

# Immigration and Refugee Board of Canada

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## Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website.

18 March 2014

### PER104780.E

Peru: Domestic violence, including legislation; state protection and services available to victims (2011-February 2014)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### 1. Overview

Sources indicate that domestic violence is a significant problem in Peru (US 19 Apr. 2013, 18, 19; Freedom House 2013, 5). The US Department of State's *Country Reports on Human Rights Practices* for 2012 and for 2013, both report that violence against women and girls in Peru, such as rape, spousal abuse, sexual, physical, and mental abuse continued to be "very serious national problems" (US 19 Apr. 2013, 19; *ibid.* 27 Feb. 2014, 21).

Andina, a Peruvian news agency, reported in 2013 that four out of ten Peruvian women were victims of domestic violence (Andina 26 Nov. 2013). A report published by the Public Opinion Institute (Instituto de Opinión Pública) of the Pontifical Catholic University of Peru (Pontificia Universidad Católica del Perú, PUCP) on violence against women indicates that, according to the Office of the Ombudsman (Defensoría del Pueblo), they received 97,000 complaints between January and September 2012 that were related to domestic violence (PUCP May 2013, 1). *Country Reports 2013* states that, according to the Ministry of Women and Vulnerable Populations (Ministerio de la Mujer y Poblaciones Vulnerables, MIMP), in 2013, approximately seven women died every month as a result of domestic violence (US 27 Feb. 2014, 23). The report further states that, between January and August 2013, there were more than 23,913 cases of violence against women documented by MIMP (*ibid.*). According to the website of the Office of the Attorney General, 37,479 cases of domestic violence were registered by the provincial attorney generals' offices between January and March 2013 (Peru [2013]).

The report of the Public Opinion Institute of the PUCP indicates that, according to the public opinion survey, most of the respondents [translation] "tend to excuse an aggressor" and make the problem invisible because they believe in the following stereotypes: men who beat their partners have mental illness (76.4 percent), women victims of domestic violence are economically dependent on their spouses (70.7 percent), and women are poor and uneducated (66.1 percent) (PUCP May 2013, 1). According to the same public opinion survey, 18.7 percent of the respondents justified violence against women by saying that men should beat their wives or partners for being unfaithful, 10.9 percent justified it if woman inappropriately spends money, and 9.6 percent if she neglects her children (*ibid.*, 5). A psychologist of the PUCP interpreted the results by saying that the data shows that violence against women is accepted at the national level as a legitimate way to exercise control over women (*ibid.*).

#### 1.1 Femicide

According to the Flora Tristán Centre for Peruvian Women (Centro de la Mujer Peruana Flora Tristán), a non-profit feminist organization created in 1979 that aims to improve the situation of women in Peru (Flora Tristán 7 Sept. 2010), between 2009 and 2012, 436 women became victims of femicide and 268 of attempted femicide (*ibid.* [2013]). A report on femicide published by the Observatory on Crime (Observatorio de Criminalidad) of the Office of the Attorney General (Ministerio Público) states that, between 2009 and 2011, 358 women died as a result of femicide caused by their partner, ex-partner, family member or a known man (Peru Feb. 2012, 2). In 2011, the highest rates of femicide were registered in the following regions of Peru: Madre de Dios, Tacna, Junín, Ancash and Moquegua (*ibid.*). The PUCP report indicates that the Observatory on Crime registered 116 cases of femicide in 2011 and 86 for the first half of 2012, including 36 actual and 50 [translation] "possible" femicides

(PUCP May 2013, 1). In correspondence with the Research Directorate, a representative of Flora Tristán stated that, according to the Observatory on Crime, there were 76 femicides and 91 attempted femicides between January and August 2013 (Flora Tristán 3 Mar. 2014, 4). *Country Reports 2013* states that, according to the Peruvian government, 99 actual and 122 attempted femicides were reported between January and October 2013 (US 27 Feb. 2014, 23).

## 2. Legislation

*Country Reports 2012* reports that

[t]he legal framework governing women's rights and protections is comprehensive and well defined. Application and enforcement of the law, however, was severely lacking. The law criminalizes rape, including spousal rape, with penalties of six to eight years in prison, but enforcement was ineffective. (US 19 Apr. 2013, 18)

*Country Reports 2013* indicates that "[t]he law prohibits domestic violence, and penalties range from one month to six years in prison" (ibid. 27 Feb. 2014, 23).

