THEORETICAL AND APPLIED PROBLEMS OF THE BRANCHES OF LEGAL KNOWLEDGE

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PRINCIPLES OF PRACTICE PROCEDURE FOR THE JUVENILE: FROM THE INTERNATIONAL STANDARD TO CONDITIONS OF PERFORMANCE IN VIETNAM

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Abstract

In Vietnam, principles for conducting legal proceedings against juveniles, stipulated in the Criminal Procedure Code, are defined as the core idea throughout the whole process of creation and application of criminal procedures against juveniles. These principles help complete criminal procedures to guarantee juveniles' lawful rights and interests; correct limitations of courts as well as ensure compatibility with UNCRC and Law on child protection, care and education. However, in order to implement these principles properly, Vietnam still needs to revise its criminal procedures against juveniles, standardize qualifications of officials and enhance collaboration between its authorities.

Keywords

Criminal Procedure Code; international standards; principles of practice procedure; the juvenile

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1. Introduction

The child-friendly criminal procedures are special procedures applied to ensure the best interest and fairness for juveniles who are accused persons, crime victims or witnesses.

Many amendments have been made in the 2015 Criminal Procedure Code relating to child-friendly criminal procedures (i.e. Chapter XXVIII; Part 7: Special procedures). A new article (Article 414) was introduced. This article consists of 7 principles that the competent authorities, individuals must abide by in juvenile-related cases. These principles also represent the value and the humanitarian policy on juvenile offenders of the Communist Party and State of Vietnam and ensure juveniles' rights and interests in proceedings.² They are compulsory and therefore, all officials must respect, implement and prevent any violations leading to infringement of juveniles' rights and interests.

Principles for conducting legal proceedings against juveniles stipulated in the Criminal Procedure Code are based on international standards in UNCRC (1989) and other documents such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") adopted by General Assembly resolution 40/33 of 29 November 1985.

This paper covers principles of practice procedure for the juvenile from the international standard to conditions of performance in Vietnam and the requirements to implement these principles.

2. Principles for conducting legal proceedings against juveniles — from international standards to the provisions of the Vietnam's Criminal Procedure Code 2015

2.1. The criminal procedures shall be child-friendly, appropriate for the juvenile's age and cognitive maturity; ensure the lawful rights and interests of juveniles; guarantee the best interests of juveniles³

This principle is defined verbatim under the international standards as: *"States Parties recognize the right of every child alleged as, accused*

² Dong Van Le, Criminal procedure against juveniles in 2015 Criminal Code, 3 *Journal of Procuratorate Studies* 13 (2018).

³ Vietnam Criminal Procedure Code 2015 (National political publisher, Hanoi, 2016), Article 414 (1).

*of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society"*⁴ while also adds "A juvenile is a child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult."⁵

This principle requires that the bodies responsible for the various aspects of criminal proceedings abide by the provisions of the law on special treatment for juvenile offenders so that their rights and best interests are guaranteed. The provisions on criminal procedures need be friendly to juveniles, or as mentioned previously "child-sensitive" and appropriate for the juveniles' personal psychological, physiological characteristics, age and level of development. Thus, when applying criminal proceedings, in addition to ensuring the enforcement of justice, it is necessary to aim at achieving the purpose of educating, inclining juveniles to the good and guaranteeing their best benefits and future despite being accused. On the other hand, when the juveniles are crime victims, the authorities must prioritize protecting their best benefits, punishing accused persons and bringing justice and faith to the juveniles. In addition, when they participate in the proceedings as witnesses assisting enforcement of justice, authorities must implement child-friendly criminal procedures and protect their best interests. Based on child-friendly investigation and child-sensitive principles, the Authorities must not bring burden onto a child. These criminal procedures against juvenile offenders must ensure the defense right; minimize implementation of coercive measures and unavoidable impacts on juvenile offenders caused by criminal proceedings; create favorable conditions for clarification of the crime's causes and conditions so that

⁴ United Nations Convention on the rights of the child, Article 40 (1), 1989.

