




Foundations for the Formation of Single-Member Companies in U.S. and Iranian Law

1. Bagher Narimani : Ph.D. student, Department of Law, Ard.C., Islamic Azad University, Ardabil, Iran
2. Alireza Lotfi *: Assistant Professor, Department of Law, Ard.C., Islamic Azad University, Ardabil, Iran
3. Mozaffar Bashokooh : Assistant Professor, Department of Law, Ard.C., Islamic Azad University, Ardabil, Iran

*Correspondence: Drlotfi1346@yahoo.com

Abstract

A single-member company is the simplest form of business, exclusively owned and controlled by one person. In this structure, all benefits and liabilities arising from the business are directly attributed to that same person. This study aims to examine the possibility of forming single-member companies under Iranian law and to conduct a comparative analysis with U.S. law in order to clarify the legal necessities and challenges of this emerging institution. The study adopts a descriptive-analytical method and, using library-based sources, compares the legal foundations for the formation of such companies in the two legal systems of Iran and the United States. The findings indicate that recognizing these companies in Iran requires redefining the concept of a commercial company in the Commercial Code and distinguishing it from the concept of partnership. Moreover, authorizing this institution without enacting comprehensive rules on management and transactions may lead to personal abuse. By contrast, U.S. law, particularly the limited liability company (LLC), and the Twelfth European Directive have provided more flexible frameworks for this purpose. Based on the analysis conducted, it is recommended that, in order to address existing legal gaps, the new Commercial Bill be supplemented with precise regulations concerning decision-making procedures and the separation of assets, so that the economic advantages of these companies can be utilized while also protecting the rights of third parties.

Keywords: single-member company, corporate monopoly, limited liability company, Iranian law, U.S. law.

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1. Introduction

Rapid economic developments and the need for flexibility in commercial structures have compelled legal systems to reconsider the traditional concepts of commercial companies (Kraakman & Armour, 2017). One of the most important of these developments is the emergence and recognition of single-member companies, in which all shares or equity interests of the company belong to one single person. This legal institution responds to the needs of traders who wish to carry out economic activity without a partner and with limited liability (Miao, 2012).

From the classical perspective, a company was always formed through the association of two or more persons and on the basis of a contract (Hansmann & Kraakman, 2000). For this reason, the idea of a company with only one member appeared inconsistent with the lexical and conceptual roots of the notion of company (Talbot, 2015); however, with the development of commerce, the need to separate business assets from personal assets led to the recognition of an independent legal personality even for one single individual.

In the Iranian legal system, the basis for the formation of companies rests on the Commercial Code enacted in 1932, which emphasizes the plurality of partners. This traditional approach has caused the formation of single-member companies in Iran to face legal deadlocks, because, from a legal standpoint, dissolution of the company when only one partner remains has been accepted as a principle (Miao, 2012).

Nevertheless, in recent decades, economic necessities have led to the inclusion of single-member companies in the new Iranian Commercial Bill. Recognition of this institution can contribute to economic transparency and prevent the phenomenon of nominal partners, whereby individuals, in order to satisfy the legal minimum number of members, include family members or friends in the company without assigning them any real role (Deyneka, 2017).

One of the fundamental challenges in recognizing this type of company is the risk of commingling the owner's assets with those of the company and the possibility of abusing limited liability (Fraser & Simkins, 2016). If the boundary between the company's legal personality and the owner's natural personality is not clear, creditors may face the risk of non-recovery of their claims, which necessitates the enactment of strict rules in the field of supervision.

By contrast, U.S. law, as a leading legal system, has provided a suitable platform for individual business activity through institutions such as the limited liability company (LLC). In this system, the emphasis is on economic efficiency and support for entrepreneurship, so that a sole owner can easily and with minimal formalities establish a business with independent legal personality (Farnsworth, 2010).

A comparative study of Iranian and U.S. law shows that the main gap in Iran is the absence of a precise definition of the company as an organization independent of contract (Habibzadeh, 2014). In the United States, however, the single-member company is fully accepted as a legal instrument for risk management, and precise judicial mechanisms have been designed to prevent possible abuses by the owner (Spedding, 2009).

This study seeks to analyze the legal foundations of both countries and propose solutions for reforming the structure of Iranian commercial law. The ultimate objective is to draw on successful international models in order to provide a legal and secure framework within which economic actors in Iran can also benefit from the advantages of single-member companies.

