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**POSITIVE BEHAVIOR OF THE PERPETRATOR, IN THE HISTORY OF CRIMINAL LAW IN PRE-REVOLUTIONARY RUSSIA**

**Summary.** The article deals with the history and development of the Russian criminal law concept that is now treated as a positive behavior of the person who committed the crime, and the impact on the issue of liability alone.

**Keywords:** positive behavior, the behavior after the crime, stimulates three major local indus positive behavior, circumstances that mitigate punishment, the history of criminal law.

**Formulation of the problem.** The behavior of the person who committed the crime, but after having done "come to its senses" or frightened, and efforts to minimize or neutralize its negative effects: providing medical care to wounded, recoverable property damage, pled guilty, often sincerely repent of their deeds, and assisting the in the investigation of the crime, objective evidence of relatively less risk of such persons and the need to mitigate the exertion of criminal law.

**Presentation of the basic material.** The legal acts of Kievan Rus direct evidence of this is found, which, in our opinion, due to objective reasons - partly the ruling principle of retaliation and blood vengeance, and partly - underdeveloped legislation. However, as we see it, and in that distant time, people (judges, victims), remaining people could not ignore the fact of contrition guilty, his desire to reconcile with the victim, to make amends, caused harm, etc. And this is our assumption is confirmed in the Pskov and Novgorod dispensations Grammax, of Law in Ryazan and Rostov principality, which already provides some of the rules on the use of a soft FIR penalties if the above symptoms. In Russian monuments rights XIII-XV centuries. (Agreement with the Germans Smolensk, Rudder book Pskov Judicial Charter, redaction Russian Truth) is well known to the field - open armed combat, combat, the winner of which was recognized guilty. [1] Legal fight in the ancient Russian state was used as a form of evidence in cases which do not affect the interests of the state, ie relatively non-great severity. The refusal of the field is seen as a recognition of guilt. Lost the case exposed the punishment provided-second law for the offense. For the possibility of reconciliation between the parties [1], and, although the law does not contain any-or guidance on the impact of reconciliation, we can assume that reconciliation, it usually means a compromise in practiceattracted less severe consequences for a person accused of a crime. On the possibility of reconciliation of the parties con-conflict (the person alleged to have committed "spirited affair," and the victim) is referred to in Articles 4 and 5 Sudebnik 1497, regulating the issues of payment of fees for the conduct of the field. So, in art. Sudebnik 4 states: "A dosudyatsya to the field, and in the field did not stand, pomiryatsya ..." [2], followed by an indication of the size of the fees charged, and in art. 5 states: "And the field were reconciled ..." [2] and again follow the on-duty field sizes. Referred to these norms conciliation as "... the field does not stand ..." and "... in the field were ..." indicates the possibility of reconciliation between the parties at different stages of the production, and was not limited to government. These provisions of the law encouraged reconciliation nedovedenie "field" to the end, using the most economic leverage - the amount of charge a fee, which in the case of non-judicial duel was less than its carrying out.Of Law in 1550 also mentions the possibility of reconciliation. So, in art. 9 Sudebnik says: "A dosudyatsya to the field, but did not become a field, but make peace ..." [2], the same thought and art. 10: "And the field becoming reconciled ..." [2]. And in fact, in both cases, these articles regulating the size of field duty, but the meaning of these articles has a substantive aspect: they contain a direct reference to the possibility of reconciliation as an option for post-criminal behavior and its stimulation by reducing the amount chargedduties. Of Law in 1497 and 1550 do not give the interpretation, how parties can accept. Perhaps this includes reimbursement guilty due to an injury to the victim of the crime, and perhaps sincere repentance to the victim, and any other terms. For the legislation of the time was the important fact of reconciliation, not how to achieve it.Later, when the legal fight longer be used as a kind of evidence, the legislature also sets WHO possibility reconciliation. Thus, according to the article 121 of Chapter X of Council Code of 1649, "... and the defendants are istsy uchnut Mirit dispensations of cases before the commission, and they are about to order the prinositi to the ship for the world's petitions for his hands ..." [3]. Butreconciliation is allowed only on the crimes of little gravity: according to Art. 31 chapters XXI Code, "... that with istsyrozboyniki or drive Lyudmila red-handed in rozboynyh deleh, without waiting for the decree, uchnut Mirit, and the world in order petitions uchnut prinositi, and that their world is not the world staviti and rozboynikom decree repairs, on the order of the sovereign, who then happen ... "[ 3]. Legislator establishes a direct banreconciliation of the victim and the perpetrator of the robbery by threat of punishment: "... And istsom for fine repairs depending on the case, not