⁵ G.A. Res. 40/33, Item a, Section 2.2, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")*, (Nov. 29, 1985).

the Court can adjudicate and declare the sentence which has positive effects on their mentality.⁶

2.2. Juveniles' personal privacy shall be respected

Based on the international standards, "*A child's privacy shall be fully respected at all stages of the proceedings*"⁷ and "*The juvenile's right to privacy shall be respected at all stages in order to avoid harm being caused to her or him by undue publicity or by the process of labeling.*"⁸

This principle is ingrained in Criminal Procedure Code, Article 414 (2) in 2015. This principle emphasizes how respect for the personal privacy of juvenile offenders plays a significant role in a child development as it works to shield the juvenile from stigmatization and isolation from peers, school, family or the community. This principle is meant to facilitate the juveniles' reintegration into the community and normal development after completion of the proceedings and fulfillment of the sentences. In addition to ensuring personal privacy for juvenile offenders, "*it is extremely important to protect the juvenile victims' worth and dignity as well as their safety and welfare. Information leakage may lead to serious consequences.*"⁹

The right to privacy is one of the basic human rights and citizenship rights recognized and protected by the Law. The child's right to privacy is especially emphasized since children are in disadvantaged groups, inadequately developed awareness and physicality to protect themselves against affecting and intrusive actions.

⁶ Minh Thi Nguyen, *Psychological factors in criminal procedure against juveniles* (May 4, 2019), http://hvta.toaan.gov.vn/portal/page/portal/hvta/27676686/27677461?p_page_id=27677461&pers_id=28346379&folder_id=&item_id=146486239&p_details=1.

⁷ United Nations Convention on the rights of the child, Item vii, Article 40 (2), 1989.

⁸ G.A. Res. 40/33, art. 8 *United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")* (Nov. 29 1985).

⁹ Loc Thi Nguyen Privacy of juvenile crime victims in criminal procedure, 2 *Journal of Procuratorate Studies* 18 (2018).

Law on Children of Vietnam regulates that: *“Children have the right to inviolability of private life, personal and family secrets; they have their honor, dignity, personal prestige, mail, telephone and telegram security and other personal information exchange means protected by the law. The law also prohibits illegal interventions against personal information”* (Art. 21) and *“Agencies, organizations and individuals that provide information and communications products or services and organize activities on the network environment must secure personal secrets of as regulated by the law”* Art. 54 (2). To ensure implementation of such policies, Decree No 56/2017, supplementing many articles of Law on Children, was issued and took effect from July 1, 2017. In particular, Article 33 of the Decree defines Private information of a child as *“name, age and characteristics for personal identification; health status and privacy written in health records; personal images; family members and caregiver of the child; personal property; telephone number and mail address; address of and information on residence place...”*

Therefore, ensuring juveniles’ privacy is not only the responsibility of authorities but also all agencies, organizations and individuals involved in the case.

2.3. The rights to be involved in the proceedings of juveniles’ representatives, schools, youth unions, people with experience in and insights of psychological and social affairs, other organizations in the neighborhood where such juveniles are living, working and studying

This principle is based on the rights of the child, as expressed in Article 40 (2) of the UNCRC: *“To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her excuse”*;¹⁰ *“The parents or the guardian shall be entitled to participate in the proceedings and may be required by the competent authority to attend them in the interest of the juvenile. They may, however, be denied participation by the competent authority if there are reasons to assume*

¹⁰ United Nations Convention on the rights of the child, Article 40 (2), Item b, 1989.

*that such exclusion is necessary in the interest of the juvenile.*¹¹ Beijing Rule 18.1 also specifies that: *“Orders concerning foster care, living communities or other educational settings.”*

Based on the legal documents of the United Nations, Vietnam has made this content a principle of conducting criminal proceedings for juveniles which is stipulated in Article 414(4), Criminal Procedure Code 2015. As individuals, organizations, and others exercise their right to participate in or witness the proceedings, juvenile offenders are provided with mental (and legal) support as well as psychological and physiological stability. That way, the risk of abuse of power and breaches of the law by officials is reduced, while the rights and lawful interests of the juveniles are being protected.

