Fighting Domestic Violence - Peru

6. Special issues

| Contents |
| --- |
| To generate table of contents, right-click here and select **Update Field.** |

# 6.1 Battered woman syndrome

# 6.1.1 Can lawyers present evidence of battered woman syndrome or other domestic abuse as an affirmative defense to crimes that the battered woman has committed? (Note: Battered Woman Syndrome is accepted by courts in certain jurisdictions to show that battered women can use force to defend themselves and sometimes kill their abusers due to abusive and life-threatening situations.)

Yes, they can present full evidence in any matter in order to support the case.[24]

# 6.2 Domestic violence in the workplace

# 6.2.1 Can courts issue orders to protect employees suffering from domestic violence?

Supreme Decree No. 009-2016-MIMP Chapter II, Article 84.2. In the event of the refusal of an employer to grant a change of workplace to protect against further acts of domestic violence, the alleged victim may apply to the competent court for a change in the place or time of work as a protective measure.

Supreme Decree No. 009-2016-MIMP Chapter II, Article 86.1. In conjunction with the protective measures provided for in Article 16 of the Law, the family court or its equivalent will order the Ministry of Labor and Employment Promotion (MTPE) to provide relevant services to the victim.

Law No. 30364, Article 11(d). The judge in charge of the proceedings may, at the request of the victim and depending on the seriousness of the situation, grant up to a maximum of five consecutive months of suspension of the employment relationship without remuneration.

# 6.2.2 Can departure be deemed "for good cause" if related to domestic violence?

Law No. 30364, Article 11(b). A worker who is a victim of violence has the right to change their place of work as far as possible and without prejudice to their remuneration and category rights. The same applies to working hours, if appropriate. The worker must return to their workplace under the same conditions that existed at the time of suspension of the employment relationship.

Supreme Decree No. 009-2016-MIMP Chapter II, Article 83.1. The Ministry of Labor and Employment Promotion is responsible for issuing specific measures to ensure that no worker is dismissed for reasons related to acts of violence regulated by law.

# 6.2.3 Can family members of domestic violence victims take reasonable leave to help the victim seek treatment or obtain help and services?

Peruvian laws and regulations do not contemplate the role or rights of family members of the victim.

Note that under Peruvian legislation, there are many legal mechanisms that fight against domestic violence in the workplace. These rules include situations of sexual and workplace harassment. However, in the vast majority of cases, these situations are not reported by the victim and if they are, the responses are minimal or null. This lack of effectiveness in the process is mainly due to the following reasons:

There has been a lack of education and empowerment of women since childhood. At the beginning, it is difficult for the victim to identify that they are in a violent workplace situation (e.g., sexual harassment).

There are educational programs that fight against violence and promote gender equality and there are many initiatives that aim to influence knowledge, attitudes and behaviors of young people through life-skills programs. However, more effective measures must be taken.

Victims feel shame and fear of imminent social stigmatization and possible reprisals. In many cases, the aggressor is an individual that has a higher position than the victim. Thus, fear and the stability of the victim's mental health end up discouraging them from making a complaint.

There are often ineffective response mechanisms in work centers. It is very common for victims of sexual harassment not to feel supported by their workplace. Therefore, since their environment does not guarantee them security to report their aggressor, it is very unlikely that they will do so (little trust in the system).

# 6.3 Immigration

# 6.3.1 Does the law include provisions that are intended to prevent abusers who are citizens or permanent residents from using immigration laws to perpetrate domestic violence against their spouse?

No, the law does not include any specific regulation on this matter.

# 6.3.2 If battered immigrants cooperate with law enforcement in domestic violence, can they obtain immigration remedies?

No, the law does not include any specific regulation on this matter.

# 6.3.3 Does domestic violence law discuss asylum accessibility?

No, the law does not include any specific regulation on this matter.

Note that item 29(c)(iii) of Recommendation 35 repeals restrictive immigration laws that discourage women, including migrant domestic workers, from reporting violence against women.[25] Under Peruvian legislation, there are no specific immigration laws that protect immigrant women from violence.

# 6.4 Armed forces

# 6.4.1 Can a victim seek a military protective order if the abuser is in active military?

Under Article 45 of Law No. 30364, the Ministry of Defense is responsible for enforcing compliance with the prohibition of possession of weapons ordered through protective measures, regarding their civil and military personnel.

