

# The Jurisprudential and Legal Status of Sale Below Fair Market Value in Islamic Jurisprudence and the Laws of Iran and England

Somayeh. Filli<sup>1</sup>, Seyed Mohammad Taghi. Karimpour Alehashem<sup>2\*</sup>, Fakhrollah. Molaei Kandelos<sup>1</sup>

<sup>1</sup> Department of Jurisprudence and Fundamentals of Islamic Law, Cha.C., Islamic Azad University, Chalous, Iran

<sup>2</sup> Department of Law, Cha.C., Islamic Azad University, Chalous, Iran

\* Corresponding author email address: mtka1351@iau.ac.ir

Received: 2026-01-01

Revised: 2026-05-03

Accepted: 2026-05-12

Initial Publish: 2026-05-19

Final Publish: 2026-09-01

This article examines, through a descriptive-analytical method, the validity of sale below fair market value in Islamic jurisprudence and compares it with the legal systems of Iran and England. Dumping refers to the sale of goods in a foreign market at a price lower than the final production cost of those goods in the exporting country, with the aim of gaining a competitive advantage over other suppliers of the same product. In fact, dumping involves selling a commodity in another country below its normal and fair value. Dumping is regarded as an unfair commercial practice intended to expel competitors from the market and inflict serious harm upon the domestic industries of importing countries, thereby producing adverse effects on the trade systems of importing states. In response to dumping, various measures have been adopted within domestic legal systems and particularly within the framework of the World Trade Organization. The Anti-Dumping Agreement of the World Trade Organization constitutes the most significant international legal instrument for combating dumping, addressing both its identification and methods of counteraction. In Iranian law, the history of anti-dumping regulations dates back to the Customs Law of 1971, which was later repealed following the enactment of the new Customs Law of 1971. The most important domestic regulation for combating dumping is the Anti-Dumping Regulation adopted by the Council of Ministers in 1971. Another relevant statute is the Law on the Implementation of the General Policies of Article 44 of the Constitution, which prohibits anti-competitive practices and establishes mechanisms for addressing them. Since dumping is considered one of the manifestations of anti-competitive conduct, it may be argued that the authority designated in this law to adjudicate anti-competitive practices is also competent to hear dumping claims and disputes. This situation reveals an ambiguity within the domestic legal system regarding jurisdiction over dumping disputes, as two separate domestic laws recognize two distinct competent authorities. On the other hand, the validity of sale below fair market value in Islamic jurisprudence may, in some cases, be regarded as fictitious or collusive. Najsh refers to the preference of one ruling or proposition over another on the basis of logical criteria and juristic reasoning. Concerning the validity of sale below fair market value in Islamic jurisprudence, various forms of najsh have been discussed, each relying on particular legal arguments and religious considerations in reaching a determination.

**Keywords:** Sale; Below Fair Market Value; Jurisprudence and Law; Iran and England.

## How to cite this article:

Filli, S., Karimpour Alehashem, S. M. T., & Molaei Kandelos, F. (2026). The Jurisprudential and Legal Status of Sale Below Fair Market Value in Islamic Jurisprudence and the Laws of Iran and England. *Interdisciplinary Studies in Society, Law, and Politics*, 5(4), 1-12. <https://doi.org/10.61838/kman.isslp.486>

## 1. Introduction

The jurisprudential and legal status of sale below fair market value, with knowledge of the current

market price and on the basis of agreement, is one of the issues discussed in Islamic jurisprudence and Islamic law. In Islamic jurisprudence and law, sale below fair market value, or sale involving uncertainty despite



knowledge of the current market price, is one of the forms of sale contracts in which the seller sells a commodity to the buyer at a price lower than its ordinary price. However, certain conditions must be fulfilled for this type of contract to be regarded as valid and lawful. In English law, acceptance is regarded as an element which, together with offer, is required for reaching agreement; when this agreement is accompanied by the other elements, namely consideration, intention, and capacity, it becomes a binding contract (Lowenfeld, 2011).

## 2. Sale with Knowledge of the Current Market Price:

If the buyer or the seller becomes aware of the known amount, they may record the market price on a daily basis.

### 2.1. Agreed Price:

The price in this type of contract must be determined by agreement between the buyer and the seller; that is, both parties must consent to the agreed price. In this type of contract, if both parties have agreed to all the stated conditions, the transaction is regarded as valid and lawful. However, if these conditions are not observed, the transaction may be annulled. Islamic law pays considerable attention to the precise conditions governing trade and different types of transactions; accordingly, such transactions must also be conducted within the framework of Islamic law and jurisprudence in order to be recognized as valid.

