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Misdemeanor Proceedings: Hybrid Nature, Sanitation, and the Guarantor Role of the Justice of the Peace Judge with a Law Degree

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ABSTRACT

The present article has as objective to analyze the legal nature of misdemeanor proceedings and to propose that they have a hybrid character (punitive, sanitation, and conflict management). Likewise, it seeks to reaffirm the role of the Justice of the Peace Judge with a law degree as a guarantor of the principles of *ultima ratio* and harmfulness at the entry point to the criminal justice system. The research is framed within a qualitative approach. A dogmatic, analytical, and documentary method is employed, critically examining the regulatory framework (Law No. 27939 and the Criminal Procedure Code), specialized doctrine, and judicial practice (judicial decisions). It is noted that normative ambiguity and legal gaps—especially in the delimitation between misdemeanors and crimes—require an active hermeneutic task. This task filters and refers conflicts of a civil or administrative nature and rationalizes the procedural workload. It is concluded that the Justice of the Peace Judge performs a sanitation function that is vital for the sustainability of the justice system. This function configures the judge as the first guarantor of the subsidiary nature of criminal law and revalues their role beyond "minor justice."

Keywords: *criminal proceedings; ultima ratio; violence; conflict; harm principle.*

Proceso por faltas: naturaleza híbrida, saneamiento y el rol garantista del juez de paz letrado

RESUMEN

El presente artículo tiene como objetivo analizar la naturaleza jurídica del proceso por faltas y proponer que esta posee un carácter híbrido (punitivo, de saneamiento y de gestión de conflictos). Asimismo, se busca reivindicar el rol del juez de paz letrado como un garante de los principios de *ultima ratio* y lesividad en la puerta de entrada al sistema penal. La investigación se enmarca en un enfoque cualitativo. Se emplea un método dogmático, analítico y documental, examinando críticamente el marco normativo (Ley N.° 27939 y Código Procesal Penal), la doctrina especializada y la praxis judicial (resoluciones). Los hallazgos revelan que la función de saneamiento procesal del juez de paz letrado es la más trascendente, superando la mera punición. Se constata que la ambigüedad y los vacíos normativos, especialmente en la delimitación entre falta y delito, exigen una labor hermenéutica activa. Esta labor filtra y deriva conflictos de naturaleza civil o administrativa, y racionaliza la carga procesal. Se concluye que el juez de paz letrado ejerce una función de saneamiento que es vital para la sostenibilidad del sistema de justicia. Esta función lo configura como el primer garante del carácter subsidiario del derecho penal, y revaloriza su papel más allá de la "justicia menor".

Palabras clave: *proceso penal; ultima ratio; violencia; conflicto; principio de lesividad.*

Cite as

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INTRODUCTION

In the design of the Peruvian justice system, the process for minor offenses represents the entry point for a vast volume of low-intensity social conflict. Traditionally relegated by doctrinal analysis to the category of "minor justice," this process is, paradoxically, one of the areas where citizens have the greatest contact with the judicial apparatus. The regulatory framework governing it, contained primarily in Law No. 27939 and in Book V of the Criminal Procedure Code, is characterized by a design oriented toward speed and simplicity, seeking a rapid state response for minimally harmful infractions.

However, this formal simplicity has generated a profound substantive problem that specialized literature has begun to highlight. Previous research has warned about the "confusion between crimes and minor offenses" (Ochavano Escobar, 2021), a doctrinal "grey area" produced by the similarity of the typical elements, which complicates the classification work of justice operators. Likewise, other studies have pointed out the tension between the speed of the process and the risk of violating fundamental procedural guarantees (Samana Casas, 2019; Salinas Sánchez, 2017) or the lack of uniformity in the criteria for access to justice in these venues (Yangali Vicente, 2022). This schematic and ambiguous regulatory scenario places the judicial operator at a hermeneutical crossroads.

The justification for the present research lies in the need to overcome the reductionist view of the process for minor offenses. It is argued that judicial practice, particularly the work of the justice of the peace judge, far exceeds the mere punitive function. The preliminary classification work has, de facto, become an untheorized sanitation mechanism, that acts as the main filter of the criminal system. However, this crucial function lacks doctrinal development and a coherent analytical framework, leaving the application of limiting principles of ius puniendi to a largely unstudied exercise of judicial discretion. This article seeks to fill that gap and provide a theoretical foundation for a task that is vital to the rationality and sustainability of the entire justice system.

