



The Concept of *Bai'u al-Uhdah* as the Use of Pawned Goods in Islamic Law

¹*Eka Permata Sari, ²Ahmad Rezy Meidina

¹²Faculty of Sharia and Law UIN Sunan Kalijaga Yogyakarta

Corresponding author: ¹ekaapermata99@gmail.com, ²ahmadrezymeidina@gmail.com

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Abstract

This paper discusses the use of pawned goods, many of which mean that pawning is a debt agreement in which the debtor includes an item to be held by the person who owes the debt (*murtahin*) to provide a sense of security for the person who gives the debt. The scholars agree that the person who receives the pawn should not take advantage of the pawned goods. This matter is based on the fact that the main pawning contract is debt, and the principle that applies is to help (*ta'awun*), not to seek a profit (without any strings attached). However, the existing practice in society is the opposite. The pawn contains an element of usury by using the pawned goods in rice fields or coconut plantations to take advantage instead of helping. The author offers the concept of *bai'ul uhdah* that can be used as a solution for usury in goods pawns. The pawnbroker and the pawnee can replace the usual pawn transactions carried out with a *baiul 'uhdah* contract. Therefore, the use of pawned goods by the parties pawnbrokers is no longer considered a form of taking advantage of receivables. In conclusion, this paper uses a normative approach to uncover valid values in the practice of pawning in society that could be actualized in the future.

Keywords: *Bai'u Al-Uhdah*, Pawn, Islamic Law

1. Introduction

The practice of pawning has existed since the time of the Prophet Muhammad. Even though it had been practiced by the Prophet himself and still going on, society still carries out the procedure of pawning. Scholars have widely discussed the study of the pawning method, whether it may or not, including four priests of the school thought. The scholar's views about the permissibility of using pawning are almost the same. They have several different terms for whether pawn goods are allowed to use by the recipient of a pawn or not (*murtahin*).¹

Society should get more knowledge of Islamic laws, which is necessary considering that humans are economic subjects in their roles as producers, distributors, and consumers. In this result, every financial transaction or muamalah done by someone does not harm others. Transaction in the existing muamalah must be free from 4 elements, namely the elements of usury, ghoror, maisir, and qimar. Therefore, every Muslim in every economic transaction must be away from the four aspects above, so the assets he acquires are lawful and good assets. Islam recommends people help each other, including helping them in goods.² This is as Allah ta'ala says: *Wa ta'āwanū 'alal-birri wat-taqwā, Wa lā ta'āwanū 'alal-ismi wal-'udwān(i)*

“Please help you in goodness and piety, and do not help you in sin and enmity”³

This verse recommends that some people help each other, some others in matters of goodness, whether the act is in the form of an act of *dzhohir* or inner actions, both concerning the rights of Allah concerning the rights of fellow human beings.⁴ The suggestion to help each other is also found in a hadith narrated by Muslim in his authentic book reads: *Man nafasa an mu'minin karobatun min kurob ad-dunyā, nafasa allahu anhu karobatan min kurobin yaum al-qiyāmah, wa man yassara 'ala mu'sirin, yassara allahu alaihi fi ad-dunyā wa al-akhirah*

¹ Taufiqur Rahman, *Buku Ajar Fiqih Muamalah Kontemporer*, vol. 1 (Academia Publication, 2021), 30.

² Mohd Yahya Mohd Hussin et al., “Marketing Mixed Strategy and Its Relationship in Islamic Pawning Products Selection at Ar-Rahnu YaPEIM,” *International Journal of Academic Research in Business and Social Sciences* 6, no. 11 (2016): 175–90.

³ R I Departemen Agama, “Al-Qur'an Dan Terjemahan,” Jakarta: PT Syaamil Cipta Media § (2005), 325.

⁴ Muhyiddin Ma'ruf, “Tafsir Sifat-Sifat Allah Dalam Kitab Tafsir as-Sa'di,” 2017., 218.

“Whoever relieves a believer’s difficulties in the world, Allah will widen his troubles on the Day of Resurrection, and whoever makes it easy for those *who have difficulty paying debts, Allah will cause their problems easy in this world and hereafter.*”⁵

An example of practicing helping people is the practice of borrowing. People who have economic difficulties will borrow some money from other people who have stable livelihoods. This practice has been known long ago, even since the ancient times of Prophet SAW.⁶ In this transaction, people with more income will give the debt to the debtor, then within the agreed period-time, the person who the debtor will return the debt to the debtor. This receivable transaction is permitted in Islam as Allah said the Exalted: *Yā ayyuhal-lazīna āmanū iżā tadāyantum bidainin ilā ajalim musamman faktubūh(u)*

“O you who believe, when you do debt transactions, accounts receivable within the specified period-time then record it «⁷

People who are in debt sometimes hand over several items or objects to the person who is in debt debtor as collateral for the debt. The debtor then holds the guaranteed goods to keep his peace of mind. This kind of practice In *fiqh muamalah* is called the practice of pawning or rahn. Pawn is a category of accounts payable agreements for one trust of the debtor, where the debtor will deliver some goods to the creditor as collateral. The pawned item remains the debtor’s property, and it’s just that ownership is held by the person who received the pledge. Pawn practice even was done by the Prophet SAW, as in the *hadith* of Aisha narrated by The following Imam Bukhari:

An ‘āisyah raḍiyallahu anhu anna an-nabiyu ṣallallahu alaihi wa sallama iystarāṭa’āmān min yahudi ila ajalīn, wa rohinahu diro’an min ḥadīd

“From Aisha, the Prophet SAW once bought food from a Jew with owe, and he pawned his armor”.⁸

⁵ M Nashiruddin Al-Albani, *Ringkasan Shahih Muslim* (Gema Insani, 2005)., 213.

⁶ Dzuljastri bin Abdul Razak and Farha Nabila Binti Baharun, “Factors That Determine Customers Acceptance of Ar Rahn Financing in Selangor,” *International Journal of Asian Social Science* 8, no. 11 (2018): 1017–26.

⁷ Departemen Agama, *Al-Qur’an dan terjemahan.*, 282

⁸ Muhammad Al-Bukhari, *Al-Mughni* (Dar Ul-Hadith, 1978)., 62

The problem of using pawned goods has become a concern for the author, thus encouraging the author to research this problem. The authors have encountered the practice of pawning in society, and most of them are unlawful under the Shari'a's rules and hurt the pawnbroker. The pawnbroker is willing to pawn the fields or vehicles he owns for urgent needs, such as to pay for their children's schooling or sick house expenses, even though the field areas and motorbikes are the only means of supporting his livelihood. The pawnbroker then takes advantage of the pawned goods as if it were a reciprocal he had to get because he had lent him some money. In addition, besides harming the pawnbroker, this can also cause new problems, considering the contract Pawn is a *tabarru'* contract or a charity contract that is not allowed to take benefits or profit from the pawned goods. People need to understand the original pawn transactions to implementation no parties are harmed. Moreover, no one breaks the Shari'a laws. Therefore, the pawn transaction can be run according to the path, free from usury practices, and does not hurt others.

