



A Comparative Study of the Nature of the Right of *Hokr* and the Right of Acceptance in Islamic Religions Based on the Statutory Laws of Islamic Countries

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Abstract

This study examines the nature of the right of *hokr* and the right of *pazireh* in Islamic jurisprudence and the laws of Islamic countries. *Hokr* is a relatively new concept in Islamic law that has been incorporated into the legal systems of various Islamic nations as a derivative property right. It grants the lessee the right to construct buildings or plant trees on endowed (*waqf*) property in exchange for an upfront payment and annual rent. *Pazireh*, on the other hand, is a more recent development in Imami jurisprudence that has entered Iranian legal discourse post-revolution. It involves paying a percentage of the endowed property's value for its lease and the right to construct buildings on it.

The importance of this study lies in the fact that *pazireh* is, to some extent, derived from *hokr*. Therefore, it is crucial to examine the fundamental differences between *hokr* and *pazireh* in Islamic jurisprudence and the laws of Iran and other Islamic countries. Understanding these concepts is essential for maintaining social justice, preserving the rights of endowed properties, and ensuring the beneficiary's right to utilize the property.

While some articles have addressed *hokr* and *pazireh* separately, there is a lack of comprehensive comparative studies examining both concepts across different Islamic schools of thought and legal systems. Previous research has not fully explored the legal nature of *pazireh* in light of recent Administrative Justice Court rulings or conducted a thorough comparative analysis of these two institutions in Islamic jurisprudence and the laws of various Islamic countries.

Historical context: *Hokr* emerged as a solution to the problem of damaged or destroyed endowed properties in Istanbul in 1020 AH. It was later incorporated into the civil codes of various Islamic countries.

Legal nature: *Hokr* is generally considered a real right arising from the lease of endowed property, allowing the lessee to construct buildings or plant trees. *Pazireh*, while similar, has some distinct characteristics.



In Sunni jurisprudence, hokr is primarily associated with endowed properties, although some Hanafi jurists extend its application to other types of land.

In Imami jurisprudence, hokr is not specifically tied to endowments and can arise from any lease contract.

Hokr duration varies among Islamic countries. For example, Egypt and Qatar limit it to 60 years, while Jordan and Tunisia set a 50-year maximum.

Pazireh typically has an indefinite duration.

Hokr generally requires judicial approval.

Pazireh is authorized by the endower or the property's trustee.

Hokr usually involves an upfront payment close to the land's value and a small annual rent.

Pazireh requires paying a percentage of the endowed property's value for its lease and the right to construct buildings.

Hokr is recognized in the civil codes of several Islamic countries, including Egypt, Qatar, Jordan, and Syria.

Some countries, like Morocco and the UAE, have moved away from recognizing hokr in recent legislation.

Iraq has abolished pre-existing hokr rights.

Jordan has prohibited the establishment of new hokr rights while maintaining existing ones.:

Hokr rights are generally transferable and inheritable.

The transferability of pazireh rights may vary depending on specific regulations.

Hokr typically requires that the endowed property be unused or unprofitable, lack funds for renovation, have no other potential lessees, and be impossible to exchange for another property.

Pazireh may have different conditions based on the specific regulations governing its implementation.

Hokr rights generally terminate when the constructed buildings or planted trees are completely destroyed or removed.

The termination conditions for pazireh may differ and are subject to specific regulations.

While hokr and pazireh share some similarities in their purpose of utilizing endowed properties, they differ in their historical origins, legal recognition, and specific implementation across Islamic countries.

Pazireh appears to be a more recent development, primarily in Iranian law, while hokr has a longer history and wider recognition in various Islamic legal systems.



Both the right of hokr and the right of Pazireh are important tools for managing endowment properties in Islamic countries and Iran. While hokr is recognized as a long-term objective right in Sunni Islamic countries and has more precise regulations, the right of phasing has developed differently in Iran as a new concept. Although there are similarities between these two institutions, their differences in nature, conditions, and methods of transfer reveal the need for more precise laws to prevent the abuse of endowment rights.

Keywords: Right of hokr, Primary admission right, transitional admission right, lease of endowment property, endowment.

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