For these reasons, the objective of this article is to analyze the legal nature of the process for minor offenses and to posit its hybrid character (punitive, of sanitation, and conflict-management). Based on this thesis, it seeks to revalue the role of the justice of the peace judge as the primary guarantor of the principles of *ultima* ratio and *lesivity*, through the doctrinal analysis of their procedural sanitation work in the classification of complaints.

METHODS

The present research was ascribed to a qualitative approach, insofar as it sought to understand and delve into the nature of a legal phenomenon. The type of study was of a legal-dogmatic and analytical nature, focused on the interpretation of normative texts and their practical application. The design was non-experimental and documentary.

The study was articulated around three predefined conceptual categories: a) the hybrid nature of the misdemeanor proceedings, b) the procedural sanitation function, and c) the guarantor role of the justice of the peace judge.

The information-gathering procedure was based on documentary analysis. Primary sources were examined, such as the relevant legislation (Law No. 27939 and Book V of the Criminal Procedure Code). Subsequently, a systematic review of secondary sources (doctrine) was conducted, composed of research articles and theses drawn from academic repositories, in order to substantiate the theoretical framework. This documentary analysis focused on the "gray area" that doctrine has identified between the minor offense and the crime, an aspect in which the normative framework has been described as deficient or schematic (Machuca Fuentes, 2010).

The analysis of the information was carried out through a dogmatic synthesis. The findings of the doctrine, which often defines the misdemeanor as a mere "appendix" of the theory of crime (Chunga Hidalgo, 2010), were contrasted with judicial practice. For this phase, judicial rulings ("no grounds to summon to trial" orders) were analyzed in order to identify the hermeneutic criteria that magistrates employ de facto to filter and sanitize the procedural caseload. Finally, the arguments were structured to support the thesis of the hybrid nature and the sanitation function.

DEVELOPMENT AND DISCUSSION

The regulatory framework of misdemeanor proceedings: tension between celerity and ambiguity

To understand the thesis of the hybrid nature, a critical analysis of the legal framework that regulates misdemeanor proceedings is indispensable. This regulatory framework is in constant tension: on the one hand, a design deliberately oriented toward celerity and procedural simplicity; and, on the other, an ambiguity and gaps that require from the adjudicator a hermeneutic task of high complexity. Ignoring its complexity is ignoring that behind each complaint for minor damage, a theft of low value, or verbal abuse, there underlies a human conflict that demands a fair and rational solution, not an automatic response.

The design oriented toward simplicity: Criminal Procedure Code and Law No. 27939

The legislator, both in Law No. 27939 (2003) and in Articles 482 to 487 of the Criminal Procedure Code, has configured a procedure that departs from the formalities of the ordinary criminal process. The intention is to create an expedited avenue for conflicts of minimal harmfulness, characterized by orality, immediacy, and the concentration of acts, seeking efficiency and decongestion. As doctrine points out, this special procedure responds to the need for "a more agile and effective justice for matters of lesser gravity" (Machuca Fuentes, 2010, p. 3).

Nevertheless, this pursuit of simplicity generates profound challenges. Celerity cannot be to the detriment of fundamental guarantees. Certain doctrine has warned that a rapid process, if not applied with guarantor criteria, can "violate fundamental rights of litigants" (Samana Casas, 2019, p. 54). In fact, recent studies have pointed out the existence of a perception of violation of due process in these courts, precisely because of the tension between speed and the right of defense (Arevalo Oliveira, 2024). Our task becomes a constant exercise of delimitation: we separate the criminal from the civil, the administrative from what is criminally irrelevant, the interpersonal conflict from the punishable offense.

The gaps and the "gray areas" of the regulation

The main problem of the regulatory framework does not lie in what it prescribes, but in what it omits. The most evident "gray area" is the insufficient dogmatic distinction between misdemeanor and crime. The Criminal Code often uses the same governing verbs for both figures, differentiating them by quantitative criteria (value of the property or days of medical assistance). This structural similarity generates a "confusion between both classes of criminal offenses, due to the similarity of the typical elements" (Ochavano Escobar, 2021, p. 11).