2. Literature Review

Studies about using goods pawns have become a favorite topic in this era because many practices in society are not following *shari'a* lately. In the subsequent development, the researchers have studied the system of using goods pawn, and they are Budiman Setyo,⁹ Sanusi Gazali Pane dan Andri Soemitra, Miftahul Ulum,¹⁰ Azila Abdul Razak, Fidlizan Muhammad, Mohd Yahya Mohd Hussin, and Fatimah Salwa Abdul Hadi,¹¹ Ikhsan Fajri and Muksal,¹² Natasha Putri Bahari, Lucky Nughroho, Ahmad Badawi, and Nurul guidance,¹³ Gista Zulaika Prasta, Imamul Hakim, and Rahmi Amalia,¹⁴ and others.

⁹ Budiman Setyo, "Kedudukan Gadai Syariah (Rahn) Dalam Sistem Hukum Jaminan Indonesia," *Jurnal Dinamika Hukum* 10, no. 1 (2010): 21-27.

¹⁰ Miftahul Ulum, "Fikih Legal Opinion (Reinterpretasi Hukum Gadai Dalam Perspektif Hukum Perdata Dan Hukum Islam)," *Syaikhuna: Jurnal Pendidikan Dan Pranata Islam* 10, no. 1 (2019): 20-34.

¹¹ Azila Abdul Razak et al., "Kemampuan Dan Daya Saing Pajak Gadai Islam Di Malaysia: Perspektif Perintis," *International Journal of Management Studies* 21, no. 2 (2014): 111-34.

¹² Ikhsan Fajri, "Implementasi Akad Pembiayaan Syariah Pada GALA (Gadai Tradisional)," *Islam Universalia* 1, no. 1 (2019): 108-41.

¹³ Natasha Putri Bahari et al., "Analisa Manfaat Pembiayaan Gadai Emas Syariah: Studi Kasus Bank Syariah Mandiri-Tomang Raya," *Jurnal REKSA: Rekayasa Keuangan, Syariah Dan Audit* 8, no. 1 (2021): 15-30.

¹⁴ Gista Zulaika Prasta, Imamul Hakim, and Rahmi Amalia, "Analisis Strategi Bauran Pemasaran Terhadap Minat Nasabah Dalam Memilih Produk Gadai:(Studi Pada PT. Pegadaian Syariah Cabang

Most studies related to Pawns are equipped with banking analysis to make it easier to look for the differences or equality with the research the researcher wrote. Then the researcher will group the study References becomes two parts, the first is an analysis of banking about pawns, and the second is the study literature on pawn.

The study related to the analysis of banking about pawns has been researched by Natasha Putri Bahari, Lucky Nugroho, Ahmad Badawi, and Nurul. In their research, one product that makes it different between Islamic and conventional banks is *rahn* or pawn. However, the product is not owned by all Islamic banks. One Islamic bank with a yield of *rahn* gold or financing pawn gold sharia is Sharia Bank Mandiri (BSM). BSM is also the sharia bank with the most significant asset in Indonesia. This study concludes that most customers who finance pawn gold sharia are of productive age (30-49 years old), mostly gender of women. Most of the customers work as private employees, with an income > IDR 5,000,000 per month, and mostly their education is S-1, and their religion is mostly Islam. Besides, using money loans from financing pawn gold sharia for customer needs. Therefore, Gista Zulaika Prasta, Imamul Hakim, and Rahmi Amalia have an opinion about how extensive the contribution of strategy mix marketing is to interest the customers in choosing pawn products at pawnshop Sharia Branch Landungsari. The results show that the marketing strategy is highly effective in appealing to consumers in choosing pawn products at PT. pawnshop Sharia Branch Landungsari. This result is based on variable proof physical evidence (Physical evidence) obtained on average very agree of 52.25%, variable customers (Persons) received an average of very approving of 50.33%, and the product variable (Product) received an average of very agree by 50.75%. With an average yield per variable of more than 50%, it shows that the Strategy mix Applied for promotions at PT. Pawnshop Sharia Branch Landungsari is already effective.

And Ikhsan Fajri and Muksal, lead to tradition in some areas with existing traditions named Gala practices which exist by West Aceh people. They were built in the 16th century and still exist now. The contract system which is approaching the Islamic economic system is contract *mudharabah*. This contract expected could be an alternative solution for institution financing Sharia in the future for

Landungsari),” *International Journal of Islamic Economics Development and Innovation (IJIEDI)* 1, no. 2 (2022): 59–66.

financing productive based on practice business the people of Southwest Aceh who are wisdom local. There are also practice pawns in Malaysia, written by Azila Abdul Razak, Fidlizan Muhammad, Mohd Yahya Mohd Hussin, and Fatimah Salwa Abdul Hadi and explained that Financing tax pawns conventional there is since the 19th century. However, practical gift loans rather than traditional tax pawns are often linked with misappropriation and have an element of exploitation to the borrower. As an alternative, the first tax Islamic pawn was held in 1992, Muassasah Terengganu Islamic Pawn, with an initiative by Islamic Religious Council and custom Terengganu Malay (MAIDAM). So In 2013, there were 464 pieces branches from ten institutions that offer financing tax Islamic pawns than the tax pawn licensed conventional is only 259 pieces. The result from this study shows that Islamic tax pawn seeks to compete and develop with offer system conceptual mortgage sharia, imposition wages keep low and *matlamat* non-financing oriented profit and more to social responsibility. Roles of the kingdom are also essential to establish and power this skim competition, especially in realizing one deed tax particular Islamic pawn and upgrading gift license to holder tax potential pledge. Activity promotion and exciting notices through mass media and electronics also need to be upgraded to give awareness and understanding to the public, specifically those who are Muslim, for choosing the *ar-Rahnu* scheme as an alternative to the conventional tax pawn.

