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Prevention of violence: Legal relevance of the principle of immediate intervention in Law N.º 30364

Prevención de la violencia: relevancia jurídica del principio de intervención inmediata en la Ley N.º 30364

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Abstract

The research studies the relevance of the principle of immediate intervention in the prevention and eradication of violence against women and family members. Using a qualitative approach, which included a review of legislation, doctrine, and case law, it examined its effectiveness as a rapid response mechanism for both the judiciary and the police in situations of violence, in order to guarantee the physical and emotional integrity of victims, as well as their recovery through psychological treatment aimed at overcoming the trauma caused by the aggression. Contributions were made by two experts, a lawyer and a prosecutor with experience in court cases, who stated that, in practice, the competent authorities take swift protective action in situations of risk to prevent the conflict from escalating. Both agreed that the application of this principle has had a positive impact on the handling of cases; however, they stressed that its actual effectiveness depends on structural factors, institutional will, training, and available resources. The results show that prompt and timely judicial and police intervention to protect victims guarantees their right to a life free of violence. In conclusion, streamlining the processing of complaints and the implementation of protective measures, such as restraining orders or removal from the home through custody proceedings, helps prevent further episodes of gender-based and domestic violence.

Keywords: prevention, violence, principle

Resumen

La investigación estudia la relevancia del principio de intervención inmediata en la prevención y erradicación de la violencia contra mujeres y miembros del grupo familiar; mediante un enfoque cualitativo, que incluyó la revisión normativa, doctrinaria y jurisprudencial, se examinó su eficacia como mecanismo de respuesta rápida tanto del órgano judicial como de la policía frente a situaciones de violencia, a fin de garantizar la integridad física y emocional de las víctimas, así como su recuperación mediante tratamientos psicológicos orientados a superar los traumas ocasionados por la agresión. Se incorporaron los aportes de dos expertos, un abogado y un fiscal con experiencia en casos judiciales, quienes manifestaron que, en la práctica, las autoridades competentes, ante situaciones de riesgo, adoptan acciones céleres de protección para evitar la escalada del conflicto. Ambos coincidieron en que la aplicación de este principio ha generado un impacto positivo en la atención de los casos; sin embargo, destacaron que su eficacia real depende de factores estructurales, voluntad institucional, capacitación y de los recursos disponibles. Los resultados evidencian que la diligente y oportuna intervención judicial y policial para la protección de las personas agraviadas, garantiza su derecho a una vida libre de violencia. En conclusión, agilizar el trámite de denuncias y la implementación de medidas de protección, como la prohibición de acercamiento del agresor o su retiro del hogar mediante un proceso de tuición, contribuye a prevenir nuevos episodios de violencia de género e intrafamiliar.

Palabras clave: prevención, violencia, principio

Introduction

Violence against women and family members has its roots in various causes. Generally, it arises from stereotypes and gender discrimination against women, as well as situations that develop within the family unit, where trust, power, and responsibility are abused, affecting interpersonal relationships. To address this serious issue, Law No. 30364 and its regulations were enacted in Peru in 2015, aimed at preventing and eradicating violence through the implementation of appropriate measures for victim protection and sanctions against aggressors.

The law discussed in this article, in its focus on preventing acts of violence and ensuring the safety of victims, incorporates the principle of immediate intervention, as outlined in subsection 4 of Article 2. This principle plays a fundamental role by promoting the rapid and decisive adoption of measures to prevent the continuation of violent acts, ensuring that victims receive urgent protection. Immediate intervention seeks not only to prevent further harm but also to reduce the perception of impunity and contribute to the well-being and security of victims, allowing them to resume their daily activities without fear.

In the judicial and police context, this principle enables authorities to act promptly in situations of violence. It encompasses everything from the timely receipt of complaints, which must be addressed swiftly, to the issuance of necessary protective measures by the judge for the victim. Thus, the prompt adoption of judicial decisions in violent situations is crucial to prevent the continuation of aggressive behaviors, minimizing the exposure of affected individuals to new risks. In this regard, the need for coordinated action between the justice system and the police is emphasized to ensure an effective response that safeguards the integrity of the victims.

In this context, the study aimed to address the significance of the principle of immediate intervention in the prevention of violence, as well as its practical application to understand its importance in victim protection and its effectiveness within the legal framework established by Law No. 30364. The research problem was framed with the following question: What is the relevance of the principle of immediate intervention according to Law No. 30364 in the prevention of violence? The analysis of this issue aimed to highlight the importance of prompt action by judicial operators and the police to prevent the cycle of violence from continuing and causing further harm to victims. The general objective was to determine the significance of this principle in violence prevention.