2. Literature Review

The historical development of commercial companies shows that the concepts of limited liability and single-member company formation have evolved gradually within legal systems (Bainbridge & Henderson, 2016). Initially, company formation necessarily required the association of at least two or more persons, but the roots of modern limited liability companies date back to the late nineteenth century. In 1892, German law introduced, for the first time, the legal institution known as the GmbH as the modern model of the limited liability company (Guinnane, 2018). This concept rapidly spread across Europe and Central and South America and, in the 1940s, particularly in France, was widely received, ultimately preparing the ground for the emergence of the idea of single-member companies.

From the perspective of theoretical foundations, the evolution of companies from a contractual arrangement toward an independent legal identity resulted from economic necessities (W. W. Bratton, Jr., 1989). Initially, it was assumed that, in order to create legal personality, several property rights had to be merged so that a unified entity could emerge (Anderson, 2018). The essence of these associations lay in the need for greater economic capacity, which one single person did not possess; however, with the passage of time and changes in patterns of trust and commercial security, the need to support individual investments caused the laws of countries such as the United States, Germany, and England to recognize the separation of personal assets from business assets even for one person (Giesecke, 2012).

In the Iranian legal system, although the Civil Code defines company as the association of the rights of multiple owners and the Commercial Code emphasizes the cooperation of several persons, in practice, numerous examples of single-member companies have existed (Niazi et al., 2015). State-owned companies whose entire capital belongs to the state, as well as nationalized or confiscated companies, are real examples of commercial activity with a single member in the form of legal personality (Szamosszegi & Kyle, 2011). These practical realities show that the plurality of partners is more of a traditional requirement than a technical necessity compatible with the demands of modern commerce.

This definition, which is rooted in Imami jurisprudence, bases the company on the concept of contract and the necessity of multiple wills. In this view, a company without at least two partners is conceptually impossible (Borhani & Lotfalizadeh, 2023). In analyzing the jurisprudential foundations of this issue in Iranian law, the main challenge lies in the nature of contract. Imami jurists maintain that a company is the result of the concurrence of two wills and that, under the rule that contracts follow intentions, the existence of at least two parties is necessary for the legal nature of a company to be realized (Karimianravandi & Mohammadi, 2023); however, by rereading legal doctrine, a single-member company may be explained not through contract, but within the framework of a unilateral legal act. Under this approach, independent legal personality is formed not on the basis of a bilateral agreement, but through an official declaration of will by the sole owner and with the validation of the legislature (Crusto, 2008). This view is consistent with the organizational theory of the company, according to which the company is regarded as a legal technique for asset partitioning, not merely as an interpersonal contract. Recognizing a unilateral legal act as the basis for company formation can remove the deadlocks arising from the requirement of multiple partners in the Iranian legal system and pave the way for a fundamental transformation in redefining commercial companies (Ireland, 2003). By contrast, developments in modern law during the twentieth century replaced the contract-based company with the organization-based company. According to organizational theory, a company is a legal instrument created by the legislature for economic purposes and does not necessarily require a plurality of partners (Lamoreaux, 1998). The confrontation between these two views in Iranian law has caused strong theoretical resistance to the recognition of single-member companies despite market needs (Tessema, 2012). In common-law systems, however, the focus is on function, and legal personality is viewed as a statutory privilege that may even be granted to one person in order to limit that person's personal liability.

The major transformation in Iranian legal literature occurred with the drafting of the new Commercial Bill in 2005 (Gibson & Drahozal, 2007). In this bill, the legislature, recognizing the challenges created by nominal partners, provided for the possibility of forming a limited liability company by one person. Some provisions of this bill implicitly and explicitly refer to the possibility of forming and managing a company by one person, which indicates a shift from the contract-based company approach toward the organization-based company approach (Hounshell & Smith, 1988).

At the international level, formal recognition of single-member companies was imposed on member states through the 1989 European Community Directive (Ahern, 2015). Subsequently, in 1996, the United States also incorporated this institution widely into its legal system through reforms to company laws. Under U.S. law, there is considerable flexibility for individual activities in the form of an LLC, which allows persons to create a business with independent legal personality without complex formalities, whereas in traditional sole proprietorships, there was no asset separation and the owner bore unlimited liability (Kraakman & Armour, 2017).

Previous studies show that one of the main objections to this type of company has been the fear of owner abuse and evasion of liability (Lenz, 2020); however, modern legal analyses have demonstrated that, by providing precise enforcement mechanisms and registering company assets in the name of the legal entity, a clear boundary can be established between business risks and private assets. This asset partitioning not only does not weaken creditors' rights, but also enhances business security by clarifying the scope of liability (Scalia, 1989).

3. Research Methodology

In terms of purpose, this study is an applied study, and in terms of nature and method, it falls within descriptive-analytical research (Irman et al., 2023). This study seeks, by relying on statutory texts, proposed bills, and legal doctrine, to describe the status of single-member companies and then analytically examine their legal foundations and effects.

