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Application of the Principle of Equality Under Law 30364 in Cases of Violence in the Sociocultural Context of Peru

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ABSTRACT: Purpose. This exploratory study examines how the sociocultural context enters the reasoning of Peru's Supreme Court in decisions related to Law No. 30364 and the principle of equality and non-discrimination.

Methods. Using a qualitative, descriptive-interpretive design, we applied directed content analysis with deductive coding (a five-category codebook plus a cross-cutting equality dimension) to four purposively selected decisions issued between 2021 and 2024: Cassations Nos. 1177-2019 (Cusco), 397-2021 (Amazonas), and 1481-2022 (Selva Central), and Appeal for Annulment No. 12-2023 (Piura). The decisions are deliberately non-equivalent: in Cusco and Selva Central, Law No. 30364 operates as a relevant legal framework; Amazonas is a borderline criminal case centred on Article 15 of the Penal Code; and Piura serves as a temporal contrast (events from 2004).

Results. Cultural circumstances entered judicial reasoning through two mechanisms, both observed only in Amazonas and Piura: the assertion of a custom and its substantiation through specialized (anthropological) expert evidence. Gender stereotypes, identified in Selva Central, operated as a separate factor unrelated to any cultural practice, and in Cusco no cultural argument was raised. Differences between courts were explained by evidentiary assessment, legal classification, and procedural limits (notably the prohibition of *reformatio in peius*) rather than by territorial origin.

Conclusions. Equality functions as an interpretive framework rather than a criterion applied uniformly across decisions. Given its size, the sample does not support inferences about causality, prevalence, or regional differences; priority should be given to training, expert-evidence standards, linguistic access, and disaggregated judicial data before broader legal reform.

1. INTRODUCTION

Law No. 30364 establishes Peru's specialized framework to prevent, punish, and eradicate violence against women and family members. Its Single Ordered Text (*Texto Único Ordenado*, TUO) requires that the law be interpreted and applied in accordance with, among others, the gender, comprehensive, intercultural, intersectional, human rights, and generational approaches (Ministry of Women and Vulnerable Populations [MIMP], 2020, Art. 3). Its principle of equality and non-discrimination is

aligned with the constitutional guarantee of equality before the law (Congress of the Republic, 1993, Art. 2, para. 2) and with Peru's international obligations under the Convention of Belém do Pará (Organization of American States [OAS], 1994). Although the framework is national, its application may encounter differences in evidentiary demands, judicial reasoning, and access, particularly when cultural circumstances are invoked or communal authorities intervene. The objective here is not to attribute such differences to a specific region, but to identify the legal and institutional mechanisms that may come into play in each case.

The issue is particularly relevant given the magnitude of violence against women in Peru. According to the 2024 Demographic and Family Health Survey (ENDES), 52.0% of women aged 15 to 49 who had ever been in a union reported having experienced violence by a husband or partner (psychological and/or verbal, 48.4%; physical, 25.5%; sexual, 5.6%) (National Institute of Statistics and Informatics [INEI], 2025), a pattern consistent with the high global burden of intimate partner violence documented in WHO-led estimates (Sardinha et al., 2022). These figures describe the magnitude of the phenomenon, not differences in judicial treatment; they are therefore used only as context, and the analysis focuses on the mechanisms by which the law is accessed and applied when customs, community affiliation, or other cultural circumstances are invoked.

Recent Peruvian literature has documented difficulties in implementing Law No. 30364: problems of effectiveness (Sánchez, 2021), obstacles to effective protection (Martos, 2023), factors that lead victims to discontinue their complaints (Benites, 2021), and local analyses of its application, such as that of Chaupimarca, Pasco (Gómez, 2024). Torres et al. (2023) emphasized the need for a comprehensive perspective linking family, interculturality, and intersectionality, and Jiménez (2022) connected equality and intersectionality with the design of public policy. Empirically, Rivero et al. (2024) studied the pathways of women victims in Cusco, Apurímac, Arequipa, and San Martín and concluded that their decisions vary with the local cultural context. Internationally, the use of culture in criminal adjudication has been examined under the rubric of the “cultural defense” (Renteln, 2004), while critics have warned that culture tends to be invoked selectively to explain the conduct of minoritized groups (Volpp, 2000), and the CEDAW Committee has identified gender stereotyping and plural justice systems as specific barriers to women's access to justice (Committee on the Elimination of Discrimination against Women [CEDAW Committee], 2015).

The literature reviewed for this study did not identify any work that examined, through a jurisprudential analysis of the Supreme Court, how cultural circumstances and the related evidence are incorporated and assessed in matters connected to Law No. 30364 while distinguishing them from gender stereotypes and from access to justice. This statement is limited to the literature reviewed and does not claim to be an exhaustive account of scholarship on the subject.

In its case law, the Supreme Court has developed criteria for adjudicating with a gender perspective and for defining “culturally conditioned error of understanding” under Article 15 of the Penal Code. For intercultural proceedings involving the rape of girls and adolescents in which this error is raised, Plenary Agreement No. 1-2015/CIJ-116 sets criteria concerning anthropological expert evidence, verification of cultural relevance, the gender perspective, and the best interests of the child (Supreme Court of Justice of the Republic, 2015).

The research problem is therefore: *Through what mechanisms can the sociocultural context—specifically, the cultural, communal, or customary circumstances alleged or invoked in the proceedings—influence judicial reasoning in cases of violence related to Law No. 30364 and the principle of equality?* The general objective is to conduct an exploratory analysis of the ways in which this context enters the Supreme Court's reasoning, distinguishing decisions in which the Law operates as a relevant framework from those examined as borderline cases or temporal contrasts. The specific objectives are: (a) to describe the regulatory framework on equality and interculturality related to the Law; (b) to examine four decisions and identify how cultural context and, separately, gender stereotypes are incorporated; (c) to contrast the findings with published evidence on access to justice; and (d) to formulate regulatory and institutional recommendations.

The expression “decisions related to Law No. 30364” is used in a broad sense: it covers decisions in which the Law operates as a relevant framework and related criminal decisions used as borderline cases or temporal contrasts—a distinction maintained throughout the analysis.

2. MATERIALS AND METHODS

2.1 Study Design

The study adopted a qualitative approach with a descriptive-interpretive scope and a documentary and jurisprudential design. Judicial decisions, regulations, and scientific literature were examined through document analysis, understood as the systematic review and interpretation of printed and electronic documents to elicit meaning and develop empirical knowledge (Bowen, 2009). Sources were recorded on research index cards, an information-organization technique that is not in itself a method of analysis (Loayza, 2021). The primary evidence consists of judicial decisions and verifiable normative, statistical, and bibliographic sources; published empirical studies serve only as complementary evidence.