As a result, competent authorities and individuals must be responsible for facilitating and providing necessary information on the criminal proceedings, rights and duties to juvenile and their representative, school, Youth Union or other organizations where the juveniles are studying, working or living.

2.4. Juvenile offenders’ right to participation and presentation of their opinions shall be respected

This principle is stipulated in Article 414(4), Criminal Procedure Code and based on the United Nations Standard Minimum Rules, *“States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.”*¹²

To this end, in Viet Nam, a juvenile is entitled to the right to voice their views in any private proceedings to which he/she is related, directly or through a representative or an appropriate agency, in accordance with the procedural rules under the existing legislations. And, during the procedural process, although a juvenile’s interests

¹¹ G.A. Res. 40/33, art. 12 Item 1.5.2 *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)*

¹² United Nations Convention on the rights of the child, Article 12, 1989 (Nov. 29 1985).

are protected by his/her own defense attorney and representative, the persons responsible for the procedure must respect the juvenile's views regarding the criminal procedures.

During criminal proceedings, the special procedures are extremely essential to ensure fairness and child-friendliness so juveniles may have the opportunity and the guidance to become legally responsible, to avoid similar violation and to abide by the laws in the future. Vietnam has engaged in Convention on the Rights of the Child in 1989 and has been promoting the improvement of the legal system regarding the protection of children's rights, especially juvenile offenders.¹³

2.5. The right of juvenile offenders to legal assistance shall be respected¹⁴

This principle is based on the following right of the child as defined by Article 37 (5) of the UNCRC: *"Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action."* The same article also adds that *"throughout the proceedings the juvenile shall have the right to be represented by a legal adviser or to apply for free legal aid where there is provision for such aid in the country."*¹⁵

The right of juvenile offenders to legal assistance is among the special rights available to juveniles. Juveniles are psychologically and physiologically immature, limited in their understanding of the laws and unable to defend themselves against allegation and decisions of procedure-conducting bodies. As a result, their right to have access

¹³ Minh Thi Nguyen, *Psychological factors in criminal procedure against juveniles* (May 4, 2019), http://hvta.toaan.gov.vn/portal/page/portal/hvta/27676686/27677461?p_page_id=27677461&pers_id=28346379&folder_id=&item_id=146486239&p_details=1.

¹⁴ Vietnam's Criminal Procedure Code 2015 Article 414(5) (National political publisher, Hanoi, 2016).

¹⁵ United Nations Convention on the rights of the child, Article 5, Article 37(4), 1989.

to defense and legal assistance free of charge has to be guaranteed. This principle also reflects the humanitarian policy of the State and Communist Party of Viet Nam on juvenile offenders. Moreover, *“during the stage of investigation, suspects are in need of defense counsels’ presence and assistance especially when they receive decisions of filing charges, are interrogated for the first time, arrested, searched...”*¹⁶

Accordingly, the investigation, Procuracy, Courts shall be responsible for ensuring juveniles’ defense right. Respecting and ensuring this right shall bring positive effects on the quality of trial and the determination of unbiased truths of lawsuit.

2.6. The principles in handling juvenile offenders under the Penal Code shall be respected¹⁷

This provision of the 2015 Criminal Procedure Code is based on Beijing Rule 17 which articulates a number of *“Guiding principles in adjudication and disposition”*¹⁸ and complies with the humanitarian policy on juvenile offenders of the Communist Party and State of Viet Nam. Compared to international standards, Beijing Rules states: *“Juvenile justice shall be conceived as an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles, thus, at the same time, contributing to the protection of the young and the maintenance of a peaceful order in society (Rule 1.4).”*

The aims of juvenile principle are to help him/her to realize his/her wrongdoings and correct behavior, avoid punishments except for necessary cases. Article 91(1), Criminal Code 2015 regulates: *“Actions against juvenile offenders must protect their best interests”* and Article 91(4), Criminal Procedure Code 2015 regulates: *“At the trial, the court shall only impose a sentence upon a juvenile offender if it is considered that the exemption of criminal responsibility and*

¹⁶ Phuc Thai Nguyen, Compulsory participation of defense counsel in criminal procedure, 4 *Legal Sciences Journal* 41 (2007).