### 2.1 Femicide

According to the report of the Pontifical Catholic University of Peru, femicide was approved by Congress for inclusion in the criminal code in December 2011 and carries a sentence of between 15 and 25 years for perpetrators (PUCP May 2013, 1). *Country Reports 2013* similarly reports that

[f]emicide is incorporated into the criminal code and carries a minimum sentence of 15 years' imprisonment for those convicted of killing a woman who is an immediate relative, spouse, or partner. The law establishes sentences of up to life in prison when the victim is minor, pregnant, or disabled. (US 27 Feb. 2014, 23)

## 3. State Protection

*Country Reports for 2013* indicates that the Ministry of Women and Vulnerable Populations operates 193 centres that combine police, prosecutors, counsellors and public welfare agents to help domestic violence victims (ibid.). The centres provide legal, psychological, medical and social assistance to women victims of domestic violence (ibid.). According to the report, MIMP operates a hotline to report domestic violence (ibid.). Further or corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Andina reports that the government of Peru implemented the National Plan to Fight Violence against Women (Plan nacional contra la violencia hacia la mujer) in 2009 (26 Nov. 2013). According to the text of the plan, it

[translation]

is a policy instrument that involved the joint action of the state and society in three areas: i) the implementation of actions to ensure the right of women to have a life free of violence, ii) access to quality public services, and iii) the promotion of change in socio-cultural patterns into new forms of social relations between women and men based on full respect for human rights. (Peru [2009], 3)

According to the plan, it was difficult to obtain systematic and comparable data regarding violence against women (ibid., 47). The plan further indicates that in Peru there are some studies that have been carried out by women's organizations and specialized public institutions that increase the visibility of the problem, based on the growing demand for services by the victims, and on complaints and inquiries, among other things (ibid.). The representative of Flora Tristán stated that programs and services provided by the government are of poor quality and are not efficient in protecting victims of domestic violence (Flora Tristán 3 Mar. 2014, 11). Moreover, there are no campaigns designed to prevent violence against women (ibid.). Further and corroborating information on the effectiveness of the Plan and government services could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

### 3.1 How to Submit a Domestic Violence Complaint

The representative of the Flora Tristán Centre for Peruvian Women indicated that in order to submit a complaint related to domestic violence, a woman must follow the following steps (3 Mar. 2014):

[translation]

- a. victim must provide physical evidence of abuse, as witnesses are not sufficient proof.
- b. If the woman has visible proof of abuse, the police take a statement of what had happened and send the woman to a forensic doctor, with a waiting time between three and four hours.

- c. The woman then returns to the police station, where she is provided with a subpoena that she herself has to deliver to the aggressor, as the police do not have the resources to deliver such notifications.
- d. The outcomes include the agreement of the aggressor to the subpoena and his attendance at the police station; if the aggressor ignores the subpoena, the investigation is concluded and the police issue a report.
- e. The police report is then sent to the Office of the Prosecutor for Family Affairs (Fiscalía de la Familia) or to the Criminal Prosecutor's office (Fiscalía Penal), depending on whether it is considered a "minor infraction" or a crime. Domestic violence is not considered a crime unless the woman is unable to do any kind of work for more than ten days due to violence.
- f. The Prosecutor conducts a new investigation and meets with the victim and the aggressor. During this time, the aggressor continues to live in his home with the victim, as there is no law that requires him to leave.
- g. If the Prosecutor determines that domestic violence has occurred, the Prosecutor can order protective measures for the victim, such as removing the aggressor from the home. Only five percent of domestic violence victims are provided with protective measures. There is a lot of resistance on the part of authorities to remove the aggressor from the home as a protective measure.
- h. After the Prosecutor's investigation is complete, the case is sent to a judge, which can determine if the aggressor should be sentenced or not.

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

### 3.2 Police and Judiciary

According to *Country Reports 2012*,

[t]he law authorizes judges and prosecutors to prevent the convicted spouse or parent from returning to the family home and permits the victim's relatives and unrelated persons living in the home to file complaints of domestic violence. It also allows health professionals to document injuries. The law requires police investigation of domestic violence to take place within five days and obliges authorities to extend protection to female victims of domestic violence. There were no statistics available on the number of men sentenced for crimes related to domestic violence ...

The protections offered were limited because of legal delays and ambiguity in the law. (US 19 Apr. 2013, 19)

The report further states that, according to NGOs and the ombudsman, "police officers reacted indifferently to charges of domestic violence, despite legal requirements to investigate such complaints" (ibid., 20). In correspondence with the Research Directorate, the representative of the Flora Tristán Centre for Peruvian Women indicated that, although there is legislation (Law 26260) to protect victims of domestic violence in Peru, the agencies in charge of enacting the legislation do not provide adequate protection to women victims of domestic violence (Flora Tristán 3 Mar. 2014, 1). Without providing details, the representative noted that only five percent of women who reported domestic violence received [translation] "some means of protection" (ibid.). The representative stated that the judicial system is not effective in protecting women victims of domestic violence (ibid.). According to the representative, the judicial process can take two to three years before the aggressor is punished (ibid.). Moreover, according to the representative, "impunity is one of the problems that women victims of domestic violence face" (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

