Fighting Domestic Violence - Bolivia

1. Legal provisions

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

# 1.1 What are the relevant statutes and codes?

With respect to the international and constitutional framework, the relevant legislation to counter the discrimination that women in Bolivia have historically faced can be structured as follows.[1]

First, **Article 15 of the Political Constitution of the Plurinational State of Bolivia** enshrines the rights of all individuals to life and to physical, psychological and sexual integrity.[2]

Regarding internal legislation, the Bolivian state has been incorporating specific rules relating to women’s rights:[3]

**Law 1674 of 1995 against Family or Domestic Violence**

Designed to prevent and eradicate violence against women in public and private spaces.

**Supreme Decree 25087 of 1998**

This regulates the aforementioned Law 1674 of 1995.

**Law 1779 of 1997 on the Reform and Complementation of the Electoral Regime**

The Bolivian government began its mission toward gender parity in 1997, with the passing of a law that requires 30% of political candidates to be women.

**Law 1768 of 1997 on Amendments to the Criminal Code**

This law changes the heading of crimes against “morals and good customs” to crimes against “sexual freedom.”

**Supreme Decree 24864 of 1997 on Equal Opportunities between Men and Women**

This provides for equality in the political, economic, social and cultural fields, and the mainstreaming of the gender perspective in public policies.

**Law 2033 of 1999 on Protection to Victims of Crimes against Sexual Liberty**

It defines and extends the penalty for the crimes of rape, statutory rape, corruption of minors and pimping. In addition to vaginal penetration, it considers anal and oral penetration to be rape and provides for multidisciplinary care for the victim.

**Law 243 of 2012 against Harassment and Political Violence against Women**

This aims to establish mechanisms for the prevention, attention and sanction against individual or collective acts of harassment and/or political violence against women, to guarantee the full exercise of their political rights.

**Law 348 of 2013, to Guarantee Women a Life Free of Violence**

It broadens protection of women against various forms of violence and establishes the eradication of violence against women as a priority of the state.

**Supreme Decree 2145 of 2014**

This regulates the aforementioned Law 348 of 2013.

**Law 1153 of 2019**

It amends paragraph one of Article 13 of Law 348.

**Supreme Decree 2610 of 2015**

It amends and complements Supreme Decree 2145.

**Supreme Decree 3106 of 2017**

This establishes the powers for the ministries of the executive branch at the national level of the state for the implementation of the Comprehensive Public Policy for a Dignified Life for Bolivian Women.

**Law 1173 of 2019 on Shortening Criminal Procedure and Strengthening the Comprehensive Fight against Violence against Children, Adolescents and Women**

This ensures the prompt and timely resolution of criminal disputes.

**Supreme Decree 3774 of 2019**

It creates the Plurinational Women’s and Depatriarchalization Service “Ana María Romero,” to establish its structure, organization and functions, and to set up the Special Cabinet to Combat Violence against Women and Children.

**Supreme Decree 3834 of 2019**

This creates the “Adela Zamudio” Registration and Immediate Alert System of the Special Force for the Fight against Violence (FELCV) and promotes the specialization of the FELCV.

**Supreme Decree 3981 of 2019**

This establishes mandatory training in violence prevention in the Plurinational State of Bolivia for public servants and staff of public enterprises.

**Additional laws on more general topics:**

**Law 2828 of 2004 on Municipalities**

It promotes women’s participation in the formulation, control and monitoring of municipal development plans.

**Law 3545 of 2006 on Renewal of the Agrarian Reform**

This guarantees and prioritizes women’s participation in the process of land regularization and distribution.

**With reference to the international standards on women’s rights:**

**United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**

The state of Bolivia has been a party to this instrument since 8 June 1990, and to its Optional Protocol since 27 September 2000. By means of that protocol, Bolivia recognized the competence of the UN Committee for the Elimination of Discrimination against Women to hear complaints against individual violations of the rights enshrined in CEDAW.

**Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém doPará)**

The State of Bolivia has been a party to this international instrument since 5 December 1994.

# 1.2 What is the controlling case law?

In Bolivia, an undesirable situation of impunity persists in criminal proceedings on violence against women and domestic violence, which has been felt in the country’s jurisprudence. The escalating number of violent female homicides committed by men over the last two decades has compelled many Latin American countries to classify the crime of gender-based homicide as “feminicide.”

