**Articles 15 and 17 - List of illustrative indicators on freedom from torture and ill-treatment and protection of physical and mental integrity for persons with disabilities**

**Right of persons with disabilities to be free from torture or cruel, inhuman or degrading treatment or punishment and the right to physical and mental integrity**

**Attributes/Indicators**

* **Prevention of torture, ill-treatment and other violations to physical and mental integrity (i.e. non-disability specific practices)**
* **Absolute prohibition of non-consensual treatments to persons with disabilities (i.e. disability-specific practices)**
* **Prohibition of medical experimentation without free and informed consent**

**Structure**

15/17.1 Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

15/17.2 Designation or establishment of one or several independent national preventive mechanisms for the prevention of torture (Article 17 of the OPCAT)

15/17.3 Legislation enacted to prohibit and criminalize torture, ill-treatment, non-consensual treatment, and other violations to the physical and mental integrity of persons with disabilities,[[1]](#endnote-1) with proportionate sanctions, and provision of free legal aid, effective remedies, redress and reparation, including compensation, rehabilitation and support services to victims with disabilities (including supported decision making if requested) within the community.

15/17.4 Legislation that prohibits and protects children with disabilities from corporal punishment, including in homes, schools, day-care centres and institutional care settings.[[2]](#endnote-2)

15/17.5 (idem 25.6)[[3]](#endnote-3) Legislation which:

* Recognises the right to free and informed consent to medical treatment[[4]](#endnote-4) of every individual regardless of any legal status or condition of liberty;
* Ensures that all health information and consent forms are fully accessible to all persons with disabilities;
* Prohibits discrimination in the exercise of this right.[[5]](#endnote-5)
* Requires health care providers to act in accordance with advance directives, powers of attorney and other forms of supported decision-making for health care decisions.[[6]](#endnote-6)

15/17.6 Legislation enacted that protects persons with disabilities[[7]](#endnote-7) from and prohibits medical experimentation, including the use of experimental or new drugs and treatment methods, without the free and informed consent of the person concerned.[[8]](#endnote-8)

15/17.7 Legal requirement to collect and disaggregate data on persons with disabilities deprived of liberty in the several institutional settings where deprivation of liberty of persons with disabilities might occur, disaggregated by age, sex, disability and ground of detention.

15/17.8 Adoption of a code of conduct for law enforcement officials, including rules of conduct for interrogation of arrested, detained and imprisoned persons, which explicitly include guidance regarding persons with disabilities and their rights, including to procedural accommodation in access to justice and reasonable accommodation in detention.

15/17.9 Adoption of a formal procedure governing inspections of police cells, detention centres and prisons by independent authorities (such as NPMs), which explicitly include places of deprivation of liberty of persons with disabilities.[[9]](#endnote-9)

15/17.10 Adoption of mandatory accessibility standards applicable to prisons and other centers of detention (idem 14.8)

15/17.11 Provision in legislation ensuring the obligation to provide reasonable accommodation to persons with disabilities deprived of their liberty (e.g. for prisoners with disabilities) (idem 14.9)

15/17.12 Adoption of a legal requirement to take into account the evolving capacities of children with disabilities and their right to preserve their identities in all decisions affecting them and with respect to medical and related interventions and treatments which are invasive, painful and irreversible, e.g. sterilization.[[10]](#endnote-10) (idem 7.4)

15/17.13 Adoption of protocols for the respect of sexual and reproductive rights of persons with disabilities, notably women and girls with disabilities, including the right to retain their fertility, and the provision of related information and services.

15/17.14 Adoption of protocols for the prevention of medical experimentation involving persons with disabilities without their free and informed consent.

**Process**

15/17.15 Number and proportion of law enforcement officials (including police, military, custodial staff) trained on rules of conduct on proportional use of force, arrest, detention, interrogation or punishment, in connection with the rights of persons with disabilities including the provision of procedural and reasonable accommodations.

15/17.16 Number and proportion of health practitioners[[11]](#endnote-11) and staff of health, psychiatric, social care and residential institutions and trained on the right of persons with disabilities to accept or refuse treatment on the basis of free and informed consent and to supported decision making.

15/17.17 Awareness raising campaigns and activities to promote and inform persons with disabilities, their families and the general public, on the right of persons with disabilities to be free from torture and ill-treatment and to their physical and mental integrity including awareness raising on non-consensual medical interventions as harmful practices.

15/17.18 Budget allocated to national preventive mechanism(s) or other independent authorities to undertake monitoring activities of places of detention where deprivation of liberty of persons with disabilities occurs and to strengthen their capacity to fulfill their mandate with respect to persons with disabilities.