2.2 Conceptual Framework

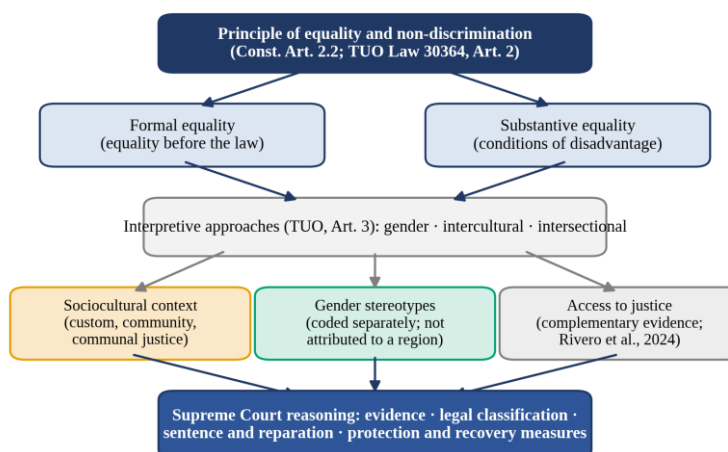
Formal equality rests on the equal dignity of all persons and on the right to equality before the law and to non-discrimination (Congress of the Republic, 1993, Art. 2, para. 2). Substantive equality makes it possible to examine the concrete conditions that generate disadvantage and justifies, where appropriate, differentiated responses (Fredman, 2016; Landa, 2021). Intersectionality offers a framework for understanding how multiple conditions of vulnerability interact in the experience of violence (Crenshaw, 1991; Jiménez, 2022). In this study, formal and substantive equality are treated as analytical dimensions of equality, whereas the gender, intercultural, and intersectional approaches are treated as tools for interpreting and applying Law No. 30364. Interculturality is further anchored in the recognition of indigenous customary law within the limits of fundamental rights (Congress of the Republic, 1993, Art. 149; International Labour Organization [ILO], 1989, Arts. 8–10).

The sociocultural context was operationally defined through elements observable in the decisions and sources: (a) an alleged or invoked custom or cultural practice; (b) a reference to a community, communal authority, communal justice, or community norms; and (c) other personal circumstances (educational level, age, occupation), only when the decision itself expressly links them to cultural understanding or to the legal assessment of the case. Such circumstances are not, by themselves, indicators of sociocultural context, and natural region or place of origin was not used as an indicator or explanatory variable.

A distinction is also drawn between sociocultural context and gender stereotypes. The former refers to cultural or community circumstances that appear as relevant facts or arguments in the proceedings. The latter are generalized preconceptions about the attributes or roles of women and men that may distort the assessment of facts, evidence, or legal classification (Cook & Cusack, 2010), and they are not attributed to any specific region or community. Both may coexist in a single case file but were coded separately.

Figure 1 summarizes the conceptual framework that guided the analysis: the principle of equality (in its formal and substantive dimensions) is operationalized through the interpretive approaches of the TUO, while the sociocultural context, gender stereotypes, and access to justice are treated as three analytically distinct pathways that may shape the Supreme Court's reasoning.

Figure 1 Conceptual framework of the study



Note. Formal and substantive equality are analytical dimensions of the principle of equality; the gender, intercultural, and intersectional approaches are interpretive tools (MIMP, 2020, Arts. 2–3). The sociocultural context reaches judicial reasoning only through Article 15 of the Penal Code and Plenary Agreement No. 1-2015/CIJ-116; gender stereotypes and access to justice are coded as separate pathways. PC = Penal Code.

2.3 Sample Selection

A set of four Supreme Court decisions, published in judicial or specialized legal repositories, was purposively selected. The selection did not aim at an exhaustive review of national case law: the decisions were identified for their relevance to the research problem and examined against four inclusion criteria: (i) decision date between 2021 and 2024; (ii) subject matter related to violence against women or sexual violence against girls and adolescents; (iii) presence, in the case file or in the reasoning, of a relevant issue (cultural context, expert evidence, gender stereotypes, or protection standards); and (iv) relevance to an analytical dimension of the study. The decisions included were Cassations No. 1177-2019 (Cusco), No. 397-2021 (Amazonas), and No. 1481-2022 (Selva Central), and Appeal for Annulment (*Recurso de Nulidad*) No. 12-2023 (Piura). Territorial references are provided solely to identify the rulings.

Because the selection was intentional, no systematic sweep of case law was conducted and neither exhaustive coverage nor representativeness is claimed; consequently, no identification-and-exclusion flowchart is reported. The sample was organized according to each decision's connection with Law No. 30364. Cassations No. 1177-2019 (Cusco) and No. 1481-2022 (Selva Central) are examined as decisions in which the Law operates as a relevant framework. Cassation No. 397-2021 (Amazonas) is a borderline criminal case: its central issue is Article 15 of the Penal Code and the assessment of the anthropological expert report under Plenary Agreement No. 1-2015/CIJ-116, although it concerns sexual violence against a girl who falls within the Law's scope of protection. Appeal for Annulment No. 12-2023 (Piura) serves only as a temporal contrast: the facts date from 2004, before the Law was enacted, and therefore do not count as evidence of its application. The four decisions are neither equivalent nor representative of national case law.

2.4 Coding Procedure and Codebook

The analysis followed directed qualitative content analysis with deductive coding: the categories and their decision rules were defined before reading, on the basis of the regulatory framework and Plenary Agreement No. 1-2015/CIJ-116, and were then applied to each ruling (Hsieh & Shannon, 2005). The unit of analysis was the legally relevant reasoning of each decision, that is, its grounds concerning equality, cultural context, evidence, legal classification, punishment, protection, and stereotypes. Only what the reasoning expressly states or develops in an identifiable manner was coded, without inferring conclusions that the case file does not support.

The codebook comprises five categories: (a) use of the sociocultural context in the reasoning, according to the operational definitions above; (b) required standard of proof; (c) determination of the sentence and civil reparation; (d) protection and recovery measures; and (e) presence or rejection of gender stereotypes. Equality was treated as a cross-cutting dimension, and it was not assumed that every ruling addressed it. Each decision received one or more of three equality codes: *formal*, when it invokes equality before the law or expressly applies the same rule to the persons involved; *substantive*, when it considers concrete conditions of vulnerability or unequal starting points and adopts or requires a differentiated response within the legal framework (e.g., a gender perspective, reinforced protection, or protection and recovery measures); or *none*, when the reasoning addresses neither. The first two codes may be assigned jointly. The gender, intercultural, and intersectional approaches were coded separately, as interpretive criteria rather than as dimensions of equality.

