

Haiti

National Child Protection Legislation

National Legislation

- Age of child – **Under the age of 18 years**
[Haiti National Constitution](#)
Art. 16-2
The age of majority is eighteen (18) years.

[Antitrafficking Law](#)
Sec. 1.1.8
“Child” means any person under the age of 18 years.

- Age of Consent – **15 years old**
[Criminal Code](#)
Art. 278 (D. of July 6, 2005, Article 2)
Whoever commits a crime of rape, or will be guilty of any other sexual assault, used or attempted with violence, threats, surprise or psychological pressure against the person of one or the other sex, will be punished by ten years of hard labor. Anyone who has committed a public insult to modesty, will be punished by imprisonment from three months to a year, and a fine of sixteen gourdes to forty-eight gourds.

Art. 279 (Decree of 6 July 2008, Article 3)
If the crime was committed on the person of a child under the age of fifteen, the guilty person will be punished by fifteen years of forced labor.

- Age of Marriage – **Males – 18 years old; Females – 15 years old**
[Civil Code](#)
Art. 133
A man before the age of eighteen and a woman before the age of fifteen, cannot contract in marriage. Nevertheless, it is open to the President of Haiti to determine age exemptions for serious reasons.

- Age of Criminal Responsibility – **13 years old**
[Criminal Code](#)
Art. 50
When the defendant or accused is over 13 years and under 16 years and unless it is decided in his regard a criminal conviction in accordance with Article 51 of this Code, he shall be, depending on the circumstances, simply admonished or given to his parents, his guardian, the person who has custody or to a trustworthy person or sent to a private or public medical-educational Institute, or placed in the reception center "Duval Duvalier" or any other institution of corrective education, for the purpose of receiving a moral, professional, civic training for the number of years fixed by the judgment and which can never exceed the time in which he has reached the age of 21.

- **Extraterritoriality**

[Haiti National Constitution](#)

Art. 8-1

The Territory of the Republic of Haiti is non-violable and may not be alienated either in whole or in part by any Treaty or Convention.

Article 12 [Amended by the Constitutional Law of 9 May 2011 / 19 June 2012]

Any Haitian, except for the privileges reserved to Haitians of origin, is subject to all the rights, duties and obligations attached to their Haitian nationality. No Haitian can make their foreign nationality prevail on the territory of the Republic.

Art. 41

No person of Haitian nationality may be deported or forced to leave the national territory for any reason whatsoever. No one may be deprived for political reasons of his legal capacity and nationality.

[Antitrafficking Law](#)

Art. 15

The penalties stipulated in articles 11, 13, 17, 20, 30, and 31 of the present law may be imposed, even when some of the acts constituting the offense were committed abroad.

Art. 15.1

In order to provide a basis for the prosecution of perpetrators of offenses related to trafficking in persons and their accomplices and accessories, the acts committed abroad must be of a criminal nature in the country where they were committed, as well as within Haitian territory. Extraditions shall be carried out in accordance with the procedure established by the present law.

Art. 44

Requests to extradite wanted persons in a proceeding in a foreign state and to enforce a foreign sentence for an offense of trafficking in persons shall be executed in accordance with the procedures and principles set forth in the extradition treaties in force between the requesting state and the Haitian state. In the absence of an extradition treaty or arrangements between the requesting state and the requested state, the provisions of the present law on mutual legal assistance and extradition shall apply.

Art. 45

Extradition shall be carried out only if the offense giving rise to the request for extradition or a similar offense is provided for under the legislation of the requesting state.

Art. 46

Extradition shall be not granted if

- a. The offense for which it is requested is regarded by the Republic of Haiti as a political offense or if the request is politically motivated;
- b. The request is considered to have been made for the purpose of prosecuting or punishing a person on account of race, religion, nationality, ethnic origin, political opinions, gender, or status, or if the person's situation could be prejudiced for one of these reasons;

- c. A final judgment was delivered by Haitian courts for the offense for which extradition is sought;
- d. The person whose extradition is requested can no longer, under the legislation of either country, be prosecuted or punished, as a consequence of the statute of limitations for the offense or an amnesty or any other measure of clemency; or
- e. The person whose extradition is requested has been or likely would be subjected in the requesting state to torture and cruel, inhuman, or degrading treatment or punishment or if that person has not received the minimum guarantees stipulated in article 14 of the International Covenant on Civil and Political Rights; and if the person whose extradition is sought could face the death penalty.

