

Peru

National Child Protection Legislation

National Legislation

- Age of Child – **Children are ages 0-11; Adolescents are 12-17**

[Code of Children and Adolescents](#)

Art. 1 – Definition

A child is considered every human being from its conception until twelve years of age and adolescent from twelve until the age of eighteen years old.

- Age of Consent – **14 years of age**

[Penal Code](#)

Art. 173 – Sexual violation of a minor

One who has carnal access by vaginal, anal or oral route or performs other analogous acts introducing objects or parts of the body by one of the first two routes, with a minor, will be repressed with the following custodial sentences:

1. If the victim is less than ten years of age, the penalty will be life imprisonment.
2. If the victim is between ten years of age and less than fourteen years of age, the penalty shall be no less than thirty years, nor more than thirty-five.
3. If the victim is between fourteen years of age and under eighteen, the penalty shall be not less twenty-five nor more than thirty years.

If the agent has any position, charge or family bond that gives particular authority over the victim or encourages him to place their trust in him, the penalty for the events foreseen in the subsections 2 and 3, will be life imprisonment.

- Age of Marriage – **18 years of age**

[Civil Code](#)

Art. 241 – Absolute Impediments

They cannot contract in marriage:

1. Adolescents. The judge can remove the impediment for reasons justified, provided that the parties are at least sixteen years old and expressly communicate their desire to marry.

- Age of Criminal Responsibility – **18 years of age**

[Penal Code](#)

Art. 20

Is exempt from criminal liability:

2. The child under 18 years of age;

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- **Extraterritoriality**

[Penal Code](#)

Art. 2 – Principle of Extraterritoriality, Royal Principle or of Defense and Active and Passive Personality Principle

The Peruvian Criminal Law applies to all crimes committed abroad, when:

1. The agent is an official or public servant in the performance of his position;

2. Attempts against security or public tranquility or behaviors typified as money laundering, provided that they produce their effects in the territory of the Republic;
3. Aggravates the State and national defense; to the Powers of the State and constitutional or monetary order;
4. Is perpetrated against Peruvian or by Peruvian and the crime is planned as subject to extradition under Peruvian law, provided that it is also punishable in the State in which it was committed, and the agent enters the territory in any way of the Republic;
5. Peru is obliged to repress in accordance with international treaties.

Art. 3 – Principle of Representation

The Peruvian Criminal Law may be applied when, requesting extradition, the agent is not delivered to the competent authority of a foreign State.

Art. 4 – Exceptions to the Principle of Extraterritoriality

The provisions contained in article 2, paragraphs 2, 3, 4 and 5, do not apply:

1. When the criminal action has been extinguished according to one or another legislation;
2. When it comes to political crimes or related facts with them; and,
3. When the defendant has been acquitted abroad or the convicted person has complied the sentence or it is prescribed or remitted.

If the agent has not fully complied with the sentence imposed, the process may be renewed before the courts of the Republic, but the part of the sentence served will be computed.

Art. 5 – Principle of Ubiquity

The place of commission of a crime is that in which the author or participant has acted or omitted the obligation to act or in which its effects take place.

■ **Dual Criminality**

[Penal Code](#)

Art. 2 – Principle of Extraterritoriality, Royal Principle or of Defense and Active and Passive Personality Principle

4. Is perpetrated against Peruvians and the crime is planned as subject to extradition under Peruvian law, provided that it is also punishable in the State in which it was committed, and the agent enters the territory in any way of the Republic;

■ **Mandatory reporting requirements**

[Code of Children and Adolescents](#)

Art. 18 - To the protection by the Directors of the educational centers

The Directors of educational centers shall communicate to the competent authority the cases of:

- a) Physical, psychological, harassment, abuse and sexual violence to the detriment of the students;
- e) Helplessness and other cases that imply a violation of the rights of the child and adolescent;

...

Art. 244 – Obligation to report

Those responsible for social and/or health care establishments, public or private, are obligated to inform the competent body of the tutelary investigation of the MIMDES (the Ministry of

Women and Vulnerable Populations) about children and/or adolescents who are in an alleged state of abandonment within 72 hours of having knowledge of the fact.