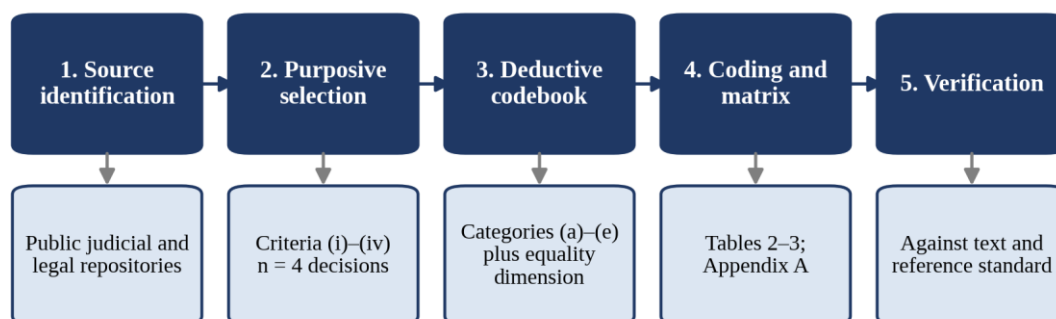
Each decision was compared against a reference standard comprising the relevant constitutional, statutory, and regulatory provisions, directly applicable case law, and, where applicable, plenary agreements; the legal soundness of the criterion applied, its effects on the protection of rights, and the existence of a legally admissible justification were reviewed. A *discrepancy due to unequal application* was recorded when the reasoning presented at least one of the following: (i) an evidentiary requirement not provided for in the applicable law; (ii) a personal or cultural circumstance treated as mitigating without individualized assessment or sufficient evidence; or (iii) a penalty or measure below the legal minimum, or the omission of mandatory protective measures, without admissible justification. Such a discrepancy does not amount to a finding of discrimination and is distinguished from corrections made by the reviewing court and from findings left unchanged because of procedural limits. It was attributed to the

sociocultural context only when the reasoning, the parties, or the source expressly incorporated a custom, cultural practice, community affiliation, or other relevant cultural element.

Coding proceeded in four steps: (1) a complete reading of each decision; (2) identification of the grounds corresponding to categories (a)–(e); (3) assignment of codes according to the decision rules and their recording in the analysis matrix (Table 3) and the equality table (Table 2); and (4) verification of the coded information against the text of the decision and the reference standard. To ensure consistency, the decision rules were fixed before reading and applied uniformly to all four decisions; because each code rests on what the reasoning explicitly states, any reader can verify the assignments in Tables 2 and 3. The codebook is reproduced in Appendix A (Table A1).

The complete analytical workflow, from source identification to verification, is shown in Figure 2.

Figure 2 Research design and coding workflow



Note. Directed qualitative content analysis with deductive coding (Hsieh & Shannon, 2005) applied within a documentary design (Bowen, 2009).

2.5 Literature Review and Temporal Scope

The literature was reviewed in a targeted manner, with preference for recent Peruvian studies on the application of Law No. 30364, intersectionality, interculturality, and access to justice, complemented by international doctrine on equality, stereotyping, and the cultural defense, as well as regulatory sources and official statistics. As this was not a systematic review, the novelty claim made in the Introduction is limited to the literature examined.

Regulations were considered as in force on September 30, 2026, the cut-off date of the analysis; the 2024 ENDES results, empirical studies, and institutional protocols published since 2021 were also reviewed. For each decision, the rules applicable at the time of the events and of the ruling were used; for the current framework and the recommendations, those in force at the cut-off date were used. References prior to 2021 are retained when they concern rules, precedents, or foundational scholarship that remain applicable.

3. RESULTS

3.1 Regulatory Framework in Force (September 30, 2026) Relevant to the Sociocultural Context

Article 2 of the TUO establishes the guiding principles that must be given priority in the interpretation and application of the law and in “any measure” adopted by the State through its public authorities and institutions (MIMP, 2020, Art. 2). The first is the principle of equality and non-discrimination: it guarantees equality between women and men and prohibits any distinction, exclusion, or restriction based on sex that has the purpose “or effect” of impairing or nullifying the recognition, enjoyment, or exercise of rights (MIMP, 2020, Art. 2, para. 1).

This principle serves as the standard against which the application of the law is evaluated, and three consequences follow. First, its *scope*: because it binds all public authorities, it extends to judicial decisions that punish violence against women—the express

purpose of the law (Art. 1)—even where the offense is defined in the Penal Code. Second, its *criterion*: because discrimination is defined by purpose or by result, a rule that is facially equal may breach the principle if its application undermines the exercise of rights. Third, its *relationship to the approaches*: Article 3 indicates how to act, whereas Article 2 makes it possible to assess whether the result was equitable. The principle is also linked to Article 2, paragraph 2, of the Constitution and to the limit that fundamental rights impose on communal jurisdiction under Article 149 (Congress of the Republic, 1993).

The TUO requires justice operators to apply, among others, the intercultural and intersectional approaches (MIMP, 2020, Art. 3). The former recognizes dialogue among the cultures that make up Peruvian society but carries an explicit limit: it “does not permit the acceptance of discriminatory cultural practices that condone violence” (MIMP, 2020, Art. 3). The latter recognizes that the experience of violence is shaped by factors such as ethnicity, social origin, or age.

For territories with communal justice systems, the TUO establishes specific rules for violence occurring in peasant and native communities and within the jurisdiction of peasant patrols (*rondas campesinas*), in accordance with Article 149 of the Constitution (MIMP, 2020, Art. 62; Congress of the Republic, 1993). Chapter VI of the Regulations governs justice in rural areas: scope of action, supplementary intervention by justices of the peace, protective measures, reporting, and intervention by the authorities of the special jurisdiction (MIMP, 2016, Arts. 64–69).

Article 15 of the Penal Code governs culturally conditioned error of understanding, the application of which depends on whether culture or customs affected the perpetrator’s capacity to understand the criminal nature of the act or to act in accordance with that understanding (Official Gazette *El Peruano*, 2026). In proceedings for sexual offenses against girls and adolescents in which this error is invoked, Plenary Agreement No. 1-2015/CIJ-116 requires, among other criteria, an anthropological expert assessment and the incorporation of the gender perspective and the best interests of the child, together with other corroborating evidence (Supreme Court of Justice of the Republic, 2015). This requirement is not a general rule for all cases governed by Law No. 30364 but a criterion specific to that offense.

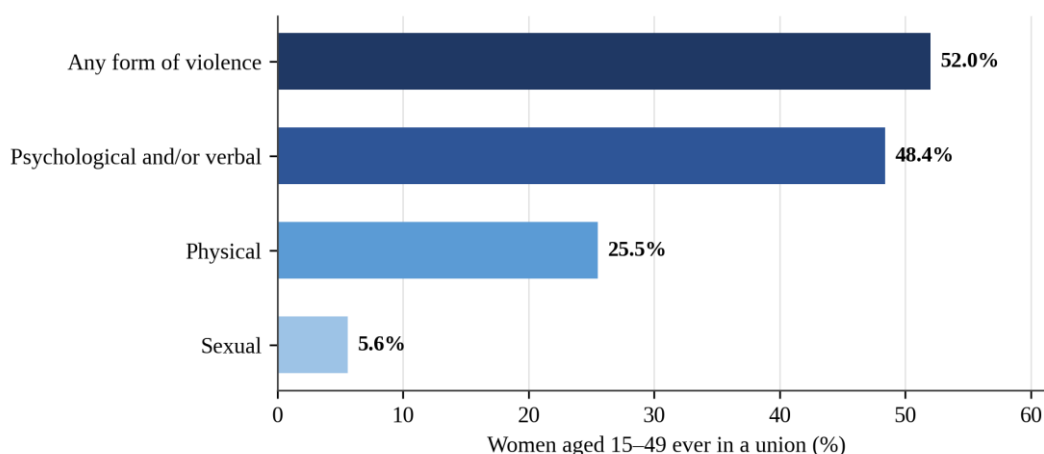
At the institutional level, in 2022 the Superior Court of Justice of San Martín approved an intercultural protocol for cases of violence against women and family members of the Kichwa indigenous people, which establishes, among other rules, that acts of violence against women cannot be subject to conciliation in communal justice (Superior Court of Justice of San Martín, 2022); the Superior Court of Justice of Junín (2021), for its part, trained justices of the peace to address violence in rural areas and indigenous communities.

