammad is considered as the period of legislation in terms of the history of Islamic Law. The religious and political authority of prophet can be seen clearly during his life time. In the Qur'an, the prophet must be obeyed, he should be consulted for the solution of the problems that have arisen and his decision should not be challenged. This strengthened the authority of the Prophet among the

Companions. In this period, it can be said that the Prophet has transformed Arab communities with tribal living conditions to a new stage. This phase is the construction of the Medina site state. The establishment of the institutions that constitute the basis of the state, coincides with the Medina period. In the construction of this structure, the construction of Masjid al-Nabawi has great importance. (Saltekin, 2018: 544-545) The mosque brought together the legislative, executive and judicial powers of the state in a single center. At the same time, the masjid has been the center of all corporate affairs of the state, from educational activities to cultural activities, from war decisions to judicial activities. (Önkal, 1983: 19). The Medina document has an important place in determining the citizenship law of the Medina site state. In particular, in the words of Cabirî, it is a contract that expresses the transition from tribal (social) centered social structure to citizenship (ummah) centered structure. (Câbirî, 1997: 189). In order to detect the importance of this transformation, it is necessary to consider that there is no state hierarchy in the society in which the convention enters into force and that tribal laws are completely dominant. In this sense, the fact that the tribal ties have been placed in the lower hierarchy of the concept of ummah, given the social structure of that day, will be better understood as a major change. In the most general sense, the inability to clearly determine where Prophet's implementations related to prophethood, imamah and secular things began and ended, makes it difficult to determine the jurisdictions in the transition from tribal politics to an institutionalized state structure. All state powers were represented in the person of the Prophet. This constituted the conviction that the religious and worldly powers of those who succeeded him should be assumed with the death of the Prophet. In this sense, the belief that the legacy left by the Prophet can be sustained in a real way, can be considered as the cause of the conflict between political conception of muslims and present case in real life. That is why, the Caliphate was defined as the successor to the prophet on behalf of the public as an performer of religious and worldly affairs. In this sense, it is stated that the caliphate should be represented by the caliphs who will replace him. This provided the continuation of the unity of law even in the period of caliphs. The successors of the Prophet were supposed to have the legitimizing means of religious and worldly law in their own people. In order to achieve worldly authority, the existence of power, charisma and asabiyyah for that day constituted a sufficient field of legitimacy, however, it cannot be said that

religious legitimacy is a situation that can be easily obtained by the owners of power. In this field, the legitimate thing is to be accepted in consciences in terms of spirituality rather than material images and manifestations. Although it can be said that the first four caliphs who gained the authority of the Caliphate continued the religious and secular authority of the Prophet, it was difficult to say that the later caliphs were able to maintain religious authority.(Saltekin, 2018: 545). There is no any distinction between state and religion in early Islamic period including Rashidun caliphs. Because the rulers of the state are in line with the universal moral principles of Islam at the maximum extent. Administrators in this period, have fulfilled the basic moral principles such as; to make justice the dominant, to give the right and fortification of the governed, not to oppress, to give the rights of the state to the supporters, to stand against the oppressor even if he is weak, to use the state property more carefully than their own property. Therefore, Islam did not fall apart from the state. The administrators in this period were both rulers and scholars. They also both moral and virtuous people. Although Abu Bakr was the caliph, he did not receive any fees and there was not even an administrative building of Umar. The most important thing that led to the separation of religion and state is the moral collapse or decay of the state governors. With the expansion of the boundaries of the Islamic state, with the influence of different cultures, some rulers spent the state's property in an excessive manner and entered into luxury life style. With this attitude, the moral sensitivity shown in the expenditure of the state goods began to vanish. This moral decay that emerged in the state administration has also made the legitimacy of the governors controversial. In order to overcome this crisis, administrators have asked for help from people who have moral, virtue and scientific competence and therefore have high reputation in the public. However, when the administrators whose real purpose was not only to prevent moral decay in the state but to prepare the ground for their legitimacy, the scholars tried to stay away from the state administration. As in the case of Abu Hanifa, there have always been Islamic scholars who individually resisted against the attitude of the rulers in disregard of Islamic morality. ( Ayık, 2016: 64-65).We witnessed the beginning of a new era with the internal turmoil in the Ali's period and subsequently Muaviye's taking power. Thus, a period separated from Rashidun Caliphs and called Umayyad reign, was passed. This new political structure, which maintains its political legitimacy in the Sunni world, has



not been able to establish its legitimacy as the perpetuator of the inheritance of prophethood coming from the Prophet. In particular, Umayyad caliphs acted against religion, causing failures to establish their legitimacy about prophetic heritage. As a result of this, an effective class emerged in the field of legislative and judiciary that should belong to the state together with legitimate political authority. In this way, charismatic religious figures, who have gained a serious legitimacy over the large masses of people, call for the ulama, implicitly declared their independence in religious / legal terms independently from the state in their regions. Al- Taftazani stated that caliphate in Rashidun period comprised both caliphate and imamah however, the status of caliphate in political leaders after Rashidun caliphs, disappeared and was replaced by only imamah. In this meaning, every caliph is also an imam but every imam is not caliph. This shows that the legitimacy of the imams constantly creates problems in consciences. The only thing that gives legitimacy to the sultans before the scholars is religious and worldly affairs. The legitimizing of the sultans politically (free from the caliphate) through the charge of the public good made it difficult to maintain their authority in the religious sphere, while saving their secular authority. In this sense, we see that the influence of the ulama, which represents the religious domain defined within the authority field of politics during the early periods. The religious domain that the Ulema had in hand included not only the faith and the moral sphere, but also the legal sphere. This situation inevitably led to a secret rivalry between ulama and umera. The fact that the scholars had a say in the field of law, limited the arbitrary and unlimited powers of the sultans in the field of politics. The authority of ulama was at risk with this benefit. That, there is only one authority representing politics, while there is no such institutional structure that represents the ulama. This led application differences in religious and legal sphere. We see that the two schools are clearly effective in the process of fiqh. One is the Kufan Ra'y school systemized by the Hanafi school and the other is the Medina Hadith school systemized by Maliki, Shafii and Hanbali. Even though these schools formed a partial discipline of legal activities, the area of jurisprudential freedom was kept as wide as possible in this area without political sanction. This process, which can be welcomed in terms of the development and flexibility of the legal system, will cause the ulama to act independently from the state, which is the only legitimate representative of the legal structure.(Saltekin, 2018:

545-548). Cabiri stated that “If we want to explain the nature of this transformation by using the language of contemporary political sociology, we can say: It is the transition to the state where a special field applied within the framework of the influence of three determinants (faith, tribe and booty) from a political unattached state” (Cabiri, 1997: 461). We can say that a structure that civil and political sphere separated from a structure that political and civil sphere intertwined, has emerged. This separation prepared the ground for the emergence of the state apparatus in Islamic societies. After a while, the legitimacy of sultans who could not represent the tradition of prophetic heritage coming from prophet, was began to be provided by approval of ulama. This led to the sharing of the political sphere of power and, more precisely, the simultaneous existence of the two authorities at the same time. Ulama had to obey and submit umera as a result of the great struggle between ulama and umera. In response to this concession of the scholars, it can be said that the state power gave absolute authority to ulama in the areas that do not disturb and limit the area of political power.(Saltekin, 2018: 548).

Abu Hanifah, on the other hand, was among the group of scholars who preferred not to live jointly with the administration by rejecting all the opportunities and fame offered by the ruling class for the sake of justice and fairness. Abu Hanifah’s political resistance and, more importantly, the wing he preferred in the struggle of Ulama and Umera shed light on how a fair administration should be. So, Abu Hanifah’s life, discourses and activities formed a prototype of such an ideal.

## **CHAPTER III**

### **DRIVING FORCES BEHIND ABU HANIFAH'S POLITICAL IDENTITY**



### **3. DRIVING FORCES BEHIND ABU HANIFAH'S POLITICAL IDENTITY**

In this chapter, the elements that are effective in gaining political identity of Abu Hanifah will be examined in detail. A short story of Abu Hanifah's life, first political groupings in Islamic geography, Kufa in terms of political and social structure, conflict of Arab and Mawali and school of Ra'y can be determined as five significant factors that we detected. Corner stones that shapes Abu Hanifah's thought world and protest identity, will be tried to be argued.

#### **3.1. A Brief Overview of Abu Hanifah's Life**

Abu Hanifah Nu'man ibn Thabit (d. 150/767) is one of the great pioneers in the history of Islamic Law. He was among the first to deploy the recognized methods of legal reasoning consistently, and to gather the judgements and rulings of his time into a systematic corpus. Abu Hanifah was born in Kufa, an intellectual centre of Iraq, and belonged to the mawali, the non-Arab muslims, who pioneered intellectual activity in Islamic lands. It is indisputable that he is not an Arab, and belong to the Mawali. The question is whether Abu Hanifa is Turkish or Persian. Some sources claimed that he is Turkish; however, it is more likely that the grandfather of Abu Hanifah, who was not Arab, was of Persian origin (Öztürk, 2013). Abu Hanifah's youth during the Umayyad period, during the time of the governor Hajjaj, famous for the cruelty of Iraq, and the last and most difficult years of his life were spent during the Abbasid period. Although the Abu Hanifah did not establish any sect, he was accepted as the founder of the Hanafi sect, which is considered to be one of the four major sects of the Sunni school. Today, Hanafi sect widely adopted among muslims Turkey, Balkans, Ukraine, Crimean, Azerbaijan, Caucasus, Ural, Siberia, Turkestan, China, Manchuria, Japan, Afghanistan, Khorassan, Castor, India, Pakistan and Cashmere (Çaylak, 2018: 326).

The son of a merchant, young Abu Hanifah took up the silk trade for a living and eventually became moderately wealthy. In early youth he was attracted to theological debates, but later, disenchanted with theology, he turned to law and for about 18 years

was a disciple of Ḥammad (d. 738), then the most noted Iraqi jurist. After Ḥammad's death, Abu Ḥanifah became his successor. (Ansari, 2014). He was called as Abu Hanifah or Imam- Azam (Great Imam) due to the fact that he had an important role in the development of legal thought and jurisprudence (Obtaining new provisions from fiqh, verses and hadiths, comparing those whose meanings are not clearly understood by comparing them to other provisions that are clearly declared) in Islam . The reason for being called Abu Hanifah ( father of Hanifah) is discussed from various perspectives. That is certain, he has no daughter named Hanifah. The only child of Abu Hanifah, who was known to be monogamous, was his son Hammad. Two possibilities were mentioned in the name issue. First one is Hanifah was the name of an inkpot which was used by the imam in Iraqi language. Secondly, Hanifah is the feminine use of the word Hanif. From this perspective, the word of Hanif is explained as the 'one who does not leave the right and the road' by means of the word meaning. That is why, the idea of the Imam as the 'father of the Hanif' is more consistent with his intellectual life, personality and linguistic terms. Giving the title of Imam-1 Azam, meaning Great Imam, can be explained by reasons such as having a distinguished place among his contemporaries, breaking new ground in legal thinking and jurisprudence and since many scholars have adopted his views and method (Öztürk, 2013).

Abu Hanifah is the son of a wealthy family engaged in commerce. He was a fabric merchant before he began to learn Islam. It is mentioned that there is a shop in Qufa. He dedicated himself to learning Islam and continued his business through his partners. His dealing with trade, the absence of his any administrative duties, his being relatively rich and lack of need for the state, were highly influential in gaining his own libertarian, independent and autonomous personality. Abu Hanifah began to study Islamic sciences in his early twenties and choosed the Fiqh as his field of specialization. Main teacher of Abu Hanifah who finds the opportunity of negotiation and meeting with important scholars of his era, was Hammad Ibn Solomon. Abu Hanifah continued his course for eighteen years from 720 until the death of his teacher, and when he did not have his teacher, he reached the level of acting as a proxy. Abu Hanifah met with elite thinkers of his time in Mecca where he went to Haj (pilgrimage) and had the opportunity to discuss his views and fatwas with them. It is clear that these contacts have made a significant contribution to Abu Hanifah's knowledge and view of fiqh issues.(Öztürk,

2013). Abu Hanifah's teaching method in the course of ring, has great importance for in terms of being an example to the present day. According to his teaching method, the questions are first discussed with the students and it is searched if there is a dogma about that issue. First of all - because of their presence in a cosmopolitan region - he would try to address the issues in different ways. For instance, When Abu Hanifa lived and especially in the region where the hadith fabrication became widespread, he was more cautious and set certain conditions. The fact that Abu Hanifah is in the commercial life and the people who are familiar with the problems and needs of the people has increased the chances of accepting and applying the case law. On the other hand, the fact that he was raised in the Iraqi region where various groups with different cultures and traditions live in a mixed state, prepared the ground for him to be less affected by the prevailing traditional social structure and understanding in the Hijaz region, and to have different interpretations and judicial opinions based on the customary and social situation.(Öztürk, 2013: 55-65).

In addition to his profound knowledge of jurisprudence, Abu Hanifa was a brave man who would not hesitate to say that he believed and knew the truth and to fight for it. His life has been struggling with this aspect and he has endured many troubles and absences for this cause. Both the Umayyads and the Abbasids were openly opposed to the atrocities committed by the caliphs and governors, and they did not accept any of the gifts of the caliphs, torture and imprisonment in order not to approve their wrong and unjust attitudes and to legitimize them in the eyes of the people. He was punished by the authorities for this attitude. Abu Hanifah's life philosophy based on reason -knowledge-jurisprudence, his ideal of constructing a rational society and state, his desire toward an administration with an emphasis on personal rights and freedoms, his attitude of opposition and protest that does not consent to any persecution and only focused on justice and equity, made him a scholar and action man far ahead of his time. However, this study focuses on the political struggle of Abu Hanifah that brings him beyond his era. Factors that politicize Abu Hanifah and his political thought will be discussed in the axis of the struggle of ulama and umeras and also his perspective on basic concepts of political theory, will be tried to be analyzed.

### **3.2. Historical Process Towards Cleavages of Muslim Ummah**

Collapse of morality among rulers, nepotism, civil war within muslim ummah initiated by the Battle of Camal and Siffin, transition to monarchy, political and religious factions, and divisions have great importance for detecting Abu Hanifah's politics, however, this dissertation will suffice to briefly address these issues in order to comprehend the sociology of the period in which Abu Hanifah lived.

In Islamic history, period beginning from the death of prophet Mohammad (d.632) and until the death of caliph Ali (d.661), is referred to as the period of Rashidun (Rightly guided ) Caliphs. Urban stated that "The Rashidun Caliphate (632–661) is the period in Islamic history immediately following the death of the Prophet Muhammad. While Muhammad led a small religious polity in Medina under his charismatic prophetic leadership, he did not create anything that might be called an empire. The situation changed under the four caliphs of the Rashidun period – Abu Bakr, Umar, Uthman, and Ali – who oversaw the rapid expansion of the Islamic polity throughout the Near East. They elaborated important military, legal, and economic structures and developed a nascent imperial apparatus that helped ensure the success of the Islamic state. The Rashidun Caliphate is often considered a religio-political golden age, but it also witnessed many fierce debates about the nature of authority, the role of the caliph, and the relationship between religion and politics."( Urban, 2014). "The early caliphs extended the Islamic state to include all of the Arabian peninsula. They also expanded into the Christian world when they conquered provinces of the Byzantine Empire in Syria, the Holy Land, and Egypt."(Köse, 1997: 72).