Art. 251 - Complaint

If, as a result of the tutelary investigation, it was established that the child or adolescent has been the passive subject of a crime, the competent judge will send the necessary reports to the criminal prosecutor so that it proceeds according to its attributions.

[An Act to Prevent, Punish and Eradicate Violence against Women and Members of the Family Group](#)

Art. 15 – Complaint

The complaint can be presented in writing or orally. When dealing with a verbal complaint, a report is drawn up with no other requirement than to provide a succinct account of the facts.

The complaint may be filed by the injured party or by any other person on his behalf, without the need to have his representation. It can also be filed by the ombudsman's office. No attorney's signature, fee or any other formality is required.

Without prejudice to the above, health and education professionals must report cases of violence against women or members of the family group they know in the performance of their activity.

When the national police of Peru know of cases of violence against women or members of the family group, in any of its police stations of the national scope, it must bring the facts to the attention of the family courts or those that perform their functions within twenty-four hours of knowing the fact, sending the report that summarizes the act.

▪ **Obligations of Educational Institutions**

[Code of Children and Adolescents](#)

Art. 16 – To be respected by their educators

The child and the adolescent have the right to be respected by their educators and to question their evaluative criteria, being able to resort to higher instances if necessary.

Art. 18 - To the protection by the Directors of the educational centers.

The Directors of educational centers shall communicate to the competent authority the cases of:

- a) Physical, psychological, harassment, abuse and sexual violence to the detriment of the students;
- b) Repeated repetition and school dropout;
- c) Repeated unjustified absences;
- d) Consumption of toxic substances;
- e) Helplessness and other cases that imply a violation of the rights of the child and adolescent;
- f) School performance of working children and adolescents; and,
- g) Other harmful facts.

▪ **Prohibition to hold certain positions**

No information found.

- **Employment Law**

- [General Labor Law](#)

- Sub chapter II – Just causes of dismissal

- Art. 154 – Requirement of justified cause for dismissal**

- A worker can only be dismissed when there is just cause established by Law.

- The justified cause must be related to the ability or behavior of the worker or with the operating needs of the company.

- Sub chapter III – Dismissal for reasons relating to the conduct or worker's ability

- Art. 156 – Causes related to conduct**

- Are justified causes of dismissal related to the conduct of the employee:

- 1) commission of serious misconduct;
 - 2) the criminal conviction for an intentional crime; and,
 - 3) Disqualification of the worker for ninety (90) or more days.

- **Criminal Law – Defamation**

- [Penal Code](#)

- Art. 132 – Defamation**

- The one that, before several people, reunited or separated, but so that it can spread the news, attributes to a person, a fact, a quality or a conduct that could harm his honor or reputation, shall be punished with deprivation of liberty of not more than two years and with thirty to one hundred twenty days-fine.

- If the defamation refers to the fact foreseen in article 131, the penalty shall be deprivation of liberty not less than one nor more than two years and with ninety to one hundred and twenty days-fine.

- If the crime is committed through the book, the press or other means of social communication, the penalty shall be imprisonment not less than one nor more than three years and from one hundred twenty to three hundred sixty-five days-fine.

Sexual Offenses Against Children

- [Penal Code](#)

- Art. 153 - Trafficking in persons**

- The one that promotes, favors, finances or facilitates the recruitment, transportation, transfer, reception or retention of another, in the territory of the Republic or for its exit or entry into the country, resorting to: violence, threats or other forms of coercion, deprivation of liberty, fraud, deception, the abuse of power or a situation of vulnerability, or the granting or receipt of payments or benefits, for the purpose of exploitation, sale of children, to exercise prostitution, subjecting sexual slavery or other forms of sexual exploitation, forcing him to beg, to perform work or forced services, servitude, slavery or practices analogous to slavery or other forms of exploitation, or extraction or trafficking of human organs or tissues, will be repressed with deprivation of freedom not less than eight nor more than fifteen years.

The recruitment, transportation, transfer, reception, reception or retention of a child or adolescent for exploitation purposes shall be considered trafficking in persons even when none of the means indicated in the previous paragraph.