The following study classified studies literature on pawns. In this section, the researcher found the study of Miftahul Ulum. The research focuses on the study which breaks the law caused by the consumer to the bank or receiver of pawn consequence no can redeem goods pawn time. And the next is the Study of Sanusi Gazali Pane dan Andri Soemitra, which is similar to Miftahul Ulum. Sanusi and Andri show pawn as a net supply finance micro use pawn literature sharia study which makes it different from the study of Miftahul Ulum. Microfinance could be understood as a simple form of net supply finance micro in ensuring goods pawn, that is written by Budiman Setyo.

With several previous studies, the researcher will have a different position than the previous one in this research. This study has a similarity with the previous studies that discussed pawns. Besides, the first research discussed the analysis of banking about pawns and studies literature about pawns. However, what makes this study different from the previous study is the offer of the Concept *bai'ul uhdah* as utilization goods pawn. The researcher will try to

complete the previous studies serving Concept *Bai'ul Uhdah* As Utilization Goods Pawn Perspective Islamic Law.

3. Result and Discussion

Understanding Pawn

Pawn or rahn means *tsubut* and *dawam*, for example, the Arabic expression is said to be Maun Rahinun, which means when the water stagnates or is restrained. In addition, in the word of God Almighty *rahīnah kasabat bimā nafsa kulin*, then *rahīnah* in verse, it implies *rahīnah* that is *Mahbūсах*, restrained.¹⁵ *Dzohir*, the words *tsūbūt*, and *dawam* mean *al- Habsu*, which is to hold back. So linguistically, the word rahn means making something as collateral.¹⁶

As sharia means, rahn is to hold one item legally, which allows it to be taken from the price of the item as debt repayment or to make something valuable in terms of assets from the Shari'a point of view. And also used to a debt trust that it is possible to take part or all of the object of the item being pawned as a mortgage. Repayment.¹⁷

The pawn functions as a giver of security to the party providing the loan receivables¹⁸, where during the agreed period-time, rahin can return the goods that he pawned to the murtahin, after paying off his debt to murtahin. Hanafiyyah scholars define a pawn as a trust contract that makes masyru' assets collateral for repayment.¹⁹

The Malikiyyah scholars define a pawn as something of property value taken from the owner as security for a fixed debt.²⁰ On the other hand, according to the Malikiyyah cleric, pawning is property handed over as collateral trust in debt, which mentions the rights of both parties.²¹ Syafi'iyah scholars define a pawn as an item used as a trust debt to guarantee repayment when the pawner

¹⁵ Abdul Ghafar Ismail and Nor Zakiah Ahmad, "Pawnshop as an Instrument of Microenterprise Credit in Malaysia," *International Journal of Social Economics*, 1997., 53.

¹⁶ Wahbah Az-Zuhaili, "Fiqh Islam Wa Adillatuhu, Terj," Abdul Hayyie al-Kattani, dkk. Jakarta (ID): Gema Insani § (2011), 180

¹⁷ Muhammad Ali Al-Hanafi, *Ad-Durul Mukhtar* (bairut: Dar Tyba: Beirut, 2002), 339

¹⁸ Widy Hastuty HS and Andri Soemitra, "Fiqh Muamalah Sharia Pawnshop," *International Journal of Economics, Social Science, Entrepreneurship and Technology (IJESET)* 1, no. 3 (2022): 250–61.

¹⁹ Imam As-Sarkhasi, "Al-Mabsuth" (Juz XXII, Beirut, Lebanon: Dar al-Kutub al-Ilmiyah, 1993), 63.

²⁰ Ahmad Adardiri, *Asy-Syarhus Shoghir 'Ala Aqrobil Masalik* (Egypt: Darul Ma'arif, tt, n.d.), 303.

²¹ Ahmad Ghunaim, *Al-Fawaikih Ad-Dawani* (Beirut: Darul Fik, 1997), 88.

cannot pay the debt.²² In addition, Hanabilah scholars define pawns as assets that are used as assets of debt trust, the price of which can be used as repayment when the pawnbroker cannot pay off his debt. The Hanabilah scholars define a pawn as a property-made debt trust, the price of which can be used as repayment when the pawnbroker cannot pay off the debt.²³

Conditions of Pawn in Islamic Law

Pawn or rahn is prescribed in the Qur'an and Hadith, as well as the consensus of scholars. The legal basis for pawning from the Qur'an, hadith, and agreement of scholars will be explained as below:

A. The legal basis of the Qur'an

Allah says in Surah Al-Baqarah verse 283: *Wa in kuntum 'alā safariw wa lam tajidū kātiban fa riḥānum maqbūḍah(tun)*

“If you are on a journey (and do *mu'amalah*, not in cash) do not find a scribe. Then there should be dependents that *the debtor holds*.”²⁴

In this verse, Allah mentions the condition of a person while traveling, if he made a debt within a certain period-time, then he did not find a clerk, then there should be goods that can be used as collateral. Ibn Abbas said interpreting this verse: *Wa lam yajidū qirṭāsān au dawātan au qolamān, fariḥānun maqb ūḍoh ai falyakun badlu al-kitābati riḥāna maqbūḍoh fī yaddi ṣoḥībi al-ḥaqqi*

“If they do not find paper, ink or pen, then there should be something” dependents, namely that there should be goods that are held as collateral by the creditor instead of writing.²⁵

In this several verses of scholars from the Hanafiyah, Malikiyah, Syafi'iyah, and Hanabilah agreed that the possibility of pawning in a state of travel also occurs in a state of *muqim*. This matter is the school of most salaf from among friends and *tabiin radiallahu'anhum*.

²² Al-Khothib Ash-Syirbin, *Mughnil Muhtaj* (Beirut: Darul Ma'rifah, 1997), 121.

²³ Abdullah bin Ahmad Ibn Qudamah, “Al-Mughni,” *Egypt: Maktabah Al-Kaherah*, 1968., 326.

²⁴ Departemen Agama, *Al-Qur'an dan terjemahan*, 282.

²⁵ Ath-Thobari, *Jamiul Bayan* (Beirut: Darul Ihya At-Turots Al-Arobi, 2008), 164.