Art. 47

Extradition may be refused if

- a. The offense in respect of which it is requested is being prosecuted in Haiti;
- b. The person whose extradition is requested was tried or is liable to be tried or sentenced in the requesting state by an ad hoc court or tribunal;
- c. The Haitian authorities, while also taking into account the nature of the offense and the interests of the requesting state, consider that, in the circumstances of the case, extradition of the person in question would be incompatible with humanitarian considerations in view of age, health, or other personal circumstances making that person particularly vulnerable; or
- d. The offense in respect of which it is requested is regarded by Haitian legislation as having been committed wholly or partly within its territory.

Art. 48

If the Haitian authorities refuse extradition on one of the grounds referred to in articles 52.3 and 52.4, they shall submit the case, if the requesting state so requests, to its competent authorities, in order that proceedings may be instituted against the person concerned for the offense that gave rise to the request for extradition.

Art. 49

Within the limits authorized under national legislation and without prejudice to the rights of third parties, all assets and property of foreign nationals found in the territory of Haiti that have been acquired as a result of the offense committed or that may be required as evidence shall be surrendered to the requesting state if extradition is granted.

▪ **Dual Criminality**

[Code of Criminal Procedure](#)

Ch. 5 Art. 5.

Any Haitian who will be guilty, outside the territory of Haiti, of a crime against the security of the State, counterfeit national currencies, national papers, banknotes authorized by the law, will be, as soon as possible, seized, prosecuted, tried and punished in Haiti, according to the provisions of the Haitian laws.

Ch 6 Art. 6.

This provision will be extended to foreigners who are authors or accomplices of the same crimes, would be arrested in Haiti, or whose extradition the government would obtain.

Ch 7 Art. 7.

Any Haitian who will be guilty, outside the territory of the Republic, of a crime against a Haitian, will, on his return to Haiti, be prosecuted and tried, if he had not already been in a foreign country and if the offended Haitian makes a complaint against him.

- **Mandatory reporting**

[Code of Criminal Procedure](#)

Ch 19 Art. 19.

Any constituted authority, any official or public officer, who, in the exercise of his functions, will acquire the knowledge of a crime or an offense, will be obliged to give notice to the Commissioner immediately of the Government in whose jurisdiction the crime, or offense has been committed, or in which the defendant may be found, and to transmit to that magistrate all the information, minutes and acts relating thereto.

[Act on the Prohibition and the Elimination of All Forms of Abuse](#)

Art. 4

The Ministry of Social Affairs is competent when it is reported to them that a child has been abused, maltreated or violated in accordance with this law.

It may refer the matter to the competent judicial authority in accordance with the requirements of the laws in force against any person notified as an author, co-perpetrator or accomplice in violation of this Act.

In each case, the Minister shall examine with the child any decision concerning him or her and his opinion.

[Criminal Code](#)

Art. 323

Physicians, surgeons, and other health officers, as well as pharmacists, midwives, and other custodians, by state or profession, who reveal secrets that are entrusted to them, except where the law requires them to be whistleblowers, will be punished with imprisonment of a month to one year

- **Obligations of Educational Institutions**

No information found.

- **Prohibition to hold certain positions**

Art. 281. (Decree of 6 July 2005, Article 6)

Anyone who has attempted to corrupt morals by exciting, favoring, or usually facilitating the debauchery or corruption of one sex or another under the age of eighteen will be punished by imprisonment from six months to two years. If prostitution or corruption has been excited, promoted or facilitated by their father, mother, guardian or other persons responsible for their supervision, the sentence shall be one to three years of imprisonment.

