

# Legal Review of Government Intervention in Market Regulation

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The issue of the state's position and its role in the economy has always been a subject of discussion among economists and thinkers in various economic schools since the emergence of economic science. In the last century, the issue of state intervention in the capital market has become one of the important issues and concerns of capital market activists, and consequently, the stock market index has become affected by this issue. Domestic studies on the Iranian economy also show that despite the introduction of regulation in Iran in recent years and the pursuit of privatization in important parts of the Iranian economy, strong state rule in Iran has remained intact and, for several reasons, a "regulatory state" has not emerged in Iran. It seems that, compared to other countries that have almost similar conditions as Iran in terms of oil and gas revenues, interventions in economic markets and economic interactions in Iran have not had appropriate results, and the design and implementation of policies to regulate and control domestic markets have called into question the effectiveness of these policies in Iran. Therefore, due to the concerns raised about the continuation of this situation and the need to correct the perspective and pathology of the strategies used, a comprehensive study and investigation in this field has become necessary and necessary. Therefore, such a matter requires that, in addition to identifying the current state of the Iranian economy and the functioning of the government, the limits and methods of government intervention in the economy and social affairs of a given society, and, alongside an approach to adapt to one of the countries at the same level, we also have a suitable comparison to determine the weaknesses or strengths.

**Keywords:** government, distributive justice, government intervention, market regulation.

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## 1. Introduction

One of the most important issues raised in the world today, especially in developing countries, considering the different schools of thought that are raised in relation to the economy, is the performance of the government in relation to the economic affairs of the society and the manner or extent of its intervention in economic affairs and market regulation. According to many contemporary lawyers and economists, the current governments in countries such as the United States of America and the United Kingdom have emerged

in a different form from the welfare state since the 1980s and have now completely distanced themselves from the ideological foundations of the welfare state and have created a new form of government, which has resulted in many works explaining such a modern state and its duties and functions. Among them, the recent writings of scholars indicate new changes in relation to the thinking of the regulatory state; This means that the world of economic thought seems to be moving towards a newer form of self-regulating government, and governments



are taking shape with postmodern characteristics, which are often called the hyper-regulatory government.

With a general look, we realize that governments have appeared in various forms, such as the welfare state, the regulatory state, and the hyper-regulatory state, from about the middle of the twentieth century to the present day, and each has monitored, intervened, and entered the economy in a specific way. Therefore, from the very beginning, government intervention in the economy from a governance perspective has become a controversial issue in the legal, economic, and policy-making fields, which has had its supporters and opponents. But what both groups have always acknowledged is that the market mechanism cannot always fulfill its duties and it is necessary to appropriately define types of government intervention in the economy in the market that have the necessary efficiency.

Domestic studies on the Iranian economy also show that despite the introduction of regulation in Iran in recent years and the pursuit of privatization in important parts of the Iranian economy, strong state rule in Iran has remained intact and, for several reasons, a "regulatory state" has not been established in Iran. It seems that, in comparison with other countries that have almost similar conditions as Iran in terms of oil and gas revenues, the interventions made in economic markets and economic interactions in Iran have not had appropriate results, and the design and implementation of policies to regulate and control domestic markets have called into question the effectiveness of these policies in Iran. Therefore, due to concerns about the continuation of this situation and the need to correct the perspective and pathology of the strategies used, a comprehensive study and investigation in this field is necessary and necessary. Therefore, such a matter requires that, in addition to identifying the current state of the Iranian economy and the functioning of the government, the limits and methods of government intervention in the economy and social affairs of a given society, and, along with an approach to adapt to one of the countries at the same level, we also have a suitable comparison to determine the weaknesses or strengths.

Therefore, in this study, government intervention in market regulation (a comparative study of Iran and the United Arab Emirates) is the main topic of this thesis. This study attempts to organize a suitable method and

solution for government intervention in the Iranian economy from future policymaking by utilizing strategies and identifying the existing capacities of the Iranian economy, while examining the reasons for the differences in the performance of government intervention in these two oil countries.

## 2. The Concept of The State and Its Functions in The Legal System

The state is a term in philosophy and political science that broadly refers to a specific set of political institutions with non-abstract and stable authority and the exclusive right to use legitimate power to exercise sovereignty over the people of a given territory and represent the political and social integrity of that country. Not only has there been no agreement among experts on the definition of the state, but for centuries the dispute over the nature of this concept has taken on an ideological color and has become one of the fundamental topics of current studies. The main difference between the various theories of the state is in two main issues: the origin of the legitimacy of the state and its function (Du et al., 2024).

The state, as an institution governing society, plays a central role in regulating social and economic relations. Throughout history, various concepts and definitions of the state have been presented, each emphasizing specific aspects of this institution. From a legal perspective, the state is defined as a public legal entity that has specific powers and duties. These powers and duties are determined in the constitution and other laws and regulations of each country.

The duties of the government in the legal system are very diverse and differ according to the historical, social and economic conditions of each country. In general, it can be said that the government has the duty to maintain order and security in society, guarantee the rights of citizens, promote public welfare and achieve sustainable development. To carry out these duties, the government uses various tools such as legislation, law enforcement, judgment and policy-making. Over time, as societies have become more complex and international interactions have increased, the duties of the government have also expanded and governments have gradually played a more active role in the economy, culture and other social spheres.

Extensive studies show that the role of the government has changed with the progress of globalization and the focus has shifted to the ability of the government to strengthen its capacity to manage effectively in changing and complex conditions. Therefore, the role of the government has changed from being a practical manager and direct provider of services and goods to a facilitator of empowerment. At the same time, the environment and framework for private sector participation, the economic role of the government to ensure fair competition and ultimately maintain the safety and soundness of the financial system, to the role of regulator of financial institutions have also changed. It is increasingly clear today that the success of a country's development programs depends on effective economic policies, good governance and management of the country's financial performance. However, it should be borne in mind that the conflict between unlimited needs and demands and limited resources is also a critical and key problem that requires appropriate monitoring and interventions at the global level. Therefore, the goals of the modern government are to create an organization based on good governance and stewardship that can create a suitable environment for all its citizens to enjoy a good life (Khan, 2023).