The justification for the research focuses on the analysis of legal norms, as well as doctrine and jurisprudence, to demonstrate that the principle of immediate intervention in violence scenarios serves as a guiding norm for prevention and eradication efforts and for the timely protection of victims. Socially, the study will provide solutions to the identified problem and contribute to the understanding of the topic.

Finally, the hypothesis posits that immediate intervention ensures that judges and police act without delay in cases of gender and family violence, with the former providing protective measures to victims and the latter processing complaints and risk assessments with urgency.

Methodology

A legal and qualitative approach was adopted, based on hermeneutic analysis, which allowed for an in-depth study of relevant norms and a review of the available legal literature in indexed databases related to the topic. Criteria for inclusion and exclusion were established for the selection of doctrinal and jurisprudential sources; in this regard, doctrines from authors addressing issues of gender violence were prioritized, and in the case of jurisprudence, judicial resolutions issued by specialized courts between 2019 and 2023 were selected, along with a ruling from the Constitutional Court of Peru that reinforced the analysis of this principle in violence prevention.

Similarly, relevant pronouncements from international bodies such as CEDAW were considered, while sources lacking academic support were excluded. These criteria ensured the relevance and rigor of the analyzed material, which allowed for a comprehensive understanding of the problem, exploring its most important aspects to obtain detailed information from the selected material through documentary and content analysis. This was further reinforced by the opinions of two experts, a lawyer and a prosecutor with experience in judicial cases, who provided semi-structured interviews addressing relevant categories such as "immediate intervention," "violence prevention," and "effectiveness of the principle." This process allowed for the systematization of the perceptions of the interviewees, who concurred that judges and police personnel adopt immediate protective measures to prevent the escalation of conflicts in situations posing risks to victims. Both experts asserted that the application of this principle has had a positive effect on case management.

To position the qualitative approach, Báez (2014) is cited, noting that understanding and describing reality from a specific context is important as it highlights the relevance of legal institutions and their impact on society. Through this approach, the importance of normative frameworks was explained, which is essential for constructing a deep understanding of the topic; furthermore, the application of the hermeneutic method facilitates the interpretation of fundamental legal concepts necessary for solidly developing the theory underpinning this work.

Results

Legal framework for violence prevention

Law No. 30364 represents a significant advancement in the prevention of violence against women and family members. It arises in response to the increasing wave of gender and family violence in Peru. Its objective is to eliminate physical, psychological, sexual, patrimonial, and/or economic violence that undermines the

fundamental rights of women and families. Among the guiding principles established by this law, immediate and timely intervention is highlighted to ensure that victims receive attention without delay.

Under this framework, justice operators are obligated to act with diligence and efficiency, ensuring effective protection for victims and facilitating their stabilization and comprehensive recovery within a maximum timeframe of 24 to 48 hours, based on the risk assessment or reported incidents. As Melgarejo (2017) indicates, the prompt response from the State is directed at halting violence and preventing further harm.

Reinforcing this stance, the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, known as "Belém do Pará," signed in 1994, along with CEDAW, requires States to respect human rights, recognizing that violence against women affects all sectors of society. They further emphasize that the eradication of such violence is fundamental to achieving equality and social and individual development. In this perspective, Peru, through its judicial bodies, is obliged to prioritize enhanced attention to cases, providing timely protection to those affected, as delays can exacerbate violence. This is stipulated by General Recommendation No. 19 of CEDAW, which calls on States to adopt effective and appropriate measures to combat gender-based violence, offering adequate support to victims and continuously training magistrates and other public officials for the optimal application of the norms.

Principle of immediate intervention

Regarding its nature, Phang (2022) states that this principle is fundamental in the fight against gender violence and violence against family members, requiring judges and police to act with the necessary urgency based on the risk faced by the victim. This implies that action should be prioritized over formal procedures to fulfill the goal of safeguarding the integrity of those affected.

This perspective is echoed by Torres (2016), who asserts that it is a right of women to live free from violence. Judges, therefore, must act promptly and conduct efficient investigations to remedy the situation for affected individuals. In this endeavor, the commitment and proactive efforts of the authorities responsible for enforcing Law No. 30364 are crucial, ensuring the specialization, training, and awareness of personnel, as well as the infrastructure and services necessary to facilitate the protection and treatment of victims. Rojo (2022) concurs, emphasizing that judicial interventions should be swift, not only aimed at providing a quick response but also proportional and appropriate to the circumstances of each case.

The aforementioned positions suggest that the proper application of this principle requires a balance between the speed of judicial response and the effectiveness of the measures adopted. In this sense, responsibility lies not only with judges but also with the National Police and other institutions specified by the law. These actors must receive the complaint, and subsequently, the judge must implement judicial measures efficiently, considering the vulnerability of the victims and acting sensitively in handling the reports.