with mirisya rozboyniki" [3]. This is one of the manifestations and evidence that with the strengthening of the centralized Russian state stronger public basis of law and justice: to hold accountable gradually became more and more a matter of public, not private, as in the ancient Russian state. Perhaps for the first direct evidence in the law of the need for positive behavior guilty after committing a crime were made in art. 1069t. XV of the Laws of the Russian Empire and later in the Penal Code and Criminal Corrections, 1845, in the third chapter (the second unit), which contained a special sub «V. On the circumstances that reduce the guilt and punishment. "In accordance with Article 140 of the Code, to the number of such circumstances, "more or less reduce the guilt, and so together and rigor as the judges following the punishment," were attributed, in part: "1) When the offender voluntarily before, rather than He fell some suspect to appear in court or to the local or other authorities and quite frankly remorsefully confessed to the crime perpetrated;2) If it is, though, and after excitation is due to his suspicions, but soon, without persistence, one of the first in the interrogation opinion or persuasion, committed to full repentance in all recognition, and 3) If it is not slowing down, and also with blagovremenno complete frankness, all the participants have it in crime "; ... 8) If the offense under the most sodeyanom he felt remorse or regret for the victims thereof, and according to this impulse is not only committed intentional harm them, Especially as he kept on, and his accomplices"; 9) If it sodeyanom crimes tried at least to avert even though some of the harmful effects thereof and reward add-inflicted harm or loss ". [4]If one or more of the listed in Art. 140 circumstances, the court assessed them together with all the circumstances of the case and could not properly "as more or less reduced, but yet to some extent by the law, the measure following the signified punishment" (Article 141 Law Code). [4]In the fourth chapter of the Penal Code, entitled "On the commutation of the abolition of punishment" for the possibility of punishment milder than that provided by law for the offense. According to Art. 157 Code is: "The penalty specified in the law of any crime or misdemeanor, may not only be to the extent of reducibility, as agreed up on this in Article 141, but even in smyagchaemo degreeand neither in the way thereof: 1) When the offender, who appeared in court by himself of guilt, or even taken to questioning on suspicion, not only maintains self full frank recognition of the his crime and tells all his accomplices, but moreover delivered to the faithful at the time the information will prevent execution of another malicious intent, is in danger to any individual, or many, or all of society and the state;2) When the offender is beyond voluntary and full recognition of his crime, deserves a special indulgence for the old long immaculate service, or any great merit; ... "[4]. However, such a judgment is not final, it is subject to authorization higher courts up to the of the Senate, and even the king (Law Code Article 159). [4]The need to consider the behavior of the offender after the commission of a crime referred to in some articles of Law Code naka-zaniyah providing responsibility for specific crimes (Sections 2 -5). So, in art. 319 Code, which included responsibility for falsifika-tion of documents, parts, size and level of responsibility, according to a reduced sentence, subject to appear guilty "to the court or the authorities to confess his crime," if he did not use false documents "[5 ].Also in the article. 320 Code, to establish strict liability for falsification of documents issued to the Government ofSenate says: "If, however, making a false or maliciously modified by this decree of the Senate,guilty to later change his mind and will not make any use of this paper ", the penalty for the offense is reduced. In addition, the sanction is reduced if the offender is "hereby voluntarily, on their own accord, would be to court or the authorities to confess his crime and thus obviate any harmful consequence of fraud made by him". [5] According to Art. 322, which established liability for falsification of documents issued by the district authorities, the offender "who appeared blagovremenno with remorse, and obey his crime to the court or the authorities and so obviate any harmful consequence of fraud made by him, subject to" [5] less penalty.In Art. 402 Code, provides for liability for bribery, said that if the "receiving a bribe, as a result thereof, before any breach of their duties in the service announce that with repentance to his superiors, the court may, according to circumstances, more or less reduces the blame it more or less proving the sincerity of his repentance, to limit his punishment ... "[5].Of the Penal Code and Criminal Corrections in 1845 has made a significant contribution to the development of Russian legislation, but it did not constitute a sufficiently clear and legally accurate developed criminal code contains many archaic provisions that over time more and more strained. The new edition of the Legal Code was implemented in 1866 in the wake of the country's peasant reform, police reform, judicial reform, and some modifications of the punitive policy of the state [5], and then in 1885 in the new edition of the Legal Code of the sample