The government, in both the general and specific sense, is considered a "legal person". This means that the government has an identity independent of the individuals that constitute it and has specific rights, duties and competencies. Although government decisions and actions are made by individuals, these individuals act as representatives of the government and all their actions are performed in the name of the government. The legal personality of the government, like any other legal person, has characteristics such as citizenship, residence, and the ability to be a party to a contract. However, due to its abstract nature, the government does not enjoy some of the natural rights and powers that natural persons have. The constitution, as the main statute of the government, determines the general framework of the powers and duties of the three branches of government and other government institutions (Yazdan Panah & Ahmadi Mousavi, 2023).

**Definition of the State and its Legal Nature** The state is the highest manifestation of the relationship of power and sovereignty that has existed in all societies. The state is the largest institution, organization, actor, and the

most important element of a society's political system. The importance and pervasiveness of the state is such that some researchers have considered political science and sociology to be the science of studying the state and its related issues (Cole-Heath & Sagiraju, 2024). Today, we live in a world of states where the presence of the state can be observed objectively and tangibly in almost all parts of the world. In the modern world, the state is the main and fundamental part of the political structures of society. A small number of societies that anthropologists have described in the past as "stateless societies" still exist in remote parts of the world, but they are also, at least nominally, within the scope of a modern state. Therefore, the state as a modern phenomenon has an undeniable role in the formation of modern societies and their movement towards a specific path. The importance of the state is so great that many sociologists, politicians, and legal scholars have spent many years focusing their studies on this phenomenon and have identified, analyzed, and explained its various aspects. The concept of the state did not become politically popular until the 16th century. Its first use in scientific discussion is attributed to Niccolò Machiavelli (1469-1527). The Greeks did not know this concept, and instead they used the word "polis," which meant more of a city-state. The concept of a new state did not exist in most of the Middle Ages. At the end of the Middle Ages, a concept of the state gradually emerged. Therefore, there was no specific and precise concept of the state and its functions, and over time, the concept of the state took on a more modern form, and its functions and functions were clarified. Even today, the concept of the state is used in various meanings in public discourse. Even today, social science thinkers do not agree on the definition of the state. The differences of opinion that have arisen are, above all, due to the diversity of ideas about the nature and character of the state, which affect the presentation of the definition. While some political thinkers consider the state to be essentially a class structure, others believe that the state is beyond classes and represents the entire society. Some consider it a system of power, others a welfare system. Some consider it to be a guarantor of social life, while others consider it to be a moral institution that is inseparable from the welfare and moral provision of man. Some consider it from a purely legal perspective as a society organized according to law, and some consider it to be identical with the nation or

community itself. Some emphasize its structural aspect, while others emphasize its functional aspect (Alam, 2007: 134). As stated, the difference in presenting views on the state is due to the difference in looking at the nature of the state. Therefore, in order to prevent problems in defining the state, attention should be paid to objective and fundamental elements. Below are some common definitions given by thinkers: Garner believes that a state is a more or less large community of people who permanently occupy a territory, are independent or nearly independent of external control, and have an organized government to which most of its inhabitants habitually obey. Dahl also states that: "A political system consisting of the inhabitants of a territory and the government of that territory is called a state." McIver defines a state as: "A government is a complex that, by law, maintains the general and external conditions of social order in a society with a defined territory, through a government with coercive power." Harold Elsky also considers the state as a territorial society, divided into the government and subjects, individuals or groups of individuals, whose relationship is determined by a superior coercive power: "a territorial society divided into government and subjects, which within a given area claims superiority over all other institutions" (Ansari et al., 2013).

According to Max Weber, "the state is a coercive political institution with a continuous and continuous organization insofar as it and its administrative authorities enjoy the exclusive right to use force in carrying out its orders." Weber's emphasis on the monopoly of the legitimate use of force clearly links the concept of the state with the concept of legitimacy. The extent to which individuals under the rule of the state actually accept that rule as legitimate is also a matter that must be determined through empirical analysis (Emami, 1995).

Anthony Giddens also says in his definition of the state: "Wherever there is a political apparatus of government (institutions such as parliament or congress, plus civil servants and officials), and it rules over a certain territory, and its authority is secured by the support of a legal system and the ability to use military force to implement its policies, there is a state. All modern societies are considered nation-states" (Khan, 2023).

In his famous book, *Theories of State*, Andrew Vincent mentions the origins of the word "State" and discusses its

uses from past periods, especially from the Machiavelli era. The word "State" comes from the Latin root "Stare" meaning to stand. This word usually refers to something that is established, stable, and in a certain fixed or stable state.

Vincent believes that the modern concept of the state has been formed since the sixteenth century. He states: "Our argument is that the state is a relatively recent phenomenon that dates back to the sixteenth century. Therefore, we cannot cite the existence of the Greek state or the medieval state in the sense that it is remembered today (Chiu & Greene, 2019; Grimminger, 2014).

From the perspective of fundamental rights, the state, as the most extensive political institution, is an organized and institutionalized society that has an independent and distinct identity from its constituent parts. Other political institutions such as the legislature, the executive, and the judiciary are considered sub-systems of the state. In other words, the state is the general framework within which all political institutions and laws are placed. Judge Shariatpanahi, confirming this view, calls the state "the institution of institutions" and states that "legal rules, various institutions, especially political institutions, and also regimes (government) are all structural elements of this political society" (Ansari et al., 2013).

From a legal perspective, most theorists have considered the state as a complete public power that gives the government its dignity and personality. The government is the executive and bearer of the state's authority, and this continuous authority has been above and beyond the rulers and subjects and gives continuity and solidarity to the political organization (country) (Savari et al., 2023).

From the perspective of domestic jurists, the definition of the state states: "The state is an organized and institutionalized political society that is distinct from other societies and has a specific and distinctive character from its constituent elements". To avoid confusion with other meanings they present for the state (superior institutions and political administrators or the executive branch), they add the word country and use the combination of state-country, which has three main factors: human group, territory and political power. Other jurists also understand the state to mean the country and national society, which is composed of three elements: territory, population and political power. Therefore, the state is a comprehensive concept of

government, and government is the executive branch of government (Emami, 1995).

