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## Comparative Analysis of Global Domestic Terrorism Sentencing Laws

Evan Charles Pelecky

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CASE WESTERN RESERVE UNIVERSITY  
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MEMORANDUM FOR THE OFFICE OF THE PROSECUTOR  
SPECIAL TRIBUNAL FOR LEBANON

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**Issue: Comparative Analysis of Global Domestic Terrorism Sentencing Laws**

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**Prepared by Evan Charles Pelecky  
J.D. Candidate, 2015  
Autumn 2013**

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11. Statute of Cuba, Penal Code as approved by Act 62 of 29 December 1987.
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26. Statute of Nigeria, Public Order Act (2002).
27. Statute of the Republic of Korea, Criminal Code (1997).
28. Statute of the Russian Federation, Penal Code (2000).
29. Statute of Turkey, Law #3713 on Suppression of Terrorism (1995).
30. Statute of Ukraine, Criminal Code (2002).
31. Statute of the United Kingdom, Terrorism Act of 2000.
32. Statute of Uzbekistan, Criminal Code of 22 September 1994.
33. Statute of the United States of America, United States Code (2013).

## **I. INTRODUCTION**

### **A. Scope**

This memorandum compares domestic terrorism laws from select states across the globe. The list of states surveyed is derived from the United Nation's conglomeration of terrorism laws in 2002 as part of its Legislative Series, and augmented by its more comprehensive 2005 reiteration. The following twenty-nine countries are included in the analysis: Australia, Austria, Azerbaijan, Belarus, Canada, China, Cuba, Denmark, Ecuador, Egypt, El Salvador, Georgia, Guatemala, Hungary, Jordan, Kazakhstan, Lebanon, Maldives, Mexico, New Zealand, Nigeria, South Korea, Russia, Saudi Arabia, Turkey, Ukraine, the United Kingdom, Uzbekistan, and the United States. Countries like German,<sup>1</sup> Italy,<sup>2</sup> Japan,<sup>3</sup> and the Philippines<sup>4</sup> are excluded because these countries have no specific terrorism provision in their laws and prosecute such cases under traditional criminal statutes; ie. murder, conspiracy, and arson.

### **B. Summary of Conclusions**

#### **i. Minimum sentences, when prescribed, are more consistent between attacks that result in a person's death and those that do not than available maximum sentences.**

When states prescribe a minimum sentence for terrorist attacks, whether or not a person died as a result of that attack seems to have less of an impact on the available sentences than the

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<sup>1</sup> United Nations Legislative Series Book 23: National Laws and Regulations on the Prevention and Suppression of International Terrorism (vol. II, A-L) (2005), at p. 275 [Electronic copy provided in accompany e-media at Source 2.1].

<sup>2</sup> United Nations Legislative Series Book 22: National Laws and Regulations on the Prevention and Suppression of International Terrorism (vol. I) (2002), at p. 210 [Electronic copy provided in accompany e-media at Source 1].

<sup>3</sup> United Nations Legislative Series Book 23: National Laws and Regulations on the Prevention and Suppression of International Terrorism (vol. II, A-L) (2005), at p. 302 [Electronic copy provided in accompany e-media at Source 2.2].

<sup>4</sup> United Nations Legislative Series Book 24: National Laws and Regulations on the Prevention and Suppression of International Terrorism (vol. II, M-Z) (2005), at p. 145 [Electronic copy provided in accompany e-media at Source 3.1].

impact it has on the available maximum sentences. The median minimum sentence for an attack that causes a death is ten years in prison versus five years when nobody dies as a result of the attack.<sup>5</sup> The median maximum sentence for causing a death during the commission of a terrorist attack is more than forty years in prison versus fifteen for not causing a death.<sup>6</sup>

**ii. Many states impose criminal penalties for terrorism activity beyond the principal execution of an attack.**

A number of states have included within their terrorism statutes criminal penalties for activity surrounding terrorist attacks, for which the sentences vary greatly. These activities include: making threats of terrorism,<sup>7</sup> participation in terrorist groups or organizations,<sup>8</sup> recruiting persons into these groups or organizations,<sup>9</sup> financing or otherwise materially supporting terrorism,<sup>10</sup> and trafficking in weapons to be used for terrorism.<sup>11</sup> The sentences for these crimes range from prescribed minimum sentences of three months' imprisonment to maximum sentences of death.

**iii. The proportion of offenses carrying the death penalty or a potential life sentence differentiates between regions.**

Depending on the region in which a state is located, the proportion of offenses carrying the death penalty or life imprisonment as the maximum sentence varies. The Middle East has the

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<sup>5</sup> Tables 1 & 2.

<sup>6</sup> Tables 3 & 4.

<sup>7</sup> The surveyed states with such statutes are: Australia, Belarus, Canada, Ecuador, Guatemala

<sup>8</sup> The surveyed states with such statutes are: Australia, Austria, China, Ecuador, El Salvador, Georgia, Hungary, New Zealand, Nigeria, Ukraine, United Kingdom

<sup>9</sup> The surveyed states with such statutes are: Australia, Jordan, Kazakhstan, New Zealand, Nigeria

<sup>10</sup> The surveyed states with such statutes are: Azerbaijan, Denmark, New Zealand, Saudi Arabia, Ukraine, United Kingdom

<sup>11</sup> The surveyed states with such statutes are: Austria, China, Cuba, Ecuador, Jordan, Kazakhstan

highest proportion of offenses for which the death penalty is available, while Europe and Oceania have the highest proportion of offenses carrying a life sentence.

## **II. SENTENCING FOR COMMITTING A TERRORIST ATTACK**

Sentences for terrorist attacks range from 6 months imprisonment to the death penalty.<sup>12</sup> The most common aggravating factor that increases a convicted person's sentence is whether or not a person died as a result of the attack – the impact of which is greater on the available maximum sentences than the minimum sentences, where prescribed. Some states, however, including Denmark,<sup>13</sup> El Salvador,<sup>14</sup> Kazakhstan,<sup>15</sup> Mexico,<sup>16</sup> Saudi Arabia,<sup>17</sup> and Turkey,<sup>18</sup> have terrorism statutes that impose the same range of penalties regardless of any casualties.