15/17.19 Consultation processes undertaken to ensure active involvement of persons with disabilities, **including** through their representative organizations, in the design, implementation and monitoring of laws, regulations, policies and programs related to prevention of torture, ill-treatment, non-consensual treatment and alike, including for the implementation of the Optional Protocol to the Convention against Torture.[[12]](#endnote-12)

15/17.20 Number of received complaints alleging torture, ill-treatment, non-consensual treatment, and other violations to the right to the physical and mental integrity of persons with disabilities, investigated and adjudicated in favor of the complainant, disaggregated by kind of mechanism, and the proportion of these complied with by the government or duty bearer.

**Outcome**

15/17.21 Number of reported cases of torture and ill-treatment against persons with disabilities, including denial of reasonable accommodation in detention.

15/17.22 Number and proportion of victims of torture or ill-treatment with disabilities who received compensation, rehabilitation and support per year.[[13]](#endnote-13)

15/17.23 Proportion of children aged 1-17 years who experienced any physical punishment and/or psychological aggression by caregivers in the past month, disaggregated by sex (SDG indicator 16.2.1) and disability.

15/17.24 Number of persons with disabilities subjected to non-consensual treatment, disaggregated by age, sex, disability and context of the violation,[[14]](#endnote-14) and proportion of them who received compensation, rehabilitation and support per year.[[15]](#endnote-15)

15/17.25 Number and proportion of persons with disabilities subjected to forced medical experimentation who received compensation, rehabilitation and support per year.

**ANNEX**

1. Legislation should clearly cover all forms of torture and ill-treatment, as well as all normalised practices that violate the physical and mental integrity of persons with disabilities, including, but not limited to, all forms of coercive practices against adults and children with disabilities, including chemical or mechanical restraints, the use of net beds, isolation, seclusion, solitary confinement, forced administration of intrusive and irreversible treatments, such as female genital mutilation, forced sterilizations (including chemical and surgical castration), forced abortion, forced contraception, electroconvulsive therapy, forcible administration of drugs in institutions, psychosurgery; experimental mercury detoxification treatments, harsh behavioral modification regimes and packing for autistic children, conductive education for children with cerebral palsy; and limb-lengthening for children with restricted growth, “correctional therapy”, corrective surgeries on intersex persons with disabilities. [↑](#endnote-ref-1)
2. For detail on the concept of “institutions” in the context of this indicator related to children with disabilities, see CRPD Committee, general comment no. 5 on Article 19, CRPD/C/GC/5, para. 16(c) *in fine*. [↑](#endnote-ref-2)
3. See also indicator 25.7. [↑](#endnote-ref-3)
4. Including the right to refuse treatment. [↑](#endnote-ref-4)
5. Including the denial of reasonable accommodation. [↑](#endnote-ref-5)
6. This includes that health care providers address people with disabilities directly in discussing their health care and seeking free and informed consent, while respecting the involvement of their chosen supporters. [↑](#endnote-ref-6)
7. Notably persons with psychosocial and/or persons with intellectual disabilities. [↑](#endnote-ref-7)
8. This includes repealing provisions that allow legal guardians to consent to medical experimentation on behalf of persons with disabilities, in contradiction to Article 12 of the CRPD. [↑](#endnote-ref-8)
9. This includes psychiatric institutions, residential institutions for persons with disabilities (including small group homes), prayers camps, orphanages and residential institutions for children, and any other institutional setting (public and private), migration detention centers, etc., where deprivation of liberty of persons with disabilities might take place. [↑](#endnote-ref-9)
10. These include notably electroconvulsive therapy; psychosurgery; experimental mercury detoxification treatments, harsh behavioural modification regimes and packing for autistic children; conductive education for children with cerebral palsy; and limb-lengthening for children with restricted growth, and alike. [↑](#endnote-ref-10)
11. Including traditional healers. [↑](#endnote-ref-11)
12. This indicator requires verifying concrete activities undertaken by public authorities to involve persons with disabilities in decision-making processes related to issues that directly or indirectly affect them in line with article 4.3 of the CRPD, including consultation meetings, technical briefings, online consultation surveys, call for comments on drafts legislations and policies, among other participatory methods. In this regard, see General Comment no 7 of the CRPD Committee (CRPD/C/GC/7) where it is elaborated that States must:

ensure that consultation processes are transparent;

ensure provision of appropriate and accessible information;

not withhold information, condition or prevent organizations of persons with disabilities from freely expressing their opinions;

include both registered and unregistered organizations;

ensure early and continuous involvement; and

cover related expenses of participants (e.g. transport and other expenses to attend meetings and technical briefings). [↑](#endnote-ref-12)
13. Most likely, sources of information will vary for those compensated, those who access rehabilitation services and those who otherwise receive any kind of support. [↑](#endnote-ref-13)
14. “Context of the violation” refers to the place and/or institutional context where the violation of the right to personal integrity has been committed, be it prison, psychiatric institution, residential institutions, private hospitals, etc. [↑](#endnote-ref-14)
15. Most likely, sources of information will vary for those compensated, those access rehabilitation services and those that otherwise receive any kind of support. [↑](#endnote-ref-15)