Therefore, in this regard, it can be said that based on their legal nature, the state is a whole, while the government is a part of the state, the state has an abstract concept, while the government is objective and tangible. The state is more or less stable, while the government changes. Another definition of the government states: "Government means an organization that has political organizations and institutions such as the legislature, the judiciary, and the executive, and is one of the main elements and factors in forming the state, and the state manifests and exercises sovereignty through these institutions." Finally, it can be said that the government is the type of organization and external manifestation of sovereignty and political power, which is a constituent part of the state or country. In other words, the state exercises sovereignty through the government. The government is also referred to as a "political regime" (Zarkalam, 2014).

Therefore, the executive power and the administrative and organizational set of a power is called the government. Government, which is actually the objective manifestation of sovereignty in the political organs of a state, is referred to as the set of individuals and institutions of a state that carry out their specific tasks in the form of fundamental laws and the constitution. In this sense, government represents a combination of objective organs of the state that have assumed various duties in different models of governance and will have obligations to its citizens. Therefore, it can be claimed that no government is effective in practice unless the government has designed efficiency (Zarkalam, 2014). Therefore, based on these differences, one of the benefits of distinguishing the state from the government is that it makes it easier to understand the regular changes and dismissal of governments while maintaining the continuity and legitimacy of the social system (Vincent, 2006: 58). Therefore, it can be said that the government is a part of the state and naturally has three branches: the legislative, executive, and judicial branches. The legal framing of these branches leads to the formation of various political regimes.

### 3. The Legal Nature and Function of the State as a Public Legal Entity

Public law is a branch of law that studies the organization of the state and state institutions, the relations between the state and citizens, and the relations between different state institutions. Montesquieu, a famous political philosopher, defined public law as a set of relations between the rulers and the ruled. However, traditional definitions of public law face challenges. On the one hand, not all activities of the state necessarily imply the exercise of sovereignty. For example, the establishment of a commercial enterprise by the state is an example of an economic activity that is not necessarily political in nature. On the other hand, some private entities may participate in activities that are public in nature. To resolve these ambiguities, a more precise definition of public law can be provided. According to this definition, public law refers to a set of legal rules that govern the state and its relations with citizens, provided that these relations are related to the exercise of sovereign rights and the exercise of public authority (Katouzian, 1995).

Understanding the nature of the state is important because governance and the exercise of legitimate power (authority) as the main specific task of this structure are affected by its essence. The definition that is presented of the essence or nature of a state responds to the expectations and fundamental questions that exist regarding the way of governing and exercising power in a state, and naturally, such an answer shapes the structure and texture of political, institutional power and its legal system (Katouzian, 1995).

The main goal of public law is to make the state and political government law-based in such a way that rulers are accountable to the people and the decision-making authority is entrusted to the people. The existence of a central power that can establish security and justice in society based on moral and legal principles is essential; But the main challenge lies in determining the position of the legal system in relation to the political system. In traditional systems of government, rulers were both legislators and enforcers of laws. As a result, the political system dominated the legal system, and this dominance often led to corruption and oppression. However, with the emergence of modern systems, this practice changed and basic laws were formulated that determined the relationship between rulers and the people. This development led to the expansion of individual freedoms and the formation of a social contract, on the basis of

which people agree to determine their own destiny (Soltani, 2021).

Therefore, from the middle of the twentieth century onwards, especially after the Second World War, with the increase in state intervention in various matters of social life, the scope and extent of public law increased significantly. The increasing development of public law and the expansion of state intervention in the economy, with the aim of reducing inequalities while preserving private property rights, affected all branches of private law. Even the nature of some civil law rules, which are known as the foundation of private law, has undergone transformation and has been mixed with the concepts and rules of public law. On the other hand, although the main subject of public law is the state and political institutions, its ultimate goal is to meet the needs of individuals and society. The state has a very important position in a part of public law called "public economic law", which is a new trend of public law. Most authors in French sources consider public economic law to be a branch of law that regulates the relations of public law entities, including the state, local institutions and public institutions with each other and with private law entities such as companies in the private sphere. In the aforementioned definition, we are faced with actors of public economic law on the one hand and regulation on the other. Therefore, one of the actors that plays an important role in the field of public economic law is the state. The state's tool for regulating this area of law is the same classical tools that it uses in other areas; That is, the establishment of law, the implementation of law through administrative decisions and actions, and the resolution of disputes in economic relations. Through the establishment of law in its broadest sense, the government determines its economic goals and policies, provides the basis for government intervention or supervision in the market, establishes administrative institutions to regulate the market, determines the conditions for the creation and dissolution of economic units, and generally determines the framework for the activity of the economic sphere (Soltani, 2021).

The State and its Duties in the Constitution of Iran and the UAE

#### A- The State and its Duties in the Constitution of Iran

As previously stated, the state is a multifaceted term in law that has multiple meanings. In the Constitution of the Islamic Republic of Iran, a plurality of concepts of the

state are also seen. By examining this law, it is clear that the term state is used in five concepts, namely: the state as a country, the state as a set of sovereignty, the state as the executive branch, and the state as the cabinet or council of ministers, and in a specific case, the state is used in the sense of the judiciary. Therefore, each of these five concepts places the state in a special legal status and position, which in the case of the rights and duties of the state and the people in the Constitution, this special status and concept of the state in each principle should be paid attention to; because it seems that if we interpret the state in each of the principles of the Constitution instead of other concepts, there will be a disruption in the organization and position of the state's rights and it will also harm the rights of the people. Therefore, the concept of the state and its duties in each principle should be deduced according to the general principles and evidences regarding it and it should be determined in which concept the state is used in each principle (Sarmi Nouri et al., 2022).