Regarding its importance, Gallardo et al. (2022) argue that urgent protection, in addition to helping to break the cycle of violence, ensures the safety of women and family members. Similarly, Alvarado et al. (2022) emphasize that the authorities involved must take prompt actions within established timeframes to swiftly safeguard the rights of affected individuals.

Additionally, Silio (2023) reinforces this assertion, stating that understanding and applying the principle of due diligence in cases of violence entails immediacy and promptness in response from the moment the incident is known, including follow-up with victims to ensure the protection of their integrity.

Thus, the proper application of this principle in violence cases constitutes an effective means of preventing future gender-based aggression while facilitating the simplification of procedures (Gallardo et al., 2022; Amnesty International, 2024). This requires the involvement of judges committed to prevention, as the risk/prevention dynamic must be activated when an allegation of violence is made (Ledesma, 2017). This understanding highlights that decisive and rapid action seeks to safeguard the integrity of victims.

Effectiveness from jurisprudence

In the Peruvian judicial system, various courts have addressed the principle of immediate intervention significantly. For instance, in case file No. 201-2023-0-0601-JM-FT-01-La Libertad, it was emphasized that violence within the family, as well as in other contexts, necessitates immediate and timely intervention by the State aimed at sanctioning, preventing, and eradicating such acts. In this framework, the judiciary plays a fundamental role in processing these cases, starting from the receipt of the complaint to ensure a prompt and adequate response that protects victims and avoids delays that could worsen their situation.

Similarly, in case file No. 00091-2020-18-101-SP-FT-01-La Libertad, it was asserted that violence constitutes a serious problem as it directly violates the fundamental rights of victims; therefore, the intervention must be preventive and rapid.

In case No. 193-2022-0-0902-JM-FC-Lima Norte, the importance of the principle was underscored to ensure immediate protection for affected individuals, allowing them to receive protection without being exposed to

further risks. The goal is to mitigate the effects of violence and ensure their well-being. Additionally, in case file No. 06050-2021-68-1601-La Libertad, it was specified that protective measures must be granted promptly to avoid irreparable harm.

Consequently, these four judicial resolutions exemplify the protection of victims through the adoption of suitable measures that interrupt the cycle of violence and enable them to return to their daily lives normally. In alignment with this, the Constitutional Court, in case No. 03378-2019-PA-TC, emphasized that the issuance of protective measures is aimed at neutralizing the harmful effects of violence.

Comparative law perspective

In the Americas, several countries have enacted regulations to protect women and families from violence, implementing mechanisms for prevention and sanction. In Ecuador, the Comprehensive Organic Law to Prevent and Eradicate Violence against Women and its reforms aim to guarantee protection and immediate comprehensive care for victims; it also stipulates that procedures must be conducted swiftly, eliminating bureaucratic hurdles that impede timely responses.

In Colombia, Law No. 1257 of 2008 regulates the protection of the rights of women victims of violence, establishing a legal framework to ensure that women receive adequate attention through protective measures, victim assistance, and sanctions against aggressors. Similar to Ecuador, the speed of processes is a fundamental principle to ensure that victims are not exposed to increased risks.

Mexico, through the General Law on Access of Women to a Life Free from Violence (2007) and its reforms, implemented a system of prevention, sanction, and eradication, encompassing preventive and care measures to ensure that violence is addressed comprehensively and promptly.

These regulations reflect the commitment of these countries to protect women and families from violence, as they respond to international obligations and aim to curb the rising tide of aggression affecting this vulnerable sector. In this context, the urgency in judicial processes is a common feature across these laws, including in Peru, highlighting the need for prompt action in these situations.

Expert positions from practical experience

Semi-structured interviews were conducted with legal professionals knowledgeable in the field of violence, yielding the following results:

Table 1

Results from the experts' interview

Categories	Results
The principle of immediate intervention in violence prevention	*Interviewee 1:* It is the duty of authorities to act without delay and effectively as soon as a risk situation is identified to protect the victim and prevent the conflict from escalating. *Interviewee 2:* It is the State's obligation to adopt necessary and appropriate protective measures without delay to guarantee victims a life free from violence.
Regulations supporting this principle	*Interviewee 1:* Law No. 30364, its regulations, and the Political Constitution. *Interviewee 2:* Law No. 30364 and its regulations.
Institutions required to act under this principle	*Interviewee 1:* The National Police of Peru, the Judiciary, the Public Ministry. *Interviewee 2:* The National Police, the Public Ministry, in addressing complaints and identifying risk factors through the application of relevant assessments, and primarily the Judiciary in the timely issuance of measures.
Situations requiring immediate intervention to prevent violence	*Interviewee 1:* Threats of physical and psychological aggression, recent assaults, the presence of minors in risky situations, sexual violence, attempted feminicide. Interviewee 2: Obvious acts of physical violence warrant immediate and timely attention.
Influence of rapid action on violence prevention	*Interviewee 1:* Protects the life and physical and psychological integrity; breaks the cycle; strengthens victims' trust in the protection system; prevents long-term psychological harm; avoids re-victimization. *Interviewee 2*: Prevents escalations of violence and primarily ensures physical and psychological integrity.