### **A. For countries that prescribe a minimum sentence for terrorist attacks, there is an apparent, but not significant impact regarding whether an attack resulted in a person's death.**

The death of a person as a result of a terrorist attack increases minimum sentences when prescribed by statute, but not all of the states surveyed prescribe a minimum sentence for an act of terrorism. The following states do provide a mandatory minimum for the range of sentencing:

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<sup>12</sup> Tables 1-4

<sup>13</sup> Statute of Denmark, Criminal Code (2001), at Sec. 114 [Electronic copy provided in accompany e-media at Source 13].

<sup>14</sup> Statute of El Salvador, Penal Code (2001), at Ch. II art. 343 [Electronic copy provided in accompany e-media at Source 16].

<sup>15</sup> Statute of Kazakhstan, On combating terrorism (1999), at art. 233 [Electronic copy provided in accompany e-media at Source 21].

<sup>16</sup> Statute of Mexico, Federal Penal Code (2001), at art. 139 [Electronic copy provided in accompany e-media at Source 24].

<sup>17</sup> Saudi Arabia law is synonymous with the teaching of the Koran, here Ch. 5 Sec. 33 governs, See United Nations Legislative Series Book 24: National Laws and Regulations on the Prevention and Suppression of International Terrorism (vol. II, M-Z) (2005) [Electronic copy provided in accompany e-media at Source 3.2].

<sup>18</sup> Statute of Turkey, Law #3713 on Suppression of Terrorism (1995), at Pt. 1 Sec. 5 [Electronic copy provided in accompany e-media at Source 29].



Austria,<sup>19</sup> Azerbaijan,<sup>20</sup> Belarus,<sup>21</sup> China,<sup>22</sup> El Salvador,<sup>23</sup> Georgia,<sup>24</sup> Guatemala,<sup>25</sup> Hungary,<sup>26</sup> Kazakhstan,<sup>27</sup> Maldives,<sup>28</sup> Mexico,<sup>29</sup> Russia,<sup>30</sup> Ukraine,<sup>31</sup> and Uzbekistan.<sup>32</sup> The median minimum sentence for a no-fatality attack is five years' imprisonment.<sup>33</sup> If an attack causes the death of a person, the minimum sentences inflate to a median of ten years.<sup>34</sup>

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<sup>19</sup> Statute of Austria, Criminal Code (1999), at Sec. 173 [Electronic copy provided in accompany e-media at Source 6].

<sup>20</sup> Criminal Code of the Republic of Azerbaijan of 2000, at Sec. 214 [Electronic copy provided in accompany e-media at Source 7].

<sup>21</sup> Statute of Belarus, Criminal Code of 29 December 1960, at Ch. 17 art. 125.1 [Electronic copy provided in accompany e-media at Source 8]

<sup>22</sup> Criminal Law of the People's Republic of China as Revised at the Fifth Meeting of the Standing Committee of the Eighth National People's Congress of the People's Republic of China on 14 March 1997, at art. 115 [Electronic copy provided in accompany e-media at Source 10].

<sup>23</sup> Statute of El Salvador, Penal Code (2001), at Ch. II art. 343 [Electronic copy provided in accompany e-media at Source 16].

<sup>24</sup> Statute of Georgia, Criminal Code (2000), at Ch. XXXVIII art. 323(3) [Electronic copy provided in accompany e-media at Source 17].

<sup>25</sup> Statute of Guatemala, Penal Code (2001), at Ch. IV art. 392 [Electronic copy provided in accompany e-media at Source 18].

<sup>26</sup> Statute of Hungary, Criminal Code (2000), at art. 261(1) [Electronic copy provided in accompany e-media at Source 19].

<sup>27</sup> Statute of Kazakhstan, On combating terrorism (1999), at art. 233 [Electronic copy provided in accompany e-media at Source 21].

<sup>28</sup> Law on the Prevention of Terrorism in the Maldives, 10/90 (1990) [Electronic copy provided in accompany e-media at Source 23].

<sup>29</sup> Statute of Mexico, Federal Penal Code (2001), at art. 139 [Electronic copy provided in accompany e-media at Source 24].

<sup>30</sup> Statute of the Russian Federation, Penal Code (2000), at Sec. IX Ch. 24 art. 205 [Electronic copy provided in accompany e-media at Source 28].

<sup>31</sup> Statute of Ukraine, Criminal Code (2002), at art. 258 [Electronic copy provided in accompany e-media at Source 30].

<sup>32</sup> Statute of Uzbekistan, Criminal Code of 22 September 1994, at art. 155 [Electronic copy provided in accompany e-media at Source 32].

<sup>33</sup> Table 1

<sup>34</sup> Table 2

Guatemala has the lowest minimum sentence among the surveyed states – six months’ imprisonment for an act of public intimidation using small explosives.<sup>35</sup> Mexico, meanwhile, imposes the lowest minimum sentence – two years imprisonment<sup>36</sup> – for an attack defined as “terrorism” by statute. But Mexico’s sentencing range is the same regardless of whether a person dies.

Belarus<sup>37</sup> and China’s<sup>38</sup> three-year minimums provide a better point for comparison. Belarus’s minimum sentence does not deviate from three years even if there is a death.<sup>39</sup> China’s three-year minimum, however, jumps to a ten-year minimum if a person dies in the course of the attack.<sup>40</sup> When the attack is fatal, three states – Ecuador,<sup>41</sup> Georgia,<sup>42</sup> and Uzbekistan<sup>43</sup> – impose minimum sentences greater than the more typical ten years, Ecuador at twelve and Georgia and Uzbekistan at fifteen.

**B. The effect of death on the maximum penalties permitted by statute is much starker than the effect on the minimum sentences.**

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<sup>35</sup> Statute of Guatemala, Penal Code (2001), at Ch. IV art. 392 [Electronic copy provided in accompany e-media at Source 18].

<sup>36</sup> Statute of Mexico, Federal Penal Code (2001), at art. 139 [Electronic copy provided in accompany e-media at Source 24].

<sup>37</sup> Statute of Belarus, Criminal Code of 29 December 1960, at Ch. 17 art.125.1 Electronic copy provided in accompany e-media at (Source 8).