B. Legal basis of Hadith

Bukhari and Muslims narrated a hadith from Aisyah RA, that Rasulullah SAW once bought food from a Jew with pawned his armor.²⁶ Furthermore, the history of Anas bin Malik, he said: *rohina Rasulullah shallahu alaihi wa sallama diro'an 'inda yahudī bi al-madīnah, wa akhoza minhu sya'irān li ahlihi*

“The Messenger of Allah once pawned his armor to a Jew in Medina city with some grain for his family’s needs”.²⁷

Imam Nawawi explained the meaning of this hadith, he said: *Wa fī al-ḥadisi jiwazu mu'āmalah ahli aẓimmah, wa al-ḥukmu bi subutu amlākihim 'ala mā fī aidīhim, wa fīhi bayānun mā kāna an-nabiyyu min at-taqoluli min ad-dunyā wa mulāzamah al-faqri, wa fīhi jawāzu ar-rahni, wa jawāz rahni ālatu al-ḥarbi 'inda ahli aẓ-ẓimmati, wa alaihi an-nabiyyu wa jawa'izu ar-rahni fī al-ḥadri*

“In hadith above, there is the permissibility of conversing with the disbelievers of the *dhimmah*” and recognizing their property rights. In this hadith, there is also an explanation about the habits of life of the Prophet SAW, namely living a simple life, as well as the ability to pawn transactions, and it is permissible to pawn war tools to *ahlud dzimah* when *muqim* (not travelling)”.²⁸

Another basic hadith for example, the history of the companion of Abu Hurairah from the Prophet SAW he said: *Az-zuhru yarkabu bi nafaqotihi iżā kāna marhūnan, wa 'alallaẓi yarkabu wa yasyrobu an-nafaqoh*

“An animal’s back can be climbed according to the level of its livelihood if the animal is pawned, and the animal’s milk can be milked according to the level of his living. If the animal is pawned, a living is obligatory for the person who rides and milks the animal”.²⁹

Furthermore, the history of the companion of Abu Hurairah, the Prophet SAW said: *Lā yaghliqu ar-rahnu min soḥibihi lahu ghonimahu wa alaihi ghorimahu*

²⁶ Syekh Al-Imam Muhamad Asy-Syaukani, “Bin „Ali Bin Muhammad,” *Nailul Author*, n.d., 233.

²⁷ Al-Bukhari, *Al-Mughni.*, 213.

²⁸ An-Nawawi, *Sahih Muslim Syarah An-Nawawi* (Beirut: Darul Kutub Ilmiyyah, n.d.), 39

²⁹ Al-Bukhari, *Al-Mughni.*, 292.

“Pledged goods should not be closed from the owner. The owner is entitled” to gain or lose from the pawned goods.³⁰

The arguments above show that the pawn or rahn is legal, not mandatory, because the pawn is a debt agreement, so the status is not mandatory as wakalah. And the word of Allah: *farihānun maqbūdoh*, shows guidance of orders to Muslims who carry out debt transactions and does not indicate obligation.³¹

C. The legal basis of ijma ulama

Most scholars agree that it is permissible to carry out pawn transactions in good and bad circumstances traveling or *muqim*. This *jumhur* opinion is different from the opinion of *Mujahid*, where he argues that the pawn law only applies when traveling, not during *muqim*. These are as explained by Ibn Mundzir and An-Nawawi from David.³²

Pillars and Terms of Pawn

According to Hanafiyyah scholars, the pillars of pawning include the consent and *qabul* from Rahin (pawnbroker) and Murtahin (holder of a pawn) as consent and *qobul* in another contract.³³ *Ijab* and *qobul* are not perfect except with *qobdh* or handover either by *takhliyyah* (emptying place) or by *naql* (transfer). *Ijab* and *qobul*, for example, with Rahin telling Murtahin “ I mortgaged this item to you as collateral for my debt “, or “ This item I pledged to you as collateral for my debt “, then answered Murtahin with the words “ I accept the pawn “ or “ I am pleased to accept the pawn “.³⁴

As for the number of scholars other than Hanafiyyah, they mention that there are four pillars of pawning, namely *shighot*, *Aqid* (people who make contracts, namely Rahin and Murtahin), *marhun* (goods that are pawned), and *marhun bihi* (*dain*).³⁵

³⁰ Ahmad bin Husain Al-Baihaqi and Abu Bakar, “Sunan Al-Kubra> Li Al-Baihaqi>,” *Tahqiq: Muhammad Abdul Qadir. Beirut: Dar Al-Kutub Al-‘Ilmiyah*, 2003., 66.

³¹ Mansur bin Idris Al-Buhuti, “Kassyaful Qina’an Matan Al Iqna,” *Saudi Arabia: Darul ‘Alim Al-Kutub*, 2003., 307.

³² Muhammad Naim, *Masu’atu Masailil Jumhur Fil Fiqhil Islami* (Egypt: Darussalam, 2007)., 471.

³³ Nik Hadiyan Nik Azman, Salina Kassim, and Adewalee Abideen Adeyemi, “Analysing Ar-Rahnu in the Context of Informal Credit Market Theory: Evidence from Women Micro-Entrepreneurs in Malaysia,” *ISRA International Journal of Islamic Finance*, 2018., 23.

³⁴ AABM Al-Kasani and Bakr ibn Mas’ud, “Bada’i’al-Sana’i’fi Tartib Al-Shara’i’,” *Beirut: Dar Al-Kutub Al-Ilmiyyah* 5 (1986): 185.

³⁵ Ar-Rafi’i, *As-Syarhus Shoghir* (Damascus: Darul Kutub Adz-Dzhorriyyah, n.d.), 304.

The pillars of the pawn above must be fulfilled for the validity of the pawn transaction. Besides being harmonious, pawn transactions also have the required conditions. There are conditions for pawn transactions, and there are conditions for pawned goods. As for the terms of the pawn transaction, Muhammad At-Tuwaijiri, in His book *Mausu'atul Fiqhil Islam* mentions among the requirements for a valid pawn transaction: First, there is consent and qabul between the two parties, namely between rahin (the pawner) and murtahin (pawn holders). Second, rahn must be an apparent item, good precise nature, and a specific type. Third, some goods are pawned at the time of the contract, whether at the agreement's place or outside the agreement's location. Fourth is the existence of *qobdh* or handing over pawned goods from rahin to murtahin.³⁶ Whereas for the terms of the goods being pawned: first, the goods that are pawned are goods that have value in the eyes of the Shari'a, then it is not legal to pawn goods that are not valued in the eyes of the law. Second, the pawned goods are not forbidden essences, such as *khomr* and others. Third, the pawned goods are not goods that are stolen or taken from *ghosob*. Fourth, the goods being pawned must not be goods of the *Majhul*. So it is not legal to pawn things such as wind, air, dirt, or the like, because essentially every item for trade is also legal to pawn.

The law of using pawned goods

The scholars agree that the pawned goods belong to rahin, because the pawned goods are a trust that the *murtahin* must maintain.³⁷ In addition, scholars agree that rahin may not sell, donate, or donate goods that are pawned as long as the *murtahin* still holds it.³⁸

If there are benefits generated from the mortgaged goods, then the benefits cannot be eliminated because it includes wasting property. Then who has the right to take advantage of the pawned goods, considering a contract Pawn is a *tabarru* contract or a charity agreement between rahin and murtahin.