Art. 282. (Decree of 6 July 2005, Article 7)

The guilty of the offense mentioned in previous article will be prohibited from any guardianship or trusteeship and any participation to family councils, namely: the individuals to whom the

first paragraph applies of this article for at least two years and not more than five years; and those spoken of in the second paragraph, for at least ten years and at most twenty.

▪ **Employment Law**

Labor Code of 1984

Sec. 1- The termination of the individual employment contract

Art. 38

The employment contract is terminated automatically in the following cases:

- (a) the expiry of the term of the contract;
- (b) completion of the work in the case of contracts concluded for a particular work;
- (c) grounds for termination expressly stipulated in the contract;
- (d) death of the employee or case of force majeure duly proved;
- (e) complete and definitive closure of the business following the death of the employer.

The automatic termination of the individual employment contract will entail no liability for the contracting parties in the first four cases only. The last two cases remain subject to the legal provisions on notice.

Sec. 2- Termination of the individual employment contract by mutual consent of the parties

Art. 39

The mutual consent of the parties to the termination of the individual employment contract shall be established in writing if they are bound by a written contract. In the case of a verbal contract, this consent may be in writing or verbally given in the presence of two witnesses.

Art. 40

Neither party shall be liable for the termination of the individual employment contract by mutual consent.

Sec. 3- Termination of the individual employment contract by one of the parties

Art. 41

An employee who wishes to terminate the contract of employment concluded for a fixed term or not without it resulting in responsibility for him will inform the Directorate of Labor invoking one of the reasons listed below:

- (a) where the employer fails to pay the employee the full remuneration, subject to the deductions permitted by law, at the agreed and usual dates and places;
- (b) where the employer, or a member of his domestic community, or a person acting on his consent, practices during the course of the work an assault or publicly abuses language, insults or threats against the worker thus rendering the harmony of labor relations impossible;
- (c) when the employer or his representative intentionally causes damage to his tools or work tools;
- (d) where the employer, a member of his family, his supervisor in the management of the work or another worker has a contagious disease, if the worker must remain in immediate contact with the person affected;
- (e) where the safety or health of the worker or his family is seriously endangered, either because of the lack of hygienic conditions at the place of work or the excessive insalubrity of the area, or because the employer fails to observe the prevention and safety measures prescribed by law;

- (f) when the employer commits a breach of his obligations under the contract or the provisions of article 31 of the Labor Code.

Art. 42

An employer wishing to terminate the contract of employment of the employee concluded for a fixed term or not without that resulting from responsibility for him with regard to the notice shall inform the Directorate of Labor invoking one of the reasons listed below:

- (a) when the worker, while working, has engaged in an assault on his employer or against a comrade; publicly abuses language such as insults or threats; caused by his conduct a serious disruption to the discipline and an interruption of work at the establishment;
- (b) when he has committed an offense or a contravention against the property to the direct injury of the employer or when he caused intentionally or by negligent negligence damage to machinery, instruments, raw materials, products and other objects having an immediate relationship with the work or has compromised the safety of the place where the work is performed and persons who are there;
- (c) where the worker refrains from work without authorization from the employer and without reasonable cause to return to work three consecutive days or four times in the same month;
- (d) where the worker, after being warned in writing or given in the presence of two witnesses, has refused to observe the accident prevention measures or to comply with the institution's by-laws;
- (e) where, at the conclusion of the contract of employment, the worker misled the employer, feigning possession of any qualifications or knowledge that he clearly does not possess, or presenting personal references or attestations which, subsequently, the employer finds the falsity, or when he performs his work in a manner that clearly demonstrates his inability to work for which he was engaged. The provisions of this paragraph are not applicable to workers with more than four consecutive months of service;
- (f) where the worker has been sentenced to more than one month's imprisonment by a sentence which has become *res judicata*;
- (g) when the worker commits a breach of his obligations under his contract or the provisions of section 30 of the Labor Code.