<sup>38</sup> Criminal Law of the People’s Republic of China as Revised at the Fifth Meeting of the Standing Committee of the Eighth National People’s Congress of the People’s Republic of China on 14 March 1997, at art. 115 (Source 10).

<sup>39</sup> Statute of Belarus, Criminal Code of 29 December 1960, at Ch. 17 art. 125.1 [Electronic copy provided in accompany e-media at Source 8].

<sup>40</sup> Criminal Law of the People’s Republic of China as Revised at the Fifth Meeting of the Standing Committee of the Eighth National People’s Congress of the People’s Republic of China on 14 March 1997, at art. 115 (Source 10).

<sup>41</sup> Statute of Ecuador, Penal Code (1996), at Ch. III, art. 160 [Electronic copy provided in accompany e-media at Source 14].

<sup>42</sup> Statute of Georgia, Criminal Code (2000), at Ch. XXXVIII art. 323(3) [Electronic copy provided in accompany e-media at Source 17].

<sup>43</sup> Statute of Uzbekistan, Criminal Code of 22 September 1994, at art. 155 [Electronic copy provided in accompany e-media at Source 32].

When a person dies as a result of a terrorist attack, the effect on the maximum sentences available to the court is much greater than the effect on the minimum sentences prescribed. Again, Guatemala holds the lower boundary with a maximum sentence of two years imprisonment for an act of public intimidation using small explosives.<sup>44</sup> But Azerbaijan and Georgia provide better points for comparison. For an attack that does not result in a death, Azerbaijan imposes a maximum sentence of twelve years.<sup>45</sup> Georgia imposes a ten-year maximum.<sup>46</sup> The median maximum sentence for a no-fatality attack is fifteen years' imprisonment. Still, there is great variation among states. For example, Austria,<sup>47</sup> Denmark,<sup>48</sup> Egypt,<sup>49</sup> Lebanon,<sup>50</sup> and New Zealand<sup>51</sup> provide for potential life sentences for no-fatality terrorist attacks, while four countries – Belarus,<sup>52</sup> Jordan,<sup>53</sup> South Korea,<sup>54</sup> and Saudi Arabia<sup>55</sup> –

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<sup>44</sup> Statute of Guatemala, Penal Code (2001), at Ch. IV art. 392 [Electronic copy provided in accompany e-media at Source 18].

<sup>45</sup> Criminal Code of the Republic of Azerbaijan of 2000, at Sec. 214 [Electronic copy provided in accompany e-media at Source 7].

<sup>46</sup> Statute of Georgia, Criminal Code (2000), at Ch. XXXVIII art. 323(1) [Electronic copy provided in accompany e-media at Source 17].

<sup>47</sup> Statute of Austria, Criminal Code (1999), at Sec. 173 [Electronic copy provided in accompany e-media at Source 6].

<sup>48</sup> Statute of Denmark, Criminal Code (2001), at Sec. 114 [Electronic copy provided in accompany e-media at Source 13].

<sup>49</sup> Statute of Egypt, Penal Code, Act No. 97 of 1992, at Ch. II art. 86 bis (b) [Electronic copy provided in accompany e-media at Source 15].

<sup>50</sup> Statute of Lebanon, Penal Code (2002) [Electronic copy provided in accompany e-media at Source 22].

<sup>51</sup> Statute of New Zealand, Terrorism Suppression Act, Public Act 2002 No. 34 (2002), at Pt. 2 Sec. 7 [Electronic copy provided in accompany e-media at Source 25].

<sup>52</sup> Statute of Belarus, Criminal Code of 29 December 1960, at Ch. 17 art. 126 [Electronic copy provided in accompany e-media at Source 8].

<sup>53</sup> Statute of Jordan, Penal Code, S/2002/127 (2002) [Electronic copy provided in accompany e-media at Source 20].

<sup>54</sup> Statute of the Republic of Korea, Criminal Code (1997), at art. 119 [Electronic copy provided in accompany e-media at Source 27].

can sentence to death terrorists who have not themselves caused the death of another.

A death in the course of a terrorist attack generally opens to courts much more severe maximum punishments. Azerbaijan's twelve-year minimum increases modestly to fifteen years, falling at the low end of the spectrum.<sup>56</sup> Georgia makes a more characteristic increase, up to a life sentence.<sup>57</sup> The median maximum sentence extends to more than forty years.<sup>58</sup> Where the attack results in one or more deaths, China,<sup>59</sup> Egypt,<sup>60</sup> Maldives,<sup>61</sup> Uzbekistan,<sup>62</sup> and the United States<sup>63</sup> allow for the death penalty.

Only Ecuador and Mexico incorporate fines as a part of its penalties against terrorist attacks. Ecuador sets a maximum fine of 10,000 to 20,000 dollars when an attack kills someone.<sup>64</sup> Mexico's statute, not differentiating between attacks that result in death and those

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<sup>55</sup> *supra* note 19.

<sup>56</sup> Criminal Code of the Republic of Azerbaijan of 2000, at Sec. 214.2.4 [Electronic copy provided in accompany e-media at Source 7].

<sup>57</sup> Statute of Georgia, Criminal Code (2000), at Ch. XXXVIII art. 323(3) [Electronic copy provided in accompany e-media at Source 17].

<sup>58</sup> Table 4

<sup>59</sup> Criminal Law of the People's Republic of China as Revised at the Fifth Meeting of the Standing Committee of the Eighth National People's Congress of the People's Republic of China on 14 March 1997, at art. 115 [Electronic copy provided in accompany e-media at Source 10].

<sup>60</sup> Statute of Egypt, Penal Code, Act No. 97 of 1992, at Ch. II art. 86 bis (b) [Electronic copy provided in accompany e-media at Source 15].

<sup>61</sup> Law on the Prevention of Terrorism in the Maldives, 10/90 (1990) [Electronic copy provided in accompany e-media at Source 23].

<sup>62</sup> Statute of Uzbekistan, Criminal Code of 22 September 1994, at art. 155 [Electronic copy provided in accompany e-media at Source 32].