Concerning the legal nature of delivery, jurists have presented different views. Some believe that delivery and agreement concerning the object of obligation in a sale contract, where the object of obligation is a generic obligation in debt, may, from the perspective of rational analysis, be regarded as a new transaction. The reason is that the generic object of obligation has multiple external instances, and the obligor is required to deliver one of those instances. However, it should be noted that selecting one instance from among several instances does not by itself constitute performance of the obligation; rather, the obligor must deliver it to the obligee, and the obligee must take possession of it. This act, which takes the form of a juridical act, is in fact regarded as a new transaction, because delivery and agreement in this context involve transferring

ownership of a specific instance to the obligee, while the generic object of that instance had been the subject of the obligation; therefore, it requires an intention to create legal effect. Another group believes that delivery and taking possession, which cause the transfer of ownership, constitute a unilateral legal act in which only the will of the obligor is necessary in determining the specific instance of the generic object of obligation and transferring its ownership to the obligee, while the will of the obligee has no effect in its realization. Therefore, for the purpose of performing the obligation and discharging the debtor's liability, delivery of the object of obligation to the obligee is sufficient, even if the obligee has not actually exercised control over it, as reflected in Article 368 of the Civil Code.

### 2.2. Duress in the Jurisprudential and Legal Status of Sale Below Fair Market Value

In Islamic jurisprudence, sale below fair market value is generally lawful if it is carried out with the consent of the party and all its conditions are observed. However, if one of the parties is coerced into this transaction and, through compulsion imposed by the other party, the transaction is concluded below fair market value, this coerced form of transaction becomes unlawful.

The principal point in sale below fair market value is that there must be agreement and consent between the parties for the transaction to take place. Any form of coercion or pressure imposed on one of the parties results in the invalidity of the contract and may give it the character of a coerced transaction. Consequently, sale below fair market value must be concluded with the consent of both parties, and if either party is coerced and the transaction is carried out compulsorily, it will be invalid and unlawful from both jurisprudential and legal perspectives.

### 2.3. Necessity in the Jurisprudential and Legal Status of Sale Below Fair Market Value

In Islamic jurisprudence and law, sale below fair market value may be invalid and unlawful if it is carried out under necessity. Necessity refers to a form of threat or compulsory pressure imposed on a person. In such a situation, the person acting under necessity is not able to make a free choice and is compelled to buy or sell the commodity at a price below fair market value.

In principle, if a person is placed under physical or psychological pressure as a result of necessity and is compelled to enter into a sale transaction below fair market value, this type of transaction may be invalid and unlawful. This is because the most fundamental condition for the validity of a transaction is the free consent of the parties. For this reason, if a person is compelled by necessity to enter into a transaction below fair market value, the matter must be examined in order to determine whether the transaction is valid or not. In many cases, necessity as a basis for concluding a transaction is not acceptable, and such a transaction is considered invalid.

#### *2.4. The Fictitious Nature of Sale Below Fair Market Value and the Jurisprudential and Legal Status of Sale*

In Islamic jurisprudence and law, sale below fair market value must be based on the free consent of the parties. If a sale transaction below fair market value is concluded fictitiously or merely formally, without the consent and agreement of the parties, this type of transaction may be invalid and unlawful. In fact, the most essential point in sale below fair market value is that it must be carried out voluntarily and with the free consent of the parties in order to be valid. If one of the parties enters into a transaction below fair market value under compulsion and pressure, that transaction may be invalid and unlawful.

Therefore, sale below fair market value must, from jurisprudential and legal perspectives, be concluded on the basis of the parties' free and voluntary consent. Conducting this type of transaction merely formally and without the free consent of the parties may give rise to problems and invalidity.

#### *2.5. Sale Below Fair Market Value Through Abuse of Right:*

Abuse of right means the improper or unethical exercise of a legal right that may result in harm to another person. In the context of sale, this may include cases in which one party, by exploiting the financial or social condition of the other party, compels that party to sell their property at a lower price.

### **3. Artificial Bidding:**

Artificial bidding is among the improper methods used in promoting the subject matter of a transaction. According

to the well-known view of jurists from Islamic schools of law, artificial bidding means that a person, without intending to purchase, proposes a high price for the offered commodity so that the customer hears it and buys the commodity at a higher price. Some jurists have introduced a second type of artificial bidding: praising the commodity for qualities that it does not possess, without intending to purchase it and for the purpose of attracting customers. Considering these definitions, certain brokerage practices, auctions, and media advertising, in which the offered commodity is usually presented as the best product, may be regarded as instances of artificial bidding. There is disagreement concerning the prescriptive ruling, the declaratory legal effect, and the right of option in a transaction based on artificial bidding. In the definition of artificial bidding, it has been stated that it consists of praising a thing, extensively advertising it, and also fabricating false claims about it (Turayhi, 1996).

#### *3.1. Foundational Artificial Bidding*

Some scholars believe that sale below fair market value is formally valid and permissible. They argue on the basis of jurisprudential sources and religious reports that this type of sale is permissible under certain special conditions, such as sales by persons who are dependent upon ownership or have inherited it. Preferential artificial bidding refers to the view of some scholars that sale below fair market value is preferably permissible where there is no potential harm or abuse of the weaker party's circumstances. They refer to arguments such as public interest, the urgent need of the buyer, or imbalance in the market price. Reflected artificial bidding refers to the view of some other scholars who believe that sale below fair market value is contrary to the objectives of the Sharia and is generally dependent on special exceptions. They believe that this type of sale may produce inequality and irreparable harm to the weaker party and should therefore be avoided as far as possible. As an important point, it should be noted that decision-making in this regard depends on a careful analysis of jurisprudential sources and the guidance of scholars and religious authorities. In addition, the circumstances and details of each transaction must also be taken into account. Some Imami jurists maintain that artificial bidding requires coordination between the seller of the commodity and the artificial bidder.