This merely quantitative distinction, and not qualitative (Gaspar Jacinto, 2025), places upon the justice of the peace judge the responsibility of drawing a dividing line that the legislator has not clearly defined. Added to this is the lack of clear procedural mechanisms for the referral of cases when the conflict, although existing, has an eminently civil nature (compensatory claim) or an administrative one.

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The hermeneutic challenge of the justice of the peace judge

Faced with a schematic procedural design, the justice of the peace judge faces a monumental hermeneutic challenge. The judicial operator cannot be a mere applier of the law, since it is a skeleton that needs to be clothed with dogmatic content and procedural guarantees. The only path is interpretation and normative integration. As has been proposed, in the face of the "insufficient regulation of the criminal process for misdemeanors …, it is proposed to integrate the normative gaps through the interpretative activity of the Judge" (Abanto Quevedo, 2012, p. 287). This task implies resorting to the major principles of criminal law (harmfulness, *ultima ratio*) and procedural law (effective judicial protection, due process) to provide rationality to each decision.

The justice of the peace judge, through this filtering process, stands as the first and most important guarantor of the principle of criminal *ultima ratio*. This principle, which posits criminal law as the last resort of the State in the face of social conflicts, would cease to be a dogmatic aspiration if there were no guardian at the entrance gate of the system to materialize it. That is our function. Each time we declare "no grounds to summon to trial" due to atypicality, lack of harmfulness, because it concerns an eminently compensatory claim, or due to insufficiency of elements of conviction, we are not merely dismissing a minor case; we are reaffirming the subsidiary and fragmentary character of criminal law. We are preventing the punitive machinery of the State from being set in motion in an unnecessary and disproportionate manner, a task that, as doctrine rightly points out, is essential in a procedure where "interpersonal conflicts of minimal gravity that do not amount to crimes must be resolved" (Machuca Fuentes, 2010, p. 2).

Foundations of the hybrid nature of misdemeanor proceedings

The thesis of the hybrid nature is grounded in the finding that this process fulfills three concurrent functions: punitive, of sanitation and conflict management.

- **The punitive dimension: residual *ius puniendi***

  The punitive function of the process is undeniable. It constitutes the most elementary manifestation of the State's ius puniendi for conduct characterized by low harmfulness. By adopting a bipartite system, the Criminal Code distinguishes crimes and misdemeanors, reserving light sanctions for the latter. This distinction responds to a political-criminal criterion that seeks to "reserve the concept of crime for the most serious infractions and that of misdemeanors for the least serious infractions" (Chunga Hidalgo, 2010). It is a conception that has its roots in classical doctrine, which differentiated contraventions (misdemeanors) due to their lesser entity in comparison with crime (Jiménez de Asúa, 1958). However, judicial practice demonstrates that this function is the least frequent and, systemically, the least significant.

  The main problem of the regulatory framework does not lie so much in what it says, but in what it omits. The procedural regulation is schematic and leaves fundamental questions unanswered that arise in the preliminary classification of complaints. The most evident "gray area" is the insufficient dogmatic distinction between misdemeanor and crime. Our Criminal Code often uses the same governing verbs for both figures, differentiating them solely by quantitative criteria (the value of the property in theft, the days of medical assistance in bodily injury) or by the intensity of intent. This structural similarity, as one study warns, generates a "confusion between both classes of criminal offenses, due to the similarity of the typical elements" (Ochavano Escobar, 2021, p. 11), placing upon the shoulders of the justice of the peace judge the enormous responsibility of drawing a dividing line that the legislator itself has not clearly defined.

- **The dimension of procedural sanitation and filtering**

  In this dimension lies the most important and least theorized function of the process. More than a channel of punishment, it acts as a containment barrier and a mechanism

of procedural sanitation. The justice of the peace judge, in the preliminary classification, administers the rationality of the criminal system. His or her task consists of an exhaustive analysis to purge the caseload and avoid the unnecessary activation of a process. Atypical conduct or those in which indispensable elements of conviction are lacking are summarily archived. The purpose is "to avoid that conduct of little or no social relevance be judicialized" (Samana Casas, 2019, p. 78), a task that is vital for the effectiveness of the system (Ramírez-Vela et al., 2024) and to determine whether there exists a real need for criminal intervention (Pezo Roncal, 2016). The sanitation task, which is not explicitly theorized, becomes the main tool for the management of a vast range of social conflicts, avoiding the unnecessary activation of the criminal apparatus.