The word "state" has been used in the Constitution of the Islamic Republic of Iran in various forms and in combination with other words many times. A careful examination of the use of this word shows that in 33 of the principles of the Constitution, the state has been referred to directly or indirectly at least 38 times. We can state the cases of use of the word "state" in the Constitution as follows:

- State independently: This word has been used in some principles independently and without combination with other words.
- Government in combination with other words: In many cases, the word government is combined with other words such as the Islamic Republic, receipts, agreements, employees, departments, transactions, departments, companies, buildings, properties, institutions, symbols, apparatuses, and regulations.
- Government in the plural: In two principles, the word government is used in the plural (governments and states).

It is noteworthy that in many cases, the concept of government in the Constitution does not specify precisely which legal concept of government is meant by the government in each of the principles of the Constitution. Some experts believe that the concept of government in the Constitution is the executive branch. However, this opinion alone is not sufficient to explain all

cases of use of the word government in the Constitution, and in order to more accurately understand the concept of government in the Constitution of the Islamic Republic of Iran, it is necessary to carefully examine each of the principles in which the government is mentioned. This review should be conducted in light of the historical, social, and political context of the drafting of the constitution, as well as the theoretical foundations of fundamental rights (Sarmi Nouri et al., 2022).

In the following, some other principles of the constitution in which the state is mentioned in other meanings such as: country, political sovereignty, etc. are mentioned:

#### B- The state as a state:

In two principles of the constitution, the state is mentioned as a state, which also specifies its duties.

1- Principle 125: According to this principle, "the signing of treaties, agreements, and contracts between the Iranian government and other governments, as well as the signing of treaties related to international unions, shall be done after the approval of the Islamic Consultative Assembly by the President or his legal representative."

The word "state" in this principle is used in two meanings:

1. The state in the sense of the executive branch: In the first part of this principle, "the signing of treaties, agreements, and contracts between the Iranian government and other governments" is entrusted to the President. Here, the government means the executive branch, and the president, as the representative of this branch, is responsible for signing these documents.

2. The government means the country: In the second part of this principle, the "Government of Iran" means the country of Iran, which, as an international personality, intends to join international unions. In this sense, the government is considered as an entity with national sovereignty and international law.

2- Principle 152: According to this principle, "The foreign policy of the Islamic Republic of Iran is based on the rejection of any kind of hegemony and subjugation, the preservation of the country's comprehensive independence and territorial integrity, the defense of the rights of all Muslims, and non-alignment with hegemonic powers, and hegemonic relations and mutual peaceful relations with non-belligerent states." In this important principle, the state is used to mean the country of Iran,

for which a foreign policy has been outlined with specific characteristics and principles such as: rejection of hegemony and subjugation, preservation of independence, and ...

#### C- The state in the sense of total political sovereignty (in the general sense)

In the following principles (Articles 3, 8, 9, 11,...) of the Constitution of the Islamic Republic of Iran, the state means the total political sovereignty of the Islamic Republic. These principles are:

1- Principle 3: According to this principle, the government of the Islamic Republic of Iran is obliged to use all its resources for the following matters in order to achieve the goals mentioned in the second principle:

1- Creating a favorable environment for the growth of moral virtues based on faith and piety and combating all manifestations of corruption and depravity.

2- Raising the level of public awareness in all fields by properly using the press, mass media and other means,

3- Free education and physical training for all at all levels and generalizing higher education,

4- Strengthening the spirit of investigation, investigation and innovation in all scientific, technical, cultural and Islamic fields through the establishment of research centers and encouraging researchers,

5- Complete rejection of colonialism and prevention of foreign influence,

6- Eradicating all forms of tyranny, autocracy and monopolization,

7- Ensuring political freedoms and social within the limits of the law,

8- Participation of the general public in determining their political, economic, social and cultural destiny,

9- Elimination of unjust discrimination and creation of fair opportunities for all in all material and spiritual fields,

10- Establishment of a correct administrative system and elimination of unnecessary organizations,

11- Complete strengthening of the national defense base through general military training to preserve the independence and territorial integrity and the Islamic system of the country,

12- Establishment of correct and fair independence according to Islamic principles in order to create welfare and eliminate poverty and eliminate any kind of deprivation in the fields of nutrition, housing, work, health and universalization of insurance,

13- Ensuring self-sufficiency in science, technology, industry, agriculture and military affairs and the like,

14- Ensuring the comprehensive rights of individuals of both men and women and creating fair judicial security for all and equality of all before the law,

15- Development and consolidation of Islamic brotherhood and general cooperation among all people,

16- Regulation of the country's foreign policy based on the criteria of Islam, fraternal commitment to all Muslims and unwavering support for the oppressed of the world.

Regarding the aforementioned principle, it should be noted that there are spelling errors in the original text of this principle and its formulation is not precise. Also, the second principle does not specifically refer to the goals of the Islamic Republic of Iran and it seems that this principle focuses more on the mutual duties and responsibilities of the people and the government than on the general goals of the system.

2- Principle 8: According to this principle, "In the Islamic Republic of Iran, calling for goodness, enjoining what is right and forbidding what is wrong is a universal and mutual duty on the part of the people towards each other, the government towards the people and the people towards the government. The conditions, limits and quality of this duty are determined by law.." In this principle, the word "government" is also intended in its general and comprehensive meaning, i.e. the sovereignty and political system of the country. Because the mutual relationship of enjoining what is right and forbidding what is wrong is established between the people and the government. In other words, this principle defines a universal and mutual duty for the people and the government, based on which both the people must be responsible towards the government and the government, and the government must fulfill its duties towards the people.

3- Principle 9: According to this principle, "In the Islamic Republic of Iran, freedom, independence, unity and territorial integrity of the country are inseparable from each other, and their preservation is the duty of the government and the people. No individual, group or authority has the right to cause the slightest harm to the political, cultural, economic and military independence and territorial integrity of Iran in the name of exercising freedom, and no authority has the right to deprive the country of legitimate freedoms in the name of preserving

its independence and territorial integrity, even by enacting laws and regulations."

4- Principle 11: According to this principle, "In accordance with the verse of the Holy Quran, "This is your nation, your hope is one, and I am your Lord, so worship me." All Muslims are one nation, and the government of the Islamic Republic of Iran is obliged to base its general policy on the alliance and unity of Islamic nations and to make continuous efforts to realize the political, economic and cultural unity of the Islamic world."