However, Sunni jurists and some Imami jurists maintain that artificial bidding is broader and includes cases in which the seller has coordinated with the artificial bidder as well as cases in which no such coordination exists (Mousavi Khoei).

Artificial bidding is one of the clear instances of fraud in transactions. According to the explicit statements of jurists from Islamic schools of law, fraud means betrayal and impurity in a transaction; that is, a person acts dishonestly in a transaction and sells a defective or adulterated commodity (Bahjat, 2005). In general, artificial bidding may be regarded as a type of advertisement and market manipulation for selling a commodity, through which the customer is stimulated to buy the commodity or to buy it at a higher price. Some prominent and contemporary examples of artificial bidding that are common in today's society include many brokerage practices or advertisements carried out through the media, by means of which, in addition to increasing the price of the commodity, the advertised commodity is introduced as the best product. Some auctions are also included, where the customer, despite knowing the price, buys the commodity at a price higher than its real value.

The first right of the seller in concluding a sale contract with the customer is the right to receive the price, which is the principal obligation of the buyer in exchange for receiving the sold item. In return for the seller's delivery of the sold item, the buyer is obliged to pay its price in accordance with the contract; if the contract contains no condition regarding the time and place of payment, payment must be made according to law. Under Article 339 of the Civil Code, failure to mention the price in the contract causes its invalidity. However, today, whenever the object of the contract is known according to custom, mentioning it in the contract or observing it is not necessary, because customary knowledge of a matter makes its mention in the contract unnecessary. Article 344 of the Civil Code also states that if no condition is mentioned in the sale contract, or if no time limit is determined for delivery of the sold item or payment of the price, the sale is definitive and the price is payable immediately, unless, according to the local custom and practice or the custom and practice of trade in commercial transactions, there is an established condition or time limit, even if it is not mentioned in the sale contract. Article 341 of the Civil Code also indicates

that determining a period for payment requires explicit mention in the contract. Therefore, in general, it may be inferred that the absence of any condition regarding payment of the price at the time of the contract implies that it is payable immediately. Regarding the place of payment of the price, on the basis of the final part of Article 375 and Articles 220, 250, and 280 of the Civil Code, whenever the parties have determined a place for payment of the price, the buyer is required, according to the rule that believers are bound by their conditions, to pay the price to the seller at the agreed place. However, if the parties have not agreed on the place of payment of the price but custom requires delivery at a specific place, the price must be paid at that place. Pursuant to Articles 220 and 226 of the Civil Code, if the place of payment of the price has not been determined at the time of the contract and custom also provides no rule in this regard, but the authority to determine the place of payment has been assigned to a person, that person may designate any place they consider appropriate for payment of the price. If none of the previous situations applies, then, in accordance with Article 280 of the Civil Code, the price must be paid at the place where the contract was concluded.

### 3.2. The Ruling on Artificial Bidding:

Concerning the prohibition of artificial bidding, consensus has been reported in *Jami' al-Maqasid*. In *Muhadhdhab al-Bari'*, it has been reported that there is no disagreement among the Imami jurists on this issue. In *Al-Mabsut*, *Al-Sara'ir*, *Tadhkirat al-Fuqaha'*, *Mukhtalaf al-Shi'a*, *Tahrir al-Ahkam*, *Al-Durus*, *Idah al-Nafi'*, and *Al-Maysiyah*, the absence of disagreement has also been explicitly stated. Their evidence is the Prophetic report mentioned in *Al-Mabsut* and *Ma'ani al-Akhbar*: "Do not engage in artificial bidding and do not turn away from one another" (Amili, 1998). This is because of the prohibition of artificial bidding and the curse upon its perpetrator in the Prophetic report, whose authority is supported by its well-known status, since the report mentions the curse upon both the artificial bidder and the person for whom artificial bidding is carried out. Other evidence includes the rational indication of its reprehensibility because it involves deception, betrayal, fraudulent concealment, disguise, inducement through ignorance, injustice, and harm (Kashif al-Ghita, 2000). Sale below fair market value in trade, from the

perspective of dumping, cartel, and trust, is usually criticized and is often regarded as unethical and anti-competitive.

Dumping means selling goods or services at a price lower than the cost of production or the market price. This is done for the purpose of suppressing the goods or services of others, monopolizing the market, or eliminating existing competitors from the market. From the perspective of economic jurists, dumping is often regarded as improper and unethical, because it creates disorder in the market and produces inappropriate discrimination against other producers.