After the death of prophet Mohammad, initially, "a disagreement occurred over who should succeed Mohammad as a political and religious leader of the ummah-the Muslim community. While Mohammad's body was being prepared for burial by his close family, a small group of Ansar ( Muhammad's helpers) met in Saqifah Bani Sa'eda and selected Abu Bakr, a close companion of prophet, as his successor (and the first caliph)."(Itzhak, 2011: 569). Abu Bakr's period was very " important in terms of providing the unity of Islam again while hanging by a thread of disintegration of the

society. There were some people who were asserting that they are prophet and some other ones who were refusing to pay zakat (almsgiving). Moreover, the issue is not just about giving Zakat or not rather it is related to directly social order. This attitude of tribes is threatening the centralized management. For this reason, the action of Abu Bakr stop a possible disintegration of the society.(emrah gökmen,6). Then he assigned Umar as second caliph before he passed away. During the rule of Umar, “the territories to which the law had to be extended expanded rapidly. Greater Syria, Iraq, the major provinces of Persian Empire and Egypt came under Islamic rules ( Nadwi, 2010: 80). Dildar stressed that “The total area of Umar’s caliphate was around 23 lakh square miles with continuously expanding its frontiers. To rule over such a big caliphate stretched from Libya to Makran and from Yemen to Armenia, caliph Umar established an entirely new administrative system. For the Arabs, in fact, it was for the first time that such a central government was established. Strong sense of justice, accountability before law, and equality for all were some of his cherished ideals. He took particular pains to provide effective, speedy and impartial justice to the people. Umar took particular steps to build a social order according to the teachings of Islam. He brought about far-reaching reforms in the social, economic and political sphere of collective life. He was the first Muslim ruler to establish public treasury, courts of justice, appoint judges, set up an army department and assign regular salaries to the men in the armed forces. Under his wise and courageous leadership, the Islamic caliphate grew at an unprecedented rate, taking Iraq and parts of Iran from the Sassanids, and thereby ending that empire, and taking Egypt, Palestine, Syria, North Africa and Armenia from the Byzantines. He was assassinated by a Persian free slave, Abu Lulu Fairoz.”(Ahmed, 2005: 7). With the assassination of Umar, first seeds of divisions in Islamic world, began to be thrown. This division would be even more heated after the rule and murder of caliph Uthman due to his wrong and unjust applications.

Muslims especially discomfited the activities and actions of governors appointed by caliph Uthman who came to power by council of ummah determined by Umar. Uthman’s soft personality, nepotism and his tribalist senses toward his kins accelerated muslims’s anxiety and anger. Governors persecuted and tormented the public and also collected illegal taxes . All official authorities were consisting of the tribe of Umayyads. Uthman held the sides of his relatives unlike his predecessors. Those people who



criticized this situation, was imprisoned, banished or physically punished. Opposition to Uthman was supported lots of different tribes that excluded from politics and other administrative affairs. Rebellionists around North Africa, captured the Uthman's house and their main desires were change of governors and resignation of caliph, however, Uthman reported that he would not resign unless Allah wanted it. It is quite interesting that caliph Uthman based his rule on God. This is ,in the Islamic history , one of the most important examples of gaining legitimacy from divine authorities. So, the group that had siege the caliph's house , soon killed the caliph Uthman.(Demircan, 2017). "Uthman is critically important in Islamic history because his death marked the beginning of open religious and political conflicts within the Islamic community (fitnah).(Asfaruddin, 2019). Along with these developments, a group companions of Prophet, offered to swear allegiance to Ali and Ali was elected as Uthman's successor.(al Kathiri, 1980: 100). Caliphate of Ali dragged the muslim community into the civil wars in a short period due to Muawiyah (governor of Damascus) 's rejection to Ali's rule. Ali' first target was to find the murderers of Uthman as long as he came to power, however, this task was not easy. Muslim ummah was divided into three groups as Ali's supporters who thought that imamah is Ali' right, Muawiyah's supporters who thought that Uthman was innocently killed and Ali's rule was not based on legitimate principles, and the others who stayed away from this conflictual atmopshere and remained impartial about political affairs. Conflicts among Muslims, resulted in "first civil war in the Battle of Al-Jamal (the Camel)" between Ali and Meccan opposition consisting of Aisha, Talha and Zubair. "Following Ali's succession, a second major war, the Battle of Siffin, ensued between Ali's supporters and the supporters of Muawiyah who founded the Umayyad dynasty" (Itzhak, 2011: 569). Siffin is one of the most crucial driving forces that emerged political and religious factions in Islamic history. "As a direct result of the battle, Ali's camp splintered into factions, one of which was the Khawarij, who forswore their allegiance to Ali as a result of his acceptance of arbitration to settle the dispute. Four years after the battle, Ibn Muljam, one of the Khawarij, assassinated Ali. Muawiyah was almost universally accepted as his successor" (Hagler, 2011: 3).

The events that emerged in this period led the occurence of three main problems in the following periods. First problem is the situations of great sinners. Many companions

were killed in the battles initiated by muslims, however, killing man was one of the biggest sins. Under these conditions, the question of what is the situation of great sinners, was very controversial issue. Second problem was the matter of fate. Was all this happening fate or was it done with human will? This question is main reason of dispute. The other problem was the matter of caliphate/imamah. Is the leader or imam of muslim ummah determined by God or election of people. At this framework, conditions of imamah/caliphate were argued by scholars . These debates caused Khawarij, Murji'ah, Mu'tazilite and Shiite's perspectives to emerge. Other crucial effect of this process is that disputes among muslims fed some debates on religious base. However, Shiite and Khawarij that occurred at the framework of political opinion differences and political struggles in early Islamic age, emerged firstly a political movement then these movements transformed religio-political sects by getting a religious identity.(Demircan, 2019). According to Khawarij school of thought "leadership of the muslim community should be open to all Muslims and that an elected caliph should not relinquish his right under any circumstances. However, if he is unjust, he should be deposed by any means. In fact, the Khawarij argued that the caliphate and imamah were not necessary. One of the Kharijites's main thinkers, Shahrastani, affirmed that Imamah is not necessary according to Sharia (Islamic Law). It is based on people's interactions with each other. If everyone justly deals and cooperates with the others, as well as, fulfills his duties and responsibilities, they do not need an Imam" (Itzhak, 2011: 571-572). "The Mu'tazilites, professing the primacy of human reason and free will (opposed to predestination). They tried to develop an epistemology, ontology, and psychology constituting the foundation of their speculations on the nature of the universe, God, man, and religious phenomena, such as the divine revelation and law. In their ethical doctrine, the Mu'tazilites maintained that good and evil can only be understood through the exercise of human reason. Mu'tazilite were not willing to simply accept what the current political-religious authorities claimed as being the absolute truth or the absolute right moral law. Instead, they believed that the 'words of Allah' require interpretation and that man must apply reasoned thinking to this task; otherwise, the religious authorities or those who happen to be favorites of the current political regime will dictate their own interpretative views to the people in the guise of absolute God's truth. For without the freedom of reasoning, argument, and debate; the intended

meaning of God's Message could be kidnapped or falsified by those claiming to be the righteous authorities of meaning.”( Khan, 2017: 60). According to this view, “Mu’tazilite suggested that human creates his own action as free individual and God does not intervene actions and deeds of people. Responsibility is possible only if God gives liberty and free will to human kind about their actions”.(Onat, 2016: 148) “The Murji’ah advocated the view that a person is a virtuous believer, if he or she is adherent of Islam. The person’s actions have no bearing on whether he or she is a believing muslim” (Soltanian, 2010: 50-51). Shariff also suggested that “ Hence, a believer will remain a believer though he should eschew his duties or commit grave sins. Salvation depends on faith alone. No sin will hurt one who has faith.”( Sharif, 1963: 691). From this perspective, “all believers are equal and brothers. Nobody can be excluded , declared as misbeliever and killed regardless of which sect they belong” (Bulut, 2019: 191). The Murji’ah standpoint meant that an uprising against an unjust, corrupt and tyrannical ruler was not justified if that ruler proclaimed adherence to the Islam. This was especially attractive to Umayyad rulers who did not have a reputation of being virtuous and were criticised for their past conflict with members of the prophet Mohammad’s family.” (Soltanian, 2010: 50-51). Shi’ah “ emerged in ‘Ali’s reign during the battles of the Camel, Siffin, and Nahrawan. Later, the cold-blooded slaughter of Hussain rallied them, fired them with a new wrath, and shaped their views into a separate creed. According to Shi’ah theology, The Imam’s office (particular Shi’ite term for the Caliph’s office) is not a public office the institution of which may have been left to the choice of the public (ummah). The Imam is a pillar of the faith and the foundation stone of Islam. Therefore, it is one of the main duties of the Prophet to institute somebody as Imam instead of leaving the matter to the discretion of the community. The Imam is impeccable, i.e. free from all sins, great and small. He is immune from error. Everything that he says or does is inviolate. The Prophet had conferred the Imamate on ‘Ali and nominated him as his successor. Thus ‘Ali was the first imam by ordinance. As the appointment of the imam is not left to be made by public choice, every new imam will be appointed by an ordinance from his predecessor. All the Shi’ah sects are also agreed that the Imam’s office is the exclusive right of the descendants of ‘Ali” (Sharif, 1963).With Muawiyah's coming to power, Muslim society's living conditions and perspectives on events have been deeply changed. Because there have

been changes in the caliphate system with him; dynasty and reign were adopted. (Hussein/Kamali, 1996: 278). When Mu‘awiyah’s son Yazid succeeded him as Caliph, Ali’s younger son al-Ḥusayn refused to pledge allegiance to him, on the grounds that Mu‘awiyah had illegally attempted to establish a hereditary dynasty, among other reasons. Yazid’s men slaughtered al-Ḥusayn, whom the Shi‘is would come to revere as the third imam (after ‘Ali himself and al-Ḥusayn’s older brother, al-Ḥasan), at the Battle of Karbala’ on the tenth of Muḥarram of the year 61/680, a day still mourned by Shi‘is and commemorated with the holy day of Ashura. (Hagler, 2011: 3). “The death of al-Ḥusayn ibn ‘Ali was a seminal event in the establishment of Shi‘i Islam, just as the deaths of ‘Uthman and ‘Alī were decisive for Sunnī theology. It was made possible by a series of events which began with the assassination of ‘Uthmān and included the battle of Ṣiffin, the emergence of the Khawarij, the assassination of ‘Ali, and the rise of Mu‘awiyah (which also has its roots in the events at Ṣiffin). Islam’s lasting division into sects is thus a direct result of the first fitna” (4). “There were certainly a great number of members of the shī‘at ‘Alī in the political sense, but few of these can also confidently be counted as religious Shi‘is; those ideas appeared in any developed form, at the very earliest, with the advent of the Tawwabun (the Penitents) who were martyred following the death of al-Ḥusayn ibn ‘Ali” (6). “Missionary movement led by Imam Sajjad and Hazrat Zaynab after rending event of Karbala awakened the hearts of dormant ignorant Muslim community as a massive storm. Without a doubt, negligence in helping Imam Hussein in Karbala by the Shiites of Kufa was led to regret in the Elites of Kufa. Therefore, they sought to repent, to appease the family of the Prophet, and revenge on the oppressors. It should be noted that history has shown repentance and revenge could never compensate for the missing in the convoy of Karbala.” (Giv& Falsafi, 2016: 442). “Since Islam is opposed to any oppression against an individual or a society, it considers confrontation with the oppressors to save the rights of the oppressed as a praiseworthy and sometimes necessary. Al Umayyads’ oppression on the family of the Prophet and the captives in Karbala strengthened the Tawwabins’ motivation to avenge the blood of Martyrs. When the epic slogan “Ya Hussein Lsarāt” resonated in Kufa, it was like an earthquake on the aristocracy and the killers of Imam Hussein. The group took their weapons, formed the enormous power beside the holy shrine of Imam Hussein, and made a covenant with him (Tabari, 1983). Sense of revenge is an

important factor in motivating the Kufis and accompaniment with the Shiite movement. These factors were effective in the awakening of Kufis Shiites; hence, society became ready for Tawwabīn uprising.”(Giv&Falsafi, 2016: 443). “Tawwabīn uprising had many achievements for the Muslim community including the awakening of Muslims, fear in the hearts of the enemies of Islam, and realization of uprisings such as the uprising by Mukhtar.”(Giv& Falsafi, 2016: 447).

These breaking points of the Islamic world have undoubtedly been influential in Abu Hanifah's life of thought and the formation of his jurisprudence. The fact that he had close to the ideas of Murji'ah stems from the original solutions he offers to the problems produced by these breaking points. First divisions among Muslims were shaped in the axis of the problematics of 'situations of great sinners, fate and imamah'. Abu Hanifah exhibited a moderate attitude, similar to the school of Murji'ah, on subjects such as; situation of great sinners, individuality of faith, distinction of belief and deed and equality in faith. In addition, he adopted the view of fate based on responsibility and the free will of the individual and supported the school of Qadariyyah against the Jabariyyah that dominated paradigm of that period. Abu Hanifah also advocated a political system in which the ruler must be elected by people as Khawarij claimed. So, Abu Hanifah benefited from all these intellectual streams, but he put forward a system of thinking above all by critical method and he strengthened this system of thinking in Kufa that is one of the most favorable cities for this task.

### **3.3. Kufa's Sociological Atmosphere**

Kufa is one of the factors that constitute the political identity of Abu Hanifah. Kufa's sociological structure, multiculturalism and the fact that it was at the center of the conflicts were effective in the politicization of Abu Hanifah as many scholars did.

In addition to Fustat and Basra, Kufa was one of the most crucial cities established during caliph Umar's period for having suitable climate conditions, meeting water need and animal feeds, getting easy transportation and communication system and also using available materials for constructing the houses. Andrew Newman stated about the establishment of Kufa as a city : “After the defeat of the Iranian Sasanian dynasty in

637-638 CE, the conquering Muslim army occupied Iraq and established on the banks of Euphrates a garrison town called Kufa. The new province would henceforth be ruled from this newly founded settlement. In time, it grew into a major administrative capital that had a mosque, a governor's palace, markets and accommodation for a growing population of soldiers and immigrants" (Newman, 2000).

The city of Kufa founded for health reasons by Saad Ibn Abu Waggas, the commander of the battle of Qadisiyyah in 638, became the most important political, cultural and social center of the Islamic world in a short time (Demircan, 2015:75). Kufa which turned into a civil settlement in the short term, became home to Northern (Adnanis) and Southern (Qahthanis) Arabs since its foundation. Beside of this, Deylemis, Christians, Persians, Syriac Christians and Jews also settled into this region due to the lots of Islamic conquests. That is why, Kufa gained a reputation in terms of trade, commerce, science, literature, poetry, Islamic knowledge, Persian culture and tradition due to presence of various races, languages and cultures in that region. "As the diverse population of Kufa that included various Arab groups as well as converts of Iranian origin increased, it also grew as a center of learning, attracting scholars and also becoming commercial center for trade and agriculture." (Newman, 2000). On the other hand, Kufa which has religious and fiqh platforms like mosque, synagogue and church, also had many scientific institutions such as the home and work places of scientists and civil libraries.