¹⁷ Vietnam Criminal Procedure Code 2015 (National political publisher, Hanoi, 2016). Article 414(6).

¹⁸ G.A. Res. 40/33, art. 15 Item 1.5.1 *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)* (Nov. 29 1985).

application any of the measures specified in Section 2 or compulsory education in a correctional institution specified in Section 3 of this Chapter do not have sufficient educational and deterrent effects.” Thus, during criminal proceedings involving juveniles, all officials must take into account this principle in order to avoid arbitrary, partial or discriminatory application of procedures.

2.7. Cases related to juveniles shall be addressed in an expeditious and timely manner¹⁹

This principle is based on Beijing Rule 17 requiring that each case involving a juvenile offender, from the outset, be “*handled expeditiously, without any unnecessary delay.*”²⁰ The expediton of formal procedures in juvenile cases is a paramount concern. Without it, whatever good may be achieved by the procedure and the disposition is at risk. As time passes, the juvenile will find it increasingly difficult, if not impossible, to relate the procedure and disposition to the offence, both intellectually and psychologically.²¹ As a result, in order to safeguard the best interests of juvenile offenders, the expeditious and timely handling of juvenile-related cases is needed to release the juveniles from the pressure arising out of the burdensome criminal procedures and expedite their return to the families and communities to settle their lives.

The incorporation of these seven principles in our Criminal Procedure Code reflects a very fundamental change in the way the justice process deals with juvenile offenders. This new approach is grounded in the respect for the rights of children, an attention to the relevant international standards, and the realization of the humane approach and policy of the State and Communist Party of Viet Nam. These statutory principles are compulsory and require strict compliance by the relevant official bodies. Failure to comply with these principles is detrimental to the rights and interests of juvenile offenders and

¹⁹ Vietnam Criminal Procedure Code 2015 (National political publisher, Hanoi, 2016) Article 414(7).

²⁰ G.A. Res. 40/33, art. 20 *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)* (Nov. 29 1985).

²¹ G.A. Res. 40/33, art. 20 *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”)* (Nov. 29 1985).

is prohibited. Through application of these principles, the Criminal Procedure Code has contributed to the improvement of the procedural mechanism aiming to protect the juveniles' lawful rights and interests; correction of difficulties, limitations and at the same time ensured compatibility with Convention on the Rights of the Child and Child Law 2016.

3. Requirements to ensure the implementation of these principles in Vietnam

In order to assure implementation of these principles in Vietnam, it is necessary to:

3.1. Further enhance the child-friendly criminal procedures in Criminal Procedure Code

One of the important requirements to ensure implementation of these principles is the comprehensive provisions of child-friendliness. Criminal Principle Code in 2015 has been amended comprehensively and added with many new remarkable regulations including criminal procedure against juveniles. The aims are to handle juvenile cases in an appropriate manner especially when they are suspect defendants, however, the ultimate purpose is not to punish but to educate, rehabilitate and reduce number of juvenile cases. Despite such amendment, there are still conflicts and incompletions among these principles. For that reason, our recommendations are as follow:

Firstly, it is necessary to shorten the time of investigation in juvenile case.

Regardless of the legal character, juveniles (especially accused persons) must go through a long process of proceedings in terms of time. This will greatly affect their psychophysiology as well as other activities such as learning, working or living habits. While the level of criminal responsibility of juveniles is much lower than adults, the time of investigation is still equal. In addition, Article 419, Criminal Procedure Code 2015 stipulates that the time limit for detention of accused juveniles equal two-third to that of adults. The 1989 Convention on the Rights of the Child has recognized: *“No child shall be deprived*

*of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.*²² Thus, similar time limit for investigation applied to juveniles and adults is not reasonable and does not promote settlement in a swift manner. We believe that the time limit of investigation for juvenile should be shortened to better protect their rights and benefits. This proposal is also in line with Article 414(7), Criminal Procedure Code: *“The cases in connection with persons aged below 18 must be settled in swift and timely manners.”*

Secondly, secret trial must be applied to juvenile defendant and crime victim.