#### 4. Interception of Caravans:

In jurisprudence, the expression concerning the interception of caravans refers to acquisition or transfer of ownership of property. Technically, with knowledge of the price, selling below the price refers to a situation in which the seller offers a commodity to the buyer at a price lower than its true value. In jurisprudence, this issue can be examined from two perspectives. First, according to custom and on the basis of Sharia rules, this practice is considered wrongful and undesirable. In general, selling a commodity at a price lower than its true value is not effective under custom and the principles of jurisprudence. Second, with respect to contracts, under the rules governing commercial contracts, this practice may occur between the parties if they fully and knowingly accept its conditions. If the parties, with full awareness and common intention, engage in this practice, the resulting arrangement will constitute a valid contract. In general, within the legal system of jurisprudence, this issue is influenced by Sharia standards and the rules governing contracts. In Iranian law, this issue refers to selling a commodity at a price lower than its true value. In Iranian law, the concept may be examined from two different perspectives. Under commercial law, selling a commodity at a price lower than its true value is recognized as contrary to the principles of fair trade. If this type of sale is carried out with the aim of strengthening competition or creating unfair financial advantages, commercial laws may regard it as unlawful and impermissible. From the Sharia perspective, in Islamic and religious law, the concept refers to selling a commodity at a price lower than its true value while having full ownership and dominion over the commodity. In Islamic law, this practice is

considered undesirable and unjust and is regarded as a violation of the principles of justice and authentic trade. Of course, under special circumstances, and with the acceptance of the parties, such a sale may be conducted in order to create an equal situation or facilitate commercial operations. In general, in Iranian law, this practice is usually regarded as contrary to the principles of justice and commercial law; nevertheless, if it is carried out with the consent of the parties and in compliance with the relevant laws, it may be recognized as valid. Likewise, this issue in English law may be raised through a concept similar to that found in Iranian law, namely selling goods at a price lower than their true value. In English law, this concept is recognized independently and may operate on the basis of laws and regulations. In English commercial law, efforts to establish fair competition and prevent unfair financial advantages may be of great importance. Therefore, it is likely that selling goods at a price lower than their true value, and consequently this practice, would be regarded as unlawful and unjust within the English legal system.

#### 5. Examination of the Bases for Price Change in Iranian and English Law

The word “competition” has different meanings in the competition laws of different countries, and governments have different understandings of what constitutes harm to competition or reduction of competition. In the United States, reduction of or harm to competition is found in cases where conduct or a transaction creates, is likely to create, or increases economic power in the relevant market to the detriment of purchasers. Harm or injury usually manifests itself in the form of lower production and higher prices for buyers and final consumers. Harm may also appear in the form of reduced innovation in more concentrated markets with higher barriers, again to the detriment of buyers and final consumers; however, there is no consensus on this point, and there is no certainty regarding the relevant analytical indicators. Nevertheless, it may be stated with certainty that when competition is discussed, organizations such as trusts, cartels, and similar structures emerge (Norouzi Shams, 2005).

### 5.1. Trust

A trust was a type of commercial organization created by American business leaders in the late nineteenth century. It is formed through the union of several companies that produce similar goods and hold a major share of the market. In reality, a small controlling group would acquire and control the assets of competitors and manage transactions in the interests of the integrated enterprises. These large economic units in capitalist countries have possessed considerable power and have always been instruments of industrial, commercial, and military domination over other countries. One of these major trusts is General Motors, which was formed through the merger of automotive units, iron-smelting and steel-production factories, and rubber-manufacturing enterprises such as BFGoodrich and General; it even secures its required financial resources through banks affiliated with itself (Lowenfeld, 2011).

### 5.2. Cartel

Cartels are agreements among competitors that are formed in order to reduce competition among them. Cartels are companies operating in a specific field that, while preserving their financial and legal independence, unite with one another and agree on market division among themselves, production volume, and the price of goods. This is typically carried out through price fixing, artificial bid rigging and price offers, allocation of customers or territories, allocation of quotas, or a combination of these instruments. The most common form of cartel in the United States is an agreement to fix prices. Cartel activity is illegal and prohibited in the United States, and competitors who engage in price fixing or market division cannot rely on justifications such as the claim that the cartel had no effect, that the cartel alleviated a market crisis or recessionary effects, that the fixed prices were reasonable, or that authorities knew about or even encouraged their plan, in order to escape the ensuing legal consequences. Cartels may also be formed and operate at the international level. The best-known international cartel is the Organization of the Petroleum Exporting Countries.