- **The dimension of conflict management**

The third dimension reveals the modern and conciliatory face of the process: the management and resolution of interpersonal conflicts. Misdemeanor proceedings are the ideal setting for restorative justice. The Criminal Procedure Code empowers the judge to urge conciliation, recognizing that, in neighborhood disputes or minor damages, the real need is not the fine, but the restoration of social peace. Figures such as settlement are added, which has proven to be an effective mechanism for the resolution of these controversies (Dávila Martínez, 2023).

Likewise, the principle of opportunity, whose application in cases of family violence of minimal harmfulness has been the subject of analysis, aligns with this dimension. It has been argued that, in situations of lesser gravity, "the parties should be given the opportunity to be able to reach an agreement, thinking above all about family unity" (Bautista Peña and López Caballero, 2025, p. 17). This dimension transforms the judge from a sanctioning authority into a conflict manager, prioritizing social peace over punishment.

Analysis of the national reality

The theorization on the hybrid nature of misdemeanor proceedings does not constitute a merely academic exercise; on the contrary, it finds its correlate and, often, its most critical tension in the everyday reality of the justice of the peace courts in Peru. When descending from dogmatics to the field of facts, it is observed that each of the previously developed dimensions —punitive, sanitation, and conflict management— generates tangible consequences that shape the citizens' perception of justice and the workload of the judiciary

With regard to the punitive dimension or residual ius puniendi, the national reality reveals a paradox: the inflation of expectations in the face of the deflation of results. Citizens resort to the judicial system expecting an exemplary sanction for conduct that, although annoying or harmful in micro-coexistence, receives punitive responses that in practice turn out to be symbolic (fines that are difficult to collect or community service days that are complex to supervise). This situation generates a sense of impunity in the litigant, who perceives that the state apparatus, despite its intervention, does not manage to effectively repress misconduct. In judicial practice, it is observed that the insistence on activating the criminal machinery for trivial matters, under a purely retributive logic, ends up saturating court offices without achieving a real deterrent effect on the offender, thus distorting the principle of minimum intervention that should govern in a constitutional State governed by the rule of law.

On the other hand, the dimension of procedural sanitation and filtering acquires dramatic relevance in the face of institutional precariousness and system overload. In Peru, the justice of the peace courts act as true containment barriers in the face of a police and prosecutorial investigation that, at times, lacks the necessary thoroughness to distinguish ab initio between a criminal offense and a civil or administrative conflict. The direct consequence of this dimension in our reality is that the judge assumes a task of "quality control" of the

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charge that should have been carried out at previous stages. If this filter fails or is applied with laxity, the collapse of higher and specialized instances occurs with cases that should never have followed the criminal route. Nevertheless, this sanitation task faces the obstacle of the litigation culture, where the parties instrumentalize misdemeanor proceedings as a pressure mechanism for the collection of debts or the resolution of patrimonial disputes, thus distorting the jurisdictional function.

Finally, the analysis of the conflict management dimension reveals a significant gap between the norm and operational capacity. Although the spirit of Law No. 27939 and the Criminal Procedure Code advocates restorative and conciliatory justice, the national reality shows that the high procedural workload and the lack of multidisciplinary teams in the justice of the peace courts limit the magistrate's capacity to address the underlying conflict. Often, the judge is forced to issue a formal judgment that resolves the file, but not the human or neighborhood problem that gave rise to the misdemeanor. However, when this dimension is exercised with skill, it becomes the most powerful tool for social pacification at the community level, preventing violence from escalating into crimes of greater gravity. In this context, it is evident that justice of the peace is not justice of a lower category, but rather "trench" justice, essential to maintaining social cohesion in a country marked by latent conflict.

In sum, the interaction of these three dimensions in the Peruvian reality confirms that misdemeanor proceedings cannot be understood under a one-dimensional view. Their effectiveness depends on the ability of the legal operator to balance the necessary sanctioning of unlawful conduct with the indispensable rationalization of the use of the criminal system, prioritizing, whenever possible, the self-compositional solution of the conflict.