in 1885 was said about the circumstances deductible liability, including differing circumstances, reduce the guilt, and the circumstances that mitigate punishment.According to Art. 134 Code, a number of circumstances that reduce the guilt, "... and so together, and as the judges on the severity of the next sentence ..." include, inter alia, of the offender, as: "2) repentance or remorse to the victim, guilty of manifest during perpetration of crimes when he completed the most deliberate, especially if kept on their partners, and 3) the behavior of the offender after the perpetration of the crime, is evidence of his part-time corruption, namely: a) withdrawing at sodeyanom crimes, harmful effects of it and reward suffered from him evil and b) voluntary and confession to the crime and remorse in him, if it followed before suspicion fell on the guilty, or in one of the first interviews, and c) blagovremennoe and frank disclosure of accomplices ". [6]The Charter of the penalties imposed by magistrates, 1864 also indicated the "circumstances that reduce the guilt of the defendant," but in a more simplified way related to them, such as: "a voluntary, before passing the sentence, the reward has suffered injury and loss" and "recognition and sincere repentance "(items 5 and 6 of Art. 13 of the Charter). [7] Mitigate the punishment, according to Art. 153 of the Penal Code and Criminal Corrections (in red. 1885) recognized, in part: "1) Full sincere mind of the defendant, who appeared with a confession, or (ii) taken for interrogation on suspicion, if it does not only indicate all accomplices but, in addition, bring true and timely information will warn the performance of some other criminal intent, so that by this point he could not take advantage of the offender, who had no accomplices or have no information about any other crime except perpetrated them. 2) Voluntary and full awareness of the defendant, if he is, moreover, deserves leniency for former impeccable service or great merit "[6]. In the General section of the Criminal Code is 1903 contained a department of six "on mitigation and replacement of punishment", which stated, in particular, a reduced sentence and lists the consequences of use of such mitigation. Thus, according to the article. 53 of the Criminal Code, "guilty, admitted guilt in cash deductible circumstances deserve leniency, mitigated punishment for the following reasons: 1) can not be imposed the death penalty for a criminal act committed by the, the law established, and 2) to determine the law for the crime of act minimum penalty trial has the right to reduce the signified to the lowest legal amount of this kind of punishment, and 3) the absence of the law, especiallyGod has determined that the minimum penalty for a criminal act the court may reduce the penalty to the lowest legal amount of this kind of punishment, "or, except as specifically listed in the Code of cases," go to other punishment ". [8] List themselves circumstances, the presence of which apply to the criminal rules of the articles in the Criminal Law in 1903 was absent. According to JP Titov: "... if the jury found the defendant deserves leniency, the court shall reduce the following sentence him according to the law with one degree, and if perceives in special circumstances, reduce the guilt, the two degrees. In the case of particular importance to the court may seek a pardon criminals ... "[9], which is a significant softening. Thus, commutation was allowed, although the court did not admit any evidence in the data, reduce guilt, sufficient to assess the overall personality of the convict, he came to believe that the perpetrator deserves leniency. Output. Thus, in the pre-revolutionary Russian law gradually took shape independently sub institute criminal law, which included rules governing the circumstances, recognize the mitigating or aggravating the culprit. Among such circumstances gradually allocated and those that had been positive behavior after the perpetrator of the crime. The emergence and development of this sub institute was due to the objective laws of social development. In accordance with these laws with the accumulation of theoretical and legislative material and enriching experience fighting crime gradually improve the legal regulation of the system of the circumstances, recognize the mitigating or aggravating the culprit, conditions and procedures for the use of their in practice.

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**Іванов І.В. Позитивна поведінка особи, яка вчинила злочин, в історії кримінального законодавства дореволюційної Росії**

**Анотація.** У статті розглядається історія виникнення та розвитку в російському кримінальному законодавстві поняття, що трактується нині як позитивна поведінка особи, яка вчинила злочин, і вплив такої поведінки на вирішення питання про відповідальність винного.

**Ключові слова:** позитивна поведінка, поведінка після злочину, сти-мулювання позитивної поведінки, обставини, які пом'якшують покарання, історія кримінального законодавства.

**Ivanov I.V. Positive behavior of the perpetrator, in the history of criminal law in pre-revolutionary Russia**

**Summary.** The article deals with the history and development of the Russian criminal law concept that is now treated as a positive behavior of the person who committed the crime, and the impact on the issue of liability alone.

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