## 6. European Union Rules for Countering Trusts

The most fundamental competition rules are set out in Articles 101 and 102 of the Treaty on the Functioning of the European Union (Lowenfeld, 2011). The Treaty on the Functioning of the European Union establishes a common market with the free movement of goods and services throughout the European Union. To achieve this objective, the Treaty includes rules designed to ensure that competition in the European Union is not restricted or distorted by cartels, anti-competitive agreements, abuse of a dominant position, mergers and concentrations, or unfair state aid. Under Article 101(1) of the Treaty on the Functioning of the European Union, any agreement or collective practice, whether written or oral and whether formal or informal, between undertakings and commercial institutions, as well as concerted practices, is prohibited where it affects trade between Member States and has as its object the prevention, restriction, or distortion of competition. These rules cover both horizontal agreements between actual or potential competitors at the same level of the supply chain and vertical agreements between firms operating at different levels, such as an agreement between a producer and its distributor. Illegal practices violating Article 101 include, first, the direct or indirect fixing of purchase or sale prices or making trade conditional; second, measures that restrict or control production, markets, technical development, or investment; third, sharing markets or sources of supply; and fourth, applying unequal conditions to equivalent transactions with other parties and thereby placing them at a competitive disadvantage.

Measures violating paragraph 1 of this Article include the creation of a cartel among competitors, which may involve price fixing or market sharing, as well as agreements between economic enterprises whose purpose is to affect competition through the imposition of restrictions. Exclusive purchasing and selling arrangements with geographical restrictions are also among the violating practices. According to this paragraph, any agreement or decision prohibited under this Article is automatically void. In the European Union, rules containing anti-competitive conditions are not always very explicit; however, with respect to agreements containing anti-competitive clauses, it is

usually necessary to ensure that they can be legally justified.

## 7. Prohibition of Abuse of a Dominant Economic Position

Competition laws typically include provisions prohibiting business enterprises from abusing market power or attempting to abuse it. The ability of enterprises to raise the prices of their products and services is usually limited by competitors. When these limitations are weak, it is said that an enterprise has market power (Abdipour, 2009); if market power is sufficiently great, the enterprise is in a dominant or monopolistic position. Possessing market power is not, in itself, a violation of competition law; rather, abuse of that power, especially for the purpose of reducing competition by creating barriers to the entry of new competitors, constitutes a violation of competition. Paragraph 9 of Article 45 of the Law on the Implementation of the General Policies of Article 44 of the Constitution defines a dominant economic position as a situation in which the ability to determine price, the quantity of supply and demand for goods and services, or contractual terms is held by one or more persons. A dominant economic position is not identical to monopoly or monopolization. Enterprises may occupy monopolistic positions for various reasons. In some cases, the relatively higher efficiency of an enterprise compared with other competitors causes its growth, market concentration, and ultimately its monopolistic position. In other cases, enterprises, through cooperation, collusion, and coordination with other competitors, through strategic conduct, or through collusion with economic and political decision-making or policy-making centers, succeed in acquiring power and monopoly (Salehi, 1998). In this situation, an enterprise monopolizes production, supply, import, or export and practically has no competitor to be eliminated from competition. This can be clearly observed in several cases in Iran, such as cigarette imports or tea exports and imports. However, a dominant position enables the enterprise to prevent effective competition in the relevant market, allowing the company to act to a large extent independently of competitors, customers, and final consumers.

### 7.1. Monopoly and Its Effect on Price Reduction or Increase

An enterprise possesses monopoly power when it can control the purchase and sale price in the relevant market. Monopoly stands opposite to competition, although in some cases monopolies may even improve economic performance. In other cases, competition itself creates monopoly, and monopoly intensifies competition. For this reason, the issue of monopoly is highly complex and ambiguous, particularly with regard to distinguishing harmful monopolies from monopolies that result from the competitive functioning of the market. Perfect monopoly exists when there is only one seller and many buyers in the market. In a market characterized by perfect monopoly, there is only one seller for homogeneous goods; the price determined for the sale of goods is not profitable for the entry of other production units into the market; and the existing production unit controls the supply and sale of essential raw materials required for producing the commodity. The monopolist, as the owner of the monopoly market, regards the market as being in equilibrium when maximum profit is achieved in the short term. Enterprises may occupy monopolistic positions for various reasons. In some cases, the relatively higher efficiency of an enterprise compared with other competitors causes its growth, market concentration, and ultimately its monopolistic position. In other cases, enterprises, through cooperation, collusion, and coordination with other competitors, strategic conduct, or collusion with economic and political decision-making and policy-making centers, succeed in acquiring monopoly power (Salehi, 1998).

When state monopoly is discussed, two types of monopoly come to mind. The first is a case in which the state itself obtains monopoly in a particular field, such as the Iranian Tobacco Company, where, pursuant to the Law Amending the Tobacco Monopoly Law, the import, export, preparation, sale, and storage of tobacco products throughout the country were placed exclusively under the state; this type of monopoly is known as state monopoly. The second is the formation of monopoly in one or more fields through state support, such as the monopolistic sales market of domestic automobile manufacturers or the state's commercial support for a private enterprise.