Recent reforms have also adjusted the rules on access and coordination. Law No. 31715 amended Articles 15, 16, 22, 23-A, and 45 of Law No. 30364 (Congress of the Republic, 2023), and Law No. 32298 amended Article 10 to guarantee services for persons with hearing impairments or limitations in oral expression through Peruvian Sign Language interpreters (Congress of the Republic, 2025). Legislative Decree No. 1703, which created the Superintendency of Public Defense and Access to Justice, amended Articles 10 and 15-A of the Law and provisions of the Regulations, including Articles 14, 15, 16, 36, 72, 73, and 105, concerning public defense, the receipt of complaints, and institutional coordination (Office of the President of the Republic, 2026). Supreme Decree No. 004-2025-MIMP amended Article 20 of the Regulations (MIMP, 2025); its paragraph 20.2 provides that the National Police, the Public Prosecutor’s Office, and the Judiciary must consult the National Registry of Interpreters and Translators of Indigenous or Native Languages when they lack bilingual staff fluent in the language of the victim or witness—a provision directly relevant to intercultural access to justice. Finally, Law No. 32684 (July 2, 2026) amended Articles 200.6, 368-A, and 368-D of the Penal Code without affecting Articles 15, 22, and 45, which are used in this study (Congress of the Republic, 2026).

3.2 Statistical Context and Complementary Evidence on Access to Justice

The 2024 ENDES data cited in the Introduction (INEI, 2025; Figure 3) are used solely for contextual purposes: they do not allow inferences about unequal judicial treatment or the attribution of prevalence differences to cultural characteristics of a region. To examine access to justice, the analysis therefore draws on specific qualitative evidence about the pathways followed by victims.

Figure 3 Lifetime violence by a husband or partner among women aged 15–49 in Peru, by type (ENDES 2024)



Note. Categories are not mutually exclusive. Data from the National Institute of Statistics and Informatics (INEI, 2025). Figures are contextual and do not measure judicial treatment.

The study by Rivero et al. (2024), based on focus groups and interviews with women victims in Cusco, Apurímac, Arequipa, and San Martín, provides qualitative evidence on how context shapes the routes of access. In the localities studied, these routes depended on community authorities and on the normalization of violence: tolerance, secrecy, and silence in Apurímac; resolution by community authorities with the participation of *ronderos* in Cusco; community indifference in Arequipa; and initial recourse to community *apus* in San Martín, with referral to the State system occurring only in certain cases. These findings pertain to the localities studied and cannot be generalized to the natural region. The authors conclude that victims' decisions are shaped by the cultural context (Rivero et al., 2024).

3.3 Supreme Court Decisions by Legal Mechanism

Table 1 summarizes the four decisions and their differing relationship to Law No. 30364. Table 2 codes the equality dimension of each decision and its contrast with the reference standard, and Table 3 presents the analysis matrix for categories (a)–(e); “not identified” indicates that the category is not addressed in the reasoning examined.

3.3.1 No cultural argument: an analytical contrast (Cassation No. 1177-2019, Cusco)

In Cassation No. 1177-2019, Cusco, the Superior Chamber reclassified an attempted femicide as aggression against a woman and reduced the sentence from ten to two years and the civil reparation from S/ 15,000 to S/ 5,000, on the basis of its assessment of the evidence concerning the danger to life and the suitability of the means employed. The Supreme Court, having weighed the expert assessment, did not overturn that point but supplemented the judgment by ordering therapeutic treatment for both the victim and the perpetrator and notification to the family court judge, since judgments on gender-based violence must include protection and recovery measures (Supreme Court of Justice of the Republic, 2021). Because no cultural or communal circumstance was invoked, the case serves as an analytical contrast: a divergence between courts may stem from evidentiary assessment and legal classification without any sociocultural element.

3.3.2 Alleged custom and expert evidence (Cassation No. 397-2021, Amazonas)

In Cassation No. 397-2021, Amazonas, the first-instance judgment of October 16, 2019, imposed ten years' imprisonment on the basis of the concurrence of age-reduced criminal responsibility (Art. 22 of the Penal Code) and culturally conditioned error of understanding—the latter supported by an anthropological report and analyzed in the decision as a relative, culturally conditioned error of prohibition. The Supreme Court deemed the expert report incomplete, among other reasons because of the manner in which cultural patterns were documented, the use of statistics that did not distinguish pregnancies resulting from sexual violence, and the insufficient consideration of the victim's perspective (Supreme Court of Justice of the Republic, 2022).

This is a borderline case: the ruling is criminal and turns on Article 15 of the Penal Code, yet it concerns sexual violence against a girl who falls within the scope of Law No. 30364. Because the defendant was the sole appellant, the Court could not modify

the judgment to his detriment without breaching the prohibition of *reformatio in peius*; it therefore annulled the appellate judgment of October 5, 2020, and ordered a new appellate hearing. The Court also examined equality before the law with respect to the restrictions of Article 22 of the Penal Code. The case shows that anthropological expertise is relevant to assessing culturally conditioned error, but that the punitive outcome is determined by more than one legal institution and by procedural rules, and therefore cannot be attributed solely to the cultural component; the outcome of the new hearing is not on record (Supreme Court of Justice of the Republic, 2022).

3.3.3 Custom alleged without expert evidence and a distinct claim of mistake of fact (Appeal for Annulment No. 12-2023, Piura)

In Appeal for Annulment No. 12-2023, Piura, the trial judgment of August 18, 2022, imposed five years' imprisonment and S/ 300 in civil reparation on a man prosecuted for the rape of a thirteen-year-old girl. The events, which occurred in August 2004, were classified under Article 173, first paragraph, subsection 3, of the Penal Code, as amended by Law No. 28251, which provided for a penalty of no less than twenty and no more than twenty-five years where the victim was between ten and fourteen years of age. The defense argued that an ancestral custom of giving minors in marriage existed and submitted a marriage-commitment agreement signed before a justice of the peace. The Supreme Court rejected the claim of culturally conditioned error of understanding because the anthropological expert opinion required by Plenary Agreement No. 1-2015/CIJ-116 was absent and in light of the circumstances of the case; the alleged custom therefore did not constitute an established cultural practice. Separately, the Court dismissed the claim of mistake of fact (*error de tipo*) as to the victim's age on the basis of objective corroborating evidence (the factual circumstances, the minor's vulnerability, local cultural norms, and the defendant's capacity for discernment) (Supreme Court of Justice of the Republic, 2024).