³⁶ Muhammad bin Ibrahim bin At-Tuwaijiri, "Abdullah," *Mausu-'at Al-Fiqh Al-Islaami, Baitul A? Kar Ad-Duwaliyah, Cet I 1430 (2009).*, 593.

³⁷ Ahmad Imam Hambali and Masithoh Masithoh, "Paid Paying Practices In'Urf Perspective In Risa And Kalampa Villages, Woha District, Bima Regency West Nusa Tenggara Province," *International Journal of Social Service and Research* 2, no. 4 (2022): 242–51.

³⁸ Ibn Mundzir, "Al-Ijma" (Beirut, 1999), 57.

A. Utilization of pawned goods by rahin

There are two opinions of scholars regarding the use of pawned goods by parties uterus. Many scholars other than Syafi'iyyah believe it is not permissible to be rahin *to* take advantage of mortgaged goods. As for the Shafi'iyya scholars believe that it is permissible for Rahin to take advantage of the goods that are pawned, as long as it does not harass the murtahin.³⁹ Details of the opinions of the scholars above can be described as follows:

1. Hanafiyya Scholars

Hanafiyyah scholars argue that rahin should not take advantage of pawned goods in the form of vehicles, houses, clothes, or others without the permission of the murtahin, just as murtahin is also not allowed to take advantage of the mortgaged goods without the consent of Rahin. Suppose *rahin* takes advantage of the mortgaged goods without the permission of the *murtahin*. For example in that case, if he is milking animals that have been pledged or eating the fruit of the trees that have been sold, then he is obliged to pay compensation equal to the benefits he gets because he has violated the rights of the murtahin. Compensation paid by rahin used murtahin as compensation for damage or maintenance of the mortgaged goods.⁴⁰

2. Malikiyya scholars

Malikiyyah scholars agree it is not permissible for rahin to take advantage of goods mortgage even with the permission of the murtahin. If only murtahin would allow rahin to take advantage of the mortgaged goods, then cancel the pawn transaction even though rahin did not take advantage of it, because permission to take advantage of what is given by *murtahin* to *rahin* , which reduces the validity of the pledge.⁴¹

3. Shafi'iyyah Scholars

Syafi'iyyah scholars differ from the opinion of the majority of scholars regarding the use of pawned goods by rahin. They think it's okay to be pregnant *and* take advantage of the mortgaged goods either by riding it, milking it, or using it. They view that the benefits generated from

³⁹ Ibn Hubairoh, *Al-Ifshoh Fi Ma'anis Shohah* (Riyadh: Darul Wathon, 2009)., 238.

⁴⁰ Al-Hanafi, *Ad-Durul Mukhtar.*, 342.

⁴¹ Ibn Qudamah, *Asy-Syarhul Kabiir* (Beirut: Darul Kitab Al-Arobi, n.d.), 241.

the mortgaged property belong to rahin, who has the right to use it, provided that it does not reduce the value of the pawned goods. As In the hadith narrated by Ad-Daruqutni and Al-Hakim, the Prophet SAW said: *ar-rahnu markūbun wa mahlūbun*

“Pledged goods in the form of markub and mahlub may be used”.

Furthermore, in the narration of Bukhari, the Prophet SAW said: *aḏ-ḏuhru yarkabu bi nafaqotihi iżā kāna marhūnān*

“The animal’s back may be ridden according to the expenses incurred if the animal is pawned.”

Meanwhile, if the use of pawned goods by Rahin can reduce the value of pawned goods, then it is not permissible for rahin to take advantage of the pawned goods, except with the permission of the murtahin. Murtahin can also remove his consent before Rahin takes advantage of his mortgage.⁴²

4. Hanabilah Scholars

Hanabilah scholars believe it is not permissible for rahin to take advantage of mortgaged goods except with the permission or pleasure of the murtahin. Rahin can’t take advantage of the mortgaged goods by riding, milking, occupying, or using them. Suppose there is any benefit resulting from mortgaged goods. In that case, both parties may not take advantage of it if neither of them agrees to use it because the status of the item A mortgage is a guarantee for receivables, which should not be used.⁴³

B. Utilization of pawned goods by *murtahin*

Most scholars other than Hanabilah agree that it is not permissible for *murtahin* to take advantage of pawned goods. They argue the permissibility of taking pawned goods in the form of markub (an animal that can be ridden) and mahlub (an animal that can be milked) according to the level of income spent, and it applies if the uterus cannot provide maintenance costs for the pawned goods. Then, the murtahin may take advantage of the amount he pays for mortgage care.⁴⁴ As for Hanabilah, they allow murtahin

⁴² Ibn Qudamah, “Al-Mughni.”, 390.

⁴³ Ash-Syirbin, *Mughnil Muhtaj.*, 131.

⁴⁴ Muh Shadiqul Fajri AF, Abdul Hamid Habbe, and Abdul Wahab, “THE POTENTIAL OF RIBA IN SHARIA GOLD PAWNING,” *Dinasti International Journal of Digital Business Management* 3, no. 1 (2021): 54–64.

to take advantage of pawned goods if they are animals that can be ridden or milked, with a note of such use in exchange for the treatment costs that the *murtahin* has incurred.⁴⁵ An explanation of each school's opinion on this matter can be detailed as follows:

1. Hanafiyya Scholars

scholars argue that *murtahin* is not allowed to take advantage of the pawned goods by riding, milking, or wearing them because the *murtahin*'s right is to hold the mortgage, not using mortgages. If only *murtahin* took advantage of pawned goods, the pledged goods would be damaged or reduced in value. The *murtahin* must pay compensation according to the price because he is considered to have done *ghosob*.