<sup>63</sup> Statute of the United States of America, United States Code (2013), at 18 USC Sec. 2332 [Electronic copy provided in accompany e-media at Source 33].

<sup>64</sup> Statute of Ecuador, Penal Code (1996), at Ch. III art. 160 [Electronic copy provided in accompany e-media at Source 14].

that do not, imposes a 50,000-peso fine.<sup>65</sup>

### **III. SENTENCING FOR TERRORISM-RELATED OFFENSES**

Many states have broadened their terrorism laws to include provisions for activities beyond an attack. Making threats,<sup>66</sup> participating in terrorist organizations,<sup>67</sup> recruiting members into these organizations,<sup>68</sup> financing and supporting terrorism,<sup>69</sup> and dealing in weapons to be used for terrorism<sup>70</sup> are all such offenses.

#### **A. Providing material or financial support for terrorism is the most severely penalized of the terrorism-related offenses.**

Of all the terrorism-related offenses, providing material or financial support for terrorism is the most severely punished. Denmark<sup>71</sup> and the United Kingdom<sup>72</sup> provide the lowest maximum sentences at ten years imprisonment. Azerbaijan<sup>73</sup> and Ukraine<sup>74</sup> both have prescribed minimum sentences of eight years, with twelve and fifteen as maximums respectively. Notably, in Saudi

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<sup>65</sup> Statute of Mexico, Federal Penal Code (2001), at art. 139 [Electronic copy provided in accompany e-media at Source 24].

<sup>66</sup> Table 5

<sup>67</sup> Table 6

<sup>68</sup> Table 7

<sup>69</sup> Table 8

<sup>70</sup> Table 9

<sup>71</sup> Statute of Denmark, Criminal Code (2001), at Sec. 114a [Electronic copy provided in accompany e-media at Source 13].

<sup>72</sup> Statute of the United Kingdom, Terrorism Act of 2000 [Electronic copy provided in accompany e-media at Source 31].

<sup>73</sup> Criminal Code of the Republic of Azerbaijan of 2000, at Sec. 214.1 [Electronic copy provided in accompany e-media at Source 7].

<sup>74</sup> Statute of Ukraine, Criminal Code (2002), at art. 258 [Electronic copy provided in accompany e-media at Source 30].

Arabia one could face the death penalty for financing terrorist activity.<sup>75</sup>

This table is a simplified version of Table 8 below:

Country	Jail Min.	Jail Max.
Denmark		10
United Kingdom		10
Azerbaijan	8	12
New Zealand		14
Ukraine	8	15
Saudi Arabia		Death

**B. Threatening to commence a terrorist attack can carry a substantial penalty.**

Making threats of terrorism, even without actually attacking, carries a substantial penalty in many states. Ecuador imposes the lowest sentence, three months to one year in prison and a 100 to 500 dollar fine.<sup>76</sup> Under the same provision used to prosecute public intimidation via small explosives, Guatemala also punishes public threats with six months to two years in prison.<sup>77</sup> Belarus<sup>78</sup> and Canada<sup>79</sup> have five-year maximum sentences, while Australia<sup>80</sup> has the highest maximum, seven years.

These sentences are lower than what a person who actually carries out an attack would

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<sup>75</sup> *supra* note 19.

<sup>76</sup> Statute of Ecuador, Penal Code (1996), at Ch. III art. 165 [Electronic copy provided in accompany e-media at Source 14].

<sup>77</sup> Statute of Guatemala, Penal Code (2001), at Ch. IV art. 392 [Electronic copy provided in accompany e-media at Source 18].

<sup>78</sup> Statute of Belarus, Criminal Code of 29 December 1960, at Ch. 17 art. 290 [Electronic copy provided in accompany e-media at Source 8].

<sup>79</sup> Statute of Canada, Criminal Code (1995), at art. 424 (Electronic copy provided in accompany e-media at Source 9).

<sup>80</sup> Statute of Australia, Crimes (Internationally Protected Persons) Act of 1976, at Sec. 8(4) [Electronic copy provided in accompany e-media at Source 4]

receive. However, and especially in countries like Belarus, Canada, and Australia, they are not so low as to diminish the seriousness with which states approach threats of terrorism.

This table is a simplified version of Table 5 below:

Country	Jail Min.	Jail Max.	Fines Min.	Fines Max.
Ecuador	0.25	1	\$100.00	\$500.00
Guatemala	0.5	2		
Belarus		5		
Canada		5		
Australia		7		

**C. Participation in terrorist groups and organizations is punished nearly as seriously as some attacks.**

With a median maximum sentence of eight years imprisonment, participants in terrorist groups and organizations face penalties sometimes more severe than persons carrying out terrorist attacks. Nigeria sets the lower end of this spectrum with a maximum of six months in prison and a 1000 naira fine.<sup>81</sup> Setting the median is Ecuador, the only other country to impose fines for participation. Prison sentences range from four to eight years, and fines from 1000 to 2000 dollars.<sup>82</sup> Ukraine provides the most severe penalty for being a member of a terrorist group with a minimum sentences of eight years and a maximum of fifteen.<sup>83</sup>

This table is a simplified version of Table 6 below:<sup>84</sup>

Country	Jail Min.	Jail Max.	Fines Min.	Fines Max.
Nigeria		0.5		\$1,000.00

<sup>81</sup> Statute of Nigeria, Public Order Act (2002) [Electronic copy provided in accompany e-media at Source 26].

<sup>82</sup> Statute of Ecuador, Penal Code (1996), at Ch. III art. 147 [Electronic copy provided in accompany e-media at Source 14].

<sup>83</sup> Statute of Ukraine, Criminal Code (2002), at art. 258 [Electronic copy provided in accompany e-media at Source 30].

<sup>84</sup> Where the same state is listed multiple times, there are multiple statutes covering the similar activity. See the full Table 6 below for clarification.