The variety of culture, race, language and scientific activities fed both the conflict in the city, on the other hand a cultural harmony, vitality and also movement. It is understood that this mobility, which will continue until Abu Hanifah's period, has an effect on his world of thought (Söylemez, 2011: 95). Shortly after its foundation, Kufa was the scene of events that played a leading role in the political history of Muslims. These events, however, have deeply influenced the structure of thought and belief in Muslim society, which cannot be only confined to the field of politics. Event of Karbala and then Tawwabun movement, especially, had created a trauma of 'defeated civilization' and actually shaped Kufa's sociological and psychological structure. People of Kufa tended to withdraw into their shell because of their inability to realize what they knew to be true. All these events dragged many people in Kufa into

secularism and isolation from political affairs. Most of them were interested in science, trade and devoted themselves religious worships. These developments can be also thought as driving force for emergence of sufism in early Islamic world and thus the background of the school of Kufa were laid by these intellectual activities (Kahraman, 2007). The school of Kufa was not monistic and homogeneous unlike the school of Hijaz. This situation has caused the Kufa to be in the focus of political, social and intellectual conflicts and many different tendencies that resulted in this conflicting atmosphere, have contributed to the formation of intellectual activities like jurisprudence .

Kufa shaped Abu Hanifah's thought world due to the fact that he was a child of a city that blends different races, religions and cultures. Abu Hanifah's shop, which is engaged in trade in Kufa , has served as a madrasa. Thus, Kufa proved that it is a science and culture center with its demographic structure and economic mobility by raising hundreds of scientists like Abu Hanifah (Söylemez, 2015). On the other hand, Kufa was a place where many denominations and parties coexist from Mu'tazila to Shiah, from Murji'ah to other philosophical schools that laid the groundwork for severe intellectual conflicts. Abu Hanifah grew up in this conflictual environment, heard all spesific ideas and had a view about these various opinions . In addition, he had the opportunity to learn various ideas around the world due to the fact that he is a merchant. All of this broaden Abu Hanifah's horizon and allowed him to build his own point of view. (Çaylak, 2018: 336). In this context, Kufa –as a city- provided adequate intellectual background and necessary materials to shape Abu Hanifah's vision and perspectives.

### **3.4. Conflict of Arab and Mawali**

The expansion of Islamic geography had created one of the most important conflict areas in Islamic history: Mawali and Arabic elements. The struggle of the Arabs among themselves in the pre-Islamic period began to evolve towards Arab nationalism with the conquests and the introduction of people from different identities into Islam.

Muslim social order consisting of three main classes in terms of religions: Arab muslims, non-Arab muslims and the members of other religions.(Hitti, 1980). The concept of Mawali has sociologically and historically great importance in terms of all fields of Islamic political thought. Mawali, as a term, means “ friend, companion, helper or slave ”. In pre-Islamic era, custody or guardianship which are called as “Wala” , converted to the main relationship between slave and master. Mawali is a term which is used for expressing slaves who were liberated according to Islamic sources. Afterwards, the term of Mawali referred all non-Arabic muslims in Ummayyad and Abbasides reign when the Islamic geography, which expanded with conquests, began to host people from many different races, cultures and traditions (Öztürk, 2016: 143-145).

The imposition of conquest on dark Arab nationalism through economic interests and political sovereignty was met with hatred and revolts among large masses (Kutlu, 2000: 49-51). Peoples who could not come together because their political unity was broken and therefore could not show much presence against the conquests started to organize on the basis of racism under the influence of Arab nationalism.(Doğan, 1992: 1).

When the historical background of Mawali is examined, it will be seen that “Most of the population of Arabia acquired membership in a tribe at birth; the child of a tribal member followed a parent's affiliation. Besides assuring security, tribes provided the only political, social, and economic forum; to attain power or wealth, an individual had to work from a tribal base. Affiliation meant enfranchisement; without it, one had none of the good things in life, with it anything was possible. It offered the unique path to well-being. For all these reasons, affiliation to a tribe was the single most important personal possession in pre-Islamic period. Besides those born into the tribal system and those who lived beneath or outside of it, Jahili society also included persons without tribal affiliation but who needed it. These divide into two broad types, free Arabians and everyone else. Arabians born into a tribe occasionally had to quit it because of a quarrel or disgrace. For whatever reason he left, the refugee Arabian contracted hulf (alliance) with another tribe of his choosing, making a contract which closely paralleled the hulf arranged between two Arabian tribes. Both of these groups, freed slaves and non-Arabians, acquired the same affiliation, the wala'; both of them became known as mawlas. Though some of them had been slaves and others had always been free, such



differences mattered less than that they had all acquired a similar affiliation to a tribe. The wala' formally established them as full members in a tribe, equal in rights and duties to the born members, at least in theory. The wala' took the form of a contract, a solemn agreement binding the mawla, his patron, and the tribe. Ceremonies attended the occasion and in Mecca it could take place at the Ka'ba, lending the ceremony a religious tone. Normally, it did not involve an exchange of money. Looking ahead to the Islamic era, the mawla status had these important characteristics in Jahili society: (a) all non-Arabians, freed or free (but not persons in state of slavery, true slaves) were mawlas; (b) the mawla was a second-class citizen; (c) protection in return for inheritance rights served as the quid pro quo of the wala'. Despite vast social changes, these three points remain valid throughout the Arabian period, until 132/750. Just as non-Arabians living in Jahili Arabia had been mawla-allies and associate members of society, so they remained mawlas and associates in early Muslim society. The mawla status for non-Arabians survived the change from Jahiliya to Islam with just one modification, albeit a major one, the requirement that a free mawla convert to Islam" (Willis, 1985: 199-211). In early Islamic period, non-Arabic elements were quite little. However, prophet Mohammad had not differentiated them from society and gave importance to them so that they can feel themselves as a crucial part of community. Any discriminative action against this group due to their race, was not allowed in that era. They were benefitted from administrative affairs and public service. Bilal from Abissinia and Salman from Persia can be given as significant figures. Tribalism in pre-Islamic era, was a huge danger which eradicates the social harmony and peace. Main motto of ' Help your brother even if he is oppressor or oppressed ' revealed deeply Arab tribalism. Prophet Mohammad stressed this problem in his farewell sermon and said that : "Neither the Arab nor the non-Arabic one has a superiority. Superiority is only with taqwa, that is to say pioussness. Arabs belittled and underestimated Mawali in many respects and also recognized them as lower class. Mawali did not take place in Islamic army or politics. Army was consisting of pure Arab people in especially Ummayyad reign. Any share of war booty or state revenues was not given to this underclass. There is no any Mawali name in army registers which are used for distributing these shares. (Demircan, 2015). Mawali who is used in military service, was being more activated as infantryman at the death points. German writer Wellhausen compared this situation to the relation

between cavaliers and their male servants in the middle ages. (Wellhausen, 1963: 116). The main reason of this, “after 13/634, however, as the Arabians conquered vast territories, the mawla status became a very important distinction between Arabian and non-Arabian Muslims. Thus, a study of mawla-converts in this period is an inquiry into the relations between Arabians and other Muslims; as such it constitutes the central topic in the social history of early Islam. Non-Arabian Muslims answered this deterioration with resentment; until 132/750 they struggled with the Arabians to regain an equal position; and the Abbasid take-over represented their successful revolt against oppression. This argument contains five main points: (1) the Arabians arbitrarily discriminated against mawla-converts; (2) the mawla--converts responded with resentment; (3) they expressed it by agitating against the Umayyads, the Arabians' regime; (4) their efforts ultimately succeeded when they brought the Abbasids to power; (5) the Abbasids came to power with a mandate to make all Muslims, Arabians and others, equal, and they did so, permanently settling this issue. The non-Arabian who converted to Islam was, in effect, petitioning to join the society of the conquerors. To prevent this from happening in large numbers, the conquerors had to exclude non-Arabians, whether Muslim or not, from the Register and the fruits of victory. The change occurred as a result of the conquests; when Islam became a tag of privilege, old Muslims found they needed some new status for new converts in order to prevent them from spoiling the benefits of victory. A look at taxation policies confirms the Arabian unwillingness to grant non-Arabian Muslims advantages over their unconverted brethren. Although obliged by Islam to release converts from the jizya (poll tax), throughout the Umayyad period the Arabs were extremely reluctant to relieve people of their poll taxes. In Egypt, for example, they discouraged conversion and in many instances refused to exempt the convert from his poll tax.”( Willis, 1985: 211-216). However, Mawali could be appointed as state officer only under certain circumstances. These assignments originated from their capability and experiences related to diplomacy and foreign affairs. Bureaucrats which are responsible for tribute taxes were generally elected from Mawali who was well-informed about tax gathering . In addition, Mawali took charge in councils or committee because they knew and wrote foreign languages. (Öztürk, 2016: 154). Arab rascism and discrimination directed Mawali to two behaviours. Firstly, they developed and improved themselves at the

fields of commerce, science, art, craft etc. Secondly, they exhibited a reactionary and oppositional politics contrary to Arabism. Arabs generally interested in politics, military and administrative affairs that are accepted as 'superior professions' by them while Mawali excluded from politics and confined them to farming, building, teaching, doctorship that are despised by Arabs (Demircan, 2015 ). The fact that the region of Iraq was the center of wars and uprisings, caused Mawali to play a leading role in the emergence and development of new political ideas. They tended to interest in science and tried to exist in this field, when they could not find an area in the administrative and political spheres (Erdoğan, 2005: 321). "Wellhausen also evaluates the mawali movement from a socio-economic perspective, highlighting their humiliation and unjust treatment under the repressive rule of the early Marwanids, when Al-Hajjaj imposed a poll tax on the numerous mawalis who had embraced Islam. Implementation of this policy caused a dramatic and bloody rebellion among the mawalis, but although al-Hajjaj suppressed these revolts with military rule, they continued to re-emerge in different forms" (Bennaji, 2015). For instance, "Abd al-Malik and al-Walid's reigns are considered highly significant, not least because of their control over the rule and successful construction of an entire hegemony over their internal and external opposition. Abd al-Malik and al-Walid introduced many reforms such as the coining of money and the status of Arabic as the official language of the caliphate, giving further protection to their hegemonic ambitions".(Shaban,1970: 174-175). However, these events had been one of the most crucial driving force for Mawali in terms of gaining a political consciousness and experiencing scientific activities.

Kremer suggests that " scientific studies of the Quran, exegesis, hadith and fiqh were mainly carried out by Mawalis during the first two centuries, which in turn indicates the mawalis' significance in the development of Islam's role. Goldziher cites many literary references, such as al-Aghani and al-Iqd al-Farid in order to explain the social relationship of the Arabs and mawalis. He maintains that al-Hajjaj was a fanatical enemy of the mawali. Only with great difficulty could the mawali change their patron, and in the case of any violation, they were disciplined by customary law.<sup>475</sup> In this context, both Kremer and Goldziher maintain that the Khawarij attracted the mawali because of their protest against the rigid tribal affiliation and rejection of the Quraysh's claim over the legitimacy of leadership. However, Mawali was generally interested in

fiqh (Islamic Law) due to protection need and minority psychology. In addition, in the discussion of the creation of the Koran, Mawali' claim that the Koran was created, also includes a refusal against Arabic. Goldziher, following Kremer's lead, notes that the mawali joined the Khawarij because they called for their basic human rights, while the link he draws between the Shu'ubiya and the struggle for equal rights is also worth noting. Quranic teaching clearly affirms the equality of all qaba'il (tribes) and shu'ubiya (people), and the Shu'ubiya gradually reached its pinnacle in the second and third century of hira when the non-Arabs condemned the racial arrogance of Arabs and demanded complete equality."(Bennaji, 2015). In fact, Arab nationalism ultimately led to a socio-cultural response to the emergence of a number of formations known as Shu'ubiyah, the majority of which were composed of elements of Spanish, Berber, Coptic, Greek, Turkish and Persian origin. The member of this movement who gathered more supporters in Africa, Egypt and Andulisia, previously called themselves egalitarianists. However, as the importance of Mawalis in Muslim society increased, they reached the point of defending that they were superior to the Arabs. The first point of emergence of the Shu'ubiyah movement was that the mawalis and the Arabs were equal in all areas and therefore had the same rights. Arabs targetted muslims outside themselves as second class. Worship with them was accepted as an example of modesty for Arabs and also blessings for Mawalis. In Umayyad period, Mawalis were perceived as a class created to serve the Arabs and they were not allowed to gain any title of nobility. Arabs do not allow mawalis to pass in front of them in ceremonies, do not sit at the same table with them, do not marry, and often do not pray in the same mosque. During governorship of Hajjaj, mawalis were consciously removed from the cities, forced to settle in the provinces and prevented to migrate from provinces to the cities. (Demircan, 2015: 190). Despite all the support they gave to the Umayyad opposition, the perspective of opponent Arabs against mawali was the same as that of the dominant Arabs. Mukhtar at-Thaqafi's rebellions initiated against Umayyad reign, is one of the most typical example of this. Notable Arabs who supported the rebellion, criticized the rebel leader Mukhtar because of their respect for the mawali, even though they supported the rebellion. Notable and influential Arab leaders withdrew their support to the Thaqafi movement after a while since the fact that mawalis benefitted the incomes of fa'y and other opportunities provided by rebellions (Onat, 2016: 113). With

the Thaqafi movement, the establishment of mawali's army and the necessity of accepting that Mawali and Arabs were equal was the first acknowledgement of Mawalis as a factor to be considered in politics. However, as noted above, Mawali was benefitted from administrative and scientific affairs due to their professions. Al-Salabi argued that "the mawali participated actively in socio-political and intellectual activities, and were appointed as military leaders, and officials in governmental institutions. Similarly, many of them gained a central religious position and produced copious scholarly works. Bennaji categorizes Mawali into three. " Firstly, Those mawali who had been slaves and were later freed by their Arab lords, after which they allied themselves to various Arab tribes or associated themselves with one of the leading Arab tribes. This type of mawali played a central role in the political establishment. Sarjun b. Mansur al-Rumi worked as a katib (secretary) to Muawiyah in the finance ministry. Secondly, Those mawali who were leading Islamic scholars and who had gained wide acceptance and prestige in the Muslim community. They contributed to all disciplines, including Quranic studies, hadith, and Arab literature and thirdly, Those mawali who accepted Islam without affiliating themselves to any particular tribe. They joined the socio-political movements according to their regional context, for example, actively participating in the socio-political life of the Umayyad era. From the early Umayyad era onwards, their participation in rebellions is evident, and includes the rebellions of al-Mukhtar and Abd al-Rahman b. al-Ash'ath. The role of mawali in the army of IbnAsh'ath is considered to be one of the earliest and best examples of mawali (i.e. non-Arab) reaction against a tyrannical Umayyad administration."(Bennaji, 2015: 153,154). Bennaji also stressed that the conflict between Arab and Mevali was also a cultural struggle. For him, " The mawalis' quest for equal rights was neither purely economic nor political, since it took place during a cultural struggle between the Arabs and non-Arabs, particularly between Arab and Persian cultures. Gibb has analysed the social significance of the Shu'ubiya movement, arguing that it was not simply a conflict between Arabs and non-Arabs on the basis of political nationalism but rather represented a struggle between two variant schools of literature, each seeking to define the destiny of Islamic culture"(Bennaji, 2015: 161). The main factor in the emergence of Shu'ubiya movement was in fact this cultural struggle. Because, " these non-Arab mawalis secretaries of the Shu'ubiya, unlike their predecessors, argued for the