Article 423(2), Criminal Procedure Code provides that: *“If a defendant or crime victim below 18 years of age must be protected in special circumstances, the Court can decide to hold a secret trial.”* However, there is no specific guidance concerning “a defendant or crime victim below 18 years of age [that] must be protected.” Thus, in fact, secret trial of juvenile defendants is mostly public. Citizens and journalists are free to attend, write articles, reveal identification of the defendants, even in sexual abuse cases. This brings negative impact on their future development, causing embarrassment and discrimination particularly in child sexual abuse cases.

Based on circular No 02/2018/TT-TANDTC dated September 21, 2018 detailing the trial of criminal cases involving proceeding participants who are under-18 persons under the jurisdiction of the family and juvenile tribunal: *“For a case involving an under-18 sex assault, domestic violence or human trafficking victim, the court shall organize a closed hearing; for other cases where under-18 persons or their representatives so request or it is necessary to protect under-18 persons or their privacy, the court may also organize a closed hearing but shall publicly pronounce.”* We believe that all juvenile lawsuits must be secret trial regardless of types.

We also propose that secret trial is compulsory in cases of juvenile defendant and juvenile crime victim. Accordingly, Article 423(2) should

²² United Nations Convention on the rights of the child, Item b, Article 37, 1989.

be revised to: *“If a defendant or crime victim is below 18 years of age, the Court must hold a secret trial.”* This revision complies with Article 414(2) *“Personal information of individuals below 18 years of age must be kept confidential”* and other international standards.

Thirdly, regarding legal proceedings of representative, school or other organizations participation of representative, school or other organizations is essential to ensure rights and interests of juveniles, as well as to provide psychological and legal assistance and to oversee competent authorities. However, Article 420 only takes account of participation but not absence of those parties. According to Article 423(3), *“the representatives of defendants aged under 18, representatives of the school or organization where such defendants pursue education and do daily activities must attend the trial against the juveniles, unless such representatives are absent not due to force majeure or objective obstacles.”* So, will the court be postponed when they have reasonable excuses? To end this, Article 8 of joint circular No 06/2018/TTLT-VKSNDTC-TANDTC-BCA-BTP-BLDTBXH dated December 21, 2018 On the coordination in the implementation of a number of provisions of the Criminal Procedure Code regarding the procedure applicable to under-18 persons, has been issued. When conducting the proceedings with regard to an under-18 proceeding participant, a body or person competent to conduct the proceedings shall request the commune-level People’s Committee of the locality where the under-18 proceeding participant resides to appoint a guardian if he/she has no natural guardian; request the Labor, Invalids and Social Affairs office, Ho Chi Minh Communist Youth Union, Vietnam Women’s Union, Association of Child Rights Protection or related body or organization at the place of arrest or where the offense is committed or which has the investigation competence to appoint a representative for the under-18 proceeding participant in case he/she has no clear place of residence, his/her backgrounds are unidentifiable or his/her representative is intentionally absent or refuses to participate in the proceedings; to request a state legal aid center to appoint a legal aid provider for the criminally charged under-18 person or victim if he/she is entitled to legal aid under Article 7 of the 2017 Law on Legal Aid and Joint Circular No 10/2018/TTLT-BTP-BCA-BQP-BTC-

TANDTCVKSNDTC of June 29, 2018, on coordination in the provision of legal aid in the proceedings; request or propose a bar association to assign a law-practicing organization to appoint a defense counsel; or assign the Central Committee of the Vietnam Fatherland Front or one of its member organizations to appoint a people's advocate for the criminally charged under-18 person under Article 76 of the Criminal Procedure Code.

A representative or teacher of an under-18 person, or a representative of the school, Ho Chi Minh Communist Youth Union or another body or organization where such person studies, works or lives shall be present on time and at the place indicated in the notice. In case he/she is absent for a plausible reason or due to an external obstacle, the body or person competent to conduct the proceedings may postpone the proceedings or request him/her to appoint another person to participate in the proceedings to defend lawful rights and interests of the under-18 person.