The justice of the peace judge as the first guarantor of criminal *ultima ratio*

The thesis of the hybrid nature materializes in the judge's work as the applier of the principles that limit punitive power. The justice of the peace judge is not a mere processor, but rather the first dogmatic filter of the system.

The justice of the peace judge, at the stage of preliminary classification, becomes the principal administrator of the rationality of the criminal justice system. Our work consists of an exhaustive analysis of each complaint in order to cleanse and avoid the unnecessary activation of a judicial process, even one as expeditious as this. Such sanitation is manifested in multiple ways: we summarily dismiss when the conduct is atypical, when indispensable elements of conviction to sustain a minimal charge are lacking, or when the accused is, for example, not criminally responsible.

The principle of *ultima ratio* and fragmentariness in classification

The principle of minimum intervention postulates that criminal law is the last resort of the State. Intrinsically linked, the fragmentary character teaches that it only concerns itself with the most serious attacks on the most important legal interests. Punitive power, conceived as "the most violent of those available to the State, [which] must be exercised as a last resort" (Zaffaroni, 1998, p. 115), finds its first line of real application in the office of the justice of the peace judge.

In the initial classification, the judicial task is to interpret whether the conflict has sufficient entity to deserve a criminal response. It is not only a matter of an analysis of typical subsumption, but of weighing whether the intervention is necessary, suitable, and proportional. This task avoids the criminalization of conflicts of minimal entity, preventing criminal law from overflowing and avoiding the imposition of disproportionate legal consequences (Pérez Arroyo, 1996).

In the initial classification of a complaint for misdemeanors, our first task as judges is to interpret whether the conflict presented has sufficient entity to deserve a criminal response.

We are the first interpreters of the necessity of punishment. We do not ask ourselves only whether the facts formally fit within a misdemeanor criminal type; rather, whether, once the context is assessed, the intervention of criminal law is necessary, suitable, and proportional. This is a task of enormous responsibility, since a lax or automatic classification would imply criminalizing neighborhood, family, or patrimonial conflicts of minimal entity, thus distorting the function of criminal law and uselessly congesting the system.

The principle of harm as a delimiting criterion

The principle of harm (*nullum crimen sine iniuria*) is the dogmatic tool par excellence to materialize ultima ratio. It requires, for the existence of an offense, the effective endangerment or injury of a protected legal interest. As doctrine has developed, the concept of legal interest fulfills a critical function, since "a State governed by the rule of law must protect legal interests through criminal law only when other means are not sufficient for that purpose" (Roxin, 2018). The impact on the legal interest is, therefore, the core of material unlawfulness (Bustos Ramírez and Hormazábal Malarée, 1997).

In judicial practice, this principle grounds a large number of orders of "no grounds to summon to trial." The dismissal of a complaint for the misdemeanor of injuries, due to the non-appearance of the victim at the medico-legal examination (CML), is a direct application of harm: without a minimal evidentiary basis that proves the impact on the legal interest of "physical integrity," there is no criminal case.

The principle of opportunity and regulated discretion

The guarantor function is also manifested in the use of consensus mechanisms. The principle of opportunity (Article 2 of the Criminal Procedure Code) is a criminal policy tool that allows the State to abstain from criminal prosecution. Its application in misdemeanors is viable and advisable insofar as it materializes the dimension of conflict management, prioritizing reparation over punishment (Bautista Peña and López Caballero, 2025). Doctrine has recognized the importance of these alternative exits, such as conciliation, as trends that prioritize the solution of the real conflict over the imposition of punishment (García-Pablos de Molina, 2006).

The practice of procedural sanitation: dogmatic analysis

The sanitation function materializes in the work of preliminary classification. The decision of "no grounds to summon to trial" is the quintessential tool of this guarantor filter, and it is the result of a rigorous dogmatic analysis that traces the boundaries of the *ius puniendi*.

- **The delimitation with the crime (the case of Law No. 30364)**

  One of the most complex tasks is the delimitation between the misdemeanor and the crime. In injuries, the criterion is quantitative (days of CML); in theft, the value of the property.

  However, the most crucial delimitation in current judicature is between the misdemeanor of ill-treatment and the crime of assaults in the context of Law No. 30364. A complaint for physical or psychological aggression within the family group cannot be classified superficially. The judge has the duty to analyze whether there are indicators of power asymmetry, dependency, or a cycle of violence. Violence against women is a structural problem (Espinoza Bonifaz, 2019) and a phenomenon based on social determinants (Caudillo-Ortega et al., 2017).