superiority of the Persians and other non-Arabs over the Arabs, a claim not based on the putative superiority of religion, but rather on the pre-eminence of non-Arab socio-cultural and civilisational elements”(Bennaji, 2015: 162). The struggle between Arab and Persian culture effected lots of provinces and gathered fans. Gibb describes “ a Persian resistance movement which influenced the people of Khurasan and the northern provinces of Iran during the second half of the second century and invoked anti-Arab sentiment”(Bennaji, 2015: 163). However, actions and rebellionist movements organized by Mawali, should not be interpreted as absolute Shi’ah advocacy. The supporters of Ali, during the Umayyad period, were not defending Ali's ideas or the ideas made on behalf of Ali; it meant being against the Umayyad reign. Within the legitimate conditions of the current political, social and scientific environment, mawalis could have the opportunity to present their protests only under the flag of Ali. Pressure mechanisms operated by some Umayyad administrators in terms of impossibility of passive faith on mawalis who later joined Islam, did not have enough knowledge about monotheism , acted loosely about deeds and did not leave own old culture and civilization, converted mawalis to a socio-political structure by adapting the ideas of the school of Murjiah that stated possibility of faith without good deeds. Murjie, which allows the possibility of passive faith, has naturally been among the ideas that attracted mawalis in the process of Islamization.(Kutlu, 2002: 149-196). It was very difficult for the first muslim generations to adapt the principles of a religion whose language, rituals and cultures were different. Therefore, within the framework of the union of faith and deeds, the Islamic views, which foresee various punishments in the world and in the Hereafter , have been repellent for mawalis. However, unlike the other sects, Murjie was more attractive for mawalis on the occasion that faith and deeds are separate, sinner muslims will not come out of Islam in the world life and their affairs will be delayed to God in the Hereafter. The relationship between Murji’ah and mawali reached the peak point by Haris Ibn Sureych (d.746) ’s revolt. (Kutlu, 2002: 174). So, the belief that faith is separate from deeds was also expressed by Abu Hanifah and was influenced by the school of Murji’ah in this direction. The moderate attitude and religious tolerance of Murji’ah dominated Abu Hanifah in an early section of his life. Since the Abu Hanifah knew the problems experienced by the Khorasan and Central Asian peoples, which were the first elements in the process of Islamization, he sent his students to the region for a

healthy religious service in order to protect the people from the effects of the dangerous streams in the region and worked to be a guide for mawali. Abu Hanifa's reconciliatory approach in the faith-deeds relationship in order to gain Mawali and the conveniences provided by him in the field of fiqh, led him to be linked to the Murji'ah.(Doğan, 1992:168). Although it is not an absolute cause, the factor of Mawali has a significant impact on the formation of the Shi'ah as directly.

According to one opinion, Mawali, who was concentrated in cities and deprived of his rights and therefore participated in many rebellions, also played an important role in the Shi'ah's opposition that focused on Kufa. They have focused on the concept of Ahl al-Bayt to overthrow the Umayyads and to gain equal rights with the rest of the society. With this effect, Abbasids used the rhetoric "er-Rıza min âl-i beyt"(God's mercy and blessing are from ahl-al bayt) in their propaganda and pledged that they would bring justice, and succeeded in taking this mass that was opposed to the Umayyad power.(Kutlu, 2000: 99-120). The matter of imamah which is the most characteristics of Shiah was shaped by the unjust and unequal practices of the Umayyads against Mawali and Ali's supporters.(Fiğlalı, 2001: 246). Mawali played an important role even though at different levels of influence, in the formation of the first Shiite movements and ideas and also in the process of formation of a new spiritual paradigm under the name of Shi'ism.( Aydınlı, 2003: 21). According to another view, This cruelty operated against Mawali in the social, financial and political spheres resulted in Mawali's acceptance Shia's secret and open invitation along with hopes of being free from these atrocities. This situation naturally brought about the effective role of Mawali at the development of the Shi'a sect of the region.The thesis on the birth of Shiah are based on the assumption that this sect is of Iranian or Arab origin. According to Watt, the events related to Shiah took place for the first time among Arabs. Because for believing that Ahl al-Bayt had special qualities and believing that good and bad qualities based on it originated from blood and kin ,were more appropriate to the Arab faith. According to Watt, this situation continued until 685 and the non-Arab elements were mixed with the Mukhtar's Arab uprising (Watt, 1981: 53) Mukhtar at-Thaqafi event is considered to be quite important in terms of Mawali. In fact, in this movement, two seemingly mutually complementary, but in essence, two opposing elements coexist. One of them is the Arabs who want the revenge of Hossein and the other side was

Mawali who is against the Umayyad power and wanted to put forward their reactions, but the contradiction between classes could not be overcome; the conflict of interests between the Arabs and the Mawali dragged Mukhtar at-Thaqafi into some difficulties. Mukhtar, as well as, did not win Arabs, due to the fact that he could face the danger of annoying Mawali. While Mawali accused him of taking the side of the Arabs, the Arabs also rejected Mawali to take shares from booty. (Wellhausen, 1989:131). In short, as a current disadvantageous class, Mawali has taken on a structure that shapes the politics of its time. So, in the first place, Mawali built on the discourse of equal rights, supportance to Ali and the right to the caliphate of the Ahl-al Bayt.

Ali has a leading role within the companion generation for understanding Abu Hanifah's fiqh tradition. Imam follows Ali's mentality at the field of Islam's general and basic targets, existentialist problems related to human, life, universe, politics, society etc. As Abu Hanifah's references on Fiqh philosophy were Umar and Aisha, his reference on existential philosophy was Ali. Advocating and defending the Imams from Ahl-al Bayt originated from only this perspective rather than heredic factors. According to Abu Hanifah, Ali and his generations was talented and virtuous who could not be compared to anybody in terms of merit in order to take over the Islamic nation. Therefore, the support of Abu Hanifah to Ali and his descendants is not related to the holiness of them, but rather to the ability to find them competent in the administrative affairs. However; Abu Hanifah's support for Ali and his just generations does not mean that he advocated the Shiah which expressed that imamah of Ali and his sons was determined by Quran and prophet's appointment. There were two main difference which Imam differentiated from Shia groups. First one is, Abu Hanifah was accepting Abu Bakr's caliphate as valid and legitimate. The other one is, for him, caliphate is determined by election of Islamic nation but not a revelation or Prophet's appointment. Ruling is sustained by only public consent and compromise. (Öztürk, 2016: 272-274). However, this matters will be discussed in later topics.



### **3.5. The School of Ahl Al-Ra'y (Rationalists)**

In essence, the fight was between two mindsets, two different perspectives, or mentalities which could be named as Ahl al-Ray and Ahl al-Hadith, or in modern day terminology, between Rationalists and Traditionists. An alternative naming would be Innovationists and Conservatives. Major themes of the conflict included: whether Qur'an is "created" or not, whether Sunnah (Tradition, sayings of the Prophet) is an alternative source of Shariah (Islamic law), whether human beings create their actions, whether we have "free will" or not, whether our actions are subject to predestination, whether reason should dominate the text, whether analogical reasoning should precede in making judgments or not. In many cases these disputes were not pure intellectual-philosophical or religious disputes: they had social-political roots as well as implications. Major figures in this dispute are Mutazilites, Murji'ah, Wahhabis, Abu Hanifah, Al-Shafi, Ahmad b. Hanbal, Al-Ash'ari, Al-Maturidi, Al-Ghazali, Ibn Rushd to name just a few (Acar, 2014: 2). "During the Mihnah in the first decades of 3rd century, however, the struggle between the two groups reached its peak. The Ahl- al Hadith, who relied on only reports from the Prophet and his Companions, fought on two fronts: against the theologians (the Ahl-al Kalam) who used ra'y in theology and Iraqi jurists (al-fuqaha) who used it in jurisprudence."( Osman, 2014: 109). Theological discussions were the factors that ignited the fuse of this struggle. "Kalam, the rationalist school, reason precedes text when it comes to choose between aql vs. naql, or reason vs. narration. Any sound argument should be based on logic and reason. If there is a contradiction between what reason and text say, reason should take priority. Te'vil (interpretation) of the religious text is allowed and encouraged. Reasoned opinion (ray) should be used as a source of generating knowledge and judgment when there is not an open Qur'anic verse to resolve a problem. If one says "I have 1001 proof for the existence of God," it is found exciting and worth listening. Qur'anic expressions such as "God sat on Arsh (Divine Throne) (Qur'an, 10/3), "God's hand is above their hands" (Qur'an 48/10) should not be taken literally, interpretation is necessary. They can be interpreted as God's hegemony, divine power, etc. Major figures include el-Esh'ari (d. 941), Maturidi (d. 944), Vasil b. Ata (d. 748), Cuveyni (d. 1085), Allaf (d. 850),

Nâzzam (d. 845), Câhiz (869), Zemahsheri (d. 1144), Taftazâni (d. 1390), Cürçânî (d.1413).”(Acar, 2014: 3).

Ibn al-Muqaffa (d.756) observes that “one party claims to follow sunna, although he chides them for actually, on examination, tending to follow earlier ra’y. Implicitly, other jurists did openly follow ra’y. As established by George Makdisi “traditionist” indicates a muhaddith, someone who studies and transmits hadith, whatever his theological inclination, whereas “traditionalist” indicates someone who systematically prefers to base his law and theology on textual sources as opposed to speculative reasoning. Ra’y originally had a positive connotation as observed by Joseph Schacht: Ra’y originally meant ‘sound opinion’ was used of the element of human reasoning, whether strictly systematic (referring to qiyas) or more personal and arbitrary (referring to istihsan). It may have acquired the negative connotation of mere opinion because of traditionalist polemics against it.”( Melchert, 2015: 264-266). As seen, while the school of Ra’y brings a wise opening to religious, political and social issues, the school of Hadith tends to solve all problems by adhering to the religious texts by their strict and literal structure without any independent interpretation or judicial opinion. Even the places where these schools came to life were influential in their intellectual attitudes. For instance, “Ahl- al Hadith are the people of Hijaz, companions of Malik, al-Shafi, Sufyan al-Tawri, Ahmad Ibn Hanbal and Dawud Ibn Khalaf. They were called the Ahl- al Hadith because of the great care that they gave to learning and transmitting Hadith, their relying on religious texts in their jurisprudence and their refraining from using qiyas when a tradition is available. On the other hand, Ahl-al Ra’y are the people of Iraq, Abu Hanifah’s associates with qiyas- at times giving one of its forms, al-qiyas, precedence over traditions –and relied on the ‘meaning that can be deduced from legal rulings””( Osman, 2014: 96). However, “The Ahl al-Ra’y, then were the Iraqis, notably Abu Hanifah and his followers. They adhered to the doctrines of the Companions who had moved to Iraq in the early decades of Islam and made a practice of issuing fatwas. Their distinguishing feature was their largescale and frequent use of qiyas and their giving it precedence over traditions transmitted by single transmitters. By contrast, Ahl al- Hadith, both in Hijaz and Iraq, were more reluctant to give fatwas and preferred to remain silent when when they did not have a relevant text to rely on in a particular case.” (Osman, 2015: 109). The importance of socio-cultural status of these schools in

the distinction of them is one of the issues that should not be ignored. It is interesting to note that vast majority of the Traditionists had the following characteristics: were Arab, aristocrat, rural, agrarian, nomad, agriculture. On the contrary, majority of the Reasonists or Innovationists had the following social and cultural base: non-Arab, Mawali (immigrants, captives, slaves, Persian, Central Asian, urban, trader, artisan. The great Muslim philosopher Ibn Khaldun argued that the geography, climatic conditions and way of subsistence has a determining power on one's living style and way of thinking. Obviously these conditions are not the same in rural and urban areas. The rural areas are characterized by harsh natural conditions, simple life, nomadic or agrarian way of life. The life in rural areas are relatively simple, living conditions are more difficult with no or little public services and less variety of livelihood possibilities. On the other hand, urban areas are characterized by a settled life with more possibilities of trade, artisanship, services, higher possibilities of earning money, etc. Ibn Khaldun seems to be right when we link the followers of the line of thought and the environmental-cultural conditions. People of Tradition (ahl-el Hadith) were primarily Arabs from Hijaz, rural areas, simple nomadic and agrarian life surrounded with harsh natural conditions.<sup>6</sup> On the contrary, People of Reason (ahl-el Ray) were primarily non-Arabs, children of slaves, converts, immigrant Muslims, lived in more developed, urban areas (Iraq, Syria, Basra, Kufe, Damascus), cities with more possibilities on professions, artisanship, and commercial activities (Acar, 2014: 6)

Abu Hanifah's involvement in science corresponds approximately to his 20s. He had an idea about all sciences since he joined the lectures at the mosque of Qufa. First he turned to theology and focused on the wars of Kalam.(Yörükkan, 2002: 46). At the time, the majority of Kalamic and philosophical debates were held in Basra and went on more than twenty voyages to participate in these discussions. He was confronted with members of various factions in Basra and discussed with the members of different sects such as; Khawarij, Shiah etc. However, later, Abu Hanifah thought that the science of Fiqh is more appropriate for him and participated to Hammad Ibn Solomon's lectures. Other than that, he met with many famous scholars of the period, and made scientific conversations with them.(Zorlu, 2013: 26-42). Kufa was a place where many denominations and parties coexist from Mu'tazila to Shiah, from Murji'ah to philosophical schools. Therefore, there were severe intellectual conflicts. Abu Hanifah

grew up in this conflictual environment, heard all specific ideas and had a view about these various opinions (ebu Zehra, 1983: 31). In addition, he had the opportunity to learn the ideas of various intellectual currents due to the fact that he is a merchant. All of this broadened Abu Hanifah's horizon and availed him to create and form his own perspective (Çaylak, 2018: 336). Abu Hanifah played a major role in the systematization of Fiqh of Iraq which came to the fore by the name of "Ahl-al Ra'y". That is why, the most important representative of this school was Abu Hanifah by his rational jurisprudences. The period, from the beginning of the second century of Hejira to the beginning of the fourth century of Hejira, is the period in which great mujtahids grew, jurisprudence methods were clarified and Fiqh was codified. These Fiqh groups known as the schools of Qufa and Hijaz were begun to be called as Ahl-al Ra'y and Ahl-al Hadith (Öğüt, 508). Ahl-al Hadith is from Hijaz (around Madina). The most important representatives of this school are Malik Ibn Enes, Mohammad as-Sha'fi, Sufian as-Sevr (d.778), Ahmad Ibn Hanbal and David Ibn Ali al-Isfahani (d.910) and their supporters. This school expressed that their target and purposes are to learn Prophet's hadiths, convey the tradition and adjudge based on literal meaning of Quran. They have not applied to explicit or implicit comparison or interpretation (Şimşek, 2012: 47). Supporters of Ra'y are from Iraq (especially Qufa) and Abu Hanifah is the main representative of this school. One of the most fundamental effects in the formation of the school of Ahl-al Ra'y was Ali, Umar and Abdullah Ibn Mas'ud's attitudes and approaches which searched, interprets and adjudges based on Ra'y. This attitude developed in Qufa which is one of the newest cities, established by Umar and then spread around the region of Iraq (Kılıçer, 522). Their fundamental target was to detect real meaning and aims of religious texts and apply these aims to new events and incidents faced by people from different geography and places. So Abu Hanifah said that: "We know that it is a Ra'y (view/opinion). The best Ra'y which we could do, is that Ra'y. Another person can reveal better Ra'y than us and We benefit from this view." Briefly, as Ahl-al Ra'y gives lots of importance to the aim and content consistency of religious texts, Ahl-al Hadith respects literal meaning of religious texts and does not give any importance to the internal consistency of them (Apaydın, 1997).