Art. 43

The Directorate of Labor, as soon as it is informed of the reason for the termination of the employment contract by the employer or the employee, will ask the General Labor Inspection Service to investigate the facts reported and, if there is any conflict, will appeal to the Conciliation and Arbitration Service which, in case of non-conciliation, will refer the case, at the request of the parties, to the labor court.

▪ **Criminal Law - Defamation**

[Criminal Code](#)

Art. 313

Will be guilty of the crime of defamation, one who, either in public places or meetings, in an authentic and public act, or printed or not printed which will have been posted, sold, or distributed, imputed to any individual of facts which offends his honor and consideration. This provision is not applicable to facts which the law authorizes publicity, nor to those whom the

author of the imputation was by the nature of his functions or duties, obliged to reveal or repress.

Art. 314

The author of the imputation will not be admitted, in his defense, to ask that the proof be made: he will not be able either to claim, as a means of excuse, that the parts or the facts are notorious, or that the imputations which give rise to the prosecution are copied or extracted from foreign papers, or other printed writings.

Art. 315

Defamations committed by means of foreign papers may be continued against those who have sent the articles or ordered them to be inserted.

Art. 316

The one who defames will be punished with the following sentences:

If the imputed act is such as to deserve the death penalty or forced labor for life, the offender shall be punished with imprisonment from one year to three years and a fine of three hundred to one thousand five hundred gourdes. In all other cases, the imprisonment shall be from six months to one year, and the fine from one hundred to five hundred gourdes.

Art. 318

Anyone who has made in writing a slanderous denunciation against one or several individuals to the officers of justice or police, will be punished with imprisonment from one month to one year.

Art. 320 (D. June 13, 1950)

As for insulting or insulting expressions which not include the attribution of any specific fact, but that of a specific defect, if they have been uttered in public places or meetings, or inserted in writings printed or not, which would have been disseminated and distributed, the penalty is imprisonment from one month to one year and a fine of one hundred to five hundred gourdes.

Art. 321

All other abusive insults or expressions that have not had this double nature of gravity and publicity, will give rise only to penalties of simple font.

Art. 322

With regard to the imputations and insults that would be contained in the written submissions relating to the defense of the parties, or in pleadings, the judge may seize, in adjudicating the case, or pronounce the suppression of the insults or insulting writings or injunctions to the perpetrators of the offense, or suspend them from their duties, and rule on the damages.

The duration of this suspension may not exceed six months; in case of recidivism, it will be at least one year and not more than three years.

If insults or abusive writings carry the character of serious defamation, and the judges seized of the challenge cannot know the offense, they will not be able to rule against the accused, but will have a temporary suspension of their duties and the accused will return for the judgment of the offense, before the competent judges.

Sexual Offenses Against Children

[Act on the Prohibition and the Elimination of All Forms of Abuse](#)

Art. 2

Abuses and violence of all kinds against children, as well as exploitation are prohibited:

- The sale and trafficking of children, servitude and forced or compulsory labor forced services;
- The offer, recruitment, transport, transfer, accommodation, reception or use of children for the purpose of sexual exploitation, prostitution, pornography;
- The provision, recruitment, transfer, accommodation, reception or use of children for Criminal activities;
- The provision, recruitment, transfer, accommodation, reception or use of children for organ harvesting or scientific guinea pigs;
- Work that is likely to harm the health, safety or morals of the child by virtue of their nature or the conditions under which they exercise;
- Recruitment of children for use in armed conflict.

Criminal Code

Section IV – Sexual Assault

(Articles 278 to 286 are amended by the Decree of 11 August 2005).

Art. 278 (D. of July 6, 2005, article 2).

Whoever commits a crime of rape, or will be guilty of any other sexual assault, used or attempted with violence, threats, surprise or psychological pressure against the person of one or the other sex, will be punished by ten years of hard labor.

Anyone who has committed a public insult to modesty, will be punished by imprisonment from three months to one year, and a fine of sixteen gourdes to forty-eight gourds.

Art. 279 (Decree of 6 July 2008, Article 3)

If the crime was committed on the person of a child under the age of fifteen, the guilty person will be punished by fifteen years of forced labor.