The Supreme Court considered the five-year sentence questionable because it fell below the statutory minimum, but upheld it owing to the limits of the appeal and the prohibition of *reformatio in peius* (Art. 300 of the Code of Criminal Procedures) (Supreme Court of Justice of the Republic, 2024). It also ordered the local Women's Emergency Center to provide comprehensive care and follow-up to the victim and, where applicable, her family, with emphasis on psychological recovery. The ruling is examined as a temporal contrast regarding cultural argumentation, expert evidence, procedural rules, and recovery measures, and not as evidence of the application of Law No. 30364. Culturally conditioned error of understanding (Art. 15) and mistake of fact remain distinct categories; the latter is mentioned only to describe the evidentiary reasoning.

3.3.4 Gender stereotypes (Cassation No. 1481-2022, Selva Central)

In Cassation No. 1481-2022, Selva Central, the trial court sentenced the defendant to ten years' imprisonment for attempted femicide (judgment of February 9, 2021). The First Mixed and Criminal Appeals Chamber of La Merced-Chanchamayo, in its appellate judgment of May 12, 2022, reclassified the acts as attempted parricide and reduced the sentence to five years, among other reasons because it found no evidence that the attempt on the victim's life was motivated by her status as a woman and because it took into account, among other factors, the defendant's primary-level education. The Supreme Court, in a ruling of June 15, 2023, quashed the appellate judgment, upheld the first-instance conviction—including the ten-year sentence—and rejected the requirement of additional proof of the victim's status as a woman (Supreme Court of Justice of the Republic, 2023). It also identified patterns of control and domination associated with gender stereotypes: jealousy and control over the victim's clothing, outings, and relationships. The case is analyzed as evidence of gender stereotyping, not of a cultural practice specific to the Selva Central; educational attainment is a personal circumstance that is not, by itself, a sociocultural indicator.

Table 1 Supreme Court decisions analyzed (2021–2024)

Decision (date)	Relation to Law No. 30364 / mechanism	Subject matter	Relevant elements	Supreme Court ruling
Cassation No. 1177-2019, Cusco (February 17, 2021)	Law as framework; analytical contrast without cultural argument	Attempted femicide reclassified as aggression against a woman	No reference to custom or community	Did not overturn the reclassification; ordered therapeutic treatment and notification to the family court judge

Decision (date)	Relation to Law No. 30364 / mechanism	Subject matter	Relevant elements	Supreme Court ruling
Cassation No. 397-2021, Amazonas (September 27, 2022)	Borderline criminal case; alleged custom and anthropological evidence	Sexual violence against a 12-year-old girl	Custom invoked; anthropological report; age-reduced responsibility	Deemed the expert report incomplete; annulled the appellate judgment (constrained by the prohibition of <i>reformatio in peius</i>) and ordered a new appellate hearing
Cassation No. 1481-2022, Selva Central (June 15, 2023)	Law as framework; gender stereotypes	Attempted femicide reclassified on appeal as attempted parricide	Neither custom nor community alleged; appellate chamber weighed primary education	Quashed the appellate judgment and upheld the first-instance conviction; rejected the requirement of additional proof of the victim's status as a woman
Appeal for Annulment No. 12-2023, Piura (January 16, 2024)	Temporal contrast; alleged custom without expert evidence; distinct mistake-of-fact claim	Rape of a 13-year-old girl	Alleged ancestral custom; marriage-commitment agreement; mistake of fact as to age; secondary education recorded by the Court	Rejected the cultural and mistake-of-fact claims; upheld the five-year sentence within the limits of the appeal; ordered care and recovery for the victim (events from 2004)

Note. Territorial references identify the rulings only and are not used as explanatory variables. Sources: Supreme Court of Justice of the Republic (2021, 2022, 2023, 2024).

Table 2 Treatment of equality and contrast with the reference standard

Decision	Equality code (formal / substantive / none)	Treatment of equality and relevant standards	Contrast with reference standard (discrepancy criteria i–iii)	Relevant factor identified	Outcome of review
Cassation No. 1177-2019, Cusco	Substantive, only for the supplemented aspect (protection and recovery measures); formal equality not addressed	Gender perspective: orders protection and recovery measures	No discrepancy under criteria (i)–(iii). The Court did not modify the reclassification or sentence; the appeal concerned legal classification and evidentiary assessment	No cultural or communal circumstance alleged	Reclassification left unchanged; protection and recovery measures added
Cassation No. 397-2021, Amazonas	Formal (equality before the law, Art. 22 PC) and substantive (gender perspective, best interests of the child, victim's perspective in the expert report)	Expert report must incorporate the gender perspective, the best interests of the child, and the victim's perspective; equality before the law regarding Art. 22 PC	Discrepancy under criterion (ii) in the lower court: an incomplete expert report supported mitigation; reviewed by the Supreme Court, which annulled the appellate judgment	Alleged custom; anthropological report; age-reduced responsibility	New appellate hearing ordered; subsequent outcome not on record

Decision	Equality code (formal / substantive / none)	Treatment of equality and relevant standards	Contrast with reference standard (discrepancy criteria i–iii)	Relevant factor identified	Outcome of review
Cassation No. 1481-2022, Selva Central	Substantive (gender perspective; patterns of control and domination); formal equality not expressly addressed	Rejects additional proof of the victim's status as a woman; identifies patterns of control consistent with gender stereotypes	Discrepancies under criteria (i) and (ii) in the appellate judgment: an extra requirement to prove gender motivation, and primary education weighed as mitigating; both corrected by the Supreme Court	Evidentiary requirement on the victim's status as a woman; primary education weighed by the appellate chamber	First-instance conviction (ten years) reinstated
Appeal for Annulment No. 12-2023, Piura	Substantive (vulnerability of the minor; care and recovery); equality before the law not expressly invoked	Applies Plenary Agreement 1-2015 to cultural error and, separately, rules on mistake of fact; supplements the judgment with care and recovery	Discrepancy under criterion (iii): five years, below the statutory minimum (twenty years), not corrected owing to the limits of the appeal; cultural and mistake-of-fact claims rejected	Alleged custom; marriage-commitment agreement; mistake of fact; secondary education	Art. 300 CCrP limited review; care and recovery ordered; temporal contrast only (events from 2004)

Note. PC = Penal Code; CCrP = Code of Criminal Procedures. A discrepancy does not constitute a finding of discrimination (see Section 2.4).

