

PERU

Criminal Provisions

Decree Law No. 25475 punishes crimes of terrorism. Article 2 defines the offense of terrorism: “anyone who carries out acts against the life, physical integrity, health, freedom or security of individuals or against property . . . or affects the international relations or safety of society or the State . . . shall be deemed to have committed the crime of terrorism.” Under Article 4 of the Decree, collaboration with terrorists is criminalized: “anyone who willfully secures, gathers, collects or supplies any goods or means or in any manner engages in acts such as to further the commission of offences referred to by this Decree Law or furthers the goals of the terrorist group, shall be punished by a term of imprisonment of no less than 20 years.” Article 4 specifically covers only individuals who are *not* members of terrorist organizations and applies only to acts committed with the territory of Peru. Individuals who repeatedly assist terrorists are treated as members of the terrorist organization, and hence are subject to greater punishment. Under Article 5, persons are liable to punishment “by virtue of the mere fact of belonging to a terrorist group,” without distinction between foreign and domestic terrorism groups. Statements made in support of terrorism are also criminalized by Article 7 of the Decree. Furthermore, statements made in favor of terrorism by teachers or professors are also criminalized under Decree Law No. 25880, “with a view to preventing them from influencing their students.”

Conspiring against a foreign State is criminalized under Article 338 of the Peruvian Penal Code. Perpetration of any act within the territory of the Republic intended to challenge the political organization of a foreign State through violence is defined under the Penal Code as “an offence jeopardizing the foreign relations of the State.” Commission of such an act is punishable by up to five years imprisonment. In addition to the crime of terrorism, Peru also recognizes the crime of high treason, by way of Decree No. 25659 (1992). High treason is an aggravated form of terrorism, involving: (1) an act provided for in Article 2 of the Decree Law No. 25475; *and* (2) use of one of the following modalities: (a) ‘car bombs’ or similar devices, explosives or weapons of war which cause or are likely to cause serious danger to the population, or (b) unlawful possession or storage of explosives, ammonium nitrates, or components of these. In addition, a person commits the crime of high treason if he: (1) belongs to a leadership group of a terrorist organization, (2) is a member of an armed group, gang, death squad or similar group of a terrorist organizations charged with the elimination of persons; or (3) provides or spreads reports, data, plans, projects or other documentation or allow terrorists access to building or premises in his care. The penalty for committing a crime of high treason is life imprisonment.

Counter-Terrorism Authorities

Legislative Decree No. 370 establishes the Ministry of the Interior as the “public organ in charge of activities connected with governance, internal security, police function, identification, migratory movement and naturalization.” The Ministry of the Interior is also responsible for overseeing the Directorate of Intelligence and the Counter-Terrorism Directorate. The Directorate of Intelligence oversees the intelligence system of the Ministry of the Interior, and is responsible for producing strategic intelligence (including the handling of terrorism). The Counter-Terrorism Directorate of the National Police of Peru is charged with preventing terrorism and investigating and reporting crimes of terrorism. The International Terrorism Division is responsible for cases connected with international terrorism. The Office of the Special Prosecutor for Terrorism works with the Counter-Terrorism Directorate to investigate “any events (trafficking in persons, forging of passports and visas, trafficking in arms, ammunition, explosives, etc.) that might bear any relation to activities intended to support terrorist groups.”

Biosecurity

Law No. 27104 on the Use of Genetically Modified Organisms, 4 January 1999, Art.12, prohibits the use of genetically modified organisms in biological weapons as well as in harmful practices for the environment and human health.

Preventing Terrorists From Obtaining Weapons

Peru has several laws aimed at controlling access to weapons within the country. Under Article 4(e) of Decree Law No. 25475 of 5 May 1992, “the manufacture, acquisition, possession, theft, storage or supplying of arms, ammunition, explosive, asphyxiating, inflammable, toxic or any other type of substances or objects that might cause death or injury” also constitutes an act of collaboration. “The possession or concealment of arms, ammunition, or explosives belonging to the armed forces or the National Police of Peru constitute an aggravating circumstance.”