**CHAPTER IV**  
**ABU HANIFAH'S POLITICAL THEORY**



## **4. ABU HANIFAH'S POLITICAL THEORY**

The political struggle of Abu Hanifah and the system of fiqh he developed gave us a certain paradigm in terms of his approach to the basic and current concepts of political philosophy. In this part, Abu Hanifah's original method in solving the religious, political or social problems and his political adventure and political thought will be discussed in the context of certain concepts of political philosophy.

### **4.1. Methodological Dynamics**

The methodology of Abu Hanifah, one of the pioneers of rational thought in Islamic thought, has great importance for detecting his think world. Abu Hanifah's solutions-based on reason- to the new problems that arise over time come from his efforts to build a rational society.( Saritaş, 2015: 109). What makes Abu Hanifah different is that he has developed a knowledge-based fiqh system, that he freely used his opinion in areas where revelation did not intervene, and that he always used mental initiatives to solve matters. Abu Hanifah's religious understanding based on convenience, moderation and tolerance shaped his opinions on political issues as well. Understanding his methodology is essential to understanding what kind of attempts he brings about political issues. His courageous stance, which is based on ijtihad (judicial opinion) in understanding the Qur'an, has also manifested itself in the political arena and developed an administration understanding and resistance to shed light on the present day. That is why, his methodological dynamics regarding his ijtihad and main arguments will be discussed by this topic.

According to Abu Hanifah, it is compulsory to reason about knowing the creator and universal realities. First of all, God wants to use it as required. Imitation in the Qur'an is condemned as an obstacle to the use of reason. So, Allah has been harshly criticizing those who go blind from the traces of their ancestors or leaders without questioning religion (Surah al-Baqarah:165-166). However, there is a need for a wise reasoning in order for the activity of information. When reasoning is only carried out in accordance

with its conditions, correct information can be produced. Abu Hanifah and his followers asserted that after the reasoning in a correct manner, the occurrence of knowledge depends on a divine tradition. Even main point which separates Ahl-al Ra'y from Ahl-al Hadith, is difference of method in terms of understanding the religion and religious texts. Because there were lots of events and incidents in human life. A verse for each event had not come and it is not possible. Verses are limited but events and incidents are unlimited and eternal. So, need of jurisprudence and comparison had occurred. Provisions of events must be given by jurisprudence. At this point, the application of the method based on ijtihad to open the blocked points of social life from the religious point of view; is the biggest evidence in terms of unlimited use of reason. (Yavuz, 2002: 11). According to Abu Hanifah, as a great representative of the school of Ahl-al'Ray, having and using mind is the biggest merit of human kind and he thought that intellect/mind is only operated by having true informations. Because for him, it is possible that knowledge is subject to deeds and actions just like all organs are attached to the eye; because very little good deed together with knowledge, is more useful than very much good deeds with ignorance. That is why, Allah says in the Quran : "Are those who know equal to those who do not know?" ( Surah az -Zumar :39/9) Abu Hanifah equates the revelation with reason in terms of being the sources of true path by taking Quran as reference "those who are in hell, will say, "If only we had been listening or reasoning, we would not be among the companions of the Blaze." ( Surah al-Mulk :67/10) So, for Abu Hanifah, reason, too, is accepted as a source of true path like revelation, conscious and disposition. Also he draws attention to the danger of acting with no information about an issue. So, Abu Hanifah had showed a verse of "And do not pursue that of which you have no knowledge . Indeed, the hearing, the sight and the heart - about all those [one] will be questioned"( Surah al-Isra :17/36) as an evidence. According to him, in this verse, while Allah does not give permission to speak, to slander anyone, without certain knowledge, how can people hurt each other without any definite knowledge.(Öz, 1992: 22) He suggested that faith is possible only with knowledge. Because religion is lived by true knowledge and verifications rather than traditional imitations or pure unquestioned faith. Abu Hanifah had even interpreted the fiqh as ' to know what is in favor of and against human'. So, his faith on God is even linked to the knowledge of God. (Öz, 2014: 54-56). However, the need for accurate

information does not only stem from ontological factors but also socio-cultural situations played an important role.

After the death of the Prophet Mohammad, Islamic geography expanded rapidly with conquests and Muslims encountered different cultures and civilizations. This situation brought along the many legal problems on the one hand and the necessity to review the different lifestyles of these places in line with Islamic principles. Thus, Muslims had to implement Islamic law in a neighborhood they did not know before. For this reason, they used the Ra'y and ijtiḥad effectively, as they learned from the prophet. The fact that the companions witnessed the coming of the revelation, passed them through, and dominated the general purpose and spirit of the Shari'ah, facilitated the use of ijtiḥads to solve the problems they faced (Karaman, 1996: 63). Their use of Ra'y is broad enough to encompass various methods of explanation, interpretation and comparison of similar phenomena, and various methods which are determined from the spirit, general intentions and rules of the Sharia.(Karaman, 1996:13). So, ijtiḥad was a necessity brought by social conditions but this need was not realized by the closed Hijaz community, but by Kufa, the land of diversity, including Abu Hanifah.

Abu Hanifah's fiqh was based on Quran and Sunnah. He "was among the first state to these sources as such in explicit terms and in their strict hierarchial relationship : "I hold to the Book of God . Exhalted is he. If I do not find (what is sought) in it, then I hold to the Sunnah of the Messenger of God, peace be upon him; if I do not find in the Book of God and the Sunnah of his Messenger, then I hold to the opinion the companions. I hold to the opinion of whoever I want among them and I leave the opinion of whoever I want among them. I do not leave their opinion for the opinion of other than them. When it comes to the Successors), then I do ijtiḥad as they did." (Nadwi, 2010). For Abu Hanifah, ijtiḥad is subject to the conditions expressed in the terms Qiyas, istiḥsan (preference between permissible rulings) and ra'y.(nadwi) Accordingly, Abu Hanifah used the qiyas and preferred it above an ahad report unless that report came from a narrator who was a jurist."(Nadwi, 2010). Qiyas and Istiḥsan are the methods Abu Hanifah used to find the true information and solve problems. Nadwi stated that "The use of Qiyas (juristic analogy) to derive appropriate legal rulings entails ijtiḥad. The legitimacy of such effort to interpret and extend the law is, again, based on Quran and



Sunnah. Qiyas has been defined in different ways, but the most popular definition is to derive a new ruling by analogy with an existing ruling on the basis of existence, in two cases, of a common legal cause (illah). Abu Hanifah worked out with great care the distinct elements of a juristic analogy, and the conditions that must be met if the analogy is to be valid. The four elements of analogy are (1) the original situation (asl), for which (2) there is an established rule in the texts (hukm al-as), (3) new or comparable situation for which a ruling is sought and (4) the illah (ratio-legis), the legal ground on which the original ruling is based.”(nadwi). The most common example of Abu Hanifah’s qiyas was about the situations of the great and minor sinners in terms of forgiveness, and he said that :” There are two persons. One of them travels in the sea and the other one travels in a small river. I'm worried about both of them drowning, but I hope they're both saved. However, I hope more that the person in the small river will be saved than anyone in the sea. Just like this, I am more afraid of the condition of the great sinner than the minor sinner. I hope more the minor sinner to be forgiven than the great sinner (Öz, 2014).

Abu Hanifah stated the method of istihsan as a provision given by basing more powerful proof or causes at the situations when comparison is conflict with spirit , general principles or purposes of religion. As it is seen, the purpose of applying to istihsan is its ease, width, tolerance and comfort. In other words, istihsan refers to abandon the difficulty for convenience and the fact that the mujtahid chooses the best way by using his discretion.(Bardakoğlu, 2001:341). There are a variety of reasons that led Abu Hanifah and his colleagues to use the istihsan. First reason is that Istihsan is based on more powerful proof than the Qiyas. Second one is that Qiyas led some unwanted implications. In some situations, Qiyas may conclude against the general target of Sharia and common good. While Qiyas is bound to religious texts, Istihsan is an ijtehat made according to social conditions and procedures and gives to the law authorities more free positions and discretion. Third reason is eradication of difficulty, providing convenience, compensation of the damage. However, the method of istihsan is not arbitrary, but it refers to separation from the original by strong evidence.( Şener, 1974:119-120).

Abu Hanifah was often accused by his opponents for his reasoning and *ijtihad* based on *Qiyas* and *Istihsan*. Even Jafer al-Mansur, Abbasid's second caliph, was influenced by the criticism of the Abu Hanifah and tried to learn the truth of the work by writing a letter to him. Mansur wrote a letter to Imam for some important matters. He asked him :”Write to me what you think. People claimed that you are a person who makes *qiyas* and jurisprudence.” Abu Hanifah responded to this letter as follows :”I wrote the problems which you asked me. If you understand these matters, it means that you think like us, too. However, if you do not understand and enter into discussion with us , it means that you make also comparison like us.”(Öztürk,2016). This case is one of the most important examples that reveal the genius personality of Abu Hanifah. He was rejected and declared as unbeliever by his opponents, especially the followers of Hadith, due to his jurisprudence and political activities but Abu Hanifah never brought such an accusation for them. He stated that “ they lie by stating that I am unbeliever. Therefore, I am only accused them of lying not blasphemy. It is just something between Allah and them.”( Öz, 2014). Although Abu Hanifah was subjected to criticism and accusations in his own time, he was among the exemplary figures with his scientific identity, protest stance and modesty. In the context of the philosophy of knowledge, he integrated theory and practice; individual and society and produced information with principled, methodical and systematic reasoning. Abu Hanifah had a world of ideas that went beyond the period he lived by taking into consideration social conditions while producing knowledge, avoiding radical attitudes, making religious beliefs understandable, making *fiqh* provisions liveable and putting forth their thoughts within the limits of reasonableness and consistency. He suggested that human being has free will; reason has an undeniable role in faith; knowing the God is only possible with reason; reason needs revelation for judging and revelation needs reason for understanding the religion. Abu Hanifah also, in the formation of his legal methodology, made theoretical and practical reason as functional as possible and has created a unique system that is called ‘*Ra’y*’. (Saritaş, 2015: 127). Therefore, Abu Hanifah exhibited the cornerstones of a rational society based on deliberation, compromise and common sense.

## **4.2. Responsibility of Political Power at the framework of the Schools of Jabariyyah and Qadariyyah**

To understand the teachings of these two schools is essential to understand the jurisprudence and politics of Abu Hanifah. He was influenced by these two thought systems and approaches, which were effective in his age and he followed a middle ground. In this part, the theological and political aspects of the debate of fate (qadar) among scholars, will be discussed. Abu Hanifah's position on this topic and political reflections of it will be examined.

During the time of Prophet Mohammad , “The people who belonged to other religions as well as polytheists were engaged with the problem of destiny (taqdir)”( Bhat, 2007: 1). The issue of fate was not discussed in the early periods of Islam, but later turned into an important religious and political discourse. “The word al-qadar derives from word ‘qadr’ means amount, quantity, magnitude, size, volume, propotion, deal, number, measure. According to Saleh as-Saleh, the linguistic and Islamic meanings of al-qada’ and al-qadar are connected to each other. He elaborates that linguistically, the meaning of al-qada’ refers to the: ‘. . . perfect commanding, decreeing, ruling, accomplishing and perfect precision in execution”, while al-qadar refers to the: ‘. . . setting, commanding, executing, and encompassing in due and precise propotions. In the Introduction to Translation of Sahih Muslim, the translator, Abdul Hamid Siddiqui says that the word Taqdir used in the Quran does not always signify something predestined. It at times implies a measure or the latent potentialities or possibilities with which Allah created man and all things of Nature. For example: He created everything for its Destiny (or its Measure). In Sura 54, verse 9 (the words are): We created everything according to a Measure or Destiny. In both these verses , Destiny implies the inward reach of things, their latent potentialities or possibilities.”( Wan Zakaria, 2015: 40). However, the matter of fate has undergone some semantic shifts in later periods and gained a whole new dimension. “In classical Islamic era, the discussion on the concept of fate (divine predestination) or qadar has created various debates with regard to its relationship with the problem of freedom (hurriya), choice (ikhtiyar) and free will (irada). According to Leaman, the term qadar which means the measuring out or divine determination is used

interchangeably with *qudra* which means ability or power. In the Quran, *qadar* also implies God's power and knowledge (Al-Quran 2: 256; 54: 49; 15: 21). Seyyed Hossein Nasr in this regard, emphasizes that the word *qadar* has been treated differently by various Islamic thinkers such as the jurists, the Sufis, the philosophers and the theologians (*mutakallimun*) according to their respective concern. The jurists when discussing on *qadar*, are more “. . . concern with the rights and liberty that are the outcome of conformity to the divine law (*sharia*); sufis seek inner freedom through liberation from man's bondage to the lower self; philosophers generally assert the reality of human free will from the standpoint of al-Farabi's (d.970) political philosophy; and the theologians (*mutakallimun*) are mainly concerned with the relationship between the divine will and human will, and how the former limits the latter” (Nasr, 1996).

This theological debate among scholars, in particular, has led to various groups and the discussion has evolved to another dimension. “Predominantly, classical discourse on *qadar* is found in debates between two main sects, the Jabarites who believe that God had predetermined the human life at one hand, and the other, the Muktazilites and the Qadarites who believe in human's free will. The Jabarites found support for their views in the Quran. However, as we have discussed in the previous section on the Quranic conception of time, these verses can be misunderstood to conform the pre-Islamic Arabs outlook of fatalism. In this regard, Watt views that it can therefore be said that the pre-Islamic Arabs had influenced the mainstream Islam in giving the role of Time (*dahr*) or fate as the controller of human life to God. It is believed that *qadar* was responsible for paralyzing the energies of the Muslims and was the chief cause of their moral degeneration. The doctrine of *qadar* causes the Muslims to regard all their actions and achievements as dependent on the will of God and, for the same reason, they were unable to safeguard their rights and protect their countries from tyranny –thus obstructing their overall progress.”(Zakaria, 2015: 41).