5- Principle 14: According to this principle, "In accordance with the noble verse: "Allah does not forbid you from those who did not fight you in religion and did not expel you from your homes, that you should make excuses for them and be kind to them. Indeed, Allah loves those who are just." The government of the Islamic Republic of Iran and Muslims are obligated to act towards non-Muslims with good morals, Islamic justice and equity, and to respect their human rights. This principle applies to those who do not plot or act against Islam and the Islamic Republic of Iran."

6- Principle 21: According to this principle, "the state is obliged to guarantee women's rights in all aspects in accordance with Islamic standards and to carry out the following:

1- Creating favorable conditions for the development of women's personality and the restoration of their material and spiritual rights,

2- Supporting mothers, especially during pregnancy and child custody, and supporting orphaned children,

3- Establishing a competent court to preserve the integrity and survival of the family,

4- Establishing special insurance for widows and elderly and orphaned women,

5- Granting guardianship of children to worthy mothers in order to care for them in the absence of a legal guardian."

In this principle, the word "government" is used in the general sense of the country's sovereignty and political system. Because supporting mothers, especially during pregnancy, and establishing special insurance for widows, although its implementation is the responsibility of the executive branch, requires the establishment of laws and regulations approved by the legislative branch. In other words, this principle refers to the major role of the political system in providing basic

needs and supporting vulnerable segments of society and is not limited to a specific branch.

7- Principle 41: According to this principle, "Citizenship of the State of Iran is the inalienable right of every Iranian and the state cannot deprive any Iranian of his citizenship, except at his own request or if he acquires the citizenship of another country."

8- Principle 42: According to this principle, "Foreign nationals can acquire Iranian citizenship within the limits of the laws, and the deprivation of citizenship of such persons may be requested by them themselves if another state accepts their citizenship."

9- Article 49: This article stipulates that "the government is obliged to seize wealth resulting from usury, bribery, embezzlement, theft, gambling, misuse of endowments, misuse of government contracts and transactions, sale of land that is not permitted and permitted, establishment of places of corruption and other illegitimate matters and return it to the rightful owner, and if he is not known, give it to the Treasury. This ruling must be implemented by the government through investigation, investigation and Sharia proof."

10- Article 53: According to this article, "all government receipts are concentrated in the accounts of the general treasury and all payments are made within the limits of the tests approved by law."

In this article, "government" is used to mean the entire government system and all governing institutions. Because the subject of this principle is not limited to the duties of the executive branch, but all institutions that receive money from the public, including the judiciary and its affiliated organizations such as the Land and Property Registration Organization, are subject to this principle. In other words, any financial receipt from any of the governing institutions, including litigation costs, legal deposits and other similar titles, must be concentrated in the general treasury account. This shows that this principle is a general and comprehensive principle regarding the management of public financial resources and encompasses all governing institutions.

11- Article 55: According to this article, "The Court of Accounts shall examine and audit all accounts of ministries, institutions, state-owned companies and other agencies that use the country's entire budget in any way, in the manner prescribed by law, to ensure that no expenditure exceeds the approved appropriations and that all funds are used in their proper place. The Law for

the Implementation of Article 49 was approved by the Islamic Consultative Assembly in August 2013. The Court of Accounts shall compile and submit the relevant accounts and documents in accordance with the law and submit the budget disbursement report to the Islamic Consultative Assembly each year, with its opinions divided. This report shall be made available to the public."

12: Article 80: According to this article, "Acquiring and granting loans with domestic and foreign grants without compensation by the government must be approved by the Islamic Consultative Assembly." In this article, the word "government" is used in two meanings:

- Government means the Cabinet: In one sense, the government means the executive branch, and specifically the Cabinet, which is directly responsible for implementing decisions to obtain loans.
- The government means the entire governmental system: In another sense, the government means the entire governmental system and the sovereignty of the country that is committed to repaying the loan. In other words, the entire country is responsible for this loan, not just the cabinet.

In simpler terms, in this principle, the government means both the executive branch that is directly responsible for carrying out the work and the entire country that assumes the ultimate responsibility and obligations arising from this action.

These two meanings, simultaneously and complementary, have been used in this principle to show that both the executive branch is directly responsible for implementing decisions and the entire country is responsible for its results.

13- Article 83: This principle stipulates that "government buildings and properties that are state assets. cannot be transferred to others except with the approval of the Islamic Consultative Assembly, and that too if they are not exclusive assets". The government in this principle is also used in a general sense because the normal regulations that exist regarding state assets also show the general concept of the government.

14- Article 85: This article stipulates that "the position of representative is vested in a person and cannot be transferred to another. The Parliament cannot transfer legislative authority to a person with a delegation, but in necessary cases it can delegate the authority to enact some laws to its internal committees, in compliance with

Article 72. In this case, these laws will be implemented on a trial basis for a period determined by the Parliament, and their final approval will be with the Parliament."

14- Article 103: According to this principle, governors, prefects, and other officials of the country who are appointed by the government are obliged to comply with the decisions of the councils within the limits of their authority."

15- Article 129: According to this principle, "the granting of state insignia is the responsibility of the president."

In this principle, the word "government" is used as an adjective for insignia and has a general and inclusive meaning. In other words, the insignia granted by the president are insignia granted to individuals by the entire governmental system and political sovereignty of the country. In simpler terms, when we say "state insignia," we mean insignia that express the position and status of an individual in the political system of the country and are granted by the highest executive authority of the country, namely the president. These insignia symbolize the trust and support of the entire governmental system for the recipient.

16- Article 139: According to this principle, "the settlement of claims regarding public and state property by referring it to arbitration in each case shall be postponed. It is approved by the Council of Ministers and must be notified to the Parliament. In cases where the parties to the dispute are foreign and in cases where the parties are domestic, they must also be approved by the parliament. Important matters are determined by law." The issue of state property was discussed under Article 83, so the state is used here in a general sense as well.

