

"If the act causes serious wound or injury, or was committed for the purpose of robbery, the penalty shall be imprisonment for ten to twenty-five years.

"If the act causes the death of one or more persons the penalty shall be death."

Article 265 provides, in addition, that "if a person commits any of the acts enumerated in this chapter through carelessness, negligence, culpable ignorance, or lack of skill in his trade or profession, he shall be punished by one-fifth of the penalty to which he would have been liable if he had committed the act with criminal intent.

"If the offender commits the act in the discharge of a public office or in the practice of a science or skill in which he holds professional qualification, he shall also suffer dismissal and special or professional disqualification for a period not exceeding two years.

"A person committing through imprudence an offence punishable by death shall be punished by imprisonment for six to ten years." L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. II, pp. 432, 434.

(b) REGULATIONS FOR THE CONSULS OF THE REPUBLIC, 1 NOVEMBER 1871, AS AMENDED. "MINISTERIO DE RELACIONES EXTERIORES, REGLAMENTO CONSULAR" (1913). TRANSLATION FROM A. H. FELLER AND M. O. HUDSON, "A COLLECTION OF THE DIPLOMATIC AND CONSULAR LAWS AND REGULATIONS" (WASHINGTON 1933), VOL. II, PP. 946, 952.

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Article 51. In cases of offences (*delitos*) and crimes committed on the sea by Paraguayan citizens within the dominion and maritime and national jurisdiction of the place in which consuls of the Republic reside, and if the offender is apprehended, consuls shall request full particulars of the fact and shall inform their Government, forwarding the data obtained to the Minister of Foreign Relations.

Article 52. If a Paraguayan citizen is accused of any offence (*delito*) or crime committed on the sea, within the waters and the jurisdiction of the Republic (*en el mar, en aguas y jurisdicción de la República*), the consul shall claim jurisdiction over the said cause and request that jurisdiction be assumed by the tribunals of Paraguay, where the accused shall be tried; for this purpose he shall request an account of the circumstances, and that the criminal be sent to the Republic with full security, requesting the authorities of the country in which the consul resides for necessary cooperation and assistance for the safe detention of the accused. If the authorities of the country refuse the help asked, he shall inform the Government in order that the latter may take such steps as the case may warrant; the offences of forgery and piracy committed on the sea within the jurisdiction of the Republic are excepted from such requests.

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44. Peru

(a) PENAL CODE, 28 JULY 1924. L. JIMÉNEZ DE ASÚA AND F. CARSI ZACARÉS, "CÓDIGOS PENALES IBEROAMERICANOS" (1946), VOL. II, P. 465. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

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Article 4. Any person committing an offence in the territory of the Republic, or in national ships on the high seas, or in national warships in

waters under foreign jurisdiction if the offender is a member of the crew or performs some office in the ship, or in foreign merchant ships in jurisdictional waters, shall be liable to punishment.

Article 5. Offences committed outside the territory of the Republic shall be liable to punishment in the following cases:

1. The offences included in title III of the seventh section, title I of the ninth section, and title II of the fifteenth section, whether committed by nationals or aliens.

2. Offences not covered by the preceding sub-paragraph, committed by a national and entailing extradition under Peruvian law, provided they are also punishable in the State in which they were committed, if the offender enters the Republic in any manner whatsoever.

This provision shall be applicable to aliens who become Peruvian citizens after the commission of the punishable act.

3. Offences not covered by sub-paragraph 1, committed by an alien against a national and entailing extradition under Peruvian law, provided they are also punishable in the State in which they were committed, if the offender enters the Republic in any manner whatsoever and is not extradited.

4. Offences of any kind committed in the discharge of their duties by officials or employees in the service of the State.

Article 6. The provisions contained in the first three sub-paragraphs of the preceding article shall not apply:

1. If criminal proceedings have lapsed in accordance with the legislation of either country.

2. In the case of political-social offences.

3. If the accused has been found not guilty in the foreign country, or, if having been found guilty, he has served the penalty, or if the penalty is barred by lapse of time or has been remitted.

If the accused has not served the complete sentence, he may be retried in the courts of the Republic; the portion of the sentence served shall, however, be taken into account.

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Note. Article 267 of the Peruvian Penal Code provides that:

"Any person intentionally causing a flood or the destruction of a building or the sinking or stranding of a ship and wittingly endangering the life or health of persons or the property of others shall be punishable by penitentiary imprisonment for a term of not more than ten years.

"If the damage caused is of minor importance, the judge may sentence the offender to a term of not more than two years' imprisonment.

"If the flood, destruction, sinking or stranding was caused by negligence, the penalty shall be imprisonment of not more than two years or a fine of not less than three or more than 90 days' income." L. Jiménez de Asúa and F. Carsi Zacarés, *Códigos penales iberoamericanos* (1946), vol. II, p. 503.

The titles mentioned in sub-paragraph 1 of article 5 of the Penal Code deal with the following offences: piracy, treason and acts against military security, and falsification of currency and of official seals, stamps and marks.

- (b) CODE OF CRIMINAL PROCEDURE, ENACTED BY LAW NO. 9024, 23 NOVEMBER 1939. E. GARCÍA CALDERÓN, "CONSTITUCIÓN, CÓDIGOS Y LEYES DEL PERÚ" (4TH EDITION, 1942), PP. 538, 541, 602. TRANSLATION BY THE SECRETARIAT OF THE UNITED NATIONS.

Article 6. A citizen of Peru who, outside the territory of the Republic, commits an offence which is punishable both under Peruvian law and the law of the country in which it is committed, may be tried upon his return to Peru.

Article 7. An alien who, outside the territory of Peru, commits, as principal or accessory, an offence against the security of the State or an offence involving the counterfeiting of national coinage or paper money or the forgery of state documents, shall be tried in accordance with Peruvian laws if he has been arrested in Peru or if the Government obtains his extradition.

Article 8. A citizen of Peru who commits an offence outside the country or an alien who commits an offence in Peru shall not be liable to prosecution if he can prove that he was previously tried for the same offence and acquitted, or that he has served his penalty, or that it has been remitted, or that it is barred by a statute of limitations.

Article 19. Among examining magistrates of the same category jurisdiction to deal with an offence shall be determined by:

1. The place where the offence was committed;
2. The place where material evidence of the offence was discovered;
3. The place where the accused was arrested; and
4. The place of domicile of the accused.

Article 345. The Executive Power may deliver to the governments of foreign countries, on the condition of reciprocity, any individual accused or condemned by the courts or tribunals of the requesting country, provided that the crime or offence involved is among those specified in the Law of 23 October 1888, and that it was committed in its territory or in its territorial waters, aboard a merchant ship on the high seas, or aboard a warship, whatever its location at the time.

Note. A provision similar to that of article 345 of the Peruvian Code of Criminal Procedure may be found in article 1 of the Extradition Law of 23 October 1888. E. García Calderón, *Constitución, Códigos y Leyes del Perú* (4th edition, 1942), p. 1821.

45. Philippines

- (a) REVISED PENAL CODE, 8 DECEMBER 1930. G. B. GUEVARA, "COMMENTARIES ON THE REVISED PENAL CODE OF THE PHILIPPINES" (4TH EDITION, 1946), PP. 3-6.

Article 2. Application of its provisions.—Except as provided in the treaties and laws of preferential application, the provisions of this Code