Art. 280 (Decree of 6 July 2005, Article 4).

The penalty will be that of forced labor at perpetuity, if the culprits are of the class of those who have authority over the person to whom they have committed the attack or who abuse the authority conferred on them by their duties, or whether the guilty person of any kind has been helped in his crime, by one or more persons, or if death followed.

Section IV Bis – Attacks on the Manners

Art. 281 (Decree of 6 July 2005, Article 6)

Anyone who has attempted to corrupt morals by exciting, favoring, or usually facilitating the debauchery or corruption of one sex or another under the age of eighteen will be punished by imprisonment from six months to two years. If prostitution or corruption has been excited, promoted or facilitated by their father, mother, guardian or other persons responsible for their supervision, the sentence shall be one to three years of imprisonment.

Art. 282 (Decree of 6 July 2005, Article 7)

The guilty of the offense mentioned in previous article will be prohibited from any guardianship or trusteeship and any participation to family councils, namely: the individuals to whom the

first paragraph applies of this article for at least two years and not more than five years; and those spoken of in the second paragraph, for at least ten years and at most twenty.

Art. 283 (Decree of 6 July 2005, Article 8)

Anyone who has committed a public outrage against modesty by committing all acts, touching or other like acts to hurt the modesty of a person of one or the other sex, will be punished by imprisonment from three months to one year.

Art. 298

Those who have exposed and abandoned in a lonely place a child below five years old; those who have given the order to expose the child as well, if this order was executed, will be for that alone, sentenced to imprisonment of six months to two years. The sentence above will be one to three years, against tutors or teachers of the child exposed or neglected by them or by their order. If as a result of exposure and neglect the child has remained mutilated or crippled, the action will be considered as willful injury to him made by the person who has exposed and neglected; and if death followed, the action will be considered Murder: In the first case, culprits will be punished for injury volunteers; and the second, that of murder.

Art. 299

Those who have exposed and abandoned in a non-solitary place a child below five years of age, will be punished by imprisonment of three months to one year. The offense provided for in this article shall be punishable by imprisonment for six months years, if it was committed by the guardians or tutors, or teachers of the child.

Art. 300

Any person who, by fraud or violence, has removed or caused the removal of minors, or have trained, diverted or displaced them, or caused them to divert or move places where they were put by those to authority or direction from which they were subjected or entrusted, will suffer the penalty of imprisonment.

Art. 301

If the person thus removed or diverted is a girl under fifteen years, the penalty will be that of forced labor in time.

Art. 302

When the girl under fifteen would have consented to her abduction, or voluntarily followed the kidnapper, if he was older than twenty-one years or over, he will be sentenced to forced labor on time. If the abductor was not yet twenty-one, he will be punished with imprisonment from one to three years.

Art. 303

In the event that the abductor married the girl he abducted, he will be able to be prosecuted only on the complaint of persons who, according to the Civil Code, have the right to the nullity of the marriage, or sentenced only after the nullity of the marriage has been pronounced.

Art. 338

Anyone who has abused the needs, weaknesses, or passions of a minor, to make him subscribe, to his prejudice, obligations, receipts or discharges, for loan of money or of movable things, or effects of trade, or any other binding effects, in whatever form this negotiation has been made or disguised, shall be punishable by imprisonment for not less than two months and not more than two years.

[Antitrafficking Law](#)

Art. 11

Any person found guilty of trafficking in persons as defined in article 1.1 commits a crime and shall be liable to imprisonment for a term of 7 to 15 years and a fine of between 200,000 and 1,500,000 gourdes.

Art. 12

Any person who obtains or attempts to obtain sexual services from another person with the knowledge that the person is a victim of human trafficking commits a crime punishable by imprisonment and a fine of between 50,000 and 100,000 gourdes.

Art. 21

The offenses set forth in articles 11, 13, 14, 15, 16, 17, 18, 19, and 20 are punishable by a sentence of life imprisonment where they are committed in any of the following circumstances:

- a. Against a child.