# 6.5 Child custody and child/spousal support

# 6.5.1 Do judges follow special rules to determine custody or visitation of children in domestic violence cases?

Judges will always consider the issue of domestic violence when determining custody or visitation rights.

# 6.5.2 Can the judge consider the testimonies of the other spouse and the children when determining custody?

Yes, the judge will consider the testimonies of the spouse and children.

# 6.6 Housing rights of domestic violence victims

# 6.6.1 Does the law include any barriers to prevent landlords from forcing a tenant to move out because they are victims of domestic violence?

The law does not include any barriers to prevent landlords from forcing a tenant to move out, but under Section 1 of Article 22 of Chapter II (Object and types of protective measures), in Law No. 30364, the law allows for the removal of the aggressor from the victim's home, as well as the prohibition of the aggressor returning to the victim's home. The Peruvian National Police may enter the victim's home for execution of the protective measure.

Additionally, under Section 7 of Article 22 of Chapter II of Law No. 30364, the law allows for "Prohibition to dispose of, alienate or pledge or mortgage common real or personal property." This law could arguably be used to prevent landlords from forcing a tenant to move out because they are victims of domestic violence when they try to remove the victim from their real property.

# 6.6.2 Does the law allow a tenant to terminate his/her lease early due to domestic violence?

Under Section 12 of Article 22 of Chapter II of Law No. 30364, the law allows for "Any other measure of protection required for the protection of the integrity and life of the victim or their family." Accordingly, this law could be used to argue that the tenant's termination of their lease is required as a measure to protect the victim's family.

# 6.6.3 Can an order exclude the abuser from the residence?

Yes, under Section 1 of Article 22 of Chapter II (Object and types of protective measures, in Law No. 30364) the law allows for the removal of the aggressor from the victim's home, as well as the prohibition on the aggressor returning to the victim's home. The Peruvian National Police may enter the victim's home for the execution of this protective measure.

# 6.6.4 Can abusers be forbidden by court orders to alienate or mortgage the property in his/her name if it is the family domicile?

Yes, under Article 22-B of Chapter II of Law No. 30364:

On its own initiative or at the request of the victim, the family court, at the oral hearing pronounces on precautionary measures that safeguard claims for…disposition of property and other related aspects that are necessary to guarantee the well-being of victims, dependent persons or persons in a situation of vulnerability under the care of the victim.

Additionally, under Section 7 of Article 22 of Chapter II of Law No. 30364, the law allows for "prohibition to dispose of, alienate or pledge or mortgage common real or personal property."

# 6.7 Possession of guns

# 6.7.1 Does a domestic violence conviction prevent an abuser from owning guns?

Subsection 6 of Article 36 of the Criminal Code establishes a suspension penalty enforcing i) the suspension or cancellation of the authorization to possess or use guns, or ii) the definitive inability to renew or obtain a license or certification from the competent authority to possess or use guns in the case of a sentence for a criminal offense or an offense committed under the influence of alcohol or drugs. This means that a domestic violence conviction prevents an abuser from owing guns.

# 6.7.2 When a protection order is issued by a judge as a result of domestic violence, does the law require that the authority secures and stores any firearms owned by the aggressor?

Yes, subsection 4 of Article 22 of Law No. 30364 establishes that the Superintendence of Control of security services must seize the firearms of people subject of the protection order.

©Copyright © 2025 Baker & McKenzie. All rights reserved. **Ownership**: This documentation and content (Content) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms). The Content is protected under international copyright conventions. Use of this Content does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion**: All Content is for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulations and practice are subject to change. The Content is not offered as legal or professional advice for any specific matter. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any Content. Baker McKenzie and the editors and the contributing authors do not guarantee the accuracy of the Content and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the Content. The Content may contain links to external websites and external websites may link to the Content. Baker McKenzie is not responsible for the content or operation of any such external sites and disclaims all liability, howsoever occurring, in respect of the content or operation of any such external websites. **Attorney Advertising**: This Content may qualify as “Attorney Advertising” requiring notice in some jurisdictions. To the extent that this Content may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. **Reproduction**: Reproduction or copying of the Content on this Site without express written authorization is strictly prohibited.