An article published by *Peruvian Times* in 2011 reports that

Peru's justice system lags far behind other social institutions in correcting its deep sexist, cultural and racist biases. It is not uncommon for judges to resist qualifying intrafamilial violence as a serious crime, and the way a woman dresses, for example, is still routinely cited as an incitement to rape. (17 June 2011)

Moreover,

[a]ccess to justice through the formal legal system is also rendered difficult by geographical isolation, inclement weather, language and cultural barriers, illiteracy, and the lack of adequate transport, especially in Peru's Andean highlands and the jungle. (*Peruvian Times* 17 June 2011)

The article further states that, according to a lawyer with the Manuela Ramos Movement (Movimiento Manuela Ramos), a Peruvian feminist NGO operating since 1978, which aims to improve the situation of women in Peru (Manuela Ramos n.d.a),

"[t]he majority of police officers are not trained in gender issues, and don't really know how to handle cases of intrafamilial violence. And because most of them regard this type of violence as a domestic and private matter, they tend to interrogate and verbally abuse victims, justifying the physical or sexual aggression. Questions such as: 'What did you do to provoke him?' And 'What were you wearing?' are far from uncommon." (*Peruvian Times* 17 June 2011)

*Country Reports 2012* states that "many domestic abuse cases went unreported, and NGOs stated that the majority of reported cases did not result in formal charges due to fear of retaliation or the expense of filing a complaint" (US 19 Apr. 2013, 19). Moreover, according to observers, "rape was underreported due to a fear of retribution, including further violence and stigma. There were no available statistics on abusers prosecuted, convicted, or punished" (*ibid.*, 18-19). According to the Peruvian government, there is a lack of reports of violence against women due to the fear of retaliation, shame or lack of knowledge on how to file a complaint (Peru [2009], 5). The *Peruvian Times* states that

[l]engthy, costly and complicated legal procedures, corruption, gender insensitive judicial decisions, and inconsiderate treatment from justice sector institutions, police and local authorities are additional deterrents that discourage women from accessing the justice system. (17 June 2011)

#### 4. Support Services

Sources provide information on a number of shelters and centers, including:

- House of Well-being (Casa del Bien-Estar) that provides health and legal services to women victims of domestic violence (Manuela Ramos n.d.b). There are two houses of Well-being in Ayacucho, three in Huancavelica and one in Lima (*ibid.*). Houses of Well-being are run by the Movement Manuela Ramos (*ibid.*).
- United Planet, an international non-profit organization (United Planet n.d.b), runs a women's shelter in Peru that houses young mothers with children (between 10 and 18 years old) who are victims of physical and sexual abuse (*ibid.* n.d.a). The shelter can accommodate up to 25 people at one time (*ibid.*). The organization provides psychological counselling and helps women develop self-confidence (*ibid.*)
- Children and Women Shelters National Network (Red Nacional Casas de Refugio para la Mujer y la Niñez, Recare), a Peruvian organization based in Lima, states that the organization runs 17 shelters for women in different regions across the country (Recare n.d.a). Recare provides temporary shelters for women victims of family and sexual violence and their children, as well as legal assistance, primary health care and workshops for women and children, among others (*ibid.* n.d.b).

*Country Reports 2012* states that there were not enough shelters for women victims of domestic violence and these shelters "did not adequately protect and support victims" (US 19 Apr. 2013, 19).

Further information on the shelters and support services could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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## Additional Sources Consulted

**Oral sources:** Attempts to contact the following organizations were unsuccessful within the time constraints of this Response: El Movimiento Manuela Ramos; Peru – Embassy of Peru in Ottawa; a professor at the Pontificia Universidad Católica del Perú; Red Nacional Casas de Refugio para la Mujer y la Niñez, Peru; United Planet.

**Internet sites, including:** Amnesty International; ecoi.net; *El Espectador*; *El Herald*; *El Peruano*; Factiva; Freedom House; Fundación Mundubat; *Gestión*; *Global Times*; Impunity Watch; InSight – Organized Crime in the Americas; Institute for War and Peace Reporting; International Organization for Migration; *La Republica*; Organization of American States; Peru – Congreso de la República del Perú, Instituto Nacional de Estadística e Informática, Presidencia del Consejo de Ministros; Peru21.pe; Peruthisweek.com; Red Iberoamericana de Cooperación Jurídica Internacional; United Nations – Office of the High Commissioner for Human Rights, Refworld, UN Children's Fund, UNFPA, World Health Organization; UN Women; Womenwatch.

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