17- Article 141: This article stipulates that "the President, Vice Presidents, Ministers and government employees cannot hold more than one government job and that they cannot hold any other job in institutions whose capital is wholly or partly owned by the government or public institutions. They are prohibited from representing the Islamic Consultative Assembly, practicing law, and providing legal advice, as well as being the president and managing director or being a member of the board of directors of various types of private companies, except for cooperative companies, departments and institutions. Teaching positions in universities and research institutions are exempt from this ruling."

18- Article 145: This article stipulates that "the government of the Islamic Republic of Iran can grant asylum to those who seek political asylum unless they are considered traitors and criminals according to Iranian law." Regarding the second article of the Constitution, it was said that the meaning of the government of the Islamic Republic of Iran is the entire sovereignty and the government is a general concept, although from an executive perspective, granting political asylum is done by a group in the executive branch, but here the meaning of the government should be understood as the system and the entire sovereignty.

19- Article 173: This article stipulates that "in order to address complaints, grievances and objections of the people against government officials or units or regulations and to ensure their rights, a court called the Administrative Justice Court shall be established under the supervision of the Chief Justice. The limits of the powers and the manner of operation of this court shall be determined by law".

D- The government in the sense of the executive branch  
In a number of principles of the Constitution, the government is mentioned in the sense of the executive branch. According to these principles, duties for the government are stated:

1- Article 28: According to this principle, "Everyone has the right to choose a job that he or she desires and that is not contrary to Islam, public interests and the rights of others. The government is obliged to create the possibility of employment and equal conditions for obtaining jobs for all individuals, taking into account the needs of society for various jobs". In this article of the Constitution, the government is obliged to provide equal employment opportunities for all individuals, taking into account the needs of society for various jobs. The term "government" in this article means the executive branch; Because creating employment and providing equal conditions for all individuals requires the adoption of executive and operational measures by the country's executive bodies.

2- Principle 29: According to Principle 29, "Enjoying social security in terms of retirement, unemployment, old age, disability, guardianship, accidents and injuries, and the need for health and medical services and medical care in the form of insurance, etc. is a universal right, and the government is obliged to provide the above services and financial support to each individual in the country, in

accordance with the laws, from public revenues and revenues obtained from public participation".

3- Principle 30: According to this principle, "The government is obliged to provide free education and training facilities for all people until the end of the middle school and to expand higher education facilities free of charge to the extent of the country's self-sufficiency. According to this principle, the government is obliged to provide free education and training facilities for all people until the end of the middle school and to expand higher education free of charge to the extent of the country's self-sufficiency".

4- Principle 31: According to this principle, "Having housing commensurate with needs is the right of every Iranian individual and family. The government is obliged to provide the basis for the implementation of this principle by giving priority to those who are most in need, especially rural people and workers."

5- Principle 43: According to this principle, "Ensuring the economic independence of society and eradicating poverty and deprivation and meeting human needs in the process of growth while maintaining his freedom. The economy of the Islamic Republic of Iran is based on the following criteria:

1- Providing basic needs, housing, food, clothing, health care, education and the necessary facilities for starting a family for everyone,

2- Providing working conditions and facilities for everyone in order to achieve full employment and placing the means of work at the disposal of all those who are capable of working but do not have the means of work, in a cooperative form, through interest-free loans, and any other legitimate means that do not lead to the concentration and circulation of wealth in the hands of certain individuals and groups, nor does the government become a large, absolute employer. This action must be taken in accordance with the necessities governing the general planning of the country's economy at each stage of growth."

6- Article 44: According to this article, "The economic system of the Islamic Republic of Iran is based on three sectors: state, cooperative, and private, with regular and correct planning. The state sector includes all major industries, parent industries, foreign trade, large mines, banking, insurance, power supply, dams, and large water supply networks, radio and television, post, telegraph, and telephone, aviation, shipping, roads, and railways,

and the like, which are publicly owned and at the disposal of the state. The cooperative sector includes production and distribution cooperative companies and institutions that are formed in cities and villages according to Islamic principles. The private sector includes that part of agriculture, animal husbandry, industry, trade, and services that complement state and cooperative economic activities. Ownership in these three sectors is protected by the law of the Islamic Republic to the extent that it is consistent with the other principles of this chapter and contributes to the economic development of the country and does not undermine the community. The detailed rules, scope, and conditions of all three sectors are determined by law."

#### 4. Economic and Legal Theories of State Intervention in the Economy

State intervention in the economy is a topic that has long been the focus of attention of economic and legal scholars and continues to be one of the most important topics in the field of economic policymaking. This topic has gained double importance, especially in the twentieth century with the emergence of various economic theories and social and political developments. The role of the state in the economy has experienced tremendous changes throughout history. From the completely free economies of the classical liberal era, in which the state played a supervisory role, to the completely state-controlled economies of the socialist era, in which the state controlled all economic affairs, and finally to contemporary mixed economies, in which the state plays an active but limited role. These developments have led to a wide variety in the role of states worldwide; from states with very little intervention in the economy to states with very high intervention. Interestingly, even states that are committed to a market economy have witnessed an increase in state intervention in the economy in recent years. This shows that the role of the government in the modern economy has become much more complex than in the past, and governments are forced to expand their activities to meet the diverse needs of society (Renani, 2003).

The economic theories that have been put forward about government intervention in the economy are very diverse, and they have addressed this issue from

different perspectives, the most important of which are the "market failure theory", the "social justice theory" and the "economic growth and development theory". In addition to these theories, government intervention in the economy also has very important legal foundations that justify government intervention in the economy and social, cultural and political affairs of the nation. Therefore, various laws and regulations such as: a- Constitution (the constitution of many countries allows the government to intervene in the economy to ensure public interests); b- Financial laws (such as tax and budget laws, give the government tools to influence the economy); C- There are market laws (laws such as competition law, consumer law, and labor law that allow the government to regulate economic activities) that allow the government to intervene in the economy, although in some cases they also face challenges such as: efficiency, increased government spending, reduced incentives for the private sector, etc. Therefore, even in governments that are committed to social welfare and market regulation, the balance between individual and collective interests is always challenging. Governments use different methods to intervene in the economy, depending on their political and economic systems. Economic development, as the main goal of many governments, has broad dimensions beyond economic growth and requires careful examination, taking into account the specific conditions of each country. As Sanei points out in his research, the diversity of dimensions of economic development makes the need to pay attention to the unique characteristics of each country more apparent than ever before (Renani, 2003).