  As doctrine has pointed out, criminal action is not a simple bodily movement, but rather conduct endowed with will and purpose (Hurtado Pozo and Prado Saldarriaga, 2011). In this context, judicial analysis must apply a gender approach (Rivas La Madrid, 2022). If

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the facts reveal a pattern of domination or gender-based violence (Ministry of Women and Vulnerable Populations, 2016), declaring lack of jurisdiction and forwarding the proceedings to the specialized prosecution office is an act of sanitation that guarantees the application of the protection subsystem and avoids the trivialization of violence.

- **The delimitation with the civil and administrative offense**

Criminal law cannot be instrumentalized to resolve extra-criminal conflicts. A fundamental part of sanitation consists in identifying complaints where the real claim is compensatory or administrative. Cases of damages caused by minor traffic accidents are the paradigmatic example. If the act was negligent and the interest is economic, the criminal route is not suitable. As the theory of objective imputation explains, not every causal result is criminally imputable; it is necessary that the conduct create a legally disapproved risk (Roxin, 2018), which does not always occur in a minor accident.

Likewise, complaints for theft of services (for example, a water meter) that conceal administrative disputes over ownership or billing must be dismissed, and the citizen must be directed to the corresponding route (for example, Indecopi or the service provider). This filtering task requires a solid handling of the different branches of law (San Martín Castro, 2014).

- **The filter for atypicality or insufficiency of evidence**

Finally, sanitation operates in the absence of objective elements of the type (lack of a CML, psychological expert reports) or subjective elements (lack of criminal responsibility, intent, negligence), or due to lack of individualization. For conduct to be punishable, it must be typical, unlawful, and culpable. That is, it must be capable of being reproached to its author (Villavicencio, 2019).

If the proceedings reveal that the accused is not criminally responsible (for example, serious psychic anomaly), the process lacks object. Likewise, if the complaint is against "those who may be responsible," but there is no element that allows the individualization of the author, preliminary dismissal is imposed. Procedural doctrine is clear in pointing out that, although the investigation is progressive, a minimum factual basis is required to initiate the process (Gálvez Villegas et al., 2008). This filter is a manifestation of the principle of legality against arbitrary criminal prosecution.

The most elementary manifestation of procedural sanitation is the preliminary dismissal of the complaint when it does not surpass the minimum threshold of typicity or accreditation. The order of "no grounds to summon to trial" is based, in the first place, on the absence of objective elements of the criminal type. This is the case of a complaint for the misdemeanor of injuries without a medico-legal certificate or of a complaint for psychological ill-treatment without an expert report that, at least indicatively, accounts for an affectation. Without the verification of a harmful result, the conduct, however morally reproachable it may be, is criminally irrelevant.

In the second place, the filter operates in the absence of subjective elements of the conduct, such as culpability. For conduct to be punishable, it is not enough that it be typical and unlawful; it is necessary that it can be reproached to its author (Villavicencio, 2019). Therefore, if from the proceedings it is noted that the accused is an unimputable person, as in cases of serious psychic anomaly, the process lacks object. Likewise, our work requires a careful distinction between intent and negligence, and the verification that there are sufficient elements to impute the act to a specific individual, since act-based criminal law proscribes objective liability and requires correct individualization of the alleged author. Dismissal for these grounds is a pure manifestation of the principle of legality and an essential guarantee against arbitrary criminal prosecution.

The dogmatic, normative, and documentary analysis, contrasted with the judicial practice examined in the justice of the peace courts, has made it possible to identify significant findings that directly respond to the objectives set forth by this research.

The verification of the hybrid nature of the process

In the first place, the research reveals that reducing the misdemeanor process to a simple "minor" punitive expression is an assessment that does not correspond with its configuration nor with its practical purpose. The results of the study of the regulations (Law No. 27939) and their interaction with the Criminal Procedure Code confirm the hybrid nature of the process. It is verified that this process does not pursue a single purpose. Although it maintains a punitive facet (the eventual imposition of a sanction), this is subordinated, and even minimized, by two prevailing functions:

A function of conflict management or resolution: the procedural design, especially the preeminence of the single hearing and the power of the judge to urge conciliation (in accordance with Article 484.2 of the Criminal Procedure Code), evidences a vocation for social pacification and restoration of coexistence. Judicial practice demonstrates that the consensual solution is a frequent and preferred outcome, distancing the process from a purely retributive logic.