## 8. Dumping

The term “dumping” derives from “dump,” meaning selling below price. In Iranian law, some have defined dumping as deceitful competition involving price discrimination in foreign trade, while some experts have considered destructive competition to be equivalent to dumping (Taheri Tehranian, 2001). Some have rendered it as market disruption, price breaking, and general underselling, while others have interpreted it as market breaking, price breaking, and breaking the market. It can be observed that destructive competition, price breaking, deceitful competition, and price discrimination are among the Persian equivalents considered for dumping. Numerous examples may be given for it, and price breaking in the world of trade, in addition to its negative aspect, namely dumping, also has positive aspects. In some foreign dictionaries, dumping is defined as selling foreign goods inside a country at a price lower than their normal value (Qarebaghian, 1993).

According to the definition provided in Article 6 of the General Agreement on Tariffs and Trade and Article 2.1 of the Anti-Dumping Agreement, dumping is an act by which products of one country are introduced into the market of another country at less than their normal value, creating a tendency among consumers to purchase them because of their low price and ultimately harming producers in the destination country. More simply, in dumping, the products of one country enter the market of another country at a price lower than the normal price, and an important condition is that the entry of goods into a country through dumping must harm similar products produced in the country subject to dumping. For example, if the production of a commodity in Iran costs 20 dollars and the same product enters the Iranian market from a country such as China at the equivalent of 10 dollars, in such circumstances the supplier introduces its goods into the Iranian market for a short period at a price lower than the cost of production in its own country, with the aim of monopolizing the Iranian market. In such circumstances, Iranian competitors are gradually eliminated from the market for that commodity, and after monopoly is established, the producer in China compensates for its initial loss by raising prices and makes maximum use of the extensive consumer market of Iran. Different views have been presented regarding the concept of dumping. Some

believe that dumping is defined on the basis of the price criterion, according to which dumping occurs when a foreign exporter sells a commodity in the market of another country below the selling price of the same commodity in its domestic market. In contrast to the price criterion, another view adopts the production-cost criterion and defines dumping accordingly; under this view, selling a commodity in a foreign market at a price lower than the marginal cost of producing it constitutes dumping. According to the definition provided under the Anti-Dumping Agreement of the World Trade Organization, a commodity is considered dumped when it is introduced into the importing country at a value lower than its normal value. Pursuant to paragraph (a) of Article 1 of the Anti-Dumping Regulation approved in 2007, the legislator has adopted the market-price criterion of the exporting country for determining the occurrence of dumping, which is consistent with World Trade Organization rules. By providing a clear criterion for dumping, the regulation facilitates the identification of dumping and prevents ambiguity and the presentation of different interpretations of the definition of dumping (Sadeghi, 2005). The price criterion has two major advantages over the production-cost criterion. First, identifying dumping on the basis of the price criterion is easier than identifying it on the basis of the cost of producing goods in the exporting country.

Second, a country may seek to monopolize the market of the importing country while simultaneously avoiding the imposition of anti-dumping duties by granting special assistance to domestic producers, thereby reducing the marginal cost of production. Because of these advantages, most domestic and international laws, including Article 2(1) of the World Trade Organization Anti-Dumping Agreement and Article 1 of the European Union Anti-Dumping Regulation, have adopted the first criterion, namely the price criterion. A type of dumping is now becoming common in which a product is produced not in one country but in several countries; therefore, it is not clear in which country the final product has been manufactured. In this type of dumping, the producer seeks, by involving several countries and making it difficult to determine the country of origin and destination as well as prices, to exclude the goods from the scope of dumping. World Trade Organization rules do not refer to this type of dumping in their definition of dumping. This deficiency in the Agreement causes

Member States to be unable to counter effectively this type of dumping, which is rapidly increasing, and as a result free trade is affected by it (Shiravi & Jafari Marandi, 2010).

### 8.1. Types of Dumping

Dumping has been classified from different perspectives. In terms of duration, dumping is divided into short-term and long-term dumping. In terms of state support, it is divided into dumping caused by state support and dumping without state support. In terms of determining normal value, it is divided into price dumping and cost dumping. In terms of effects, it is divided into destructive and non-destructive dumping. In terms of the role of the exporting and importing company in the export and import of goods, it is divided into hidden and open dumping. Sporadic dumping is also a type of dumping. Sometimes large manufacturing enterprises, in order to establish a commodity in the cycle of trade and with the motive of driving their competitors out of foreign markets, sell their goods in foreign markets for a short period at a price lower than the price at which they are sold in domestic markets. Usually, in this type of dumping, the volume of imports will be high within a short period of time (Mansour Qanaei, 2009). Continuous and permanent dumping arises from the tendency of a domestic monopolist to increase its profit by selling goods at a high price in the domestic market, while the foreign price, influenced by powerful foreign competitors, involves fewer trade restrictions and lower transportation costs. Dumping caused by state support occurs when state action involves the direct transfer of funds, such as grants, loans, capital injections, or potential direct transfers of funds or liabilities. If such assistance harms the domestic industries of the importing country, it entails the responsibility of states. In these cases, duties are imposed to neutralize and prevent dumping; these duties are called countervailing duties. States usually engage in such conduct for political reasons or to improve their balance of payments (Bardia, 2008). Dumping without state support, as its name indicates, occurs without state intervention, and producers engage in this type of dumping for competitive reasons, while the state provides no support to the domestic producer.