Table 3 Case-law analysis matrix by category (a–e)

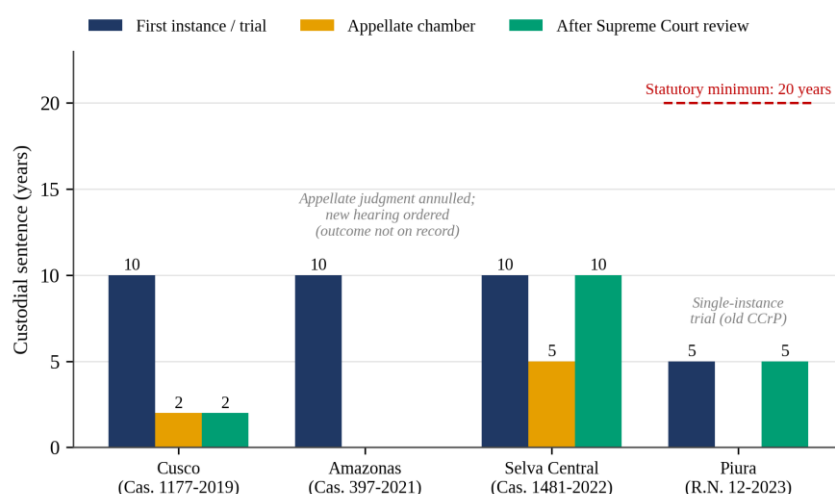
Decision	(a) Sociocultural context in the reasoning	(b) Required standard of proof	(c) Sentence and civil reparation	(d) Protection and recovery measures	(e) Gender stereotypes
Cassation No. 1177-2019, Cusco	No cultural or communal circumstance invoked	Assessment of evidence on danger to life and suitability of means; expert assessment weighed	Superior Chamber reduced the sentence from ten to two years and reparation from S/ 15,000 to S/ 5,000; not overturned	Supplemented by the Court: therapeutic treatment for victim and perpetrator; notification to the family court judge	Not identified
Cassation No. 397-2021, Amazonas	Custom invoked; culturally conditioned error (Art. 15 PC) supported by an anthropological report	Anthropological report under Plenary Agreement 1-2015; deemed incomplete (documentation of cultural patterns, undifferentiated statistics, insufficient victim perspective)	Ten years at first instance (age-reduced responsibility and cultural error); appellate judgment annulled; new hearing, outcome undetermined	Not identified in the decision analyzed	Not expressly addressed; gender and victim-centred perspective required in the expert report

Decision	(a) Sociocultural context in the reasoning	(b) Required standard of proof	(c) Sentence and civil reparation	(d) Protection and recovery measures	(e) Gender stereotypes
Cassation No. 1481-2022, Selva Central	Neither custom nor community invoked; primary education treated as a personal circumstance, not a sociocultural indicator	Requirement of additional proof of the victim's status as a woman rejected	First instance: ten years; appellate chamber: attempted parricide, five years; Supreme Court quashed and restored ten years	Not identified in the decision; the Court noted the need to train prosecutors	Present: patterns of control and domination (jealousy; control over clothing, outings, and relationships); extra requirement rejected
Appeal for Annulment No. 12-2023, Piura	Alleged ancestral custom and marriage-commitment agreement before a justice of the peace; cultural error rejected as the practice was not substantiated	Absence of the anthropological report required by the Plenary Agreement; mistake of fact rejected on objective corroborating evidence	Five years and S/ 300, below the twenty-year statutory minimum; deemed questionable but upheld (Art. 300 CCrP)	Comprehensive care and follow-up for the victim by the Women's Emergency Center, with emphasis on psychological recovery	Not expressly addressed

Note. “Not identified” indicates that the category is not addressed in the reasoning examined. PC = Penal Code; CCrP = Code of Criminal Procedures.

Figure 4 visualizes the custodial sentences imposed at each procedural level. It shows that the largest divergences between instances (Cusco and Selva Central) arose in cases without any cultural argument, whereas the only sentence below the statutory minimum (Piura) remained unchanged because of the limits of the appeal rather than because of the cultural claim, which was rejected.

Figure 4 Custodial sentences at each procedural level in the four decisions analyzed



Note. In Cusco, the Supreme Court left the appellate reclassification unchanged; in Selva Central, it restored the first-instance sentence; in Amazonas, the appellate judgment was annulled and the result of the new hearing is not on record; Piura was tried at a single instance under the former Code of Criminal Procedures (CCrP), and the five-year sentence, below the 20-year

statutory minimum (dashed line), was upheld within the limits of the appeal. Sources: Supreme Court of Justice of the Republic (2021, 2022, 2023, 2024).

3.4 Integrated Findings from the Case-Law Corpus and Complementary Evidence

The two mechanisms described below were identified only in Amazonas and Piura, where Law No. 30364 is not directly applied; in Cusco and Selva Central, where the Law operates as a framework, no cultural circumstance was invoked. The findings therefore describe how cultural context enters criminal case law related to the Law, not how the Law is applied in specific cultural settings. The mechanisms are: (1) the *assertion* of a cultural custom or practice and its legal treatment; and (2) the *specialized evidence* required by the legal system or case law to establish and assess that context. Gender stereotypes constitute a distinct analytical factor, and published empirical evidence adds a complementary dimension of access to justice; material drawn from other sources is not presented as a case-law finding, and region of origin is not treated as a causal explanation.

Figure 5 condenses the coding results into a single matrix. Two patterns stand out: substantive equality was present in all four decisions, whereas formal equality was expressly addressed only in Amazonas; and evidentiary issues (category b) were decisive in every case, while a cultural claim appeared in only two of them—and was established in neither.

Figure 5 Coding matrix of the four Supreme Court decisions

	(a) Socio-cultural context	(b) Expert / evidentiary issue	(c) Discrepancy (criteria i–iii)	(d) Protection / recovery measures	(e) Gender stereotypes	Formal equality	Substantive equality
Cusco	—	✓	—	✓	—	—	✓
Amazonas	✓	✓	✓	—	—	✓	✓
Selva Central	—	✓	✓	—	✓	—	✓
Piura	X	✓	✓	✓	—	—	✓

Present / addressed
 Alleged, not established
 Not identified

Note. ✓ = category present or addressed in the reasoning; X = cultural custom alleged but not established; — = not identified. Category (c) records a discrepancy under criteria (i)–(iii) at any procedural level (see Section 2.4 and Table 2).

The first mechanism—the invocation of custom or cultural practice—appears only in the two related criminal decisions and is treated differently in each. In Amazonas, custom was invoked and, through culturally conditioned error of understanding, concurred with age-reduced responsibility in the first-instance sentence; the Supreme Court reached no definitive conclusion on that claim, questioning the soundness of the report and ordering a new appellate hearing (Supreme Court of Justice of the Republic, 2022). In Piura, the Court rejected the claim of culturally conditioned error, so the alleged custom was not established as a practice (Supreme Court of Justice of the Republic, 2024). In both cases, the claim was a starting point rather than a determination: its legal relevance depends on Article 15 of the Penal Code and on its substantiation, and the intercultural approach of Law No. 30364 does not permit discriminatory cultural practices that condone violence (MIMP, 2020, Art. 3).