If *rahin* allows *murtahin* to take advantage of the goods mortgage, then some Hanafiyyah scholars allow it, but others forbid it. Those who forbid think that take advantage of the mortgaged goods even though with the permission of *Rahin* it is still usury or resembling usury. Permission from *rahin* to *murtahin* does not change the status of usury or remove the doubts. Some Hanafiyyah scholars specify that if the *murtahin* requires utilization at the time of the contract, then it is prohibited. But if it is not necessary for the agreement, then the law is allowed because it is considered *tabarru* ' or alms from *rahin* to *murtahin*.⁴⁶

Ali Al-Qori said in his syarah book of hadith *Mirqotul Mafatih: Bi annahu min ar-ribā fainnahu yuaddī ilā intifā'i al-murtahīn bi manāfi'i al-marhūn bi dainihi, wa kullu qorḍin jaza naf'an fa huwa ribā wa al-aulā an yujāba bi anna al-bā'i'a fī nafaqotihi laisat lilbadliyyah, bal lilma'iyyah, wa al-ma'nā anna az-ḡahru yarkabu wa yanfaqu alaihi falā yamna'u ar-rahnu ar-rāhina min intifā'i bi al-marhūni, wa lā yasquṭu anhu al-infāqu kamā ṣoroḡa bihi fī al-ḡadisi al-ākhori rowāhu al-bukhāriyyu*

“ That includes usury because it is the same as *murtahin* taking advantage of pawned goods on account of receivables, even though in the hadith it says ‘Everyone’ receivables whose benefits are taken it is included in usury’. The letter *ba* on the *binafaqotihi* hadith is not as *badal*, but as *maiyyah*, so that the meaning of the hadith ‘the back

⁴⁵ Ibnu Rusyd, “Bidayatul Mujtahid Wa Nihayah Al-Muqtashid,” Cet. I § (1990), 273.

⁴⁶ Fakhruddin Az-Zu'ali, *Tabyinul Haqiq* (Egypt: Mathba'ah Al-Kubra, 2005), 76.

of the animal can be ridden according to the level livelihood,' does not mean preventing rahin from using pawned goods. The income of the murtahin does not invalidate the permissibility use for rahin as described in another hadith, which *Al-Bukhori narrated*".⁴⁷

2. Malikiyya scholars

Malikiyyah scholars believe murtahin may use goods mortgage if rahin has permitted the murtahin, as well as what happened between the two is *dain mabi* 'not *dain al-qordh*.

As for if the *dain* that occurs between the two is *dain al-qordh* , then the *murtahin* is not allowed to use it because it includes taking advantage of receivables, which is usury.⁴⁸

Ibn Qosim said in the book *At-Taju Wal Iklil Li Mukhtashori Kholil: Qāla mālikin: iżā isytaroṭo al-murtahīn manfa'atu ar-arahni, fa in kāna ad-dainu min qorḍin lam yajuz ḡalika li annahu salafun jaza manfa'atun, wa in kā na ad-dainu min bai'in wa syarṭi manfa'ati ar-rahni ajalān musammā falā ba'sa bihi fī ad-daury wa al-arḡīna, wa karoḡahu mālikun fī al-ḡayawani*

“Imam Malik said: If *murtahin* requires the use of goods, pawn, while what happens is *dain al-qordh*, then *murtahin* is not allowed to use the mortgaged goods because it includes taking benefits from accounts receivable. As for if the *dain* that happened was *dain mabi*, then *murtahin* requires the use of pawned goods for some time certain conditions, then this is permissible as long as the item being pawned is a house and land, and it is *makruh* if the pawned goods are animals and clothes”.⁴⁹

Al-Qurtubi said in his commentary *Al-Jami' Li Ahkamil Quran: An abī hurairota qāla rasulullah: lā yagliqu ar-rahnu wa liṡohibihi ghonimahu wa alaihi ghorimahu. Wa huwa qaul asy-syāfi'i wa asy-syi'bi wa ibnu sirīn. wa huwa qaulu mālikin wa aṡḡabihi manfa'atu ar-rahnu lilrāhini, wa nafaqotuhu alaihi, wa al-murtahīn lā yantafi'u bi syai'in min ar-rahni khilā al-iḡfaz lilwasīqoh*

“From Abu Hurairah, the Messenger of Allah said: “The mortgage is not allowed *to be* closed from the owner. The owner is entitled

⁴⁷ Ali Al-Qori, *Mirqatul Mafatih* (Beirut: Darul Fikr, 2002), 1948.

⁴⁸ Muhammad Al-Ghornathy, *Al-Qowanin Al-Fiqhiyyah* (Beirut: Dar Ibni Hazm, n.d.), 334.

⁴⁹ Ibn Qosim, *At-Taj Wal Iklil Li Mukhtashori Kholil* (Beirut: Darul Kutub Alamiyyah, 1994), 561.

to profit or loss of the pawned goods”, this is the opinion of Shafii, As-Sha’bi, and Ibn siren. This opinion is also the opinion of Malik and his ashabs. Benefit rahin’s pawns and the responsibilities of her maintenance, and for The murtahin may not take any benefit from the pawned property, other than the right to hold as collateral “.⁵⁰

3. Shafi’iyyah Scholars

Syafiyyah scholars believe that murtahin should not take advantage of mortgage goods. Suppose the murtahin requires in the contract something detrimental to rahin, for example using and managing something produced from pawned goods. In that case, such conditions are void according to them. As contained in the hadith *Bāṭilun fahuwa allah kitābun fī laisa syarṭa kulin*, meaning that any conditions that are not found in the Book of Allah, then these conditions is false conditions. In this case, the proposed requirements are null and void because the conditions put forward are murtahin harm the rahin.⁵¹

Al-Muzanni said in the book *Al-Mukhtashor: Lau syaraṭa al-murtahīn li nafsihi manfa’atu ar-rahni fa syarṭu bāṭilun? Lianna ḡalika ziyādatun fī as-salafi wa lau kāna isytarā minhu ‘ala haḡa asy-syarṭi fa al-bai’i bi al-khiyāri fī faskhi al-bai’i au isbāṭihi wa ar-rohnu*

“ If the murtahin requires him to take advantage of the goods “mortgage, then such a condition is false because it includes taking additional/benefit from receivables. If it’s cheap to buy the required benefits, then for him, khiyar is khiyar for cancel buying and selling or continue buying and selling at the same time pawn”.⁵²

Al-Hafidz Ibn Hajar Al-Asqolani said in the book *Fathul Bāri: Summa aḡību an al-hadisi bi annahu mahmūlun ‘ala annahu kāna qobla tahrīmi ar-ribā fīmā haroma ar-ribā haroma asykāluhu min bai’i al-labani fī aḡ-ḡar’i wa qoriuḡa kullu manfa’atin tajrī ribā fa irtafa’a bi tahrīm ar-ribā mā ubīḡa fī haḡā lilmurtahīn*

⁵⁰ Abu Abdillah Muhammad Bin Al Kurthubi, “Ahmad. Al Jami’Li Al Ahkam Al Qur’an” (Juz V Kairo: Dar Al Katib Al Arabi, 1967)., 412,

⁵¹ Sulaiman bin Muhammad al Bujairimi, “Hasyiyah Al-Bujairimi ‘ala Al-Khatib, Vol. 1,” *Beirut: Dar Al-Fikr, t. Th.*), H 296 (n.d.), 61

⁵² Imam Al-Muzanni, “Mukhtashar Al-Muzanni ‘Ala Al Umm,” *Beirut: Dar Al-Kutub Al-Ilmiyah*, 2002., 198.