Bhat suggested that “It was, however, through the interaction with and influences of the other religions and philosophers that the problem of destiny became the subject of debate and discussion during the Ummayyad period of Islamic history. Two groups or schools of thought emerged during this period. One is called Qadariyyah and the other

Jabariyyah. Qadariyyah was founded by Ma'bad ibn Khalid al-Juhani (b. 699). The school took its name from the view that man has the capacity to action and qadar or qudrah—is responsible for his deeds. He was succeeded by Gylan ibn Dimishqi in leading the school who preached the following principles: 1) Man is free and the author of his own actions. 2) God will reckon with man on the day of Judgement and reward him for good deeds and punish him for bad deeds. 3) Iman (belief) is the consequences of knowledge and understanding. 4) The grave sinner is indeed a Muslim yet God will surely punish him on the day of Judgement. Contrary to this was the school of Jabariyyah—the school of fatalism. Its founder was Jahm ibn Safwan (127/745). The group is also known by the name of its founder as Jahimiyyah. It propounded the following doctrines: 1) Man is determined by God in all his actions, including the acts of faith, faithlessness, good and evil. In support of this, the group quoted the following verses of the Qur'an: Verily, all this is an admonition: whoever, then so wills, may unto His sustainer find a way. But you cannot will it unless God wills [to show you that way]: for behold, God is indeed all-seeing, wise. 2) Paradise is not eternal. 3) The vision of Allah on the day of Judgement is possible” (Bhat, 2007: 2-3).

When we examine the origin of the semantic shift in the issue of fate among Muslims, we come across hadiths and rumors. “Muslims believe that the theological creed of belief in qada’ wa qadar has its foundation on the hadith of the Angel Gabriel. When questioned on what is iman (faith), the prophet replied, among others, ‘and to believe in the divine decree (al-Qadar), (both) the good and the evil thereof.’” (Taib, 2000: 4). The actual word used in above hadith is ‘al-qadar’. The original meaning of the word qadar (as a noun) is specified measure or amount, whether of quantities or qualities. The term qada’, on the other hand, is a term used to emphasize the orthodox understanding of God’s sovereignty. Qada (as a noun) means judgement or decision.” (Taib, 2000: 4-5).

Various factions discussed where the limits of human will begin and end. If the political projections of this debate are not understood, it will be difficult to make a sound assessment. “The debate over one’s state of freedom and its conciliation with the Notion of God’s supremacy could have developed from the volatile political situation of early Islamic history. With the rise of perennial sect, the Kharijites, two major

theological debates occurred. One was the question on the nature of iman. The second was the question of freedom of will. The latter was in fact a further extension over the issue of the political legitimacy beset by them. The Kharijites had condemned Ali Ibn Abi Talib and Muawiyah as apostates for their agreement to the arbitration in the Battle of Siffin (657 CE). They argued that arbitration other than by God's Law nullifies a person's faith, thus making him as infidel (kafir). The Kharijites then went further to develop a theological position over what constitutes iman. Iman is, to the Kharijites, outer deeds and expressions. Consequently, anyone who commits grave sin has nullified his faith- a contra-position to the Murji'ites's definition of iman as inner assent. It is within this theological framework that a logical consequent emerged. Is man then free to act? Again there are political overtones in the question. The Kharijites had insisted that anyone elected by the Muslim community and is able to dispense justice is a legitimate claimant to the Caliphate. This is in contrast to the Shi'ites insistence that Ali and his household is the legitimate claimant to the throne. But what is of interest here is that the Kharijites had set the precedent that man is free to set the political directions of ummah. If a Caliph is found committing injustice or any other 'grave sins', then the Muslim community has the right to depose him and to even assassinate him- a fate that befell the fourth caliph, Ali Ibn Abi Talib. Thus, what we observed is that the theological question of man's freedom is in fact, as extension from the debate over political legitimacy and nature of iman. This is further carried in to Umayyad period where the debate had caused the rise of two major sects- the Qadariyyah and the Jabariyyah. The Qadarites were the proponents of free will whilst the Jabarites were believers of fatalism. Again the issue had its political overtones with the Umayyad's deterministic position. Within decades, the Umayyad dynasty founded by Muawiyah began degenerating and committed atrocities towards their political rivals. These political struggles had been the impetus to the free will versus pre-determinism debate. What transpired was the development of the two sects aforementioned. The Umayyads had justified their atrocities by claiming God's predetermination of their actions and conducts" (Taib,2000: 5-6). The concept of fate (qadar) that ignored the human will turned into a political argument during the Umayyad period and entered the process of being the state's official ideology.

After Umayyads, especially Muawiyah (d.680) and his followers, eliminated Ali from the caliphate and turned the political system into the monarchy, tried to religiously justify themselves in order to eradicate dissatisfaction in the society. They used the 'qadar' as shield for themselves in this black propaganda. Muawiyah had said in a sermon that "I am the keeper of the treasures of Allah; I give to anyone whom Allah has given, and I forbid from anyone whom He has forbidden." Also Muawiyah declared that "If my Lord did not see me as competent for this work, he would not leave it to me. If Allah did not like our present position, It would change". That is why, he stressed that the actions of people have been innate determined, all things are the commandments of Allah and it is necessary to obey it. Not only Muawiyah but also other Umayyad rulers benefitted from the ideas of Jabr for legitimizing their wrong actions. For instance, famous governor Hajjaj said that "Obedience to me is more necessary than obedience to God." Also, Hajjaj said when he killed one of the Ali's supporters : "My God, you killed him, you would have banned me if you wanted to" So, he tried to legitimize his atrocities and unjust applications by this way. Umayyads who hold the sovereignty by God's permission (!), claimed that any uprising against them is a disobedience to Allah and also killing an opponent person must be approved as halal. Umayyad reign, first time, had systematically advocated 'qadar' that means all things and happenings are predetermined by divine predestination (jabr). Legitimizing despotism, by the way of qadar, was aimed at preventing the opposition of masses. Opponent groups were targetted as infidel by Umayyad's supporters. Beside of the criticisms made against the belief of Jabr that Umayyads almost acknowledged as an official sect, there were some scholars and poets defending Umayyad reign. Especially, some poets who reflects 'Umayyads's voice', gave lots of support to Umayyads by the way of their poems by defending the idea of Jabr. For instance, Farazdak (d.728) accused Abdullah Ibn Zubair of disbelief. It can be said that the politicization process of the problem of the qadar began with Umayyads. In this period, caliphs brought the qadar as proof without taking justice, righteousness and fairness into account and unfortunately people had to obey. People who do not obey themselves declared as disruptors who create social unrest.(Cengiz, 1999: 122-125). According to Abu Hanifah, Allah has given man the power to realize his acts. This power is capable of committing both good and evil things. However, Allah has commanded the use of

power in goodness.(Öz, 2014: 38). This power created by Allah, is neither before or after the action; it is with the action. If it was before, it would be immediately free from Allah and opposed to the verse of ‘ God is only one and you need him’(Öz, 1992: 62). According to Abu Hanifah, God has created the evil but not consent the evil. Similarly, God has created the drink and pork; however, he has not consent the drink and pork.(Öz, 2014: 46). Abu Hanifah accepted God’s eternal knowledge; but he did not see any contradiction between divine eternal knowledge and free will of human kind. Jabr, independent from free will, is not possible. Umayyad experience and its political mentality based on jabr, led Abu Hanifah to think about fate. Because Umayyad reign had legitimized all wrong actions with divine unchanged authority called as ‘qadar’, however, Abu Hanifah’s political struggle exhibited a rejection contrary to this view. It would be more reasonable to analyze Abu Hanifah’s understanding of fate as theological and political. Theologically, Abu Hanifah’s approach to fate, although far from both views, has adapted a moderate (middle ground) tendency. Because he developed a different approach from absolute libertarian and absolute jabr approaches. However, politically, Abu Hanifah showed a tendency close to the Qadariyah that takes political responsibility forward. As a matter of fact, individual freedom is the basis of social justice as well as justice is the protector of individual freedom. More clearly, human being can only be responsible when he had an individual freedom and actualized his actions without external coercion. Thus, justice required some form of mutual approval between the ruled and the rulers; rulers recognize the free will of ruled people and are also responsible for public. (Yıldız, 2015: 90). Therefore, The Jabr understanding that the Umayyads tried to impose with the fate discourse and the power mentality which eliminated political responsibility has been one of the most important points of criticism of Abu Hanifah.

### **4.3. Opposition and Resistance**

Abu Hanifah pursued an opposition policy by a perspective which criticizes the despotic political power of his era. In the eradication of Umayyad reign and emergence of Abbasid rule, he was favor of active politics. Abu Hanifah’s resistance against atrocity and barbaric rules, his support to rebellionist movements, his discourse on



consent, compromise, council and competence of rulers exhibited fundamental mottoes of an ideal administration system which shed light to our present day and showed a primitive style of a just order. Abu Hanifah's protest stance and political struggle tried to be revealed, however, before arguing this topic, it is quite necessary to understand why Abu Hanifah's political struggle was ignored in especially Sunni theology and muslim world in general. Detecting these reasons has a vital importance for a healthy research.

The question of why the political struggle of the Imam has been ignored is of great importance. One of the reasons is that Hanafism was spread under the tutelage of meliks, sultans and caliphs whose imam struggled for a lifetime. In this case, the rulers who claim that they were Hanafi, would be unhappy with the attempt of an attitude against political power. Since the politics of the imam was an opposing politics, they either concealed the oppositional elements in his law, or tried to hide them. Second reason is that the students, who were the heirs of the Imam's fiqh, could not sustain the political heritage of the Imam due to the political environment in which they lived, and even his students refrained from transferring this legacy. His students did not benefit from Abu Hanifah's politics, the political dimension of his fiqh and the political struggle on the works that he created for them. Third of the reasons is that the Abu Hanifah had heirs who will leave behind him in the Fiqh, but he did not have any heir in terms of his political struggle and adventure. In other words, there were lots of students who demanded Imam's fiqh and knowledge but Imam had not had any student who demands his politics and oppositional life style. The successors of the Imam are only successors in Fiqh, not in politics. Abu Hanifah's politics was deprived of lots of possibilities which his fiqh gained, because his students were not keen to perpetuate his political tradition.(İslamoğlu, 2017:199-200). That is why, Abu Hanifah's political struggle to win just society and order, remained orphan. Abu Hanifah will be examined in this part with the dimension of opposition and resistance.

Throughout the history, resistance has been made as "active" or passive " in the Middle-Islamic world. Active resistance manifested itself either by individual or by opposing thoughts or by scraps. Those who choose the way of passive resistance have a disagreeable attitude towards power.(Fendoğlu, 1999: 167-168) Abu Hanifa, who

may be considered as the leader of the right of resistance, stipulates three conditions for resistance. These conditions are, the presence of a fair head of state who may be substituted for the actual tyrant or head of state; resistance must have the chance of success and lastly resistance must be focused on public interest and common good.(Öztürk, 2016). It is possible to say that the Abu Hanifa is trying to achieve a certain rationality even when presenting the program of any rebel movement or resistance. Shariff stated that “A large section of the Traditionists (ahl alhadith) allowed that they could raise voice against his tyranny and speak their mind before him but they could not rise in rebellion, even though he should seize upon their lawful rights and indulge in unjust bloodshed and open transgression. But Abu Hanifah’s creed in this matter was that the Caliphate of an unjust incumbent was basically wrong and insupportable, and deserved to be overthrown, that people not only had the right, but it was their duty to rise in rebellion against it, that such a rebellion was not only allowed but obligatory, provided, however, that it promised to succeed in replacing the tyrant or transgressor by a just and virtuous ruler, and not fizzle out in mere loss of lives and power.”(Sharif, 1963: 710). Presence of a despotic rule, purpose of establishing justice, planned and organized movement, have created rational reasons and bedrock of such a riot. Revolts of Zaid, Abraham and Mohammad had crucial points for understanding Abu Hanifah’s political struggle with protest ethic and his opinion leadership.

Zaid Ibn Ali Ibn Hossein ,was one of the first rebellionist leader against Ummayyad despotic rule, wrong and unjust implementations. Zaid was grandson of Hossein who was grandson of prophet Mohammad. He was son of a slave woman, so, he was so humiliated for that reason. When Hisham Ibn Abdolmalikh, Ummayyad caliph, heard Zaid’s rivalry against his rule, said that “You are only a slave’s son. How can you want such a position? Who do you think you are?” Zeid answered this question that :”I do not know more virtuous man than a prophet on the floor of God. Ismael is also one of the most virtuous prophets and the last prophet Mohammad is from his lineage. Also, Ismael was a slave’s son. God sent him as prophet even though he was a slave’s son. God would not send him as prophet if this situation was a deficiency.” Zeid invited Abu Hanifah to participate to his rebellion by sending a special messenger as sent to other scholars in Qufa. Abu Hanifah said that “ I would make jihad with him if I knew that the people would not leave him alone, as they left his grandfather. Because he is

right imam; but I will support him with my wealth and money.” Imam sent him 10.000 drachmas so that Zeid’s supporters gained gun, horse and ammunition. Zeid had accepted these economical aids. According to other story, Imam could not participate to rebellion due to his illness. Even if Imam did not participate to Zeid’s revolt as de facto, he supported Zeid’s army with financial contributions. Also Imam gave a fetwa about this rebellion and encouraged people to participate in rebellion. When Zeid revolted against Ummayyad’s cruel Caliph Hisham Ibn. Abd’al Malik, Imam said that “Zeid’s rebellion is similar to Prophet Mohammad’s struggle in Badr. Abu Hanifah had not thought to participate rebellions as de facto due to the fact that he did not trust to the people of Qufa. This anxiety had already prevented many people from participating the rebellions. Abu Hanifah saw the rebellion movements against Ummayyads as lawfull on condition that these revolts would be carried out by a fair imam like Zeid Ibn. Ali. According to Abu Hanifah, right of ruling belongs to the sons of Ali, but this right was not determined by God as Shiite claimed. He supported sons of Ali due to the fact that they were just, fair and honourable ruler and also approved for being competent in political affairs. Ummayyad and Abbasides that was not based on public consent and occupied the state with monarchial figures , had usurped this right from them. For Abu Hanifah, participating to rebellions against these despotic administrations like Ummayyad and Abbasides, is a religious duty due to the fact that rulers became tyrant and thieves.