The second mechanism is expert evidence. Plenary Agreement No. 1-2015/CIJ-116 sets criteria for anthropological expertise and other corroborating evidence in intercultural proceedings for the rape of girls and adolescents in which Article 15 is at issue. In Amazonas, the report was deemed incomplete; in Piura, the culturally conditioned error was rejected, among other reasons, because no expert analysis was offered. These cases show that such evidence is a precondition for a cultural claim to be legally evaluated, although its quality or absence does not by itself determine the outcome of every proceeding.

The complementary dimension is access to justice. Rivero et al. (2024) show that, in the localities studied, the routes taken by women victims may pass through community authorities, family members, or other channels before reaching State institutions. These are context-specific experiences that cannot be generalized to all communities in those regions; their value here is to

show that a uniform national rule does not eliminate local differences in access, institutional coordination, and perceived legitimacy. This is not evidence derived from the analysis of the corpus.

Gender stereotypes are examined separately. In Selva Central, the Supreme Court rejected the requirement of additional proof of the victim's status as a woman; that reasoning concerns the gender perspective and the context of violence, not the culture of a population or territory. The defendant's educational background is a personal circumstance considered by the appellate chamber, not a sociocultural indicator.

4. DISCUSSION

Taken together, the corpus makes it possible to identify the mechanisms through which cultural circumstances enter judicial reasoning—above all, their assertion and evidentiary substantiation in the criminal cases examined. These findings stem from Amazonas and Piura; Cusco serves as a point of contrast, and Selva Central provides a case on gender stereotypes and protection. The evidence on access to justice adds an institutional dimension that is not a jurisprudential finding. The central caveat is that, with only four decisions, it is not possible to establish causal relationships between culture and sentencing, systematic differences between regions, or national trends: the results are analytical patterns, not a consolidated line of case law.

These results engage with and extend the Peruvian literature on the implementation of Law No. 30364, intersectionality, and pathways to justice (Jiménez, 2022; Martos, 2023; Rivero et al., 2024; Sánchez, 2021; Torres et al., 2023). Whereas those studies focus mainly on effectiveness, policy design, or victims' trajectories, the present contribution is to organize Supreme Court reasoning according to mechanisms of influence and to separate cultural circumstances from gender stereotypes. This separation matters for the international debate on the cultural defense: the Peruvian decisions do not treat culture as an automatic excuse, as feared by critics of culturalist reasoning (Volpp, 2000), but neither do they exclude it a priori; instead, they channel it through an individualized, evidence-based test, which is closer to the structured admission of cultural evidence advocated by Renteln (2004).

The principle of equality operates in different ways within judicial reasoning and here also serves as a cross-cutting interpretive framework. Only Cassation No. 397-2021 expressly addresses equality before the law, in relation to Article 22 of the Penal Code, and this must be distinguished from the assessment of cultural context, age-reduced responsibility, and reinforced protection for girls and women. Substantive equality does not by itself authorize the creation of aggravating or mitigating circumstances in criminal law; rather, it requires an analysis of the relevant conditions within the existing legal framework (Fredman, 2016).

The Amazonas decision illustrates the interplay of several rules within a single case: the Court examined Article 22 of the Penal Code in light of equality before the law and age-reduced responsibility, and linked the cultural issue to Article 15 and to the anthropological report. This precludes attributing the punitive outcome solely to cultural circumstances. The incompleteness of the report reveals a demanding evidentiary standard, consistent with the call in Plenary Agreement No. 1-2015/CIJ-116 for expertise that incorporates the victim's perspective, but it does not by itself support the conclusion that the judgment was discriminatory. The practical effectiveness of these criteria was, moreover, conditioned by procedural rules: the annulment of the appellate judgment and the new hearing—whose outcome is not recorded—show the need to distinguish the content of the legal standard, its concrete application, and the procedural limits of review.

The Selva Central decision is consistent with the Inter-American standard that recognizes gender stereotyping as both a cause and a consequence of violence against women (Inter-American Court of Human Rights, 2009) and with the CEDAW Committee's warning that stereotypes in the justice system impair women's right to an impartial trial (CEDAW Committee, 2015). By rejecting an additional evidentiary burden regarding the victim's status as a woman and by naming the patterns of control in the relationship, the Supreme Court applied the gender perspective as a corrective tool, in line with the conceptual distinction between stereotypes and cultural context adopted in this study (Cook & Cusack, 2010).

The statistical data do not prove differences in judicial treatment, and the Cusco decision shows no cultural influence. What is observed is that alleged cultural circumstances, evidence, judicial reasoning, and procedural rules can alter how a case enters the justice system and how it is resolved. A difference in sentencing or in evidentiary requirements does not, by itself, amount to legally established discrimination, and gender stereotypes are a separate factor not tied to any region. Table 2 accordingly shows that the decisions apply equality and the gender perspective in different contexts and that each review was shaped by subject matter, evidence, and procedure: in Cusco, divergence stemmed from legal classification and evidentiary assessment; in

Amazonas, cultural considerations, age-reduced responsibility, and the prohibition of *reformatio in peius* converged; in Selva Central, an additional evidentiary requirement was rejected; and Piura offers a contrast predating the Law. Equality thus functions as an interpretive framework rather than as a category applied uniformly across decisions.

4.1 Recommendations

The recommendations distinguish what can be corrected through judicial and regulatory application from what would require legal reform. They are proposals for legislative and regulatory evaluation, not amendments whose necessity has been demonstrated by this sample; priority is therefore given to training, evidence-gathering, and monitoring. Proposals on coordination with the special jurisdiction and on linguistic access are supported by complementary evidence on access to justice and are not direct results of the jurisprudential analysis.