According to the Public Prosecutor’s Office, Bolivia registered 113 cases of feminicide in 2020. Among these cases, 12 perpetrators have been sentenced, 10 cases have been dismissed due to the death of the aggressor, 65 are in the preparatory stage (with preventive detention of the aggressor), 20 are in the preliminary stage and six were rejected.[4]

As stated by the Coordinator of Women of the State of Bolivia in a study entitled “The Situation of Women in Bolivia” (updated March 2019), of the 113,269 complaints of violence against women prosecuted between 2015 and 2018 (January to March), only 1,284 cases received convictions, i.e., in only 1.13% of cases the perpetrator did not get off scot-free. Only 220 defendants in feminicide cases have been convicted, 324 are being prosecuted and 11 have been “reclassified or annulled.” Since the enactment of the Law against Human Trafficking and Human Smuggling, there was a record of around 3,000 cases (between 2012 and 2017), of which only 31 resulted in a conviction. On average, only 1.03% of the cases were solved, not taking into account acquittals.[5]

In July 2019, the Plurinational Women’s and Depatriarchalization Service reported that since 2013 there were 196 cases of feminicide in the country in the investigation stage (preliminary and preparatory). On paper, such investigations were supposed to conclude six months after filing the claim. Moreover, 139 cases were in trial, when they should have been carried out in a continuous and uninterrupted process of no more than three years. For instance, between 2013 and 2016 the Public Prosecutor’s Office registered 87,718 cases for infringing Law 348 (Law to Guarantee Women a Life Free of Violence). Of these, only 36% resulted in a sentence.[6]

The aforementioned data reveals the high level of impunity in cases of violence against women in Bolivia. Today, there is still an absence of the gender perspective in the adjudication of complaints of violence against women and domestic violence.

By way of illustration, in Judgment 41/2017 of 11 July 2017, the First Court of Anticorruption and Violence against Women of La Paz acquitted and released David Viscarra, who was accused of the death of his common-law wife María Isabel Pilco. Days earlier, the victim had reported to the police that her partner had brutally beaten and locked her up for four days.

# 1.3 What are the specific parts of the court system that address domestic violence?

Access to justice for victims of domestic violence in Bolivia is structured through the following bodies and services.

Specialized bodies for the protection of women in situations of violence

1. Bolivian police (FELCV)

Law No. 348 created the FELCV, a specialized agency of the Bolivian police in charge of the prevention, assistance, investigation, identification and apprehension of those allegedly responsible for acts of violence against women and the family. This body is under the functional direction of the Public Prosecutor’s Office, in coordination with public and private entities.

2. Public Prosecutor’s Office

The Public Prosecutor’s Office is made up of the prosecutor support team and advisers.

3. Forensic Research Institute (IDIF)

4. Judicial body

Integrated Plurinational Justice Services have the capacity to build articulated spaces to improve public and private services for the most vulnerable members of the population (women and children).

Judges in the field of violence against women are responsible for the following:

investigating magistrates in matters of violence against women

sentencing judges in matters of violence against women

sentencing courts in matters of violence against women

interdisciplinary team and ancillary auxiliary to the aforementioned

5. Ministry of Justice

The Plurinational Women’s Service and Depatriarchalization is a decentralized entity of the Ministry of Justice that operationalizes and develops all policies to prevent violence against women, to avoid feminicides.

6. Public and private health services

The following institutions and authorities can be approached in order to receive attention and to promote the complaint:

1. Municipal integral legal services provide free legal, social and psychological support services and medical assessment.

2. Ombudsman’s Offices for Childhood and Adolescence, when the person assaulted is underage, provide free legal, social and psychological services.

3. Integrated Plurinational Justice Services (SIJPLU) provide free legal advice and counselling.

4. Plurinational Service for the Victim’s Defense provides free legal counselling and psychological support to women in situations of violence who lack resources.

5. Indigenous and aboriginal farming authorities provide:

offenses falling into their jurisdiction: care and protection for woman and punishment of the aggressor according to their own rules and procedures

offenses that don’t fall within their jurisdiction: attention, protection and referral to the ordinary jurisdiction

6. Protection brigades, shelters and domestic violence prevention and care networks.

7. Shelters and temporary refuge that receive, protect and care free of charge for women in a situation of violence, their children or other dependents who are at risk of violence.

# 1.4 What are potential causes of action?

Regarding the procedure for offenses of violence against women in Bolivia, in general, criminal proceedings distinguish between three types of procedure:

Common/joint procedure: This procedure is followed in all crimes to investigate whether the crime actually occurred and who the perpetrator is in order to impose a sanction. It proceeds as long as the perpetrator has not been caught in the act of committing the crime of violence (*flagrante delicto*) and has not acknowledged that he or she has committed it and wishes to submit to the abbreviated process.

Immediate procedure: This applies in cases where the perpetrator is caught in the act of attempting to commit the offense of violence, in the act of committing the crime of violence or immediately afterward while being pursued by the police, the victim or bystanders (Article 230 of the Criminal Procedure Code).

Abbreviated/fast-tracked procedure: This involves a shorter procedure (mini trial) that proceeds when>

the offense of violence against women has been admitted by the accused and his or her participation in it

there is an agreement between the accused and his or her defense counsel (Article 373 Criminal Procedure Code)

©Copyright © 2024 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.