With those articles, proceedings and participation of representative, school and other organizations will become even smoother. However, the joint circular still does not consider how the competent authority will handle absence not due to force majeure or objective obstacles. Article 423(3) stipulates: *"The representatives of defendants aged under 18, representatives of the school or organization where such defendants pursue education and do daily activities must attend the trial against the juveniles, unless such representatives are absent not due to force majeure or objective obstacles"* but does not include whether the court shall be continued or postponed. Moreover, this article is for the defendant only. So how will the court handle the juvenile cases in which the representative of the crime victim is absent due to reasonable excuses? Considering all of the above, we propose revisions of Article 420 and 423 as follow:

Article 420:

4. *A representative or teacher of an under-18 person, or a representative of the school, Ho Chi Minh Communist Youth Union or another body or organization where such person studies, works or lives shall be present on time and at the place indicated in the notice. In case he/she is absent for a plausible reason or due to an external*

obstacle, the body or person competent to conduct the proceedings may postpone the proceedings or request him/her to appoint another person to participate in the proceedings to defend lawful rights and interests of the under-18 person.

Article 423:

3. The representatives of defendants aged under 18, representatives of the school or organization where such defendants pursue education and do daily activities must attend the trial against the juveniles.

The representatives of crime victim aged under 18 or protector of legitimate rights and benefits must attend the trial against the juveniles. If such people are absent not due to force majeure or objective obstacles, the trial panel shall continue the trial.

3.2. Promote cooperation between competent authorities entitled to conduct criminal procedure and other agents, organizations and individuals in juvenile cases

Unlike adult cases, juvenile cases require participation of many parties including agencies, social organizations and individuals because education is the top priority and punishment is used only when it is necessary. During proceedings of cases in which juveniles are accused persons, victims or witnesses, all related parties must cooperate and guarantee implementation of child-friendly procedures and respect of their rights and interests. As a matter of fact, cooperation between these parties remain weak and some do not fully perform its obligations. To overcome this situation, on December 21, 2018, Chairman of Supreme People's Procuracy, Chief Justice of Supreme People's Court, Minister of Public Security, Minister of Justice, Minister of Labor, War Invalids and Social Affairs signed joint circular No 06/2018 / TTLT-VKSNDTC-TANDTC-BCA-BTP-BLDTBXH. This Circular took effect from February 5, 2019 and replaced Joint Circular No 01/2011/TTLT-VKSTC-TANDTC-BCA-BTP-BLDTBXH dated July 12, 2011 of the People's Procuracy, Supreme People's Court, Ministry of Public Security, Ministry of Justice and Ministry of Labor, War Invalids and Social Affairs guiding the implementation of a number of provisions of Criminal Procedure Code for juvenile procedure. The circular details coordination in the

implementation of a number of provisions of the Criminal Procedure Code regarding the procedure applicable to under-18 person. It consists of 19 articles prescribing the coordination among bodies competent to conduct the proceedings, persons competent to conduct the proceedings and other related bodies, organizations and individuals in the implementation of a number of provisions of the Criminal Procedure Code regarding the procedure applicable to under-18 proceeding participants. The trial of criminal cases involving under-18 defendants or victims under the jurisdiction of the family and juvenile tribunal shall be conducted in accordance with Circular 02/2018/TT-TANDTC of September 21, 2018 of the Chief Justice of the Supreme People's Court detailing the trial of criminal cases involving under-18 persons under the jurisdiction of the family and juvenile tribunal. However, to implement effectively, individuals, competent authorities and organizations must be aware of its own responsibilities while cooperating with others, for example: cooperation between representative of the school, Youth Union or another body or organization where such person studies, works or lives; coordination in the supervision of criminally charged under-18 persons; application of deterrent and accompanied escort measures. For cases and matters involving under-18 victims who are sexually assaulted, physically abused or trafficked, bodies and persons competent to conduct the proceedings shall closely coordinate with one another and with other related bodies, organizations and individuals right after receiving reports on offenses; and expeditiously examining, verifying and collecting evidence, initiating and investigating criminal cases, prosecuting and trying offenders, ensuring the quick and timely settlement of cases and matters.