In addition, Article 279 of the Penal Code. The Act criminalizes “possession and manufacture of arms, ammunition, and explosives; inflammable, asphyxiating, or toxic substances; and substances or materials intended for their preparation.” Crimes under this Act are punishable with 6 to 15 years imprisonment. Legislative Decree No. 846 (1996) prohibits “importation and marketing of ammonium nitrate, and the components which enter into its preparation, in any form or presentation, and under any name.” Illegal possession, importation, or use of ammonium nitrate for use in terrorist acts is also punishable under Decree No. 25475.

Peru also has implemented legislation aimed at controlling the manufacture and use of explosives by civilians. Decree Law No. 25707 was passed in 1996, with the aim of improving the country’s anti-subversive strategy. The Decree increased control measures “in the manufacture, marketing, transport, warehousing, use and destruction of explosive devices for civilian use and the inputs that may enter into their manufacture.” The Directorate for Control of Security Services and Civilian Use of Weapons, Munitions and Explosives for the Ministry of the Interior is in charge of establishing control regulations under this Decree.

Preventing, Suppressing and Criminalizing the Financing of Terrorism

Under Decree Law No. 25475 of 5 May 1992, providing economic assistance “for the purpose of financing the activities of terrorist elements or groups shall be punished by a term of imprisonment of not less than 20 years.” Laundering of funds from narco-terrorism is also penalized under Article 296-B of the Peruvian Penal Code by life imprisonment. Since 2001, “new laws have been enacted to permit more effective investigation into cases of corruption.” These laws may also be used to investigate terrorist actions. Procedural Act No. 27379 provides for special restrictions on individual rights during preliminary investigations. This includes the freezing of assets and the lifting of bank secrecy and tax confidentiality.

International Cooperation

Peru has ratified all twelve international conventions relating to terrorism, and is working to implement adequate domestic legislation to ensure full compliance with these international conventions. In 1988, Peru approved the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance (1971). Peru ratified the International Convention for the Suppression of the Financing of Terrorism through Supreme Decree No. 084-2001-RE (2001).

Peru has signed a number of agreements with several states to facilitate coordination and information-exchange activities, including bilateral agreements on mutual assistance in criminal matters, and extradition treaties. In cases where no agreement exists between States, “Peru can act on the basis of the principle of international reciprocity.”

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Peru has also worked to actively assist other countries in preventing and suppressing terrorism. Members of the National Police of Peru have worked with other nations to coordinate operations aimed at fighting terrorism. Peru also frequently exchanges information through Interpol.

BIBLIOGRAPHY OF PERUVIAN LEGISLATION

Criminal Provisions

1. Legislative Decision No. 24811 (1988) (Ratified the Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crimes Against Persons and Related Extortion that are of International Significance (1971).
2. Decree Law No. 25475 of 5 May 1992 (crimes of terrorism).
 - a. Article 2 (definition of terrorism).
 - b. Article 4 (crime of collaboration).
 - c. Article 5 (membership in a terrorist organization).
 - d. Article 7 (statements made in support of terrorism).
3. Peruvian Penal Code, Article 338 (conspiracy against a foreign State).
4. Decree No. 25659 (1992) (crime of high treason).
5. Decree Law No. 25880 (statements made in support of terrorism by teachers & professors).

Preventing Terrorists From Obtaining Weapons

1. Penal Code, Article 279 (illegal possession of arms).
2. Decree Law No. 25475 of 5 May 1992, Article 4(e) (providing arms to terrorists).
3. Legislative Decree No. 846 (prohibits free importation and marketing of ammonium nitrate).
4. Decree Law No. 25707 (1996) (control of explosives).

Counter-Terrorism Authorities

1. Legislative Decree No. 370 of 4 February 1986.

Laws Pertaining To Biology

1. Law No. 27104 on the Use of Genetically Modified Organisms, 4 January 1999

Preventing, Suppressing and Criminalizing the Financing of Terrorism

1. Supreme Decree No. 084-2001-RE (2001) (ratifies the International Convention for the Suppression of the Financing of Terrorism).
2. International Convention for the Suppression of the Financing of Terrorism.
 - a. Decree Law No. 25475 of 5 May 1992 (crimes of terrorism).
3. Penal Code, Article 296-B (narco-terrorism).
4. Procedural Act No. 27379.