Dumping in terms of determining normal value exists when the price of exported products in the markets of

other countries is lower than the sum of production cost plus selling cost and acceptable profit in the country of origin. The total of production costs, selling costs, and reasonable profit, or constructed value, is used in cases where determining normal value is not possible for various reasons, such as the existence of subsidies, taxes, incentives, and other state interventions. Destructive or predatory dumping is the common and intended form of dumping that is also prohibited under the World Trade Organization Anti-Dumping Agreement. In this category, the domestic producer must prove the occurrence of injury or serious threat of injury and a causal relationship between the entry of the goods and the occurrence of damage. Sporadic dumping means the occasional sale of a commodity in a foreign market at a price lower than the domestic market price in order to dispose of an unforeseen surplus of goods, so that this surplus does not reduce prices in the domestic market. In fact, once the surplus production has been sold, dumping stops. Since this type of dumping does not have destructive effects on the domestic industry of the importing country, anti-dumping duties are not imposed in this case.

The principal place of dumping is in competition law. Therefore, for countries to counter this anti-competitive practice more effectively, it is preferable for them to allocate a section of their competition law to this issue and adopt relevant measures. Although dumping is not expressly mentioned as an instance of anti-competitive practices in some competition laws, dumping may still be prohibited on the basis of those laws.

### 8.2. Background of Dumping in European Union Competition Law

Today, European Union competition law is one of the important legal systems in the field of competition law. It came into existence simultaneously with the conclusion of the Treaty of Rome in 1957 and pursuant to the provisions contained in that Treaty. Articles 81 to 89 of the Treaty are devoted to competition rules. Article 81 of the Treaty concerns anti-competitive agreements, while Article 82 sets out the prohibition of monopoly and abuse of a superior position in the market. Articles 83 to 85 of the Treaty set forth implementing rules and the procedure for handling cases raised in connection with competition law. Articles 86 to 89 deal with public undertakings and state aid. In Article 82 of the Treaty of

Rome, dumping is prohibited as one of the instances of abuse of a superior position in free competition (Norouzi Shams, 2005).

### 8.3. Background of Dumping in Iranian Competition Law

Dumping may be regarded as an instance of predatory pricing, in which goods or services are offered in the market at a price lower than their cost price in such a way that it harms others and prevents new persons from entering the market. Although dumping is not expressly mentioned in the Competition Law Bill and the Law on the Implementation of the General Policies of Article 44 of the Constitution, and no definition of it has been provided, dumping may be considered an instance of the anti-competitive situation of abuse of a dominant position in the market, as referred to in these laws.

Paragraph 20 of Article 48 of the Law on the Implementation of the General Policies of Article 44 of the Constitution also identifies foreign economic domination over the country as one of the criteria for establishing disruption of competition. Considering the definition of dumping and the fact that dumping is an anti-competitive issue in the global trade market and is, in reality, a transboundary problem, it may fall within this paragraph of Article 48, because a country that engages in dumping thereby obtains economic domination and, by introducing cheap goods into another country, creates problems for domestic producers and drives them out of competition (Dezhm Khooy & Moradpour, 2007). It also harms domestic industry. Consequently, dumping in fact leads to foreign economic domination over the importing country, which is anticipated in paragraph 2 of the mentioned Article. The free market and free competition do not always have positive effects. Sometimes they create limitations for producers and prevent them from obtaining the profit they intended in the free market. Therefore, the necessity of controlling and supervising competition under these circumstances is evident and necessary. Countering dumping in international trade is among the duties of states, and because of the importance and sensitivity of this issue, most Member States of the World Trade Organization have enacted laws to counter dumping. Pursuant to paragraph (c) of Article 33 of the Fourth Development Plan Law, the government was required to adopt and implement effective protective, compensatory, and anti-dumping measures concerning

goods imported into the country under abnormal conditions and with a significant advantage. Finally, in 2007, the Anti-Dumping Regulation was approved by the Council of Ministers in order to counter dumping and implement methods for addressing it. The government must always support domestic production and industries; otherwise, the country will be exposed to the harms of dumping. In fact, the government must prevent such practices and enact laws defining national standards so that not every commodity is authorized to enter the country. The government must also adopt measures for high-technology production so that countries engaging in dumping cannot compete with such products, invest substantially in the production sector, and adopt fundamental and planned measures for export development.

## 9. Conclusion

Sale below fair market value in Imami jurisprudence and Iranian law is acceptable if it is intentionally and knowingly carried out by the parties. However, if it is done for the purpose of artificial bidding and deceiving individuals during auctions and similar contexts, its validity is impaired. If the purpose is dumping, then under English law the contract will face difficulties in terms of validity. In jurisprudence, the issue may be discussed from lawful action to artificial bidding and from the validity of the contract to its invalidity; in English law, dumping, whether through cartel or trust, may be subject to discussion. Controlling dumping and artificial bidding is one of the mechanisms for ensuring a competitive market and may be effective in protecting consumer rights and ultimately controlling prices. From a jurisprudential perspective, transactions carried out through fraudulent concealment and deception are unlawful and invalid.

