

THE REVEALED LAW PRECEDING THE SHARI'AH (SHAR' MAN QABLANA)

I. Definition

Sha'r man qablana is the body of rules ordained by Allah for the nations before the Muslim ummah through revelation to their Prophets such as the ruled revealed to Abraham, Moses and Jesus.

II. Types of the previous revelation and its position as a source of Islamic law

There are two types of earlier laws:

1. Rules that are not mentioned in the Qur'an and the Sunnah but are found in the earlier Scriptures.

The legal theorists agreed that these rules are not binding.

2. Rules that are mentioned in the Qur'an and the Sunnah. These are of three kinds.

a. There is an indication of their abrogation. For example : Unlawful of some types of food for the Jew and lawful for Muslim. "And to those who are Jews, We forbade every animal with undivided hoof, and we forbade them the fat of the ox and sheep, except what adheres to their backs or their entrails or is mixed up with a bone. (al-'An'am (6): 146)

"Say, I find not in the Message revealed to me anything forbidden to be eaten by one who wish to eat it, unless it be what dies by itself, or blood poured forth, or the flesh of swine -for surely it is an abomination- or what is impious, (meat) on which a name has been invoked, other than Allah's. But (even so), if a person is forced by necessity, not desiring nor transgressing (due limits), surely thy Lord is Forgiving, Most Merciful. (al-'An'am (6): 145)

b. There is indication that such rules are prescribed for Muslim as they were prescribed for the earlier nation. These rules are binding on Muslim. Example: Fasting, "O ye who believe, fasting is prescribed for you, as it was prescribed for those before you. So that you may become God fearing." (al-Baqarah (2): 183)

c. There is no evidence whether or not they are to be followed. Example: Rule on retaliation (qisas) "We ordained therein for them: life for life, eye for eye, nose for nose ear for ear tooth for tooth and wounds equal for equal..." (al-Ma'idah (5): 45)

E.g. rule on reward and guarantee (surety) “They said: We miss the great beaker of the king; for him who produce it, is (the reward of) camel load, I will be bound by it.” (Yusuf (12): 72)

There are two views of legal theorists on these types of rules.

- **The first view** hold that this type of rules are binding on Muslim. This is the view of Majority of **Hanafi**, the **Malikis**, some of the **Shafi’is** and one report of Imam **Ahmad**.

- **The second view** is of the opinion that this type of rules are not binding. This is the preferable view in **Shafi’i** school and another report from Imam **Ahmad**.

- However, many contemporary Muslim scholars give preference to the first view. This is because these rules are revealed law mentioned in the Qur’an and Sunnah. And since there is no clear evidence of their abrogation, it is impliedly indicated these rules are binding on Muslim.