A function of system sanitation: this is the most transcendent facet identified. The misdemeanor process operates as the main entry valve and filter of the criminal justice system.

The role of the justice of the peace judge as guarantor of criminal principles: derived from the foregoing, the central finding of this research is that the justice of the peace judge, in his or her work of initial qualification, exercises a fundamental role that transcends that of a mere "judge of trifles." He or she stands as the first and principal guarantor of the principles of ultima ratio and lesivity of criminal law.

The research identifies that this guarantor role materializes through the power to issue the order of no grounds to summon to trial. The analysis of judicial resolutions (practice) demonstrates that this order is not a simple act of rejection, but a profound exercise of procedural sanitation and dogmatic filtering.

Through this resolution, the judge exercises control over typicity and material unlawfulness and achieves:

a) **To expel atypical conduct:** it has been observed that a significant percentage of police complaints do not describe facts that constitute a misdemeanor (nor a crime), being merely neighborhood disagreements, conflicts of a civil nature, or controversies that do not exceed the threshold of criminal relevance.
b) **To filter by lesivity:** the judge applies the principle of lesivity (Article IV of the Preliminary Title of the Criminal Code) to dismiss cases where, although there is a formal typical conformity (for example, mistreatment without injury), the affectation of the legal good is null or insignificant, thus avoiding overcriminalization.
c) **To redirect the procedural avenue:** the most important result of this sanitation work is the identification of cases that, having been erroneously classified as "misdemeanors" (usually by the police authority), in reality constitute crimes. This is particularly critical in cases of violence against women (Article 442 of the Criminal Code) that are forwarded as "simple mistreatment." The judge, in these cases, fulfills a role as guarantor of the victim and declares "no grounds" so that the Public Prosecutor's Office proceeds in accordance with its powers in the criminal avenue, ensuring proper protection.

The normative insufficiency and the prevalence of judicial work: finally, it is evidenced that the regulation of the misdemeanor process (Article 482 et seq. of

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the Criminal Procedural Code) is notably brief and, in certain aspects, insufficient. This legislative parsimony has been, paradoxically, the space that has allowed the development of the sanitation work.

The results show that, faced with the gaps regarding forms of early termination or entry filters, it is the general jurisdictional power (based on the Constitution and the principles of the Preliminary Title of the Criminal Procedural Code) that has given content to the process. The judge does not limit himself to applying the six articles of the corresponding section, but rather integrates the legal system to determine the relevance of criminal intervention, confirming that his most important role is not to sanction the misdemeanor, but to cleanse the conflict that reaches his office.

The central finding —the hybrid nature of the misdemeanor process— transcends simple academic classification. Although authors such as Machuca Fuentes (2010) and Chunga Hidalgo (2010) had already explored the configuration of this process, the present research delves into its practical purposes, identifying that the punitive function is, in judicial practice, the least relevant. The results place the function of sanitation the criminal system as the primary task, a perspective that has not been sufficiently developed in dogmatic debates, which tend to focus on the dichotomy between crime and misdemeanor (Ochavano Escobar, 2021).

This research distances itself from those positions that view the misdemeanor process solely as a mechanism of "minor" justice or of simple management of neighborhood conflicts. On the contrary, the findings position it as the first and most crucial customs post of the *ius puniendi*. It is here where the work of the justice of the peace judge acquires a fundamental guarantor dimension.

Doctrine and various studies (Samana Casas, 2019; Arevalo Oliveira, 2024; Salinas Sánchez, 2017) have rightly pointed out the risks of violation of procedural guarantees in an extremely swift procedure with brief regulation (Abanto Quevedo, 2012). However, the present discussion puts forward a complementary thesis: that same normative parsimony, together with the power to issue the order of no grounds to summon to trial (Article 484.1 of the Criminal Procedural Code), is what has empowered the judge to establish himself as the first filter of the principles of *ultima* ratio and lesivity.