Effectiveness of the principle from judicial and prosecutorial experience	*Interviewee 1:* A positive impact has been generated in case management, but its real effectiveness largely depends on structural factors, institutional will, training, and resources. *Interviewee 2:* When applied appropriately with proper identification of risk factors, it is an effective tool to prevent escalation of violence.

The interviews with two professionals (a prosecutor and a lawyer) reveal a shared and well-founded understanding of the principle of immediate intervention, as both correctly conceive it as an obligation of institutions to act promptly upon identifying risk situations to ensure comprehensive protection of victims and prevent escalation of the conflict. They also noted that the entities responsible for acting under this principle include the police and the judiciary, each with specific roles in prevention and response to violence. Finally, they highlighted that the application of this principle is crucial in situations of threats, assaults, sexual violence, attempted feminicide, and risks to minors, where timely intervention is essential.

Discussion

The findings obtained affirm that the principle of immediate intervention serves as a central axis in the mission to prevent violence. Furthermore, when contrasting the legal framework with doctrine and jurisprudence, it becomes evident that the norm not only addresses the need to act against gender and family violence but also incorporates international commitments arising from the Belém do Pará Convention and CEDAW, which require States to act with due diligence and through effective judicial mechanisms to ensure the safety of victims (CEDAW, 1992; Belém do Pará, 1994).

From a doctrinal perspective, authors such as Phang (2022) and Torres (2016) agree that the immediacy of judicial and police actions aims to eliminate bureaucratic procedures and prioritize the safety of victims. This argument is complemented by Rojo (2022), who emphasizes that urgency must be accompanied by proportionality in protective measures; a response that is merely quick but ineffective may be insufficient to halt violence. Thus, the doctrine reinforces the need to combine speed with effectiveness.

In the jurisprudential realm, it is observed that specialized courts have consolidated the practical application of this principle. The urgency of issuing protective measures within 24 to 48 hours is acknowledged, aligning with the mandates of Law No. 30364 and responding to international human rights protection standards (Exp. No. 03378-2019-PA-TC). This normative and judicial convergence illustrates an institutional effort to neutralize the effects of violence before they worsen, although challenges regarding infrastructure, training, and the sensitivity of justice operators, as noted by Gallardo et al. (2022), are also evident.

Comparative law shows that countries such as Ecuador, Colombia, and Mexico have adopted similar measures, placing immediacy and speed as fundamental principles in their protection laws. These experiences reinforce the relevance of the Peruvian model, although it must be emphasized that real effectiveness depends not only on the existence of a legal framework but also on the capacity of judicial operators to act with speed and sensitivity. Coordination between the police and the judiciary, as well as the allocation of resources for comprehensive and sustained attention, are indispensable aspects.

The interviews with professionals (e.1 prosecutor and e.2 lawyer) reinforce this perspective, as they agree that this principle implies the State's obligation to act without delay in the face of risk situations. Prompt intervention is particularly crucial in cases of threats, assaults, sexual violence, attempted feminicide, and scenarios where speed is essential to prevent conflict escalation. They argue that actions such as removing the aggressor from the home or imposing proximity restrictions should be adopted in these situations. Therefore, it is important to underline that rapid action directly impacts the protection of victims' physical and emotional integrity.

In this regard, both the normative evidence and practical experience coincide on the need to strengthen inter-institutional collaboration, promote specialized training, and ensure the systematic application of risk assessment tools, so that the principle of immediate intervention is not only recognized in the law but also materializes as an effective response to gender and family violence.

Conclusions

The principle of immediate intervention, while essential in the prevention of gender and family violence and in alignment with international commitments such as CEDAW and the Belém do Pará Convention, must be

accompanied by effectiveness and proportionality to ensure that protective measures are not only rapid but also effective in guaranteeing the well-being of victims. A critical issue that cannot be overlooked is that achieving its full effectiveness requires judges and police trained in the subject, capable of addressing complaints without delay and subsequently issuing measures based on a contextual understanding of each case.

Regarding the testimonies from the interviewed professionals, they are accurate in reaffirming that procedural speed and inter-institutional coordination are essential conditions for ensuring an effective response in risk contexts. Therefore, the consolidation of this principle as a mechanism for comprehensive protection against violence must continue to be strengthened to ensure sustained and effective implementation in judicial practice.

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