“ The hadith regarding the permissibility of using pawned goods can be answered, that this applies before the verse forbidding usury comes, then when the verse comes about the prohibition of usury, then all forms of usury are forbidden, including buying and selling milk that is still in the mammary glands, as well receivables whose benefits are also included in usury, then there is the prohibition of usury, the ability to use pawned goods is erased murtahin”.⁵³

4. Hanabilah Scholars

Hanabilah scholars believe that pawned goods are other than animals, for example, a house or land, which in its care does not require a fee. The murtahin may not use the pawned goods without the permission of Rahin, because the benefits generated from the pawned goods are the right and property of the rahin, so it is not allowed for anyone to take advantage of it without permission. Suppose rahin permitted the murtahin to take advantage of it without replacing the utilization cost, while the dain that occurs is dain al-qordh. In that case, it is not permissible for the murtahin to bring the benefits because it includes taking benefits of debts, which is forbidden. But if the case is dain mabi ‘ and not dain qordh, then rahin gives permission utilization to the murtahin party, then such is allowed. In addition, suppose the murtahin pays for the benefits he gets from pawned goods. In that case, the status of utilization by this murtahin party is permissible whether what happens is dain mabi’ or dain al-qordh.

As for if the item being pawned is an animal that can be ridden or be milked, then the murtahin may use it according to the level of costs he has spent on the maintenance of the pawned goods even without the permission of Rahin.⁵⁴ The evidence is according to the hadith which have been mentioned: *Az-zuhru yarkabu bi nafaqotihī izā kāna marhūnan, wa ‘alallaẓi yarkabu wa yasyrobu an-nafaqoh*

“The animal’s back can be ridden according to the expenses incurred “if the animal is pawned, and the animal’s milk can be drunk if the animal is pawned, and those who ride and drink his milk is obligatory to pay a living.”

⁵³ Ibnu Hajar Al-Asqalani, “Fathul Bari,” *Riyadh: Maktaba Al-Salfiyah*, 2008., 144.

⁵⁴ Ibn Qudamah, “Al-Mughni.”, 385.

Jumhur scholars do not practice this hadith because jumhur assume that a valid narration, namely has authorized the hadith: hadith which reads: *Lā tahlibu māsyiyatumriin bi goiri iżnihi*

“Do not milk other people’s animals except for his permission”

Suppose murtahin requires the use of pawned goods when the contract, then according to Hanabilah such conditions are null and void because it negates the purpose of the pledge, namely as collateral for receivables that cannot be taken advantage. As for if dain what happens is dain mabi’, then that is allowed because it includes bai’ ijarah as the opinion of Shafi’iyyah.

Bai’ul uhdah as a solution to usury on the use of pawned goods

Bai’ul ‘Uhdah is also called Bai’ul Wafa, which comes from (Al-wafā), which means the opposite of the word left, which is to fulfill. in the book Al-Mausu’ah Al-Fiqhiyyah Al-Kuwaitiyyah said: *bai’u al-wafāi huwa: al-bai’u bi syarṭin anna al-bāi’a matā rodda as-samanu yaridu al-musytarī al-mabī’a ilahi, wa innamā sumiya bai’u al-wafāi lianna al-musytarī yalzamuhu al-wafāu bi asy-syarṭi*

“Bai’ul Wafa is a sale and purchase with conditions. That is, if the seller can return the money worth the goods sold, then the buyer is obliged to return goods purchased from the seller, which is called bai’ul wafa because the buyer is obliged to fulfill his promise with the conditions that have been set.”⁵⁵

Shaykh Ba’alawy in his book *Bughyatul Mustarsyidin* describes the description of bai’ul wafa: *Wa şurotuhu an yattaḥiqo al-mutabāyi’āni ‘ala anna al-bāi’a matā arāda rujū al-mabī’ ilahi atā bimasalin as-samanu al-ma’qūdu alaihi wa lahu an yaqīda ar-rujū’u bi muddatin falaisa lahu al-fakku illā ba’da maḍihā summa ba’da al-muwāṭāh*

“The description of the *bai’ul wafa* contract is “Seller and buyer agree, whenever the seller wants the item back, the seller must return it the agreed price at the time of the contract, the seller may set the period-time then after the handover the seller and buyer can make a new contract which legitimate.”⁵⁶

In the concept of pawn transactions in Indonesia, it has become a habit where the pawnbroker uses the pawned goods as compensation for the money

⁵⁵ Kementerian Wakaf and Urusan Agama Kuwait, “Al-Mausu’ah Al-Fiqhiyyah Al-Kuwaitiyyah,” *Kuwait: Daar Al Salasil*, 2006., 260.

⁵⁶ Abdurrahman Ba’alawi, *Bughyatul Mustaryidin* (Beirut: Darul Kutub Ilmiyyah, 1971), 166.

he lent. The concept of *bai'ul uhdah* or *bai'ul wafa* can be a solution to the problem of usury in pawn transactions.⁵⁷ The owner of the pawn (*rahin*) and pawn holders (*murtahin*) can carry out *bai' al-uhdah* transactions when pledging.⁵⁸ When the pawn contract, the pawnbroker can say, “I sell this rice field to you for 50 million, and after three years, I will buy back this rice field at the same price “. With a *shighot* of a kind of contract, it is lawful for the pawnbroker to take advantage of the pawned goods because this kind of utilization is no longer considered to take advantage of receivables, as explained by the scholars of the four schools of thought above. But this use is like a buyer who takes advantage of the goods he buys.