3.3. The need to have officials with higher qualifications in juvenile cases

At present, there are only specialized judges in Family and Juvenile Court while the number of specialized judges in other agencies entitled to conduct legal proceedings such as the Investigation and Procuracy is very limited. It affects negatively the quality of proceedings because juvenile rights need to be exercised right from the first stage. If the

Investigator, Investigation Officer, Procurator do not regularly handle cases or handle many things at the same time, they may not specialize in pressing charges, investigating, prosecuting and adjudicating juveniles lawsuits. It can be seen that education and sensitization must be done during pressing charges and investigating. However, not all competent authorities are aware of the matter. To improve the quality of proceedings, we must broaden our psychological knowledge about juveniles of officials and have specialized officials in the investigation.

Besides, it is necessary to strengthen officials' legal skills in juvenile cases and juveniles' psychological and educational understanding. In addition to training courses, it is recommended that Juvenile Justice in legal be taught training institutions. With early education in the universities, students may have a well-built background. It is also necessary to hold advanced training to improve legal skills in many aspects such as marriage and family cases; criminal cases; application of redirection measures).

3.4. The need to have guidance on the organization and operation of the Family and Juvenile Court

The establishment of a Family and Juvenile Court in Vietnam is a fundamental step to prove its commitments to protect the rights of children and juveniles in accordance with international conventions, especially the United Nations Convention on the Rights of the Child in 1990 and to keep up with the organization of other courts in the world. Vietnam is aware of juveniles' rights and interests with establishment of Family and Juvenile Court but it needs a clear guidance on the organization and operation to function well.

First, it is necessary to implement legal documents on Family and Juvenile Court such as Circular No 01/2016 / TT-CA dated January 21, 2016 of the Chief Justice of Supreme People's Court organizing specialized courts, including Family and Juvenile Court if they are qualified for operation; Circular No 01/2017 / TT-TANDTC dated July 28, 2017 of Chief Justice of Supreme People's Court regulating the provision of equipment for friendly court rooms of the Family and Juvenile Court; Circular No 02/2018 / TT-TANDTC dated September 21, 2018 of Chief

Justice of SPC Detailing the trial of criminal cases involving proceeding participants who are under-18 persons under the jurisdiction of the family and juvenile tribunal; Joint Circular No 06/2018 / TTLT-VKSNDTC-TANDTC-BCA-BTP-BLĐTBXH taking effect from February 5, 2019.

Second, the system of documents guiding the application of law on juvenile cases including civil, administrative and criminal proceedings has improved, evidenced by the draft Resolution of the Council Judge of Supreme People's Court guiding application of a number of articles of the Criminal Code regarding crimes involving child sexual abuse, violence; a handbook on skills for handling juvenile cases.

Third, there should be better coordination between ministries, local party committees; the support of the United Nations Children's Fund (UNICEF) and other international organizations in training juveniles' psychology, educational science for Judge, Secretary of Family and Juvenile Court.

4. Conclusion

The incorporation of these seven principles in Criminal Procedure Code 2015 reflects a very fundamental change in the way the justice process deals with juvenile offenders. This new approach is grounded in the respect for the rights of children, an attention to the relevant international standards, and the realization of the humane approach and policy of the State and Communist Party of Viet Nam. These statutory principles are compulsory and require strict compliance by the relevant official bodies. Failure to comply with these principles is detrimental to the rights and interests of juvenile offenders and is prohibited.

However, in order to effectively implement these seven principles, Vietnam needs to have conditions to ensure the implementation of these principles. For example, Criminal Prosedure Code should have further enhance the child-friendly criminal procedures or Vietnam needs to have guidance on the organization and operation of the Family and Juvenile Court or Vietnam also needs to have officials with higher qualifications in juvenile cases... Without the guaranteed electricitity, the above principle will not be able to perform well in reality.

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