

INDIA

Last updated: 11 September 2018

RULES/GENERAL LAWS

General	<p>1. Army Act, 1950: http://indiacode.nic.in/</p> <p>2. The Indian Penal Code: http://indiacode.nic.in/</p> <p>3. The Protection of Children from Sexual Offences Act, 2012 and all other laws of the country. (Ref: Section 2 and Section 69 of the Army Act, 1950): http://indiacode.nic.in/amendmentacts2012/index.htm</p> <p>UN rules on SEA are implemented in the field through the Army Act, 1950 and Indian Penal Code and the Protection of Children from Sexual Offences Act, 2012.</p>
SEA: military offence?	In terms of Section 354 (Assault or criminal force to a woman with intent to outrage her modesty) of the Indian Penal Code and Section 376 (Rape) of Indian Penal Code these crimes can be tried under Section 69 of the Army Act and thereby it comes within the purview of SEA.
Powers of the Commanding Officer (CO)	<p>Promulgation of policies can be done through Regimental orders and violations thereof can be dealt with under summary powers. See Section 80 or under Section 120 of the Army Act while conducting Summary Court Martial.</p> <ol style="list-style-type: none">1. Administrative, Disciplinary and Investigative (can order an investigation);2. The Commanding Officer is the administrative head of all troops under his command and exercises disciplinary powers over them;3. The Commanding Officer can try the offender/accused by Summary Court Martial and can award him imprisonment up to one year. The offences which are grave in nature may be referred for trial by higher judicial forum viz DCM/SGCM/GCM by the Commanding Officer;4. The Commanding Officer can order investigation into an alleged act of indiscipline.

INVESTIGATION

Who can investigate?	An officer nominated by the Commanding Officer or the higher formations to conduct court of enquiry can conduct investigations.
National Investigation Officer (NIO)	National Investigations Officers are deployed with the contingents or dependent on other Indian Contingent for NIOs if the strength of the contingent is less than 150 personnel.

PROSECUTION

Referral	The NIOs refer the investigation to the National Senior or the Commanding Officer or the officer who has ordered the investigations.
Who can charge?	The Commanding Officer, who can bring the charge of SEA to a logical conclusion by holding a Summary Court Martial or by referring the case for trial to higher judicial forum.

JUSTICE

Military justice	Yes, See Section 108 of the Army Act, 1950.
Deployable Court Martial?	<p>India has a separate Military Justice System which has the following types of Court Martials which can be held in peace as well as during deployment in the field:</p> <ul style="list-style-type: none">- General Court Martial- District Court Martial- Summary General Court Martial- Summary Court Martial <p>See section 108 of the Army Act, 1950.</p>

DISCLAIMER

While the information contained in the Member State (MS) fact sheet is periodically updated, the United Nations does not guarantee that the information provided is correct, complete or up to date. The fact sheet reproduces content received from the Member State, and therefore, the United Nations is not responsible for the content nor can it guarantee its accuracy.