The analysis of practice reveals that the judge is not a mere processor of police complaints; he is an active classifier who expels from the system those socially conflictive, but criminally irrelevant, conducts (neighborhood disagreements, debts, non-violent family conflicts) that should never have entered the criminal sphere.

The most critical point of this discussion lies in the redirection of cases of violence against women. The practice analyzed shows that the "order of no grounds" is the guarantor tool par excellence to protect the victim when her case has been erroneously classified as a simple "misdemeanor of mistreatment" (Article 442 of the Criminal Code). While some debates (Bautista Peña and López Caballero, 2025) have focused on the feasibility of applying the principle of opportunity in these matters, the present research maintains that such a figure is unviable and inadequate. The correct solution, observed in judicial practice, is the dismissal in the misdemeanor avenue to compel the Public Prosecutor's Office to assume its competence in the criminal avenue, thus guaranteeing the application of the gender approach and the appropriate protection measures that the misdemeanor process cannot offer.

Finally, the verification of normative insufficiency is not a lament, but the confirmation that judicial practice, through the integration of constitutional and criminal principles, has filled the gaps of the legislator. The justice of the peace judge, therefore, does not only "manage" or "sanction" minor conflicts; he exercises a sanitation magistracy that defines the very relevance of criminal intervention.

CONCLUSIONS

From the dogmatic, normative, and practical analysis developed in the present research, the following conclusions are reached:

On the hybrid nature of the process: it is concluded that the misdemeanor process in the Peruvian legal system does not merely constitute a trial of minor offenses, but rather possesses a hybrid legal nature. This nature moves between the punitive-sanctioning sphere and the management of neighborhood or family social conflict. Therefore, the purpose of this process is not exhausted in the imposition of a penalty, but requires a jurisdictional task oriented toward social pacification, integrating restorative justice mechanisms and self-compositive solutions before activating the punitive power of the State.

On the function of procedural sanitation: it has been demonstrated that the justice of the peace judge exercises an indispensable function of procedural sanitation and legality filter at the initial stage of the process. In the absence of a formal preparatory investigation stage and the frequent deficiency in the imputation of charges by the police authority or the Public Prosecutor's Office, the judge acts as the first control of typicity. Through the qualification of the complaint and the issuance of orders of "no grounds to summon to trial," the magistrate remedies the gaps in the investigation and prevents cases from proceeding that lack the constitutive elements of a criminal offense or sufficient evidentiary means.

On the guarantor role and *ultima ratio*: it is determined that the justice of the peace judge is the operative guarantor of the principle of ultima ratio and the principle of lesivity in basic criminal justice. The research shows that a large part of the procedural caseload for misdemeanors (minor material damage, contractual conflicts disguised as fraud, neighborhood disputes) corresponds to controversies of a civil or administrative nature that do not harm legal interests with sufficient gravity to warrant a criminal sanction. Consequently, the judge's work of summarily rejecting these claims is not a denial of justice, but rather a strict application of the fragmentary character of criminal law, redirecting these conflicts to their natural extra-criminal avenues.

Recommendations

Based on the findings regarding the hybrid nature of the misdemeanor process and the guarantor role of the justice of the peace judge, the following proposals are formulated:

Legislative reform (*de lege ferenda*): it is urged to amend Article 482 et seq. of the Criminal Procedural Code to explicitly empower the justice of the peace judge to exercise procedural sanitation. This would allow the issuance of orders of "no grounds to summon to trial" based on the absence of lesivity or criminal relevance, thereby consolidating the principle of *ultima ratio*.

Specialized training: it is recommended that the Judicial Academy reorient the training of justices of the peace judges, moving beyond a merely efficiency-based approach to the process, to deepen in criminal dogmatics and the theory of crime, with the purpose of strengthening their function as a legal filter of the justice system.

Protocols on violence against women: it is imperative to establish strict interinstitutional protocols so that, upon detecting cases of violence against women (crimes) in the misdemeanor avenue, an immediate and mandatory referral to the Public Prosecutor's Office is activated, guaranteeing protective measures and avoiding impunity.

Research and jurisprudence: the academic community is invited to systematize the rulings of the justice of the peace courts (specifically the orders of preliminary dismissal) in order to build a solid jurisprudential line that may serve as input for future reforms adjusted to judicial reality.

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