

## **Mortgage and Pawn:**

Mortgage literally signifies detaining a thing on any account whatsoever. In the language of law, it means detention of a thing on account of a claim, which may be satisfied by means of that thing in case of default. This is unanimously legal. Sayyidah Ayesha reported that *Allah's* Messenger (Sallallahu Alaihi Wassallam) purchased food-grains from a Jew up to a fixed term, and he kept his coat of mail of iron in pawn. (Agreed)

Mortgage is established by declaration and acceptance and confirmed by receipt of the pledge. Upon the Pawnee taking possession of the pledge, the contract becomes binding. The Pawnee is responsible for the pledge. The Pawnee is entitled to detain the pledge until he receives payment of debt. The pawner cannot reclaim the pledge on the plea of selling it for discharge of his debt.

According to Imam-e-A'zam Abu Hanifa, a Pawnee is not authorized to sell the pledge unless with the desire of the Pawner. The Pawnee is not entitled to use the mortgaged property except in exchange of paying rents.