The main approach of this study is comparative. In this regard, the Iranian legal system, as the principal field of research, and U.S. law, as the leading and selected legal system for comparison, have been examined (Mirshekari & Salimi, 2023). The purpose of this comparison is to identify similarities and differences and to draw on successful legal models in order to address existing gaps in the domestic legal system.

The data collection instrument in this study is the library method and note-taking from written sources (Atanda & Adeyemi, 2018). The required data were extracted through the study of positive laws, such as the Civil Code and the Commercial Code, international legal instruments, such as European Union directives, specialized books, scholarly articles, and available judicial practices in both countries (Hesselink, 2009). Finally, the collected data were interpreted using logical reasoning and legal analysis in order to present practical solutions for recognizing this legal institution in Iran.

4. Research Findings

The investigations conducted in this study show that the concept of company in Iranian law has traditionally been tied to the concept of contract and the necessity of a plurality of partners (Hagedoorn & Heslen, 2007). The findings indicate that this classical approach constitutes the main obstacle to the formal recognition of single-member companies, because, under current laws, the presence of only one remaining partner in a company is regarded as a ground for its dissolution (Alhesain, 2017). Nevertheless, analysis of the current situation shows that economic and commercial needs have, in practice, led to the emergence of nominal companies in which the second partner is present only to satisfy the statutory minimum and plays no role in capital or management (Bateman, 2016).

By contrast, the findings concerning the new Iranian Commercial Bill indicate a fundamental shift in the legislature's perspective (Karimi & Hadi, 2024). The provision allowing the formation of a limited liability company by one person in this bill signifies the recognition of organizational theory as opposed to contract theory (Cohen, 1998). The findings show that recognition of this institution, in addition to making the business environment more transparent, allows economic actors to manage the risks of their activities by separating personal assets from business assets (Ang et al., 1995); however, an important point in the findings is the legal gap concerning supervision over the unilateral decisions of the sole owner, which may lead to asset commingling and violation of creditors' rights.

In the analysis of U.S. law, the findings show that this legal system has created a balance between individual entrepreneurship and legal liability through the institution of the limited liability company (LLC) (Orsi, 1991). In the United States, formation of a single-member company does not require complex formalities, and the sole owner is recognized as a separate legal person (Rattaphan & Lertnuwat, 2016). The comparative findings show that, unlike Iranian law, which is still in a transitional stage, U.S. law employs powerful judicial mechanisms such as piercing the corporate veil so that, where the owner abuses the corporate form for unlawful purposes, limited liability may be disregarded and the owner's personal assets may be used to satisfy debts (Shahsavari, 2023).

Under U.S. law, limited liability in single-member companies is not an absolute privilege and is strictly controlled under the doctrine of piercing the corporate veil (Matheson & Eby, 2000). U.S. courts collapse the boundary between the company and the individual if the sole owner uses the company as an alter ego or an empty shell for fraud (Lopez, 1982). The main criteria in this regard include failure to observe corporate formalities, inadequate capitalization at the time of formation, and serious commingling of personal and corporate assets.

By contrast, in the current Iranian legal system, despite the recognition of joint and several liability in some provisions of the Commercial Code, there is no specific mechanism for disregarding legal personality in nominal single-member companies (Sardoueinassab & Safdari, 2019). The findings of this study show that the new Commercial Bill should, by drawing on U.S.

judicial practice, explicitly recognize gross fault in management and asset commingling as grounds for the personal liability of the sole owner in order to prevent these companies from becoming instruments for evading debts.

The structure of the LLC in the United States, particularly under state laws such as Delaware law, is based on the principle of freedom of contract (Manesh, 2011). One of the main elements that must be addressed in the analysis of single-member companies is the operating agreement (Bharat & Gupta, 2023). In single-member companies, although this document is formally made by one person in relation to himself or herself, from a legal standpoint it draws the boundary between personal property and company property. In addition, the transparent tax regime in these companies has further increased the incentive to form them (Purtova, 2011); accordingly, the company’s income is reflected directly in the individual’s tax return, preventing double taxation. This model can be studied as a successful pattern for reforming the tax system of small companies in Iran, which has always faced challenges associated with presumptive tax assessment.

Ultimately, the findings emphasize that authorizing single-member companies without establishing precise rules on the owner’s transactions with the company, periodic inspections, and accurate capital registration may endanger commercial security (Ayishetu et al., 2022). Therefore, the research findings highlight the need to reconsider the definition of commercial company and to develop specific rules for corporate governance in single-member entities as an urgent legal need in Iran (Sardoueinassab & Safdari, 2019).