In other words, neoliberal policies that emphasize the free market and reducing the role of the government have in practice led to an increase in inequalities rather than reducing them and increasing public welfare. This shows that the relationship between government intervention in the economy and sustainable development is very complex and it cannot be easily concluded that any government intervention is positive or negative. Therefore, it must be said that government intervention in the economy is a complex and multifaceted issue for which there is no definitive and single answer, and attention must also be paid to the type and extent of this intervention and the goals pursued by the government. The extent and type of government intervention in the economy depends on various factors

such as the economic, social and political conditions of the country, policy objectives and prevailing economic theories. Ultimately, the goal of government intervention should also be to improve "public welfare" and "sustainable development". The discussion about the relationship between government and development has been tied to the challenge of the extent of government intervention in the economy since the beginning of the formation of development theories. Government activities have profound effects on key economic and social variables such as economic growth, inflation and unemployment. Therefore, the government, as a key actor, plays a decisive role in the formation of these variables (Renani, 2002; Renani, 2003). In recent economic history, two main approaches have been proposed regarding the role of the government in economic development: first, the state-centered approach, which emphasizes active government intervention in the economy, and second, the market-centered approach, which focuses on reducing government intervention and strengthening market mechanisms. These two different approaches have led to the formation of different types of governments with diverse intervention methods in the development process. Therefore, the government, with its unique characteristics and functions, acts as a key actor in the development process.

## 5. Economic and Social Reasons and Justifications for Government Intervention

Throughout history, the role of the government in the economy has always been a subject of debate and controversy. On the one hand, classical liberalism emphasized minimal government intervention and believed that markets would automatically reach equilibrium. On the other hand, other economic theories, including Keynesian theory, emphasized the active role of the government in stabilizing the economy and improving social welfare. Today, government intervention in the economy is a topic of considerable importance, which has become particularly evident in recent years in the context of global events such as the Covid-19 pandemic. In addition to economic changes, this crisis also increased social changes (crime, etc.) in several countries such as African countries due to economic quarantines and restrictions imposed on various activities, emphasizing the need for government

intervention ([Sharifi Renani et al., 2012](#)). Therefore, it is in response to such crises that government interventions are again very important to reduce social consequences and address the consequences of such events on various sectors.

Today, the concept of regulation and intervention in sharing economies is also considered essential to ensure fair competition and address rapidly changing business models. Therefore, given the rapid changes in business models, competition laws should also be designed to ensure healthy competition. Before the emergence of neoclassical economic approaches, the idea that markets can spontaneously reach equilibrium was common. But government intervention in the economy and historical research in this area also showed that governments have intervened in the economy for various reasons throughout history. A prominent example of this is the country of New Zealand. In the decades following 1910, namely the adoption of two important laws called the "Prevention of Monopoly Act 1908" and the "Trade Trusts Act 1910", which aimed to prevent monopoly and create healthy competition in the market, but unfortunately, these laws failed to create a strong and complete system to combat monopoly. Therefore, instead of developing its own laws, New Zealand imitated the complex and bureaucratic laws of England. These laws, instead of helping competition, led to more government control over the economy, because the government of this country believed that maintaining social stability was more important than creating free competition in the market. For this reason, instead of allowing the market to regulate itself, the government directly intervened in economic affairs and controlled companies. This extensive government intervention in the economy continued for a long time by other countries. The existence of monopoly and preventing its negative consequences is also another motivation that justifies the government's entry into the economy. In this regard, The positive relationship between government spending and economic growth and development is another motivational context that justifies the need for government intervention in the economy. Several empirical studies also show that there is a direct relationship between government intervention and economic growth. This issue has also been confirmed and emphasized in poor and less developed countries.

In addition, in response to sentiments within society, governments have implemented special social programs such as public housing projects as a means of providing the necessary social infrastructure to maintain law and order, which is usually pursued by the private sector with material and profit-seeking motives. This is particularly relevant in managing economies with socio-economic rather than political means, as is the case in densely populated countries such as China (Renad, 2010: 1055). State intervention is also often seen as a means of expanding investment, both human (the introduction of programs such as the Higher Education Contribution Scheme (HECS)) and physical, for the economic and social development of a country, which reflects this approach ([Chapman, 2002](#)).

Legal frameworks for intervention and limits on state intervention

In addition to the economic and social reasons for state intervention in the economy, there are also various legal frameworks to justify intervention, how to intervene, and how to limit state intervention in the economy. These frameworks, while creating a balance between public rights, economic freedom and public interest, allow the government to intervene in the economy in specific circumstances and in compliance with specific legal criteria. Therefore, the legal reasons for government intervention in the economy are also very diverse and complex, influenced by various factors. Governments must pay attention to these frameworks when intervening in the economy and ensure the legal legitimacy of their decisions.

These legal-legal frameworks provide the necessary structure and context for the government to intervene in the economy in order to correct market failures, promote justice and ensure sustainable economic development. Each law offers a specific way to address distinct market inefficiencies, from corporate governance to labor rights and environmental protection, which we will discuss in the following under two main axes, namely the justification of intervention and the axes of limiting government intervention.

Paragraph 1 - The Principle of the Rule of Law

One of the important principles in the legal framework for government intervention is the rule of law. According to this principle, governments are obliged to implement and follow the law in society, and therefore these interventions can be based on specific and

predetermined rules. For example, economic laws are one of the laws that must be implemented and followed by the government. Many economic laws are not only laws of “intervention and adjustment of the economy” but more importantly, laws of “government intervention”. The government must first be regulated by laws and then it can regulate the economy under the laws. In other words, the power and responsibility of the government must be granted by laws and the scope and approaches of the government to intervene in the economy must also be limited within the framework of the law. Therefore, “intervention in the government” forms the core of economic laws, which must also be implemented within a regular legal framework and in harmony with customary rules. This framework helps to guarantee the fundamental rights of individuals and prevent possible abuses of government power. However, it should be borne in mind that the power of the government must be precisely defined and limited through laws and any intervention in the economy must be in accordance with these rules (Sarmi Nouri et al., 2022).