In Abbasides period, Muhammad and Abraham’s revolts had become crucial point for understanding this issue. Because sons of Abbas and sons of Hassan had moved togetherly for eradicating the Ummayyad reign and its despotism. However, this togetherness turned to the resentment after Abbasides (sons of Abbas) rule the country by force in accordance with the spirit of sultanate /monarchy as Ummayyad done. The revolts of Muhammad and Abraham meant that the cold war and struggle between the sons of Abbas and Hassan since establishment of Abbasides, had now been transformed into armed conflict. Mohammad started his rebellion with 150 people in 762. They released all prisoners in jails, confiscated Abbasides’ treasure and imprisoned the governors. Mohammad choosed Madina as the center of rebellion by taking homage from people of Madina. Choice of Madina was one of the biggest mistakes for such a revolt. Because Madina had lost the feature of being a political and military center and

mostly became a religious and cultural city. So, it is not possible to find there military and logistic support which were compulsory for such a revolt. Also Madina had not have suitable conditions in terms of supplies and ammunition. After Mohammad provided the security in Madina, began to appoint necessary bureaucrats which were adequate for political affairs. He appointed Uthman Ibn. Muhammad az-Zobair for governorship of Madina; assigned Abd'al Aziz Ibn. Mottalib al-Mahzumi as grant muslim judge, also appointed Abd'al Aziz Ibn. Mohammad Derawerdi for garrison commander. After Mohammad established political dominance in Madina, started to send governors to some regions and cities for expanding his influence. Abbasid Caliph Mansur managed to cut Muhammad's connection with the two major centers of Khorasan and Qufa which Muhammed will provide and gain military and logistical support. In addition, Mansur's army was consisting of experienced, brave Khorasani combatants. Caliph did not prefer to form his army from Arab soldiers, because Mansur was worried with regards to possible failures on the occasion that Arabs may be affected from social position of the people of house and Madina. Mansur managed to use tribalism in his favor and thought that hard competition between Arabs and Iranians could be revived during this battle. Consequence of Mohammad's rebellionist troops and the Abbasid's army collision, Mohammad and his supporters received a heavy defeat. After Mohammad killed in 762, his brother Abraham revolted in Basra as an extension of this rebellion (Demircan, 2017) Abu Hanifah considered participating to Abraham's riot as a religious mission and worship. He saw this struggle above the pilgrimage, encouraged the people to participate the revolts and fight against despotic administrations. Because Abu Hanifah stressed that purifying internal politics of the islamic community from oppression is more vital than to fight the enemy outside. Imam emphasized that the opposition to the tyranny must be described as the necessary and noble rebellion as prophet Mohammad's war of Badr. In addition, he approved the legitimacy of this revolt against cruelty and gave a fatwa by saying "Because, Zeid is right imam." He was preferring "What ought to be?" rather than "What it is?". From this perspective, he denied statist political thesis which is systematized by Mawerdi and Ibn Khaldun and also tried to be targetted as the attitude of supporters of sunnah. Imam supported the revolt by his wealth and richness due to his excuse.(İslamoğlu, 2017).

Abu Hanifah opposed to the ruling of barbaric rulers. He absolutely rejected the 'absolute obedience of rulers' at every conditions. For him, if a cruel and sinner person becomes a caliph, his caliphate is not valid. Also people have no any obligation to obey such a ruler. His commands or orders are not binding. Fatwas given by him, also are invalid. That is why, "when there is a sin against God, there is no need to obey" Persecution and atrocity are great crimes committed against God ; because despotism means violation of divine rules. If such a ruler, comes to power illegally, is called as usurper and his legitimacy must be vanished. According to Abu Hanifah, remove of these rulers from the power, is a religious duty. So, he defended all revolts against despotic rules and declared it as a mission for muslim ummah. Fundamental requirements argued by Abu Hanifah about revolts are; wise organization, desire of public interest and presence of just, fair imam after the collapse of existing system. He thought that revolts must only be initiated when suitable conditions and precautions were provided. Legitimate resistance against illegitimate power constituted the basis of his thought system.

#### **4.4. Justice**

Abu Hanifah had put forward opinions on how fair and ideal administrations should be and what features rulers should have. Abu Hanifah's just-centered political struggle throughout his life, is the greatest proof of this. Firstly, analyzing his fiqh system will present the ideal state paradigm at the micro level. That is why, "Abu Hanifah framed his legal system with the consultations of his learned students." He put every problem before them, threw light on its various aspects, carefully heard all that each one of them had to say on it and put forth his own point of view for their consideration. These deliberations and discussions were so exhaustive that some questions took a month or even more to decide. At last, when unanimity was achieved, Abu Yusuf recorded it in the fundamental compilations of Hanafi Law." This council recorded decisions on about 83,000 legal issues. These embraced not only those questions with which the public or the state was currently or had formerly been confronted but also others that might arise in the future. Possibilities were conceived and discussed freely to ensure that if ever they turned into actualities there should be laws ready to meet them. They

related to almost all branches of law, internal (covered under the term al-siyar),<sup>68</sup> constitutional, civil, criminal, of evidence, of procedure, laws governing different aspects of economic life, marriage, divorce, and inheritance, personal, and aspects of economic life, and those dealing with worship.”(Sharif, 1963: 712). Magill argued that “The work of Abu Hanifah within his lifetime was recognized as superior to that of his contemporaries in four respects. First, he made the law wider than had been the case in existing codes; it became not only more broadly based but also more universally applicable. Second, Abu Hanifah made the law deeper, firmly grounding it in the judge’s reason and experience and the Muslim intellectual community’s interpretation of Scripture, tradition and nature. Third, Abu Hanifah made the law higher: No longer accidental and incidental, it had become intensely cerebral, theoretical, refined and technical. Finally the law had become narrower, for it now rested on universal moral principles, applied through a rigorous process of reasoning” (Frank Magill, 18, *The Middle Ages Abu Hanifah*). If we try to summarize Magill’s ideas, Abu Hanifah desired the existence of a rational rule based on universal moral norms that prioritized justice in politics. At the political level, the Abu Hanifah set the basic principles of ideal politics as justice, council, consultation, election and consent.

The first four Caliphs “did not perform their administrative or legislative functions without consulting “the wise” (ahl al-ra’y, lit., those that are able to give advice) of the community. They also realized that those consulted had the right to give their candid opinion without any fear. It is evident from these facts the early Caliphs and the Companions of the Prophet regarded the Caliph’s office as an elective one, to be filled with mutual consultation and consent of the Muslim community. They did not regard hereditary succession or one acquired by force of arms as anything valid.”(Sharif, 1963: 683). According to another view, “The institution of Shura having been discontinued there was no other properly established body or institution in which the trusted scholars, jurists, and lawyers of the community should meet to deliberate and devise such an authentic solution of every outstanding legal issue, as should be recognized as the accredited and uniform law of the land throughout the State. Thus, Islam was faced with a mighty challenge and there was no machinery to meet it. “(Shariff, 710).” In these circumstances it struck Abu Hanifah to try an entirely new path to redeem the loss, and this was to institute a private legislative body, on his own initiative, independent of the

Government.”(Sharif, 1963: 711).” Abu Hanifah’s own students, trained under his care and guidance in his college of law for years in deliberating over legal questions, looking into them in the proper scientific spirit, and arriving at conclusions with arguments, formed the members of this council.” The procedure of work adopted in this council as reported by the authentic chroniclers of Abu Hanifah should be described in their own words. Al-Muwaffaq bin Ahmad al-Makki (d. 568/1172) writes,(Sharif, 1963: 712)

Abu Hanifah advocated the institution of ‘Council’ which regulates and controls social, economical and political life. Caliph must be assigned by free and just elections of all muslims. This election does not belong to any group or faction. Caliph may continue to rule as long as he acts fairly, applies the Sharia and becomes free from the deviation and perversion.( Zehra, 2005: 189). Abu Hanifah stated that ruler must obey Islam, law and justice rather than nationalism or tribalism. Caliph should be determined by free election among the Muslims who desires this duty and should be dismissed when it is necessary.( Alkan, 2019: 13).

Muslims become legitimate source of government by bi’at (allegiance) instead of a passive commitment. Allegiance created a mutual responsibility between rulers and ruled people. By bi’at, Caliph who rules the country, have the support of ummah but also have responsibility and accaountability towards them. The institution of allegiance which was initiated by prophet Mohammad ‘s Aqabah meetings, was strogly implemented in the period of first four caliphs. However, later, with the transformation of the caliphate into sovereignty, it lost its true nature and often went beyond being symbolic.( Aydın, 2017: 53-63). Abu Hanifah believes that a leader equipped with knowledge is the guarantor of justice, foreseeing that the just caliphs ruled by Allah's revelation and commandment will revive Islamic society and eliminate the persecution. However, It is not only enough to know justice, Abu Hanifah also advises the Caliphs that it is compulsory to know persecution and show an attitude against it. In addition, Abu Hanifah emphasized that it can be fought on the side of those who want justice in cases where turmoil in society, can not be prevented (Kızilkaya, 2012: 396). He stressed that Islam that orders the good and forbids the evil, should be obeyed by stating the wrongness of being a side of a system established by blasphemy and consequences of being a member of Pharaoh’s pary not Moses’s side.(Alkan, 2019: 13)

Shariff suggested that “Regarding the Caliphate his views were most clear cut and unambiguous. According to Abu Hanifah, to seize power by force and later regularize it by exacting allegiance under duress was no lawful way of being chosen for it. A Caliph should be chosen after consultation and in conference with the wise that are entitled to give opinion (ahl al-ra’y). Abu Hanifah expressed this opinion in face of the peril of losing his life. Mansur’s Chamberlain, Rabi‘ bin Yunus, relates that the Caliph summoned Malik ibn Abi Dhi’b and Abu Hanifah before himself and asked, “What do you say about this power that God has given me over the people, am I not deserving of it?” Malik answered, “Had you not deserved, God would not have conferred it on you.” Said ibn Abi Dhi’b, “God grants the kingdom of the world to whom He pleases, but the kingdom of the hereafter is given to him who strives for it and is helped by God to make way to it. The help of God will attend you if you obey him; in case you disobey, it will keep away from you. As for the Caliphate, the truth is that only a conference of the God-fearing can institute it, and one who seizes it by force has no righteousness in him. You and your associates are deprived of the help of God, and have turned aside from truth. Now, if you ask the Almighty to grant you peace and try to gain nearness to Him with deeds of piety, you may win His grace, otherwise, you are only a self-seeker.” But Mansur turned to Abu Hanifah and inquired, “What say you?” He replied, “The man who sincerely seeks the right path to guide himself eschews wrath. If you consult your conscience you will see that you have not invited us for the sake of God but make us say, out of dread, something that suits you and that should reach the people. The truth is, you have become a Caliph without even a couple of men from amongst the ahl alfatwa (those whose opinion is respected as authoritative) agreeing to it, whereas a Caliph should be chosen with the conference and concurrence of Muslims. You know, Abu Bakr refrained from making decisions for six months until the (news of the) Yemenites’ allegiance arrived.”(Sharif, 1963: 704-705). Additionally, for Abu Hanifah, there should be some qualifications that rulers must have. According to him, Caliph must be a just person. One who is cruel and corrupt cannot be a Caliph, a judge, a governor, a pronouncer of legal verdict (Mufti), or an arbiter. If such a person comes to office, his Caliphate will be null and void and the public owes him no obedience. However, notwithstanding his usurpation of power, all the social dealings and obligations executed by Muslims under him in accordance with the Shari‘ah will have



legal sanction and the just decisions of the judges appointed by him will take effect. Abu Bakr al-Jassas, a well-known Hanafi jurist, has explained this point in greater detail. He observes, “It is not lawful that a cruel or corrupt person should be a prophet or his successor (Khalifah) or a judge or hold any office by virtue of which he should be in a position to impose his will on the people in matters relating to religion; he cannot, for example, be a Mufti or a witness or a reporter of the Prophet’s traditions. The Qur’anic verse, “My covenant does not extend to the wrongdoers” shows that all those people who come to the helm of affairs in matters connected with religion must be just and virtuous. This verse categorically emphasize “that the Caliphate of the corrupt is unlawful. No person of wicked reputation can be a Caliph. If any of that character should install himself in that office, the people are under no obligation to follow or obey him. The same was meant by the Prophet of God (on whom be peace) when he said that none among the created was entitled to command obedience in defiance of the Creator. The verse is also conclusive that no corrupt person can become a judge, a governor, or a magistrate, and if he becomes one, his orders will not be valid. Nor can his evidence be acceptable, nor his transmission of a report from neither the Prophet of God, nor the verdict (fatwa) of which he is the pronouncer. Abu Hanifah held that the caliph who misused public money (fay’) or gave unjust orders was not entitled to remain Caliph and his orders were not valid.”(Sharif, 1963: 706).

Abu Hanifah has also been very meticulous about the use of public goods. Abu Hanifah suggested that “ oppression and illegitimate use of public money in a ruler rendered his title to Caliphate void. Not only that, he even did not allow the tokens of goodwill and presents received from foreign States to be made the personal property of the Caliph. These things were also deposited into the treasure, not with the Caliph or his family, for the obvious reason that had he not been the head of State and thereby become conspicuous in the international world, none would have sent him those presents. He also objected to the Caliph’s squandering of public money and his giving gifts out of it. This was one of the main reasons why he himself accepted no gifts from the Caliphs.”(Sharif, 1963: 707). Even Abu Hanifah was very sensitive about this matter and he did not accept any gift offered by Umayyad-Abbasides authorities. Abbaside caliph al- Mansur “felt that the only way to prevent Abu Hanifah from saying or doing something that could have a negative effect on his rule was to appease him by a post or

favours. He called him in and offered him the post of Chief Justice. Abu Hanifah said :’ The only person who is suitable for that post is one who has the guts to pass judgement against you, your children and commanders. I am not such a person.’ Al- Mansur asked him: ‘Why, then, do you not accept my gifts?’ Abu Hanifah replied: ‘I have not rejected any gift the Caliph has given me of his own property. What he has given me belongs to the public treasury, to which I have no claim. I am not one who fights in the armies to claim a fighter’s allowance and I am not a youngster to get a child’s benefit; nor am I a poor person to take what poor people receive”( Salahi, 2006: 17) .

He has also developed a very democratic understanding on the matter of the independence of the judiciary and executive body. “His views on the position of the judiciary vis-a-vis the executive were unequivocal. If justice was to be ensured, he said, the judiciary must be independent of the executive. Not only that, the judge must also be able to enforce his decree against the Caliph if the latter encroached upon the rights of people. The main thing which prevented him from accepting an official position, particularly of a judge during the Umayyad and ‘Abbasid rule was that he did not see the judiciary as independent. There was no chance of making the Caliph submit to the rule of law. On the other hand, he feared that he would be made an instrument of injustice and asked to give wrong decisions, and that not only the caliph himself but also those attached to the palace would interfere with his work. Ibn Hubairah was the first of the Umayyad governors of Iraq who pressed Abu Hanifah to accept office. He said, ‘Here I give you me seal. No order will be enforced here until you put the seal on it, and no money will be drawn from the treasury without your sanction.’But Abu Hanifah declined to accept the responsibility. Abu Hanifah replied, “Ah! Had he asked me to count the gates of the mosque of Wasit, I would not have done it for his sake. Then how can I agree that he should write the death warrant of an innocent person and I should put the seal on that order? By God, I will accept no share of his responsibility.”(Sharif, 1963). Because Abu Hanifah considered that it is necessary to destroy the atrocities inside than to fight the outside enemy. So, “Abu Hanifah was well known regarding fighting oppressors and tyrannical rulers. That’s why al-Awzaa’i said: We used to tolerate everything from Abu Hanifah, until he came with the sword - meaning. his opinion regarding fighting oppressors- this we didn’t tolerate. And he (i.e. Abu Hanifah) used to say: Enjoining good and forbidding evil is compulsory by speech,

and if it does not work, then the sword (i.e. fighting) based on what was narrated from the Prophet. Ibrahim al-Saigh who was one of the jurists from Khorasan -asked him [i.e. Abu Hanifah] about enjoining good and forbidding evil, so he (i.e. Abu Hanifah) said: Its compulsory. And he told him about the hadith of Ikrimah on the authority of Ibn Abbas, that the Prophet said ‘The best of martyrs are Hamza bin Abdul Muttalib and a man who stands up to a tyrant and enjoined him to do good and forbade him from evil, and is then killed as a result.’ So Ibrahim returned back and went to Abi Muslim who was the head of the state and rebuked him for his oppression and spilling of blood unjustly. He was tolerated a few times, but then eventually killed. His assistance to Zaid bin Ali is well known. He used to provide him with Money and secretly give fatwas to people regarding the obligation to fight with him and make him victorious. Also, his involvement in the affair of Muhammad and Ibrahim bin Abdullah Hassan is well known. When Abi Ishaq al-Fazari said to him (i.e. Abu Hanifah). ‘Why did you refer to my brother who rebelled with Ibrahim until he got killed?’ So he responded back saying: Your brother’s rebellion is more beloved to me than yours. Abu Ishaq went to Basra and Ashaabul Hadeeth rebuked him, whom have lost their ambition to enjoin good and forbid evil until the oppressors were able to overcome and abolish the affairs of Islam.”(Zawadi, 2013).