Art 153-A – Aggravated forms of Trafficking in Persons

The penalty shall be not less than twelve nor more than twenty years of imprisonment and Disqualification pursuant to article 36, subsections 1, 2, 3, 4 and 5 of the Penal Code, when:

1. The agent commits the act by abusing the exercise of public function;
2. The agent is a promoter, member or representative of a social, protective or business, which takes advantage of this condition and activities to perpetrate this crime;
3. There is a plurality of victims;
4. The victim is between fourteen and less than eighteen years of age or incapable;
5. The agent is a spouse, partner, adopter, guardian, conservator, relative up to the fourth degree of consanguinity or second of affinity, or has the victim in his care for any reason or they live in the same home.
6. The fact is committed by two or more people.

The penalty shall be imprisonment of not less than 25 years, when:

1. Death, serious injury or imminent danger to life and safety the victim.
2. The victim is under fourteen years of age or suffers, temporarily or permanently, from some physical or mental disability.
3. The agent is part of a criminal organization.

Art. 170 – Sexual violation

Whoever, with violence or serious threat, forces a person to have carnal access via vaginal, anal or oral or perform other analogous acts introducing objects or parts of the body for some of the first two routes, will be repressed with imprisonment of not less than six nor more than eight years.

The penalty shall be not less than twelve nor more than eighteen years and disqualification in accordance with the corresponding:

1. If the violation is carried out by armed force or by two or more subjects.
2. If, for the execution of the offense, he has pre-empted any position or position that he gives particular authority over the victim, or of a relationship of kinship by being ascendant, spouse, cohabiting, descendant or brother, by nature or adoption or related to the victim, of a relationship arising from a contract for the lease of services, from an employment relationship or if the victim he serves as a domestic worker.
3. If committed by personnel belonging to the Armed Forces, the National Police of the Peru, Serenazgo, Municipal Police or private surveillance, in the exercise of their public function.
4. If the author is aware of being a carrier of a serious sexually transmitted disease.
5. If the author is a teacher or educational assistant of the educational center where the victim studies.

Art. 171 – Violation of a person in a state of unconsciousness or unable to resist

The one who has carnal access with a person vaginally, anally or orally, or performs other similar acts by introducing objects or parts of the body by one of the first two routes, after having put it in a state of unconsciousness or in the impossibility of resisting, will be repressed with deprivation of liberty not less than ten nor more than fifteen years.

When the perpetrator commits this crime by abusing his profession, science or trade, the penalty will be deprivation of liberty not less than twelve nor more than eighteen years.

Art. 172 - Violation of a person with incapacity for resistance

The one who has carnal access with a person vaginally, anally or orally or performs other similar acts by introducing objects or parts of the body by one of the first two ways, knowing that he suffers psychic abnormality, severe alteration of consciousness, mental retardation or that he is unable to resist, will be repressed with custodial sentence of not less than twenty nor more than twenty-five years.

When the perpetrator commits the crime by abusing his profession, science or trade, the penalty will be deprivation of liberty not less than twenty-five nor more than thirty years.

(*) In accordance with Article 3 of Law No. 28704, published on 05 April 2006, in the case of crime provided for in this Article, the inmate redeems the penalty through work or education at the rate of a day of punishment for five days of effective work or study, if applicable

Art. 173 - Sexual violation of a minor

The one who has carnal access by vaginal, anal or oral route or performs other analogous acts introducing objects or parts of the body by one of the first two routes, with a minor, will be repressed with the following custodial sentences:

1. If the victim is less than ten years of age, the penalty will be life imprisonment.
2. If the victim is between ten years of age and less than fourteen years of age, the penalty shall be no less than thirty years, nor more than thirty-five.
3. If the victim is between fourteen years of age and under eighteen, the penalty shall be not less twenty-five nor more than thirty years.

If the agent has any position, charge or family bond that gives particular authority over the victim or impels him to deposit in him his trust, the penalty for the events foreseen in the subsections 2 and 3, will be life imprisonment. (1)(2)

(1) In accordance with Article 2 of Law No. 28704, published on 05 April 2006, there is neither pardon, nor the commutation of sentence nor the right of grace to those sentenced for the crimes foreseen in the present Article.

