

# Articles 15 and 17: List of illustrative indicators on freedom from torture or cruel, inhuman or degrading treatment or punishment and protecting the integrity of the person

ADVANCE VERSION

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## Articles 15 and 17: List of illustrative indicators on freedom from torture or cruel, inhuman or degrading treatment or punishment and protecting the integrity of the person

### *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 through non-disability specific practices	Prevention of torture, ill-treatment and other violations to physical and mental integrity through non-consensual treatments and other disability specific practices	Prohibition of medical experimentation on persons with disabilities without their free and informed consent
<b>Structure</b>	<p>15/17.1 Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).</p> <p>15/17.2 Designation or establishment of one or several independent national preventive mechanisms for the prevention of torture (Article 17 of the OPCAT).</p> <p>15/17.3 Legislation enacted to prohibit and criminalize torture, ill-treatment, non-consensual medical, scientific or social experimentation, interventions or treatment, including the non-consensual administration of drugs, and other violations to the physical and mental integrity of persons with disabilities,<sup>i</sup> wherever they take place, with proportionate sanctions, and the provision of free legal aid, effective remedies, redress and reparation, including restitution, compensation, satisfaction and guarantees of non-repetition, rehabilitation and support services to victims with disabilities (including supported decision making if requested) within the community.</p> <p>15/17.4 Legislation that prohibits and protects children with disabilities from corporal punishment, and treatments and interventions such as behavior modification, growth attenuation therapy, chemical or physical restraint, and other invasive and irreversible treatments including in homes, schools, day-care centres and institutional care settings.<sup>ii</sup></p> <p>15/17.5 (idem 25.6)<sup>iii</sup> Legislation enacted which:</p> <ul style="list-style-type: none"> <li>• Recognizes the right to free and informed consent to medical treatment, and the right to refuse treatment, of every individual at all times, regardless of their legal capacity status, condition of liberty, including in situations of mental distress;</li> <li>• Prohibits discrimination in the exercise of free and informed consent, including the denial of reasonable accommodation;</li> <li>• Ensures that all health information and consent forms are fully accessible and culturally appropriate;</li> <li>• 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.<sup>iv</sup></li> </ul> <p>15/17.6 Legislation enacted that protects persons with disabilities<sup>v</sup> from and prohibits medical experimentation, including the use of experimental or insufficiently tested drugs and treatment methods without the free and informed consent of the person concerned.<sup>vi</sup></p> <p>15/17.7 Legal requirement to collect and disaggregate data on persons with disabilities deprived of liberty in the institutional settings where deprivation of liberty of persons with disabilities might occur, disaggregated by age, sex, disability and ground of detention.</p>		

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<b>Structure (Continued)</b>	<p>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 the obligation to provide procedural accommodations in access to justice and reasonable accommodation in detention.</p> <p>15/17.9 Adoption of a regulations and protocols 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.<sup>viii</sup></p> <p>15/17.10 Adoption of mandatory accessibility standards applicable to prisons and other centers of detention (idem 14.9)</p> <p>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 14.10)</p>	<p>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.<sup>viii</sup> (idem 7.5)</p> <p>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.</p>	<p>15/17.14 Adoption of protocols for the prevention of medical experimentation involving persons with disabilities without their free and informed consent.</p>
<b>Process</b>	<p>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, with respect to the rights of persons with disabilities including the provision of procedural and reasonable accommodations, and de-escalation of potential violence by or toward persons with actual or perceived impairment.</p>	<p>15/17.16 Number and proportion of health practitioners<sup>ix</sup> and staff of health, psychiatric, mental health, social care and residential services, and institutions trained on the right of persons with disabilities to accept or refuse treatment on the basis of the free and informed consent and to use, and/or to be provided with, accommodations and supports for decision-making according to the will and preferences of the person concerned.</p>	
	<p>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 prohibited practices.</p>		
	<p>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 the rights of persons with disabilities.</p>		
	<p>15/17.19 Consultation processes undertaken to ensure the 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 the prevention of torture, ill-treatment, and non-consensual interventions, including for the implementation of the Optional Protocol to the Convention against Torture.<sup>x</sup></p>		
	<p>15/17.20 Proportion 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 that have been investigated and adjudicated; proportion of those found in favour of the complainant; and proportion of the latter that have been complied with by the government and/or duty bearer (e.g. private school); each disaggregated by kind of mechanism.</p>		

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<b>Outcome</b>	<p>15/17.21 Number of reported cases of torture and ill-treatment against persons with disabilities, including the denial of reasonable accommodation in detention, disaggregated by sex, age disability, context of the violation.<sup>xi</sup></p> <p>15/17.22 Number and proportion of victims of torture or ill-treatment with disabilities who received compensation, rehabilitation and support per year.</p> <p>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.</p>		<p>15/17.24 Number and proportion of persons with disabilities subjected to forced medical experimentation who received compensation, rehabilitation and support per year.</p>

- <sup>i</sup> Legislation should cover all forms of torture and ill-treatment, including normalized 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, non-consensual administration of drugs, 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, corrective surgeries on intersex persons with disabilities.
- <sup>ii</sup> 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. See also under Article 7, indicator 7.4 whose endnote contains a fuller list of the treatments and interventions whose effectiveness is uncertain or deemed controversial and against which children with disabilities should be protected.
- <sup>iii</sup> See also indicator 25.7.
- <sup>iv</sup> Health care providers should directly address persons with disabilities in discussing their health care and seeking their individual free and informed consent, while respecting the involvement of their chosen supporters. Advance directives and powers of attorney shall be accepted as support measures as an exercise of their legal capacity. When, despite significant efforts, it proves to not be feasible to obtain a person’s will, protocols will be in place to determine the best interpretation of the person’s will and preferences based on evidence (including “consideration of the previously manifested preferences, values, attitudes, narratives and actions, inclusive of verbal or non-verbal communication, of the person concerned, [A/HRC/37/56](#), para. 31), and subject to being corrected by subsequent expressions of will or decision-making by the individual (whether or not obtained through support measures).
- <sup>v</sup> with particular attention to persons with psychosocial disabilities and persons with intellectual disabilities.
- <sup>vi</sup> This includes repealing provisions that allow legal guardians, courts, or other substitute decision-makers to consent to medical experimentation on behalf of persons with disabilities (in contradiction to Article 12 of the CRPD) or for public review boards to allow such experimentation as being justified for the benefit of third parties.
- <sup>vii</sup> This includes psychiatric inpatient units or facilities, residential institutions for children and adults with disabilities (including small group homes), prayers camps, orphanages, and any other public or private institutional setting), migration detention centers, etc., where deprivation of liberty of persons with disabilities might take place.
- <sup>viii</sup> Particularly with respect to treatments and interventions whose effectiveness is uncertain or deemed controversial and which are invasive and/or irreversible. For example, the administration of psychotropic drugs including neuroleptics; experimental mercury detoxification treatments, growth attenuation therapy, sterilization, behavioural modification regimes such as the administration of electric shocks and packing of autistic children; conductive education for children with cerebral palsy; limb-lengthening for children with restricted growth, etc.
- <sup>ix</sup> Including traditional healers.
- <sup>x</sup> 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 and [general comment no. 7](#) of the CRPD Committee, including consultation meetings, technical briefings, online consultation surveys, calls for comments on draft legislation and policies, among other methods and mechanisms of participation. In this regard, States must
- ensure that consultation processes are transparent and accessible;
  - 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;
  - cover related expenses of participants.
- <sup>xi</sup> “Context of the violation” refers to the place and/or institutional context in which the violation was committed, e.g. prison, involuntary admission to a psychiatric institution, residential institutions, private hospitals, etc.