Abu Hanifah's justice-oriented political struggle kept her away from active politics and government duties. One of the most important reasons behind the his rejection of the duties proposed by the Umayyad and Abbasid caliphs was that the administrations did not reflect justice. “In 763, the Abbasid Caliph, Al- Mansur, impressed with Abu Hanifah’s logic, offered Abu Hanifah the post of Chief Judge of the State, but Abu Hanifah declined. In his reply to Al-Mansur, Abu Hanifah recused himself by saying that he did not regard himself for the post. Al-Mansur took this as an act of rejection and accused Abu Hanifah of lying. Abu Hanifah replied, ‘If I am lying, then my statement is doubly correct: how can you appoint a liar to the exalted post of a Chief Qadi (judge) “(Sharif, 1963) Abu Hanifah was bitter about this apparent miscarriage of justice. For him, serving under an illegitimate ruler was not an option. Al-Mansur was infuriated by this comment, however, and soon Abu Hanifah was arrested, locked in prison and tortured. He was neither fed nor cared for. Abu Hanifah continued to teach

from the prison cell whenever he got a chance. In 767, he died in prison.” (Islam, 2016: 241).

#### **4.5. Freedom and Property**

Abu Hanifah gave lots of importance to the freedom, economical independence, protection of personality and human honour and elimination of oppressive powers operated by reigns. First effect of this, throughout history, scholars have not succeeded in providing their livelihoods without any need for someone else due to the fact that they devote their lives to the scientific activities. The rulers who wanted to buy the knowledge of the scholars with money, desired to neutralize the scholars, and if they succeeded, they used their knowledge as a lever to their reigns. The role of economical independence in the formation of his oppositional identity cannot be denied. Then, science that will be turned into a bread boat, had become a profession which feeds its owner, but does not gain status and virtue. That is why, the deterrent effect of the scholars on the rulers has been lost, they are started to be treated as a commodity. Second effect of this, Abu Hanifah had not only used his wealth to preserve the quintessence of his own science, and also met the needs of contemporary scholars and students, so he protected them from being in need of governance. For instance, Abraham Ibn. Uyeyna who was famous narrators of Mohammed’s all sayings, deeds and approvals, was sentenced due to his debt. Abu Hanifah paid his all debts though Abraham was opposed to Imam’s opinions and actions. Third effect of this, one of the characteristics of Abu Hanifah, which distinguishes the jurisprudence from the other jurisprudence schools, is the convergence and harmony in the provisions related to economic law. Imam’s profession was trade which is an excellent opportunity for Islamic Commercial Law has gained a significance with it. (İslamoğlu, 2017: 214-215). Abu Hanifah emphasized freedom of thought and expression more than many thinkers of his era and stated that this right is vital for the occurrence of a healthy administration.

Shariff suggested that “According to Abu Hanifah, freedom of expression in a Muslim society and in an Islamic State is of as much importance as the independence of the judiciary. The Qur’an terms this freedom as *amr bi al-ma‘ruf* and *nahi ‘an al-munkar*

(enjoining the right and forbidding the wrong). No doubt, an unqualified right of freedom of expression may sometimes assume an unbecoming, mischievous, immoral, or even offensive form which no law can tolerate. But the Qur'an, by using the above-mentioned term for this freedom, clearly distinguishes it from all other kinds of freedom and, thus, circumscribing it within well-defined limits, declares it to be not only an inalienable right but also a duty of the public. Abu Hanifah was particularly conscious of this right and duty because the political order of his day had rid the people of this right to such an extent that they actually doubted if it had anything of the nature of a duty about it. We have pointed out elsewhere that the Murji'ites, by preaching ultra-liberal doctrines were emboldening people towards sin. The Hashwiyyah professed that "Enjoining the right and forbidding the wrong" where the government was involved was mischievous and the Umayyad and 'Abbasid governments crushed the spirit of the people to raise a voice against the corruption and high-handedness of the ruling cliques. Abu Hanifah, with both speech and action, attempted to resurrect this spirit among the people and elucidated the extent to which it could be exploited." (Sharif, 1963: 709). Salahi also stated that Abu Hanifah acknowledged individual rights and freedoms as untouchables by not allowing any oppression mechanism. For him, "One distinctive feature of Abu Hanifah's scholarship is the high importance it attaches to personal freedom. In all his studies and views, he valued very highly the free choice of a human being in practically every type of behaviour, provided he or she are sane. It is not for the community or the ruler to interfere in personal choices, as long as the individual has not contravened a religious order. Such emphasis of personal freedom manifests itself in various areas. One of the most important of these is that Abu Hanifah gives an adult woman the authority to enter into marriage contract by herself, without reference to her guardian. All scholars agree that no guardian may force a woman under his guardianship to marry anyone without her consent, but she may not marry without his approval. Her direct verbal consent is not sufficient to initiate a marriage contract. Her guardian must act for her. Abu Hanifah disagrees with all scholars on this point, making an adult woman free to enter into a marriage contract by herself, without her guardian. He considers a young woman equal to a young man. As he can marry by himself, so can she. And as she has full authority over her property, she has full authority over herself with regard to marriage. Guardianship over a free and sane person must work in that

person's favour. To restrict one's freedom does not serve one's interest. It is indeed harmful."(Salahi, 2006: 20-21). In addition, Abu Hanifah, unless there are extreme situations and conditions, a person can make savings on his / her own property. Abu Hanifah's respect of individual freedom is also "manifested in his verdict that does not allow withdrawing a person's rights of dispensing with his money or property on account of his being stupid or irrational. As long as his actions do not cause harm to other, then Abu Hanifah feels that society or ruling authorities have no right to restrict his freedom of action. Restricting a person's freedom is much more harmful to society than that person's loss of his money or property. Similarly Abu Hanifah does not consider it permissible to restrict a person's freedom of dispensing with his property as a result of being in debt, even if his debts exceed all his property. A debtor may be forced to repay his debts, but not through restriction of his freedom of action."( Salahi, 2006: 21).

Abu Hanifah also showed a liberal attitude by refusing the state to play an active role in price control and profit rate determination. According to Hanifah, who also analyzes the price formations, the price imposition of the state is persecution.(Eskicioğlu,1979: 81). Prices should be determined with free will in the market according to the abundance and scarcity. As for the profit, he stated that the excess and the exorbitant prices that would put the tradesmen, the consumer and the state into difficulty are unfair gains.(Alkan, 2019: 12) Abu Hanifah does not see as legitimate more than the profit that meets the capital in trade exchanges.(Eskicioğlu,1979:141). The contributions of Abu Hanifah to law of commercial transactions and economical dynamics of his fiqh are one of the factors that should not be ignored. Because Abu Hanifah was a Merchant. Esposito suggested that "Abu Hanifah's legal thought is also distinguished by his emphasis on personal liberty and his reluctance to impose unwarranted restrictions on it. He thus maintained that neither the community nor the government is entitled to interfere with the personal liberty of individual as long as the individual has not violated the law. Abu Hanifah also held that no one, including a judge, may impose restrictions on an owner's right to use of his or her property, even if that property inflicted harm on another person, provided that the harm is not exorbitant. Furthermore, because the judge cannot restrict the owner's liberty, the owner would not want to restrict his or her own liberty either. A charitable endowment (waqf) of one's personal property is

consequently not binding on the owner , nor on his or her legal heirs. In other words, the owner of dedicator of endowed property is at liberty to revoke the endowment and thereby remove the self-imposed restriction on his or her right of ownership. The other legal schools disagree, mainly because they consider a charitable endowment as a binding commitment that the dedicator of the property must observe, once it has been duly instituted. ”( Esposito, 2000: 124-125).

Consequently, personality of individuals, individual liberty and human rights form the basis of Abu Hanifah’s fiqh. Abu Hanifah divided all systems which regulate political, social and economical life into two. One of them is communalism and the other one is individualism. Communalism refers state control mechanisms on all aspects of the life. However, individualism refers a system that individuals developed their will with education and gained self-actualization. According to him, autonomous personality lives authentically true principles with his/her free will without any foreign intervention. As mentioned above, rational and adult women even have the power to decide on their own actions including marriage or divorce. Abu Hanifah rejected the tutelage or guardianship about women’s marriage. Islamic canonists except Imam, acknowledged that women cannot be married by force but they do not allow women to marry without any consultation with close kins. However, Abu Hanifah warranted that women may marry or divorce as they wish in every condition and in any case. They are not obliged to consult and report to anyone. In addition, according to Abu Hanifah, possessions of people cannot be captured and confiscated by political or judicial powers. Because, property represents personality and labour of human beings. So, confiscation of any property belong to the any one, is one of the biggest insult contrary to human ‘s free will. Abu Hanifah’s this approachment reminded us the principle of the holiness of property led and initiated by Liberal ideologies.(Kazdal, 2015: 118).

**CHAPTER V**  
**CONCLUSIONS**





## 5. CONCLUSION

Throughout the history, political philosophers argued the nature of politics under the fundamental questions such as ; ‘What is just rule?’, ‘Who rules?’, ‘What principles should political administration be based on?’, ‘What is the source of legitimacy?’, ‘How just and rational rule should be?’, ‘Which qualifications a ruler should have?’, ‘What are the limits and conditions of the right to resist despotic rule?’, ‘What does political responsibility and accountability mean in a fair administration?’, ‘Can the state interfere with individuals' right to liberty and property?’, ‘What should be the relationship between the state, society and the individual?’ etc. Abu Hanifah developed a system of fiqh and thought in the axis of his political struggle and became one of the scholars who sought to find answers to these problems.

Abu Hanifah stands not only with his fiqh personality but also with his political personality in a different line from the scholars of his time. The idea of rebellion against the tyrant caliph was not famous in the school of Sunnah because his political views were not fully recorded and these issues were not mentioned in the books of fiqh. Instead, the people of Sunnah adapted an opinion ‘absolute obedience to the rulers is essential’.

Abu Hanifah was accepted as one of the most crucial pioneer thinkers in the formation of Islamic sciences and the fields of Islamic theology. He did not only spend his life on the path of theoretical knowledge, but also put the truths he knew on the basis of theory into practice despite all difficulties he has struggled. He spent fifty-two years of his life in Umayyad period and eighteen years in Abbasid period. In both periods, the Abu Hanifah held a stance based on morality, justice, fairness and virtue contrary to the persecution, oppression, racism and arbitrary rule of the caliphs and governors. He refused all kinds of official authority and position proposals of the caliph and governors to legitimize their own administrations, he did not accept any gifts from them, so he suffered great pressure, persecution, torture, exile and endured various kinds of suffering. Abu Hanifah is a Muslim scholar, jurist and thinker who deserves the title of Socrates of the Islamic world because he is not a state-jointed scholar, he does not give

up defending the right against all oppression and makes questioning, critical thinking and free thought the touchstone of his scientific life. Abu Hanifah witnessed the abandonment of the orders of Islam in the political sphere, but the reign and Arab racism were strengthened. The rulers of the Islamic society quickly began to move away from the provisions of Allah and the judicial administration, and in order to cover this up, they increased the emphasis on visible worships. The rulers of the period used the scholars as a means to justify their arbitrary rule. Abu Hanifah realized this and therefore rejected all kinds of duties, regardless of the level of administration, such as Muslim judge or ministry of treasure. Abu Hanifah is a jurist who fought alone and paid for his life by not obeying to the cruel powers with his independent and honorable stance. Abu Hanifah opposed all wrong practices of the caliphs and governors in the Umayyad and Abbasid period, at the expense of his life. Moreover, he was imprisoned and tortured due to his objection and his affinity to the oppressed Ahl al-Bayt. Nevertheless, he did not make concessions to his scientific and protest stance. ( Saritaş, 2015: 109).

Abu Hanifah's life philosophy based on reason -knowledge-jurisprudence, his ideal of constructing a rational society and state, a desire toward an administration with an emphasis on personal rights and freedoms, his attitude of opposition and protest that does not consent to any persecution and only focused on justice and equity, made him a scholar and action man far ahead of his time. However, this thesis focused on the political struggle and political fiqh of the Abu Hanifah that brings him beyond his era. Factors that politicize Abu Hanifah and his political thought was discussed in the axis of the struggle of Ulama and Umera and also his understanding and philosophy of knowledge, society, state, power, as a jurisprudent and ulama, will be put forward politically and philosophically. His perspective on basic concepts of political theory, was tried to be analyzed in this dissertation.

Abu Hanifah has shed light on our day with both his political struggle and jurisprudence and also political understanding that he has developed based on justice and righteousness. He also the first political thinker who develops the philosophy regarding individual, society, state, knowledge and power in Islam Political Thought. However, during his political struggle, Abu Hanifa favored freedom and the individual,

not the state holding the authoritarian power. So, he presented a micro-prototype of a political administration that is fair, libertarian, committed to the rule of law and respectful of human rights and at the same time he developed social prescriptions in this context. However, in the process, the free struggle of thought that Abu Hanifah paid with his life and his critical attitude which was distant to the power were unfortunately ignored and his political jurisprudence and stance were ignored. Instead of his political jurisprudence, which is based on conscience, morality, justice and fairness against cruel administrations, prioritizing reason, questioning and free will, the portrait of Abu Hanifah, which includes issues related to only worship and rituals without political content, became dominant. Even after he was imprisoned, tortured and poisoned by Abbasid Caliph Cafer al-Mansur due to his oppositional and protest identity, his only wish was that:

*“Bury me in the lands that are not usurped!”*

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## TEZ FOTOKOPİSİ İZİN FORMU

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### YAZARIN

Soyadı : KARTAL

Adı : RABİA NUR

Bölümü : SİYASET BİLİMİ VE KAMU YÖNETİMİ

TEZİN ADI: CASE OF ABU HANİFAH IN THE AXIS OF THE STRUGGLE  
OF ULAMA AND UMER A

TEZİN TÜRÜ :

Yüksek Lisans

Doktora

1. Tezimin tamamından kaynak gösterilmek şartıyla fotokopi alınabilir.

2. Tezimin içindekiler sayfası, özet, indeks sayfalarından ve/veya bir bölümünden kaynak gösterilmek şartıyla fotokopi alınabilir.

3. Tezimden bir (1) yıl süreyle fotokopi alınamaz.

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