By examining the legal details in both systems, fundamental differences can be observed in the approach to the existence of the single-member company. While current Iranian law still insists on contractual foundations, the new Commercial Bill has taken steps toward an organization-oriented approach that is closer to the U.S. LLC model (Quadri, 2022). The following table briefly compares the key components of formation, management, and dissolution in these three legal contexts in order to provide the basis for the analyses in the discussion section.

Table 1. Comparative Analysis of the Legal System of Single-Member Companies in Iran and the United States

Comparative Component	Current Iranian Law (1932 Commercial Code)	New Iranian Commercial Bill	U.S. Law (Single-Member LLC)
Legal nature	Contractual arrangement based on the concurrence of at least two wills	Organization-oriented model recognizing a single will	Legal vehicle or statutory privilege
Method of formation	Impossible due to the requirement of at least two persons	Declaration of a single will and registration with the company registration authority	Filing of articles of organization
Liability of owner or manager	Joint and several liability in cases of nominal formation	Limited liability, subject to exceptions based on fault	Limited liability, unless the corporate veil is pierced
Asset partitioning	Weak, due to the phenomenon of nominal partners	Mandatory, with emphasis on separate accounts	Highly precise, through the operating agreement
Method of dissolution	Automatic dissolution if the number of partners falls to one	Specific voluntary and statutory grounds are anticipated	Perpetual continuity, even after the owner’s death
Supervisory mechanism	Ex ante supervision through mandatory plurality of partners	Combined supervision through registration of single-member decisions	Ex post supervision through the doctrines of veil piercing and alter ego

5. Discussion

In analyzing and explaining the research findings, it can be understood that the main challenge in recognizing single-member companies lies in the conflict between the primacy of contract and the primacy of legal personality (Yusuf, 2024). In traditional Iranian law, the company has always been viewed as a contract that inherently requires two wills and two distinct bodies of

property (Nazifi, 2019); however, the core issue is that, in the modern world, a company is no longer merely a contract but a legal technique for organizing economic activities. Authorizing a single-member company effectively means recognizing that an individual may create an independent legal identity for a portion of his or her assets so that the risks of business do not extend to private life and personal property (Nysten-Haarala et al., 2010).

Another issue that becomes important in the comparative discussion with U.S. law is limited liability. Critics in Iran argue that single-member companies may become an instrument for evading debts and violating creditors' rights (Pedram, 2021); however, in response, it should be noted that, in U.S. law, limited liability is not an absolute privilege, but is conditional upon compliance with specific standards, such as the non-commingling of personal and corporate accounts. The central point here is the need to move from ex ante controls, such as requiring a plurality of partners, toward ex post controls, such as precise inspections and financial transparency. If the legal system can establish precise control mechanisms, the single-member company will not be a threat; rather, it will serve as a factor enhancing the security of individual investment (Dyck, 2000).

In addition, the discussion of nominal companies shows that insistence on the plurality of partners under current Iranian law has, in practice, led to the promotion of unethical and unrealistic commercial structures (Abdelrehim et al., 2011). When a person is forced, in order to register a company, to allocate a negligible percentage of shares to another person, he or she is in fact registering an unreal legal relationship that itself becomes the source of later disputes in courts. Therefore, recognition of single-member companies in the new Commercial Bill is not a formal choice but a necessity for aligning the law with existing realities in society (Benson, 1989).

One of the most complex issues in single-member companies is asset commingling (Jianlin, 2008). In U.S. law, the doctrine of piercing the corporate veil is applied strictly to prevent the company from becoming a protective shield for the individual (Cheng, 2011). Courts use the alter ego test to examine whether the company truly has an identity independent of its owner or is merely a cover for evading debts (W. W. Bratton, 1989). In Iranian law, the absence of an explicit statutory provision in this regard is a major gap. Although Articles 1 and 2 of the Civil Liability Act or the no-harm rule may be invoked, as long as the Commercial Code does not provide for joint and several liability for an owner who commingles company assets with personal assets, recognition of single-member companies may endanger creditors' security (Biresaw et al., 2024). Therefore, it is proposed that the new bill include strict civil and criminal enforcement mechanisms for managerial fault in single-member companies.

Ultimately, comparison with models such as the LLC in U.S. law shows that flexibility in management structure is the key to the success of these companies (Lamoreaux & Rosenthal, 2005). In single-member companies, the concentration of the roles of manager and owner in one person requires specific rules so that the decisions of that person possess the necessary legal validity (Ang et al., 1995). The final point is that, in order to make a successful transition to this stage, Iran needs to redefine the concepts of capital and liability so that, in line with leading legal systems, it can provide a secure platform for entrepreneurs in which the company's legal personality functions as an instrument of development rather than as a veil.