Buying and selling *bai'ul 'uhdah* or *bai'ul wafa*⁵⁹, even though some scholars prohibit it, others allow it. Shaykh Ba'alawi in his book *Bughyatul Mustarshidin* says: *Bai'u al-uhdah al-ma'rufu shohihun jaizun wa shabatat bihi al-hujjatu syar'an wa azmān 'ala qoul al-qāilīn bihi, wa qod jarā 'alaihi al-amalu fī ghālibi jihhat al-muslimīn min zamanin qodimin*

“*Bai'ul Uhda* has been *ma'ruf* again valid and allowed. His permissibility has been determined by sharia and confirmed by the scholars who allow it. In addition, buying and selling have been practiced by most Muslims since time immemorial”.⁶⁰

In the book *Al-Mausu'ah Al-Fiqhiyyah Al-Kuwaitiyyah* it is said: *Wa zāhaba ba'da al-mutaakhirīn min al-hanīfah wa asy-syāfi'īyyah ilā ana bai'u al-wafāi jāizun mufidun li ba'di ahkāmīhi, wa huwa intifā'u al-musytarī bi al-mabī' duna ba'dihā wa huwa al-bai'u min ākhor. Wa hujjatuhum fī zalika: anna al-bai'a bi haḥa asy-syarṭi ta'ārofahu an-nāsu wa ta'āmālūbihi lihujjatihim ilaih, firārān min ar-ribā fayakūnu shohihan lā yufsidu al-bai'u bisyṭirātihi fihi, wa in kāna mukhālifān lilqowā'idi*

“Some contemporary Hanafi'yyah and Shafi'yyah scholars believe that *bai'ul Wafa* is legal because some of the laws are useful for the people Muslims because the buyer can take advantage of some of the goods sold. Between proof

⁵⁷ Hunud Abia Kadouf, “Aspects of Terminological Problems in Describing Proprietary Relations Under Malaysian Land Law: A Critique,” *The Journal of Legal Pluralism and Unofficial Law* 30, no. 41 (1998): 37–63.

⁵⁸ Rahmi Pratiwi and Noprizal Noprizal, “Formulasi Hybrid Contract Sebagai Alternatif Pembiayaan Pertanian Di Bank Syariah,” *Al-Falah: Journal of Islamic Economics* 2, no. 2 (2017)., 31.

⁵⁹ Siti Nur Shoimah, Dyah Ochtorina Susanti, and Rahmadi Indra Tektona, “The Characteristics of Murabahah Akad With Ba'i Al-Wafa'System,” n.d., 16.

⁶⁰ Ba'alawi, *Bughyatul Mustaryidin.*, 166.

of those who allow them to say that this kind of trading has been known by the Muslims for a long time and they do this transaction because of their needs, they do so to avoid usury, so Such buying and selling are legal. The existing conditions do not damage the contract though contrary to the rules”.⁶¹

The explanation above shows that bai'ul 'uhdah or bai'ul wafa is allowed by some scholars to avoid usury in pawn transactions. This buying and selling concept can be practiced especially by our people in Indonesia, considering the pawn contract and the habit of using pawned goods have become a culture in our society. Therefore, it is not wise to judge usury on the use of pawned goods by the community just because the scholars of the four schools of thought forbid it, even though there are still some scholars who allow it. Moreover, the pawn contract is a mutually beneficial charity contract based on mutual help. This case is precisely in accordance with God's command ta'ala in the Quran: *Wa ta'āwanū 'alal-birri wat-taqwā, Wa lā ta'āwanū 'alal-ismi wal-'udwān(i)*

“Please help you in goodness and do not help in sin and enmity.”⁶²

Ibn Kathir said in his commentary when interpreting this verse: *Qauluhu ta'āla: wa ta'āwanū 'ala al-birri wa at-taqwā wa lā ta'āwanū 'ala al-ismi wa al udwān. ya'muru ibādahu al-mu'minīna bi al-mu'āwanah 'ala fi'li al-khoirāt wa huma al-birru, wa tarku al-munkarāt wa huwa at-taqwā*

The Word of Allah ta'ala: “Please help you in goodness and do not help in sin and enmity “Allah ta'ala commands his servants to help in good deeds, that who believe and leave evil by piety.”⁶³

4. Conclusion

A pawn is a contract of tabarru' or alms by making one item as collateral on accounts receivable. *Murtahin* holds the pawned goods for a specific time until *Rahin* pays off his debts. The pawn held by the *murtahin* as the creditor serves as a sense of security. If the pawn contract is a *tabarru* contract, then *murtahin* are not allowed to do *tashorruf* on *rahn* by using or selling it. In addition, with *rahn*, it is also forbidden to sell, donate, or donate the pawned item as long as he has not finished his debt to the *murtahin*.

⁶¹ Wakaf and Kuwait, “Al-Mausu 'ah Al-Fiqhiyyah Al-Kuwaitiyyah.”, 261.

⁶² Departemen Agama, Al-Qur'an dan terjemahan., 452.

⁶³ Ismail bin Umar Ibnu Kathir, *Tafsir Al-Quran Al-a'zim* (Dar al-Andalus, 1996), 9.

Scholars have different opinions regarding the use of mortgaged goods, both the use of it is from the *rahin* or *murtahin*. The scholars from the Hanafiyyah, Malikiyyah, and Hanabilah agreed that it is not permissible for *rahin* to use mortgaged goods even with the permission of the *murtahin*. As for the *Shafi'iyya* scholars, they allow *Rahin's* party takes advantage of the pawned goods, provided that it is with permission *murtahin*. In addition, the *Syafiyyah* scholars also require the use of *Rahin* should not highlight or reduce the value of the mortgaged goods. They reasoned if the original pledged property belonged to the *rahin*. The benefits resulting from The pawned item are the right of the pawnbroker, so there is nothing wrong with *rahin* taking advantage of things that initially belonged to him.

As for the use of pawned goods by the *murtahin*, scholars also have different opinions on this matter. Several scholars from the Hanafiyyah, Malikiyyah, and Hanabilah agreed if the *murtahin* is not allowed to use the mortgaged goods. They believe a pawn contract is a *tabarru* contract, which is not allowed to take advantage. They also believe that taking advantage of the mortgaged goods is the same as taking advantage of the receivables, including usury. Some Malikiyyah scholars allow the use of pawned goods by the *murtahin*, but on condition that the *rahn* contract that occurs is *rahn mabi* ' not *rahn al-qordh*. As for the Hanabilah scholars, in this respect, it differs from the *jumhur* opinion. They allow the use of pawned goods if the pawned goods in the form of requiring maintenance costs, for example, are animals that can be ridden on their backs or can be milked, but with a note that the utilization is the size of the level of living that the *murtahin* party has issued, but if the goods pawned goods are goods that do not require maintenance costs, such as houses or land, then according to Hanabilah scholars, the *murtahin* are not allowed to use goods the mortgage.

Bai'ul uhdah or *bai'ul wafa* can be used as a solution for usury on the use of goods pawn. The pawnbroker and the pawnee can replace the usual pawn transactions carried out with a *baiul 'uhdah* contract, so that the use of pawned goods by the parties pawnbrokers is no longer considered a form of taking advantage of receivables.

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