El Salvador	0.5	2		
Austria		3		
Austria		3		
Austria	0.5	5		
Austria	0.5	5		
Hungary	1	5		
Ecuador	4	8	\$1,000.00	\$2,000.00
China	3	10		
Georgia	5	10		
United Kingdom		10		
Australia		10		
New Zealand		14		
Australia		14		
Ukraine	8	15		

**D. Penalties for recruitment are generally as severe as those imposed for participation in a terrorist group.**

Sentencing for recruitment follows a similar pattern as participation. Nigeria again imposes the least strict maximum penalty at two years.<sup>85</sup> Australia’s is the median penalty, seven years.<sup>86</sup> And like Ukraine above, Kazakhstan sets the upper boundary at a fifteen-year maximum prison sentence.<sup>87</sup> Moreover, Australia uniquely has a provision specifically targeting corporate entities, imposing a maximum 100,000 dollar penalty for a company’s role in recruiting terrorists.<sup>88</sup>

This table is a simplified version of Table 7 below:

Country	Jail Min.	Jail Max.	Fines	Fines Max.
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<sup>85</sup> Statute of Nigeria, Public Order Act (2002) [Electronic copy provided in accompany e-media at Source 26].

<sup>86</sup> Statute of Australia, Crimes (Foreign Incursions and Recruitment) Act of 1978, at Sec. 8 and 9 [Electronic copy provided in accompany e-media at Source 5].

<sup>87</sup> Statute of Kazakhstan, On combating terrorism (1999), at art. 162 [Electronic copy provided in accompany e-media at Source 21].

<sup>88</sup> Statute of Australia, Crimes (Foreign Incursions and Recruitment) Act of 1978, at Sec. 9 [Electronic copy provided in accompany e-media at Source 5].



			Min.
Nigeria	2		\$2,000.00
Jordan	5		
Australia	7		
Australia	7		\$20,000.00
New Zealand	14		
Kazakhstan	4	15	
Australia			\$100,000.00

**E. There is wide disparity in the severity with which different states punish arms dealing related to terrorist activity.**

Terrorism-related arms dealing is the most inconsistently punished activity, with wide disparities emerging in the severity of punishment among the states. Austria,<sup>89</sup> Jordan,<sup>90</sup> and Ecuador<sup>91</sup> punish dealing in arms with maximum three, five, and six years' imprisonment respectively. Ecuador also imposes a 5,000 to 10,000 dollar fine.<sup>92</sup> From these states there is a jump to Kazakhstan's fifteen-year maximum sentence, then to China<sup>93</sup> and Cuba's<sup>94</sup> extremely severe death penalty option for trafficking in weapons relating to terrorist activity.

This table is a simplified version of Table 9 below:

Country	Jail Min.	Jail Max.	Fines Min.	Fines Max.
Austria		3		
Jordan		5		

<sup>89</sup> Statute of Austria, Criminal Code (1999), at Sec. 280 [Electronic copy provided in accompany e-media at Source 6].

<sup>90</sup> Statute of Jordan, Penal Code, S/2002/127 (2002) [Electronic copy provided in accompany e-media at Source 20].

<sup>91</sup> Statute of Ecuador, Penal Code (1996), at Ch. III art. 160 [Electronic copy provided in accompany e-media at Source 14].

<sup>92</sup> *Id.*

<sup>93</sup> Criminal Law of the People's Republic of China as Revised at the Fifth Meeting of the Standing Committee of the Eighth National People's Congress of the People's Republic of China on 14 March 1997, at art. 125 [Electronic copy provided in accompany e-media at Source 10].

<sup>94</sup> Statute of Cuba, Penal Code as approved by Act 62 of 29 December 1987, at Ch. II, Title I, Sec. VII, art. 106 [Electronic copy provided in accompany e-media at Source 11].

Ecuador	3	6	\$5,000.00	\$10,000.00
Kazakhstan	4	15		
China	3	Death		
Cuba	10	Death		

#### IV. REGIONAL NOTES

Based upon the countries surveyed, some distinctions can be drawn about regional trends in sentencing terrorism cases, with the following regional breakdown: the Americas, Europe/Oceania, the Middle East, and Asia.<sup>95</sup> Taking into account all of the noted offenses, the Middle East had the highest proportion of offenses carrying the death penalty at 41%, followed by Asia at 28%, the Americas at 20%, and Europe/Oceania at 6%. Not surprisingly, the Middle East also had the highest proportion of offenses carrying a maximum penalty of life imprisonment at 24%. 14% of terrorism offenses in Europe/Oceania had a maximum sentence of life. And no offense in the American or Asian states had a life sentence as an option where the death penalty was not also available. All of the other offenses had some defined term of years as their maximum penalties.

#### V. CONCLUSIONS

The international community seems to punish terrorist attackers with relative consistency. The spectrum of sentencing understandably incorporates legal and cultural differences, but there is no outlying nation at either end. And it is clear that whether or not a death occurs as a result of the terrorist attack sways the severity of the punishment across the world. Sentencing disparities

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<sup>95</sup> Americas: Canada, Cuba, Ecuador, El Salvador, Guatemala, Mexico, and the United States

Europe/Oceania: Australia, Austria, Belarus, Denmark, Hungary, New Zealand, Ukraine, and the United Kingdom

Middle East: Azerbaijan, Egypt, Georgia, Jordan, Lebanon, Saudi Arabia, and Turkey

Asia: China, Kazakhstan, Maldives, Russia, South Korea, and Uzbekistan

As Nigeria was the only non-Middle East African country surveyed, it was excluded for the purposes of this section.

reveal themselves more in activities related to terrorism. Some states do not enumerate such offenses in their terrorism statutes, instead focusing primarily on the attacks themselves. And in the states that do make such enumerations, wider ranges of sentences present.

