

041

- (041.) Islamic law 伊斯兰法 is a phenomenon 现象 **so** different from all other forms of law --notwithstanding 尽管；虽然, of course, *a considerable* 相当大的, 相当重要的 *and inevitable number of coincidences* 巧合 with one or other of them **as far as** 就.....而言, 就.....来说 subject matter 主题；题材, 内容 and *positive enactment* ((法律的)制定, 通过)成文规定(制定法、成文法) **are concerned** --**that** its study is indispensable 必不可少的；必需的 in order to appreciate (v.)理解；意识到；领会 adequately 充分地 the full range 全部范围 of possible legal phenomena 法律现象(各种法律体系的表现形式) .

Example 1. 案例

- (041.) Islamic law is a phenomenon so different from all other forms of law—notwithstanding, of course, a considerable and inevitable number of coincidences with one or other of them as far as subject matter and positive enactment are concerned—that its study is indispensable in order to appreciate adequately the full range of possible legal phenomena.

伊斯兰法是一种与其他所有法律形式如此不同的现象——当然，就其主题和实证立法而言，它与其中一种或另一种法律存在相当多且不可避免的巧合——以至于研究它对于充分理解所有可能的法律现象是不可或缺的。

伊斯兰法是一个与其他所有形式的法律都如此之不同的法律现象——尽管，当然，/从其涉及的内容和实际实施的角度来看/，伊斯兰法与其他的某些法律，存在着大量的和必然的一致之处——以至于对于它的研究是不可缺少的，这样才能充分地理解所有可能的法律现象的全部范围。

Islamic law is a phenomenon **so** different from all other forms of law—notwithstanding, of course, a considerable and inevitable number of coincidences 相当多且不可避免的相似之处 with one or other of them 与其中一种或另一种 **as far as** subject matter and positive enactment **are concerned** 就主题内容和成文规定而言 --**that** its study is indispensable /in order to appreciate (v.) adequately the full range of possible legal phenomena.

首先，插入语很长，在原文中有四行。笔者在前面不只一次提醒读者，三行以上的插入语必须跳过，看懂前后的内容再回头来看插入语。

notwithstanding (虽然，尽管) 作为介词，相当于 in spite of (尽管、不管、虽然)。

不管从哪个角度上来看，这句话中的那个插入语都极像是 ETS 布下的一个陷阱：首先，插入语的内容对理解文章毫无作用；其次，考试中对插入语也没有出题；第三，其实这句话中的插入语根本不必读，也可以根据插入语前后的内容，用合理化原则的取非读法，猜出其意思：插入语前后的内容是伊斯兰法与其他法律不同，插入部分以 notwithstanding 开头，又有 of course，可见插入部分一定是让步语气，因此可以对前后的内容取非，猜出插入部分一定是在说伊斯兰法与其他法律有相同之处。

*Islamic law is a phenomenon **so** different from... **that** its study is indispensable ...*

这是“so... that...”结构的结果从句，说明“如此不同”带来的结果。

as far as subject matter and positive enactment **are concerned**

“as far as... are concerned” 是一个固定短语，意思是“就...而言；在...方面；至于...”。

- as far as：表示程度或范围，相当于“到...的程度”或“在...的范围内”。

- ...are concerned : 这里的 concerned 是动词 concern (涉及 , 关于) 的过去分词 , 用作形容词 , 意思是 “ 有关的 ” 。

字面意思：“到 (某事物) 所涉及的范围内”。

...as far as subject matter and positive enactment are concerned 实际意思是：“就”主题内容“和”成文规定“这两方面而言” 或者 “在主题内容和成文规定的范围内”。

作者用“as far as subject matter and positive enactment are concerned”来明确说明“相似之处”只存在于这两个具体方面 , 而不是整个法律体系。

注意：当主语是单数时 , 用 is concerned ; 复数时用 are concerned 。但有时即使主语是复数 , 口语中也可能简化使用单数形式 (不过正式写作 , 建议保持“主谓一致”) 。

对比示例：

- As far as the price is concerned , it's reasonable. (单数)
- As far as the prices are concerned , they're reasonable. (复数)
- As far as the prices is concerned... (错误 , 主谓不一致)
- As far as the children is concerned , they're doing well. × (错误 . children 是复数 , 必须用 are)
As far as the children are concerned , they're doing well. ✓
- As far as the weather concerned , it's perfect. × (错误 . ← 缺少 be 动词)
As far as the weather is concerned , it's perfect. ✓

例句

1. 谈论个人观点或感受

- As far as I am concerned , this is the best solution. (就我而言 , 这是最好的解决方案。)
- As far as the students are concerned , the new policy is unfair. (就学生们而言 , 这项新政策不公平。)

2. 限定讨论范围 (最接近你原句的用法)

- As far as the budget is concerned , we have enough money. (就预算而言 , 我们的资金是充足的。)
- As far as safety standards are concerned , this product meets all requirements. (就安全标准而言 , 这个产品符合所有要求。)

