75056 - He waived a financial right; can he renege on that waiving?

the question

If a person lets another person off with regard to some financial matters, can he later on say to him that he is not letting him off?.

Detailed answer

Praise be to Allah.

If a person has a right over someone else – regardless of whether it is financial or otherwise – then he waives that right, then the second party is no longer responsible, and it is not permissible for the first party to come back and demand his former right, or to say that he is not letting him off.

Ibn Qudaamah said in al-Mughni (8/250):

If he is owed a debt by someone, and he gives it to him or lets him off or allows it to him, that is valid, and the debtor no longer owes him anything. If he says “I give it in charity to you,” that is valid. If he says, “I let you off,” that is valid. If he says, “I waive it from you,” that is valid. If he says, “You can keep it,” that is valid, because it is like him giving it to him. End quote.

It says in al-Mawsoo’ah al-Fiqhiyyah (1/144):

The scholars are agreed that it is not permissible to renege in letting someone off after he has accepted it, because it has been waived, and when something is waived it cannot be taken back, as is stated in the well known principle. End quote.

It says in al-Darar al-Bahiyyah (3/392):

It is forbidden to recant after giving up a debt, because it no longer applies. End quote.

i.e., because he has absolved the debtor, he cannot ask for it a second time.

In Tuhfat al-Muhtaaj it says (6/310):

Giving up a debt cannot is definitively irrevocable. End quote.

Waiving one's right is like giving a gift, and the Messenger (peace and blessings of Allaah be upon him) forbade taking back a gift. He said: "The one who takes back his gift is like the dog which vomits then goes back to its vomit. And we (believers) should not act according to this bad example." Narrated by al-Bukhaari (2589, 6975) and Muslim (1622).

Al-Haafiz ibn Hajar (may Allaah have mercy on him) said:

This means: it is not appropriate for us believers to have blameworthy characteristics (lit. "an evil description") which would make us like the worst of animals in the worst of states. Allaah says (interpretation of the meaning):

"For those who believe not in the Hereafter is an evil description, and for Allaah is the highest description. And He is the All-Mighty, the All-Wise"

[al-Nahl 16:10]

Perhaps this is a more eloquent rebuke and is more indicative that it is haraam than saying, for example, "Do not take back a gift." End quote.

Fath al-Baari (5/294).

And Allaah knows best.