

## PERU

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### RULES/GENERAL LAWS

<b>General</b>	<p><b>National Constitution</b>  <a href="http://www4.congreso.gob.pe/ntley/Imagenes/Constitu/Cons1993.pdf">http://www4.congreso.gob.pe/ntley/Imagenes/Constitu/Cons1993.pdf</a>  <a href="https://spijweb.minjus.gob.pe/">https://spijweb.minjus.gob.pe/</a></p> <p><b>Peruvian penal Code</b>  <a href="https://wipolex.wipo.int/en/text/182588">https://wipolex.wipo.int/en/text/182588</a>                      Peruvian Penal Code, approved by Legislative Decree N° 635, dated April 8, 1991, typifies and sanctions in Title IV – Offenses against Liberty, Chapter IX – Offenses of Violation of Sexual Freedom.</p> <p><b>Law on the Disciplinary Regime of the Armed Forces (No. 29131), 2007</b>  <a href="http://www.leyes.congreso.gob.pe/Documentos/Leyes/29131.pdf">http://www.leyes.congreso.gob.pe/Documentos/Leyes/29131.pdf</a>  <b>a.</b> Law N° 29131, Law on the Disciplinary Regime of the Armed Forces dated November 9, 2007, modified by Legislative Decree N° 1145 dated October 3, 2013, constitutes a Very Serious Offense, among others, the fact of making indecorous suggestions, propositions, obscene gestures and / or use terms of sexual nature or connotation (verbal or written) that are unbearable and offensive to the aggrieved party, which is sanctioned with definitive separation from the service.  <b>b.</b> Supreme Decree N° 008-2013-DE dated October 3, 2013, approved the Regulation of Law N° 29131, Law of the Disciplinary Armed Forces Regime, through which it regulates substantive norms and procedures for the application and compliance of the law.</p> <p><b>Law on Prevention and Punishment of Sexual Harassment</b>  <a href="http://www.leyes.congreso.gob.pe/Documentos/Leyes/27942.pdf">http://www.leyes.congreso.gob.pe/Documentos/Leyes/27942.pdf</a>                      Law N° 27942, Law on Prevention and Punishment of Sexual Harassment, regulated in Title II, the Investigation and Punishment of Sexual Harassment, Chapter IV, sanction of Sexual harassment in Military Institutions and Police.</p> <p><b>Military Criminal Police Code</b>  <a href="https://www.peru.gob.pe/docs/PLANES/13815/PLAN_13815_2014_D.LEG._N%C2%BA_1094_(Codigo_Penal_Militar_Policial-126_pags.pdf">https://www.peru.gob.pe/docs/PLANES/13815/PLAN_13815_2014_D.LEG._N%C2%BA_1094_(Codigo_Penal_Militar_Policial-126_pags.pdf</a>                      Military Criminal Police Code, approved by Legislative Decree N° 1094, criminalizes and penalizes in its Second Book, Special Part, Title IV, Chapter II, the offenses of function related to excesses in the exercise of the degree, command or position in the police military service.</p>
<b>SEA: military offence?</b>	<p>The <b>Military Criminal Police Code</b> does not consider sexual exploitation and sexual abuse as a military crime (function); however, this is foreseen in articles 153 “Trafficking in Personnel”, 153-A “Aggravated Forms”, 153-B “Sexual Exploitation”, 153-C “Slavery and other forms of exploitation” of Title IV and in Chapter IX – Sexual Violation (Articles 170 to 177) of the <b>Penal Code</b>, approved by Legislative Decree No. 635, dated April 8, 1991; which is applicable to every Peruvian citizen who comments on crime insider or outside the territory.</p>
<b>Powers of the Commanding Officer (CO)</b>	<p>The Commander, depending on the behavior of the subordinate, has preventive means to preserve, maintain and invigorate the discipline, which he executes through evaluations, diffusion of duties, obligations and granting of incentives, and the sanctioning means are applied in case of breach of discipline.</p> <p>The Commander may directly impose disciplinary administrative sanctions for the commission of minor faults.</p> <p>By commission of serious and very serious faults, initiates preliminary investigation in the administrative field and brings to the attention of the pertinent Investigation Body.</p> <p>If he/she learns about the commission of a crime or finds evidence about it, he/she communicates immediately to the competent Peruvian authority.</p> <p>All military personnel are on duty during the fulfilment of the mission.</p>
<b>INVESTIGATION</b>	
<b>Who can investigate?</b>	<p>The Commander can initiate preliminary investigation in disciplinary administrative field and inform the competent Investigation Body, but as it is a crime, he will immediately inform the competent Peruvian authority (Military Jurisdiction/Civil Jurisdiction).</p>
<b>National Investigation Officer (NIO)</b>	<p>National Investigation Officers are not considered in the organization of the unit deployed.</p>
<b>PROSECUTION</b>	
<b>Referral</b>	<p>Once the investigation is complete, the file will be sent to the Peruvian authority (Military Jurisdiction/Civil Jurisdiction).</p>
<b>Who can charge?</b>	<p>In Peru, the representative of the Public Prosecutor’s Office before the Judicial Power may file charges against sexual exploitation and abuse.</p>

## JUSTICE

<b>Military justice</b>	The <b>Political Constitution of the State</b> contemplates in Article 173 that, in cases of offense of function, the members of the Armed Forces and National Police are subject to the respective jurisdiction and to the Code of Military Justice.
	Article VIII of the Preliminary Title of the <b>Military Criminal Police Code</b> , approved by Legislative Decree N° 1094, establishes that, members of the Armed Forces and National Police, when they are in a situation of activity, commit crimes of function, they may only be investigated and judged by the judges, prosecutors, courts and military police courts, established in the Law on Organization and Functions of the Military Police Force and this Code.
	Article 2 of the <b>Criminal Code</b> , approved by Legislative Decree N° 635, dated April 8, 1991, contemplated the principle of extraterritoriality, for all crimes committed abroad.
<b>Deployable Court Martial?</b>	There is no deployable court martial.

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