## VI. TABLES

Table 1: Attacks Not Causing Death, Where Minimum Sentence Prescribed, by Minimum Sentence

Country	Offense	Jail Min.	Jail Max.	Fines Min.	Fines Max.	Law	Section
Guatemala	Public intimidation using small explosives or making public threats	0.5	2			Penal Code	Ch. IV, art. 392
Austria	Intentional endangering by explosives	1	10			Criminal Code	173
Mexico	Terrorism (deaths/no deaths)	2	40		\$50,000.00	Penal Code	Art. 139
Belarus	Attacks on institutions enjoying international protection (no death, serious physical injury, or deliberate destruction of property)	3	7			Criminal Code of 9 July 2001	Ch. 17 art. 125.1
China	Endangering public security through arson, explosion, poison or other means (no serious consequences)	3	10			Criminal Law 14 March 1997	Art. 114
Kazakhstan	Endangering life of a government or public figure	4	15			Criminal Code	Art. 167
Kazakhstan	Terrorism (deaths/no deaths)	4	15			Criminal Code	Art. 233
Belarus	Terrorist acts against representatives of foreign states (no death)	5	15			Criminal Code of 9 July 1999	Ch. 17 art. 124.1
El Salvador	Terrorism (deaths/no deaths)	5	20			Penal Code	Ch. II, art. 343
Georgia	Terrorism (no deaths)	5	10			Criminal Code	Ch. XXXVIII, art. 323(1)
Guatemala	Terrorism (no deaths)	5	15			Penal Code	Ch. IV, art. 391
Hungary	Terrorism (no deaths)	5	15			Criminal Code	Art. 261(1)
Russian Federation	Terrorism (no deaths)	5	10			Penal Code	Sec. IX, Ch. 24, Art. 205(1)
Ukraine	Terrorism (no deaths)	5	10			Criminal Code	Art. 258
Ukraine	Terrorism (repeated or serious property damage)	7	12			Criminal Code	Art. 258

Belarus	Terrorism (no deaths)	8	20	Criminal Code of 9 July 2004	Ch. 17 art. 289.1
Russian Federation	Terrorism (committed by group, more than once, with the use of firearms)	8	15	Penal Code	Sec. IX, Ch. 24, Art. 205(2)
Uzbekistan	Terrorism (no deaths)	8	10	Criminal Code	Art. 155
Austria	Intentional endangering by explosives (qualified cases)	10	Life	Criminal Code	173
Belarus	International terrorism	10	Death	Criminal Code of 9 July 2003	Ch. 17 art. 126
Maldives	Terrorism (no deaths)	10	15	Law on the Prevention of Terrorism in the Maldives 1991	
Uzbekistan	Terrorism (attempt on life or injury to public/government figure in for professional)	10	15	Criminal Code	Art. 155

Table 2: Attack Causing Death, Where Minimum Sentence Prescribed, by Minimum Sentence

Country	Offense	Jail Min.	Jail Max.	Fines Min.	Fines Max.	Law	Section
Mexico	Terrorism (deaths/no deaths)	2	40		\$50,000.00	Penal Code	Art. 139
Belarus	Attacks on institutions enjoying international protection (death, serious physical injury, or deliberate destruction of property)	3	12			Criminal Code of 9 July 2002	Ch. 17 art. 125.2
Kazakhstan	Terrorism (deaths/no deaths)	4	15			Criminal Code	Art. 233
El Salvador	Terrorism (deaths/no deaths)	5	20			Penal Code	Ch. II, art. 343
Belarus	Terrorism (deaths)	8	Death			Criminal Code of 9 July 2005	Ch. 17 art. 289.3
Azerbaijan	Terrorism (deaths)	10	15			Criminal Code	214.2.4
Belarus	Terrorist acts against representatives of foreign states (death)	10	Death			Criminal Code of 9 July 2000	Ch. 17 art. 124.2
China	Causing serious injury or death or heavy losses of property by dangerous means	10	Death			Criminal Law 14 March 1998	Art. 115
Guatemala	Terrorism (deaths) (explosives of high destructive force)	10	30			Penal Code	Ch. IV, art. 391
Hungary	Terrorism (deaths)	10	15			Criminal Code	Art. 261(2)(a)

Russian Federation	Terrorism (deaths)	10	20			Penal Code	Sec. IX, Ch. 24, Art. 205(3)
Ukraine	Terrorism (deaths)	10	15			Criminal Code	Art. 258
Ecuador	Terrorism (deaths)	12	16	\$10,000.00	\$20,000.00	Penal Code	Ch. III, art. 160
Georgia	Terrorism (deaths)	15	Life			Criminal Code	Ch. XXXVIII, art. 323(3)
Uzbekistan	Terrorism (deaths)	15	Death			Criminal Code	Art. 155

Table 3: Attacks Not Causing Death, by Maximum Sentence

Country	Offense	Jail Min.	Jail Max.	Fines Min.	Fines Max.	Law	Section
Guatemala	Public intimidation using small explosives or making public threats	0.5	2			Penal Code	Ch. IV, art. 392
Belarus	Attacks on institutions enjoying international protection (no death, serious physical injury, or deliberate destruction of property)	3	7			Criminal Code of 9 July 2001	Ch. 17 art. 125.1
Australia	Any other attack on IPP		10			Crimes (Internationally Protected Persons) Act 1979	8(2)(c)
Australia	Intentionally destroying/damaging (not fire/explosive) any official premises, private accommodation or means of transport, of IPP		10			Crimes (Internationally Protected Persons) Act 1980	8(3)(a)
Australia	Intentionally destroying/damaging (not fire/explosive) any other premises or property in which or upon which an IPP is present or likely to be present		10			Crimes (Internationally Protected Persons) Act 1981	8(3)(b)
Austria	Intentional endangering by explosives	1	10			Criminal Code	173
China	Endangering public security through arson, explosion, poison or other means (no	3	10			Criminal Law 14 March 1997	Art. 114