(2) In accordance with Article 3 of Law No. 28704, published on 05 April 2006, the penitentiaries benefits for the redemption of punishment for work and education, semi-liberty and conditional freedom are not applicable to those sentenced for the offense set forth in this Article.

Art. 173A - Sexual violation of a minor followed by death or serious injury

If the acts provided for in paragraphs 2 and 3 of the previous article cause the death of the victim or produce serious injury, and the agent could foresee this result or if he proceeded with cruelty, the penalty will be life imprisonment.

Art. 174 - Violation of a person under authority or surveillance

The one who, taking advantage of the situation of dependence, authority or surveillance, has carnal access vaginally, anally or orally or insert objects or parts of the body by one of the first two ways a person placed in a hospital, asylum or other similar establishment or who is detained or Incarcerated or internal, shall be punished with custodial sentence of not less than seven nor more than ten years and disqualification from two to four years, according to article 36, paragraphs 1, 2 and 3.

Art. 175 - Seduction

The one who, through deception, has carnal access through the vagina, anal or orally or introduces objects or parts of the body by one of the first two routes, to a person of fourteen years and less than eighteen years shall be punished with imprisonment of not less than three nor more than five years.

Art. 176-A - Acts against modesty in minors

The one that without purpose of having carnal access regulated in article 170, performs on a minor of fourteen years or obliges the latter to effect on himself or third party, undue touching on his parts intimate acts or libidinous acts contrary to modesty, will be repressed with the following deprivations of freedom:

1. If the victim is less than seven years old, with a penalty of not less than seven nor more than ten years.
2. If the victim has from seven to less than ten years, with a penalty of not less than six nor more than nine years.
3. If the victim has from ten to less than fourteen years, with a penalty not less than five nor more than eight years.

If the victim is in any of the conditions provided in the last paragraph of Article 173 or the act has a degrading character or produces serious damage to the physical or mental health of the victim that the agent could foresee, the penalty will be not less than ten nor more than twelve years of punishment deprivation of liberty.

Art. 177 - Aggravated forms

In the cases of articles 170, 171, 174, 175, 176 and 176A, if the acts committed cause the death of the victim or cause serious injury, and the agent could foresee this result or if it proceeded with cruelty, the custodial sentence shall be respectively not less than twenty nor more than twenty-five years, nor less than ten nor more than twenty years. If the aforementioned aggravating circumstances arise in the case of the article 172, the penalty of deprivation of liberty will be respectively not less than thirty years, nor less than twenty-five nor more than thirty years for the course contemplated in its first paragraph; and of life imprisonment and not less than thirty years, for assumed in its second paragraph.

In the cases of the crimes provided for in articles 173, 173-A and 176-A, when the agent is the father or the mother, guardian or curator, in addition to the deprivation of freedom that corresponds, there is also an accessory penalty of disqualification referred to in paragraph 5) of article 36.

Art. 179 - Favoring prostitution

The one that promotes or favors the prostitution of another person, will be repressed with privative punishment of freedom not less than four nor more than six years.

The penalty shall be not less than five nor more than twelve years when:

1. The victim is under eighteen years of age.
2. The perpetrator uses violence, deception, abuse of authority, or any means of intimidation.
3. The victim is deprived of discernment for any reason.
4. The author is a relative within the fourth degree of consanguinity or second of affinity, or is spouse, concubine, adopter, guardian or curator or has the aggrieved in their care for any reason.
5. The victim has been uprooted from her home for the purpose of prostituting her or is in a situation of abandonment or extreme economic need.
6. The author has made pimping his trade or way of life.
7. If the agent acts as a member of a criminal organization or gang.

Art. 179-A - User-client

The one who, through an economic benefit or advantage of any nature, has access sexually by vaginal, anal or oral route or perform other analogous acts by introducing objects or parts of the body by one of the first two tracks with a person of fourteen and less than eighteen years, will be repressed with deprivation of liberty not less than four nor more than six years.

Art. 180 – Rufianism

The one who exploits the profit obtained by a person who practices prostitution will be repressed with a custodial sentence of not less than three nor more than eight years.

If the victim is between fourteen and less than eighteen years of age, the penalty shall be not less than six or over ten years.