From jurisprudential and legal perspectives, sale below fair market value in cases of cartel activity and fraudulent dumping is strongly regarded as a form of fraud. Fraud means deceiving, misleading, or openly using fraudulent concealment and deception in order to obtain unlawful profit and oppress others. Under commercial law, in Iranian commercial law, selling goods at a price lower than their true value is recognized as contrary to the principles of fair trade. If this type of sale is carried out with the aim of strengthening competition or creating unfair financial advantages, commercial law

regards it as unlawful and impermissible. Likewise, the issue of interception of caravans in English law may be raised through a concept similar to that in Iranian law. In light of the foregoing discussion, sale below fair market value is one of the issues examined and debated in Iranian and English law and jurisprudence. In Islamic jurisprudence, some Muslim jurists regard sale below fair market value as void and impermissible because it may lead to exploitation of the needy and the poor. However, some other Muslim jurists do not regard sale below fair market value as void and believe that if the seller knowingly and with full consent is willing to do so, it may be carried out. In Iranian law, sale below fair market value is void and impermissible in certain cases. For example, pursuant to Articles 416, 420, and 421 of the Iranian Civil Code, if the real price of the commodity is lower than the transaction price, the parties may apply to the court for restitution of the transaction price. In some other cases, due to the weakening of the seller's rights, sale below fair market value also becomes void. From a legal perspective as well, fraud in the form of sale below fair market value clearly constitutes a violation of fair competition laws and laws concerning the protection of consumer rights. This practice may destroy the market and create imbalance in the economy. Therefore, from legal and ethical perspectives, it has no validity and may give rise to accountability and liability.

In Iranian and English law, this rule also applies to online transactions. In Iranian and English law, sale below fair market value is also void and impermissible in online transactions. In Iranian law, the relevant laws and regulations must also be observed in conducting online transactions, and for sale below fair market value in this field, it is necessary for the seller to determine the price of the goods or services below fair market value with full awareness and complete consent. If the seller has not knowingly determined a lower price for the goods or services and the buyer obtains ownership of the goods or services through an impure or defective transaction, the buyer may apply to the court for restitution of the transaction price. In English law as well, in online transactions, sale below fair market value is void in cases where it weakens the buyer's rights. It may be stated that in many countries, sale below fair market value is void and impermissible in cases where it weakens the rights of the buyer or the seller.

### 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.

### Acknowledgments

We would like to express our gratitude to all individuals helped us to do the project.

### Declaration of Interest

The authors report no conflict of interest.

### Funding

According to the authors, this article has no financial support.

### Ethical Considerations

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

### References

- Abdipour, E. (2009). Abuse of dominant economic position. *Comprehensive Portal of Humanities; Islamic Law, Jurisprudence and Law*, 6(2).
- Amili, S. J. i. M. H. (1998). *Miftah al-Karamah fi Sharh Qawa'id al-'Allamah*. Islamic Publications Office Affiliated with the Society of Seminary Teachers of Qom.
- Bahjat, M. T. (2005). *Jami' al-Masa'il-e Bahjat*. Office of Ayatollah Bahjat.
- Bardia, H. (2008). The government's new action against dumping: Necessary but insufficient. *Chamber of Commerce Magazine*(485).
- Dezhm Khooy, G., & Moradpour, F. (2007). Anti-dumping agreements and safeguards. In *World Trade Organization: Structure*. Commercial Publishing and Printing Company.
- Kashif al-Ghita, J. f. i. K. (2000). *Kashf al-Ghita' 'an Mubhamat Shari'at al-Gharra'*. Mahdavi Publishing.
- Lowenfeld, A. F. (2011). *International Economic Law*. Jangal; Javidaneh.
- Mansour Qanaei, J. (2009). Terms of the hidden economy: Dumping. *Analytical Research Monthly of the Headquarters for Combating Smuggling of Goods and Currency*(10).

- Mousavi Khoei, A. *Misbah al-Fiqahah: Al-Makasib*.
- Norouzi Shams, M. (2005). A look at competition law in the laws of several countries. *Journal of the Faculty of Humanities*, 14(10).
- Qarebaghian, M. (1993). *Dictionary of Business and Economics*. Rasa Cultural Services Institute.
- Sadeghi, M. (2005). *Legal methods for combating dumping*. Institute for Trade Studies and Research.
- Salehi, H. (1998). Monopoly and concentration in Iranian industries: Analysis and recommendations. *Plan and Budget Journal*(34-35).
- Shiravi, A., & Jafari Marandi, M. (2010). Unfair trade through dumping and methods of countering it in the World Trade Organization. *Private Law Journal*, 7(17).
- Taheri Tehranian, M. (2001). Dumping: Price discrimination in foreign trade. *Institute for Trade Studies and Research*(171).
- Turayhi, F. a.-D. (1996). *Majma' al-Bahrayn*. Mortazavi.