	serious consequences)				
Georgia	Terrorism (no deaths)	5	10	Criminal Code	Ch. XXXVIII, art. 323(1)
Russian Federation	Terrorism (no deaths)	5	10	Penal Code	Sec. IX, Ch. 24, Art. 205(
Ukraine	Terrorism (no deaths)	5	10	Criminal Code	Art. 258
Uzbekistan	Terrorism (no deaths)	8	10	Criminal Code	Art. 155
Azerbaijan	Terrorism (no deaths)	8	12	Criminal Code	214
Ukraine	Terrorism (repeated or serious property damage)	7	12	Criminal Code	Art. 258
Nigeria	Attempt to use or place explosive materials		14	Explosive Act CAP 117 of Laws	
Australia	Intentionally destroying/damaging (fire/explosive) any official premises, private accommodation or means of transport, of IPP		15	Crimes (Internationally Protected Persons) Act 1984	8(3B)(a)
Australia	Intentionally destroying/damaging (fire/explosive) any other premises or property in which or upon which an IPP is present or likely to be present		15	Crimes (Internationally Protected Persons) Act 1985	8(3B)(b)
Belarus	Terrorist acts against representatives of foreign states (no death)	5	15	Criminal Code of 9 July 1999	Ch. 17 art. 124.1
Guatemala	Terrorism (no deaths)	5	15	Penal Code	Ch. IV, art. 391
Hungary	Terrorism (no deaths)	5	15	Criminal Code	Art. 261(1)
Kazakhstan	Endangering life of a government or public figure	4	15	Criminal Code	Art. 167
Kazakhstan	Terrorism (deaths/no deaths)	4	15	Criminal Code	Art. 233
Maldives	Terrorism (no deaths)	10	15	Law on the Prevention of Terrorism in the Maldives 199	
Russian Federation	Terrorism (committed by group, more than once, with the use of firearms)	8	15	Penal Code	Sec. IX, Ch. 24, Art. 205(
Uzbekistan	Terrorism (attempt on life or injury to public/government figure in for professional)	10	15	Criminal Code	Art. 155
Australia	Any other attack on IPP = grievous bodily harm		20	Crimes (Internationally Protected Persons) Act	8(2)(b)

					1978	
Australia	Intentionally destroying/damaging (not fire/explosive) any official premises, private accommodation or means of transport, of IPP (with intent toward IPP)	20			Crimes (Internationally Protected Persons) Act 1982	8(3A)(a)
Australia	Intentionally destroying/damaging (not fire/explosive) any other premises or property in which or upon which an IPP is present or likely to be present (with intent toward IPP)	20			Crimes (Internationally Protected Persons) Act 1983	8(3A)(b)
Belarus	Terrorism (no deaths)	8	20		Criminal Code of 9 July 2004	Ch. 17 art. 289.1
El Salvador	Terrorism (deaths/no deaths)	5	20		Penal Code	Ch. II, art. 343
Australia	Intentionally destroying/damaging (fire/explosive) any official premises, private accommodation or means of transport, of IPP (with intent toward IPP)	25			Crimes (Internationally Protected Persons) Act 1986	8(3C)(a)
Australia	Intentionally destroying/damaging (fire/explosive) any other premises or property in which or upon which an IPP is present or likely to be present (with intent toward IPP)	25			Crimes (Internationally Protected Persons) Act 1987	8(3C)(b)
Turkey	Terrorism (deaths/no deaths)		36		Law #3713 on Suppression of Terrorism	Pt. 1, Sec. 5
Mexico	Terrorism (deaths/no deaths)	2	40	\$50,000.00	Penal Code	Art. 139
Austria	Intentional endangering by explosives (qualified cases)	10	Life		Criminal Code	173
Denmark	Terrorism (deaths/no deaths)		Life		Criminal Code	114
Egypt	Terrorism (no deaths)		Life		Penal Code	Ch. II, art. 86 bis (b)
Jordan	Destruction to public or private building or transport vehicle for purposes of terrorism		Life		Penal Code	
Lebanon	Terrorism (no deaths)		Life		Penal Code	
New Zealand	Terrorist Bombing		Life		Terrorism Suppression Act 2002 (Public Act 2002 No. 34)	Pt. 2, Sec. 7
Belarus	International terrorism	10	Death		Criminal Code of 9 July	Ch. 17 art. 126



2003				
Jordan	Total or Partial destruction of building in which person(s) present for terrorism	Death		Penal Code
Jordan	Terrorism using explosive or inflammable materials or biological/chemical, nuclear agents	Death		Penal Code
Republic of Korea	Causing injury, property damage, or disturbing the public peace via explosives	Death		Criminal Code Art. 119
Saudi Arabia	Terrorism (deaths/no deaths)	Death		Holy Koran Koran 5:33

Table 4: Attacks Causing Death, by Maximum Sentence

Country	Offense	Jail Min.	Jail Max.	Fines Min.	Fines Max.	Law	Section
Belarus	Attacks on institutions enjoying international protection (death, serious physical injury, or deliberate destruction of property)	3	12			Criminal Code of 9 July 2002	Ch. 17 art. 125.2
Azerbaijan	Terrorism (deaths)	10	15			Criminal Code	214.2.4
Belarus	Terrorist acts against representatives of foreign states (no death)	5	15			Criminal Code of 9 July 1999	Ch. 17 art. 124.1
Hungary	Terrorism (deaths)	10	15			Criminal Code	Art. 261(2)(a)
Kazakhstan	Terrorism (deaths/no deaths)	4	15			Criminal Code	Art. 233
Ukraine	Terrorism (deaths)	10	15			Criminal Code	Art. 258
Ecuador	Terrorism (deaths)	12	16	\$10,000.00	\$20,000.00	Penal Code	Ch. III, art. 160
El Salvador	Terrorism (deaths/no deaths)	5	20			Penal Code	Ch. II, art. 343
Russian Federation	Terrorism (deaths)	10	20			Penal Code	Sec. IX, Ch. 24, Art. 205(3)
Guatemala	Terrorism (deaths) (explosives of high destructive force)	10	30			Penal Code	Ch. IV, art. 391
Turkey	Terrorism (deaths/no deaths)		36			Law #3713 on Suppression of Terrorism	Pt. 1, Sec. 5

Mexico	Terrorism (deaths/no deaths)	2	40	\$50,000.00	Penal Code	Art. 139
Australia	Any other attack on IPP = death		Life		Crimes (Internationally Protected Persons) Act 1977	8(2)(a)
Denmark	Terrorism (deaths/no deaths)		Life		Criminal Code	114
Georgia	Terrorism (deaths)	15	Life		Criminal Code	Ch. XXXVIII, art. 323(3)
Belarus	Terrorist acts against representatives of foreign states (death)	10	Death		Criminal Code of 9 July 2000	Ch. 17 art. 124.2
Belarus	Terrorism (deaths)	8	Death		Criminal Code of 9 July 2005	Ch. 17 art. 289.3
China	Causing serious injury or death or heavy losses of property by dangerous means	10	Death		Criminal Law 14 March 1998	Art. 115
Egypt	Terrorism (deaths)		Death		Penal Code	Ch. II, art. 86 bis (b)
Jordan	Terrorism (deaths)		Death		Penal Code	
Lebanon	Terrorism (deaths)		Death		Penal Code	
Maldives	Terrorism (deaths)		Death		Law on the Prevention of Terrorism in the Maldives 1990	
Saudi Arabia	Terrorism (deaths/no deaths)		Death		Holy Koran	Koran 5:33
Uzbekistan	Terrorism (deaths)	15	Death		Criminal Code	Art. 155
United States	Terrorism (deaths)		Death			Sec. 2332