If the victim is less than fourteen years old, or is a spouse, partner, descendant, adopted child, son of his spouse or of his partner or if he is in his care, the penalty shall be not less than eight nor more than twelve years.

Art. 181 – Proxenetism

The one that engages, seduces, or subtracts a person to deliver it to another in order to have carnal access, will be repressed with custodial sentence of not less than three nor more than six years.

The penalty shall be not less than six nor more than twelve years, when:

1. The victim is under eighteen years of age.
2. The agent employs violence, threat, abuse of authority or other means of coercion.
3. The victim is a spouse, concubine, descendant, adopted child, child of his or her spouse or concubine, or if it is in his care.
4. If the agent acts as a member of a criminal organization or gang.
5. The victim is handed over to a pimp.

Art. 181-A - Commercial sexual exploitation of children and adolescents in the field of tourism

The one that promotes, advertises, favors or facilitates commercial sexual exploitation in the field of tourism, through any written, pamphlet, printed, visual, audible, electronic, magnetic or through the Internet, in order to offer commercial sexual relations of persons of fourteen (14) and less than eighteen (18) years of age shall be punished with imprisonment not less than four (4) nor more than eight (8) years old.

If the victim is under fourteen years of age, the agent will be punished with a deprivation of freedom not less than six (6) nor more than eight (8) years old.

The agent will also be sanctioned with disqualification under article 36, paragraphs 1, 2, 4 and 5.

It shall be not less than eight (8) nor more than ten (10) years of custodial sentence when has been committed by public authority, their ascendants, teacher or person who has had their care for any title to the victim.

Art. 181B - Aggravated forms

In the cases of the crimes provided for in articles 179, 181 and 181A, when the agent be the father or the mother, the guardian or curator, in the sentence will be imposed, in addition to the deprivation of liberty that corresponds, the accessory penalty of disqualification refers the numeral 5) of article 36.

Art. 182 - Trafficking in persons

The one that promotes or facilitates the recruitment for the exit or entry of the country or the transfer within the territory of the Republic of a person to engage in prostitution, subject it to sexual slavery, pornography or other forms of sexual exploitation, will be repressed with imprisonment no less than five nor more than ten years.

The penalty shall be not less than ten nor more than twelve years, if any of the circumstances aggravating factors listed in the previous article.

Art. 182A – Publication in the media about crimes of sexual freedom to minors

The managers or responsible for the publications or editions to be transmitted through the mass media that advertise child prostitution, tourism child sexual abuse or trafficking of children under eighteen years of age will be repressed deprivation of liberty not less than two nor more than six years.

The agent will also be sanctioned with disqualification according to subsection 4 of the article 36th and with three hundred and sixty days fine.

Art. 183 - Obscene exhibitions and publications

It shall be punished with imprisonment not less than two nor more than four years of imprisonment, in a public place, he performs exhibitions, gestures, touching or other behavior of an obscene nature. It will be repressed with imprisonment of not less than three nor more than six years:

1. The one that shows, sells or delivers to a child under eighteen, by any means, objects, books, writings, images, visual or auditory, which, due to their obscene nature, may affect, badly shame, prematurely excite or pervert your sexual instinct.
2. He who incites a child under eighteen years to practice an obscene act or facilitates the entry to brothels or other places of corruption.
3. The administrator, watchman or authorized person to control a cinema or other show where obscene representations are exhibited, allowing a child under eighteen to enter.

Art. 183A – Child Pornography

Whoever owns, promotes, manufactures, distributes, exhibits, offers, commercializes or publishes, imports or export by any means including the internet, objects, books, writings, visual or auditory images, or performs live shows of a pornographic nature, which show people of fourteen and less than eighteen years of age, will be sanctioned with custodial sentence of not less than four nor more than six years and with one hundred and twenty three hundred and sixty-five days fine.

When the child is under fourteen years of age, the penalty shall be not less than six nor more than eight years and with one hundred fifty to three hundred and sixty-five days fine.

If the victim is in any of the conditions provided in the last paragraph of the article 173, or if the agent acts as a member of an organization dedicated to child pornography, the custodial sentence shall be not less than eight nor more than twelve years.

If this is the case, the agent will be disqualified according to article 36, paragraphs 1, 2, 4 and 5.