One neglected yet vital issue in the discussion of single-member companies is the fate of legal personality after the death of the sole owner (Lowy et al., 2024). In U.S. law, under the principle of perpetual continuity, the death of the owner does not automatically lead to the dissolution of the company, and the owner's shares or equity interests are transferred to the heirs or executor so that economic activity is not interrupted; however, in Iranian law, given the inseparable connection between the concept of company and persons, the question arises whether the company is dissolved upon the owner's death or is transferred by operation of law to the heirs. If the heirs are multiple, the company effectively exits its single-member status and becomes a multi-member company, which may contradict the founder's original intention (Freiling, 2009). The new Commercial Bill should provide a mechanism under which the owner can determine, in the company's articles of association, the path for transferring management or liquidation after death, so that employees' job security and creditors' rights are protected in the face of unforeseen events (Nyombi, 2013).

6. Conclusion

Through a comparative examination of Iranian and U.S. law, the present study concluded that, in order to transition from a traditional economy to a modern one, the Iranian legal system needs to formally and unconditionally recognize single-member companies. The results show that insistence on the requirement of a plurality of partners in the current Commercial Code has not only created an obstacle to individual entrepreneurship, but has also encouraged non-transparent legal practices, including the registration of nominal companies (Howse, 2021). The comparative findings drawn from U.S. law demonstrate that independent legal personality can operate as an effective instrument for risk management regardless of the number of members, provided that the boundary between personal and business assets is precisely protected by law (Iwai, 1999).

Ultimately, it is concluded that the provision for single-member companies in the new Iranian Commercial Bill is a positive step consistent with contemporary necessities (Iwai, 1999). Nevertheless, in order to achieve optimal efficiency, the legislature should, by drawing on successful models such as the LLC in the United States, replace *ex ante* restrictions with *ex post* supervisory mechanisms (Anabtawi & Schwarcz, 2013). Recognizing doctrines such as piercing the corporate veil in Iranian judicial practice can guarantee creditors' rights in the face of possible abuses by the sole owner. Therefore, formalizing these companies will not only increase investment security, but also lead to greater transparency in commercial interactions and the alignment of the Iranian legal system with international standards.

An examination of the proposed provisions in the new Iranian Commercial Bill shows that the legislature has moved toward recognizing this institution with considerable caution (Seifi, 1998). The main challenge in this bill concerns the manner of decision-making. In traditional companies, the general meeting is a forum for the exchange of views, but in a single-member company, the owner's decision functions as the minutes of the general meeting (Mugabi, 2015). The text of the bill should explicitly require the registration of these decisions in the company registration system in order to eliminate the possibility of backdating and nominalizing contracts (Nysten-Haarala et al., 2010). Moreover, the continuity of the company after the owner's death is another ambiguous issue that requires precise clarification. Should the company be dissolved, or should it be transferred to the heirs? In U.S. law, continuity of legal personality is a principle; however, within the Iranian legal framework, the compulsory transfer of the equity interest to the heirs may unintentionally transform the company into a multi-member company, which may contradict the founder's original intention (Choi, 2021).

7. Recommendations

Based on the findings of this study and in view of economic necessities and existing legal gaps, the following recommendations are proposed for improving the legal structure of single-member companies in Iran:

Legal redefinition of the concept of company: It is recommended that the amendment to the Commercial Code provide a comprehensive definition of company that, in addition to contract, emphasizes the organizational dimension and independent legal personality, so that the possibility of forming a company by one single will is formally established (Seid & Dessie, 2024).

Establishment of specific management rules: Given the concentration of power in one person, it is necessary to adopt special rules on the manner of decision-making, in the form of official minutes, and on the separation of managerial duties from ownership rights, so that the validity of company decisions is protected against third parties.

Development of transparent rules on asset commingling: It is recommended that, in order to prevent abuse of limited liability, strict requirements be adopted for maintaining separate bank accounts and accurately registering the company's capital. In addition, civil and criminal enforcement mechanisms must be provided for cases in which the owner uses the corporate form for personal purposes (Gomtsian, 2021).

Recognition of the doctrine of piercing the corporate veil: It is recommended that the judiciary, drawing on U.S. law, allow the disregarding of the company's legal personality and direct recourse to the owner's assets in cases where a single-member company is used as an instrument for fraud or evasion of debts.

Facilitation of the registration and supervision process: The creation of smart systems for monitoring capital changes and financial reports of single-member companies can reduce the risks of dealing with these companies and strengthen public trust in the market.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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