Table 5: Offenses of Threat, where enumerated, by Maximum Sentence

Country	Offense	Jail Min.	Jail Max.	Fines Min.	Fines Max.	Law	Section
Ecuador	Threats of terrorism	0.25	1	\$100.00	\$500.00	Penal Code	Ch. III, art. 165
Guatemala	Public intimidation using small explosives or making public threats	0.5	2			Penal Code	Ch. IV, art. 392
Belarus	Threats to commit a terrorist act		5			Criminal Code of 9 July 2006	Ch. 17 art. 290
Canada	Threats to commit offense against IPP		5			Criminal Code	Art. 424

Australia	Threat to do any of the above	7				Crimes (Internationally Protected Persons) Act 1988	8(4)
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Table 6: Offenses of Participation, where enumerated, by Maximum Sentence

Country	Offense	Jail Min.	Jail Max.	Fines Min.	Fines Max.	Law	Section
Nigeria	Participation in terrorist organization		0.5		\$1,000.00	Public Order Act	
El Salvador	Solicitation and conspiracy to commit acts of terrorism	0.5	2			Penal Code	Ch. II, art. 344
Austria	Criminal gang		3			Criminal Code	278
Austria	Armed organization		3			Criminal Code	279
Austria	Criminal conspiracy	0.5	5			Criminal Code	277
Austria	Criminal organization	0.5	5			Criminal Code	278a
Hungary	Preparing for terrorist attack	1	5			Criminal Code	Art. 261 (3)
Ecuador	Promoting, leading, or participating in terrorist groups	4	8	\$1,000.00	\$2,000.00	Penal Code	Ch. III, art. 147
China	Forming, leading, or actively participating in terrorist organization	3	10			Criminal Law 14 March 1999	Art. 120
Georgia	Participation in terrorist organization	5	10			Criminal Code	Ch. XXXVIII, art. 327(2)
United Kingdom	Participation in terrorist organization		10			Terrorism Act 2000	
Australia	Resident/citizen making any preparations for engaging in hostile activities in foreign states		10			Crimes (Foreign Incursions and Recruitment) Act 1979	7(1-2)
New Zealand	Participation in terrorist organization		14			Terrorism Suppression Act 2002 (Public Act 2002 No. 34)	Pt. 2, Sec. 13
Australia	Resident/citizen entering foreign state to engage in hostile activity or with intent thereto		14			Crimes (Foreign Incursions and Recruitment) Act 1978	6(1)(a-b)

Ukraine	Participation in terrorist organization	8	15			Criminal Code	Art. 258
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Table 7: Offenses of Recruitment, where enumerated, by Maximum Sentence

Country	Offense	Jail Min.	Jail Max.	Fines Min.	Fines Max.	Law	Section
Nigeria	Recruiting members of terrorist organization	2		\$2,000.00		Public Order Act	
Jordan	Assemble, enroll, or recruit troops or equip them with weapons/ammunition	5				Penal Code	Art. 141
Australia	Recruiting persons to engage in hostile activities against foreign governments	7				Crimes (Foreign Incursions and Recruitment) Act 1980	8
Australia	Recruiting persons to serve in or with an armed force in a foreign state	7		\$20,000.00		Crimes (Foreign Incursions and Recruitment) Act 1981	9
New Zealand	Recruiting members of terrorist organization	14				Terrorism Suppression Act 2002 (Public Act 2002 No. 34)	Pt. 2, Sec. 12
Kazakhstan	Recruitment, training, funding or other material support of a mercenary	4	15			Criminal Code	Art. 162
Australia	(Corporate entity) recruiting persons to serve in or with an armed force in a foreign state			\$100,000.00		Crimes (Foreign Incursions and Recruitment) Act 1982	9

Table 8: Offenses of Financing and Material Support, where enumerated, by Maximum Sentence

Country	Offense	Jail Min.	Jail Max.	Fines Min.	Fines Max.	Law	Section
Denmark	Financing Terrorism			10		Criminal Code	114a
United Kingdom	Support for terrorist organization			10		Terrorism Act 2001	
Azerbaijan	Financing Terrorism	8	12			Criminal Code	214-1
New Zealand	Financing Terrorism			14		Terrorism Suppression Act 2002 (Public Act 2002 No. 34)	Pt. 2, Sec. 8
Ukraine	Support for terrorist organization	8	15			Criminal Code	Art. 258
Saudi Arabia	Financing Terrorism			Death		Holy Koran	Koran 5:33

Table 9: Offenses of Arms Dealing, where enumerated, by Maximum Sentence

Country	Offense	Jail Min.	Jail Max.	Fines Min.	Fines Max.	Law	Section
Austria	Amassing of combat equipment		3			Criminal Code	280
Jordan	Assemble, enroll, or recruit troops or equip them with weapons/ammunition		5			Penal Code	Art. 141
Ecuador	Transport or possession of arms with the intent to use for terrorism	3	6	\$5,000.00	\$10,000.00	Penal Code	Ch. III, art. 160
Kazakhstan	Unlawful procurement, transfer, sale, storage, transport or carrying of weapons, ammunition, explosive substances and explosive devices	4	15			Criminal Code	Art. 251
China	Illegally manufactures, trades in, transports, mails or stores any guns, ammunition or explosives	3	Death			Criminal Law 14 March 2000	Art. 125
Cuba	Manufacturing, providing, selling, transporting, delivering, importing or possessing WMD with aim of affecting state security	10	Death			Penal Code	Ch. II, Title I, Sec. VII, Art. 106