Therefore, the rule of law, as a fundamental principle in the legal framework of state intervention, ensures that state interventions must be carried out within the framework of specific and approved laws. This helps to protect the economic and social rights of citizens and prevent the abuse of state power. In this framework, the power of the state is precisely defined and limited, and any intervention that occurs outside this framework is considered illegal. Also, the Constitution emphasizes that state interventions must face legal restrictions and citizens' rights must be respected, especially in economic areas. The following principles are observed in the Constitution (Zarkalam, 2014):

- The principle of the rule of law: It is one of the most important legal principles according to which the state is obliged to act within the framework of approved laws. Any state intervention in the economy must be based on approved laws and in compliance with the principles of legality.
- The principle of separation of powers: This principle guarantees the independence of the legislative, executive and judicial branches and prevents the concentration of power in the hands of a single institution. Each of these branches, within the framework of its duties, monitors

the functioning of the government and ensures compliance with the law.

- Fundamental rights of individuals: The constitution guarantees the fundamental rights of individuals, such as the right to property, freedom of business and the right to choose. State intervention in the economy must be such that it does not violate these rights.

### 5.1. *Constitutional economics*

Constitutional economics or constitutional economics is a research program in economics and constitutionalism that has been described as explaining the choice of “alternative sets of legal-institutional-conditional-legal rules that constrain the choices and activities of economic and political agents”. Constitutional economics is known as a practical approach to applying the tools of economics to constitutional issues. For example, one of the main concerns of any nation is the appropriate allocation of available national economic and financial resources. The legal solution to this problem lies in the field of constitutional economics. Another example is the examination of “the compatibility of effective economic decisions with the existing constitutional framework and the constraints or enabling conditions created by that framework” (Cole-Heath & Sagiraju, 2024).

Constitutional principles on economic rights require that all state intervention activities in the economy have an appropriate legal basis and that the state's behavior in these interventions be limited. “Basic economic rights” are based on the protection of fundamental rights and focus on the fundamental concept of the constitution, whose main value is “social standards”. To achieve the constitutional goals in the field of state intervention, by limiting the powers of the executive branch, these interventions must comply with the rule of law so that the economic rights of the constitution are guaranteed and they must be subject to constitutional review. Therefore, within this framework, state interventions must be carried out to protect the economic rights of citizens and with strict legal supervision. Also, economic laws must be formulated and implemented to ensure social justice and control government power (Zarkalam, 2014).

## 5.2. General Laws and Regulations

General laws and regulations, as comprehensive legal frameworks, play a pivotal role in defining the limits and powers of the government in intervening in the economy. These laws, while creating stability and predictability in the business environment, allow the government to intervene in economic activities to achieve goals such as economic growth, social justice, and environmental protection. Since the government is both a regulator and a participant in economic development and social operations, the exercise of its power is of great importance in terms of people's welfare and state construction, although it is prone to following personal interests and marketization, which is accused of shifting the role of the economy with excessive investment behaviors, the main reason for these problems is mainly in the inadequacy of institutional regulations that lead to the easy use of public administrative powers by the government to achieve personal interests (Chapman, 2002; Chiu & Greene, 2019).

## 6. Conclusion

In conclusion, the legal review of government intervention in market regulation, particularly through a comparative study of Iran and the United Arab Emirates, highlights the complexity and multifaceted nature of state involvement in economic affairs. The research underscores that while state intervention is essential for maintaining market stability, ensuring distributive justice, and fostering economic growth, the methods and extent of this intervention significantly impact its effectiveness. In Iran, despite various regulatory efforts and privatization initiatives, the strong state presence continues to dominate the economic landscape, limiting the emergence of a true regulatory state. This persistent state control, in comparison to the UAE's more balanced and strategic intervention, poses significant challenges to market efficiency and economic development in Iran. The study demonstrates that effective market regulation requires not only a well-defined legal framework but also adaptive policies that consider the unique economic and social conditions of each country. The UAE's approach, characterized by clear legal boundaries, robust regulatory institutions, and a supportive environment for private sector participation, serves as a

model for Iran to address its economic challenges. The findings reveal that Iran's economic interventions often lack coherence and adaptability, leading to inefficiencies and market distortions. The absence of a cohesive regulatory framework, coupled with political and economic uncertainties, further exacerbates these challenges.

Moreover, the research highlights the importance of balancing state intervention with market freedoms. Excessive intervention, as observed in Iran, can stifle competition, deter investment, and hinder economic innovation. Conversely, the UAE's experience shows that strategic state involvement, aimed at fostering competition, protecting consumer rights, and ensuring financial stability, can drive economic growth and development. The study also emphasizes the critical role of legal frameworks in ensuring that state interventions are transparent, accountable, and aligned with broader economic and social goals.

The comparative analysis underscores the need for Iran to reform its regulatory policies by adopting best practices from countries like the UAE. This includes enhancing legal clarity, strengthening regulatory institutions, and fostering an environment that encourages private sector growth while ensuring social welfare. The study calls for a reevaluation of Iran's intervention strategies, with a focus on reducing unnecessary state control, enhancing market efficiency, and promoting sustainable development.

Ultimately, this research contributes to the ongoing discourse on state intervention in market regulation, providing valuable insights for policymakers, economists, and legal scholars. It highlights the necessity of a balanced approach that leverages state intervention to correct market failures and promote public welfare while safeguarding market dynamics and encouraging private sector participation. As Iran navigates its economic challenges, adopting a more structured and strategic regulatory framework, informed by successful models like the UAE, could pave the way for a more resilient and dynamic economy.

## Authors' Contributions

Authors contributed equally to this article.

## Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

## Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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The authors report no conflict of interest.

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In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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