1. Evaluate a clarification of Article 3 of the TUO of Law No. 30364 that reinforces, within the intercultural approach, the prohibition on invoking discriminatory cultural practices to justify violence and requires an individualized assessment of the context. Culture, age, or educational level should not operate as automatic mitigating or aggravating factors.
2. Evaluate whether Articles 15, 22, and 45 of the Penal Code require adjustments to make the individualized assessment of cultural, personal, and social circumstances more explicit, so that cultural affiliation, age, or educational level alone do not automatically reduce the sentence. Any amendment must respect the principle of criminal legality and is formulated as a line of evaluation, not as a consequence demonstrated by the four decisions.
3. Adapt, through the appropriate regulatory instrument, the rural-justice mechanisms set out in Articles 64 to 69 of the Regulations (coordination, referral of proceedings, protective measures, and articulation with the special jurisdiction), without conferring on them the power to create, eliminate, or expand grounds of liability or punishability reserved to statute.
4. Evaluate a clarification of Article 62 of the TUO (Article 47 in the Law's original numbering) to strengthen coordination between the special and ordinary jurisdictions, within constitutional and legal limits, so that protective measures and assistance are not interrupted because of the institutional route chosen.
5. Evaluate the implementation of the linguistic-access guarantees for persons reporting violence in indigenous languages, particularly Article 20.2 of the Regulations as amended by Supreme Decree No. 004-2025-MIMP. Rather than creating a guarantee that already exists, future work should examine the availability and coordination of interpreters and translators, the use of the National Registry of Interpreters and Translators of Indigenous or Native Languages, and the gaps between regulation and implementation. This issue is distinct from the reform introduced by Law No. 32298 regarding Peruvian Sign Language interpreters (Congress of the Republic, 2025).
6. Institutionalize and evaluate training on the gender perspective, interculturality, and stereotypes for judges, prosecutors, and justices of the peace, building on initiatives such as those of the Superior Court of Justice of Junín (2021) and the intercultural protocol of the Superior Court of Justice of San Martín (2022); the Supreme Court itself highlighted the need to train prosecutors (Supreme Court of Justice of the Republic, 2023).
7. Create, where legally appropriate, a judicial and prosecutorial registry disaggregated by judicial district, urban or rural area, language or self-identified ethnicity, claims based on custom or community, presence of expert evidence, duration of protective measures, reclassifications, and sentences, in order to determine whether such claims and expert evidence are associated with differences in decisions, distinguishing them from gender stereotypes. Its design must incorporate data minimization, anonymization or pseudonymization, and restricted access, in accordance with personal data protection regulations.
8. Strengthen the monitoring of first-instance decisions and the timely use of appeals against contested reclassifications or sentences, while respecting the procedural framework of each case: Appeal for Annulment No. 12-2023, Piura, was resolved under the Code of Criminal Procedures, whose Article 300 defined the scope of review (Supreme Court of Justice of the Republic, 2024).

4.2 Future Lines of Research

Future studies should (a) quantify the granting, duration, and enforcement of protective measures by judicial district, incorporating variables such as rurality, language, and self-identified ethnicity; (b) compare protection proceedings before family courts and justices of the peace according to whether customary law or communities with their own norms are invoked; and (c) draw on direct testimony from victims, communal authorities, and *ronderos* to connect jurisprudential patterns with lived pathways to justice.

4.3 Limitations

The sample is purposive and small (four decisions); it is not representative, may be limited by the availability of published rulings, and does not allow the scope of national case law to be estimated. The decisions are criminal and do not represent the full range of protection proceedings before family courts; the Piura decision concerns events from 2004, and the Amazonas decision is a borderline case. Coding followed a codebook defined in advance and is documented in Tables 2 and 3, which allows its review; however, no statistical measure of inter-coder agreement is reported, so the assignment of decisions to categories remains interpretive. The documentary design does not incorporate original interviews or testimony. For these reasons, the findings identify mechanisms and patterns of reasoning but do not allow their frequency to be estimated, causality to be established, or the patterns to be attributed to specific regions.

5. CONCLUSIONS

1. Law No. 30364 establishes a national framework of equality and non-discrimination; in the decisions analyzed, no differentiated legal rule based on territorial origin was identified. The differences observed relate to how certain circumstances are alleged, proven, and substantiated, as well as to subject matter and the applicable procedural rules.
2. The cases examined offer relevant insights into the need to avoid gender stereotypes, the evidentiary requirements for culturally conditioned error in the two cases where it was discussed, and the importance of protection, care, and recovery measures. Owing to its size and heterogeneity, the sample does not allow a general line of case law or systematic regional differences to be identified.
3. In Amazonas, the alleged custom and the anthropological report were relevant to culturally conditioned error, but the first-instance sentence also rested on age-reduced responsibility. In Piura, the absence of expert evidence contributed to the rejection of the cultural claim; the Court separately rejected the mistake-of-fact claim and ordered care and recovery for the victim, although the decision is not evidence of the application of Law No. 30364 because it concerns events from 2004. In Selva Central, a gender-stereotyping issue was identified, separate from the sociocultural context, and in Cusco no relevant cultural circumstance was found.
4. Published evidence on access to justice shows that, in the localities studied by Rivero et al. (2024), pathways to assistance may involve community authorities and other actors before contact with the State system. The current legal framework also recognizes specific linguistic guarantees in Article 20.2 of the Regulations, whose implementation warrants empirical evaluation.
5. Priority should be given to measures concerning enforcement, coordination, training, the implementation of existing guarantees, and the generation of evidence before undertaking comprehensive reform. Any amendment to Articles 15, 22, or 45 of the Penal Code, Article 62 of the TUO, or the Regulations must respect the distribution of regulatory powers and the framework in force as of September 30, 2026. The take-home message is clear: culture can enter Peruvian criminal adjudication only through individualized, expert-supported assessment—never as a shortcut that excuses violence against women and girls.

DECLARATIONS

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Ethical considerations. The study analyzed only publicly available judicial decisions, regulations, and published literature and involved no human participants; ethical approval was therefore not required. No information capable of identifying victims has been reproduced.

Data availability. All decisions, statutes, and documents analyzed are publicly accessible at the sources listed in the References. The coding results are fully reported in Tables 2 and 3, and the codebook is provided in Appendix A.

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APPENDIX A. CODEBOOK

Table A1 Codebook: categories and decision rules

Category	What is coded	Decision rule
(a) Use of the sociocultural context	Alleged or invoked custom or cultural practice; reference to a community, communal authority, communal justice, or community norms; other personal circumstances only if the decision expressly links them to cultural understanding or legal assessment	Coded only when the reasoning, the parties, or the source expressly incorporate the cultural element. Region or place of origin is not used as an indicator.
(b) Required standard of proof	Evidence and evidentiary requirements applied or demanded (e.g., anthropological report, proof of status as a woman, corroboration)	The content of the reasoning is recorded and compared with the applicable law and, where relevant, Plenary Agreement No. 1-2015/CIJ-116.
(c) Sentence and civil reparation	Sentence and civil reparation set at each level of the proceedings and any modification	A discrepancy due to unequal application is recorded if there is: (i) an evidentiary requirement not provided for by law; (ii) a personal or cultural circumstance treated as mitigating without individualized assessment or sufficient evidence; or (iii) a penalty or measure below the legal minimum, or omission of mandatory measures, without admissible justification. This is not a finding of discrimination.
(d) Protection and recovery measures	Protection, care, and recovery measures ordered, applied, or omitted	Only measures expressly set out in the decision are coded.

Category	What is coded	Decision rule
(e) Gender stereotypes	Generalized preconceptions about women and men that influence the assessment of facts, evidence, or legal classification	Coded separately from the sociocultural context and not attributed to any region or community.
Equality (cross-cutting dimension)	Formal, substantive, or none	Formal: invokes equality before the law or expressly applies the same rule. Substantive: considers conditions of vulnerability or starting points and adopts or requires a differentiated response within the legal framework. None: neither is addressed. Formal and substantive may be assigned jointly.

Note. Categories and rules were fixed before reading the decisions and applied uniformly to all four rulings.