3. 商业或工作场景

- As far as the project deadline is concerned , we're running behind schedule. (就项目截止日期而言 , 我们已经落后于计划了。)
- As far as customer satisfaction is concerned , our ratings have improved. (就客户满意度而言 , 我们的评分有所提高。)

positive enactment

这里的 positive 确实不是 “ 积极 ” 的意思 , 而是一个法律和哲学领域的专业术语 , 源自拉丁语 positivus (被确立的、被制定的) 。

positive 在这里是指 “ 由人类权威 (如立法机构) 明确制定和颁布的 ” , 与自然法、习惯法或道德法相对。其核心是 “ 人为确立的、成文的、实定的 ” 。

- positive law (被确立的法律) : 人定法、实定法、成文法 . 是由国家或立法机关 , 正式制定颁布的法律 .
- natural law (自然法) : 自然法、理性法 . 源于自然理性或神意的普遍道德法则

在法律中文中，“positive law”常译为“实定法”或“制定法”。

注意理解：

英文	字面直译 (错误)	专业翻译(正 确)	解释
positive enactment	× 积极规定	√ 成文规定 / 制定法规定	指正式颁布的法律条文
positive law	× 积极的法律	√ 实定法 / 制定法	与“自然法”相对，指人制定的法律
legal positivism	× 法律积极主义	√ 法律实证主义	认为法律就是“主权者命令”的法学流派。 (我的总结：换言之，实证主义认为，法律的有效性，主要看立法者的资格，而非法律内容本身是良法或恶法)

Legal positivism 法律实证主义

Wikipedia:

In legal philosophy, legal positivism is the theory that the existence of the law and its content depend on social facts, such as acts of legislation, judicial decisions, and customs, rather than on morality. This contrasts with theories such as natural law, which hold that law is necessarily connected to morality in such a way that any law that contradicts morality lacks legal validity.

在法哲学中，法律实证主义认为法律的存在及其内容取决于社会事实，例如立法行为、司法判决和习俗，而非道德。这与自然法等理论形成对比，后者认为法律必然与道德相关，任何与道德相抵触的法律都缺乏法律效力。

Thomas Hobbes defined law as the command of the sovereign.

托马斯·霍布斯将法律定义为君主的命令。

According to the positivist view, the source of a law is its enactment or recognition by a legal authority that is socially accepted and capable of enforcing its rules. The merits of a law are a separate issue from its legal validity: a law may be morally wrong or undesirable, but if it has been enacted by a legal authority with the power to do so, it is still a valid law.

根据实证主义观点，法律的来源，是其由“社会认可，且有能力执行其规则的法律权威机构”制定或认可。法律的优劣，与其法律效力，是两个不同的问题：一项法律在道德上可能是错误的或不合适的，但如果它是由“有权制定该法律的法律权威机构”制定的，那么它仍然是有效的法律。

Leslie Green summarises the distinction between merit and source: "The fact that a policy would be just, wise, efficient, or prudent is never sufficient reason for thinking that it is actually the law, and the fact that it is unjust, unwise, inefficient or imprudent is never sufficient reason for doubting it. According to positivism, law is a matter of what has been posited (ordered, decided, practiced, tolerated, etc.); as we might say in a more modern idiom, positivism is the view that law is a social construction."^[1]

莱斯利·格林总结了功绩与来源之间的区别：“一项政策公正、明智、高效或审慎，这绝不是认为它就是法律的充分理由；同样，它不公正、不明智、低效或不审慎，也绝不是怀疑它就是法律的充分理由。根据实证主义，法律是既定的（秩序的、决定的、实践的、容忍的等等）；用更现代的说法，实证主义认为法律是一种社会建构。”^[1]

Legal positivism does not claim that the laws so identified should be obeyed, or that there is necessarily value in having clear, identifiable rules (although some positivists may make these claims). Indeed, laws may be quite unjust, and the government may be illegitimate; if so, there may be no obligation to obey the law. Moreover, the fact that a law has been found to be valid by a court does not mean that the court should apply it in a particular case. As John Gardner has said, legal positivism is "normatively inert".^[2] It is a theory of

law, not a theory of legal practice, adjudication, or political obligation, and legal positivists generally maintain that intellectual clarity is best achieved by separating these issues for independent analysis.

法律实证主义，并不主张必须遵守已确定的法律，也不认为拥有清晰、可识别的规则必然具有价值（尽管一些实证主义者可能会提出这些主张）。事实上，法律可能相当不公正，政府也可能不合法；如果是这样，人们就没有义务遵守法律。此外，法院认定某项法律有效，并不意味着法院应当在特定案件中适用该法律。正如约翰·加德纳所言，法律实证主义“在规范性上是惰性的”。[2] 它是一种法律理论，而非法律实践、裁决或政治义务理论。法律实证主义者通常认为，将这些问题分开进行独立分析，是实现理论清晰性的最佳途径。