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**“The Rationalist School of Law:
Roots of Reform in Traditional Islamic Law”
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One of the primary failures of contemporary discourse concerning the resolution of modern ethical issues - such as human rights and democracy, and Islamic ethical principles is the gap between Islamic legal theory and modern Muslim theorizing. Influential thinkers such as Abou El Fadl, An-Naim and others understand the need for reform as well as the importance of continuity in the Islamic tradition, especially in matters relating to law. Many such thinkers also realize traditional Sunni legal theory's (*usul al-fiqh*) intractability to such reform, and since Islam is correctly viewed as an “extreme case of jurists’ law,” the importance here of any meta-legal discourse (i.e. ethical/philosophical discourse) is measured only in its relevance to legal theory. Thus, many, such as Abou El Fadl, have chosen to put aside the Shafi’ite-Ash’arite paradigm and resurrect more promising elements in the history of Islamic thought such as Mu’tazilism, or overhaul the entire legal edifice, a la An-Naim. I argue that such maneuvers prove to be self-defeating and that recent scholarship in legal theory suggests a more authentic and robust root of reform grounded in the formative period of Islamic law, particularly in the second and third centuries. Before the rationalist approach (*ahl al-ra’y*) to law was overturned by the Shafi’ite paradigm, the Hanafite school laid a rationalist foundation to textual interpretation that was merely guised in later theoretical and substantive defenses of the school. Hanafite interpretations of textual sources on various issues - I will examine apostasy in particular - presuppose a robust ethical mode of inquiry that engages contemporary legal and ethical discourse. As well, research concerning the interplay between theology and law in the school suggests that Hanafism can bridge the divide between ethical theorizing and legal theory.