# Article 14: Illustrative indicators on liberty and security of the person

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| Right to liberty and security of the person[a] | | | |
| **Attribute/type of indicator** | **Disability-specific deprivation of liberty:[b] absolute ban on deprivation of liberty on the basis of actual or perceived impairment** | **Non-disability specific forms of deprivation of liberty: criminal and administrative detention** | **Security of the person and conditions of detention for persons with disabilities** |
| **Structure** | 14.1: National constitution and legislation that recognizes the right to liberty and security of the person of all persons with disabilities on an equal basis with others<br>14.2: Legal requirement to collect data on the number of persons with disabilities deprived of liberty, disaggregated by sex, age, disability, ground of detention and place of detention (e.g. psychiatric institution, residential institution or prison; both public and privately run)[c]<br>14.3: Legal requirement to establish a marker on spending related to ensuring the right to liberty and security of persons with disabilities[d] | | |
| | 14.4: No provision in the constitution and/or in legislation that directly or indirectly allows any type of deprivation of liberty on the basis of actual or perceived impairment, either alone or in combination with other grounds (e.g. care, treatment or risk to self or others) or as a result of attitudinal, environmental or information- or communication-related barriers[e]<br>14.5: Adoption of transitional legislation, policies and/or plans to secure the immediate release of persons with disabilities deprived of liberty on the basis of an actual or perceived impairment, including those deprived of liberty in mental health inpatient settings, and the immediate cessation of restrictive and coercive measures, including forced treatment | 14.6: Legislation that provides for a criminal and penitentiary system inclusive of persons with disabilities (e.g. accessible and inclusive procedures, facilities and services in detention)<br>14.7: Legislation that ensures that all administrative detention systems (e.g. immigration detention) are inclusive of persons with disabilities, gender responsive and age appropriate (e.g. accessible and inclusive procedures, facilities and services in detention)<br>14.8: Adoption of legislation and policies to promote the use of restorative justice mechanisms and non-custodial measures to prevent incarceration | 14.9: Adoption of mandatory accessibility standards applied to prisons and other centres of detention (see also indicator 15/17.10 on the Convention on the Rights of Persons with Disabilities)<br>14.10: Provision in legislation ensuring the obligation to provide reasonable accommodation to persons with disabilities deprived of their liberty (see also indicator 15/17.11 on the Convention on the Rights of Persons with Disabilities)<br>14.11: Provision in legislation prohibiting the use of seclusion and any method of restraint that are medically ordered (physical, chemical,[f] mechanical, etc.) and the use of psychiatric medication or other interventions without the free and informed consent of the person concerned, including persons with disabilities |
| **Process** | 14.12: Number of persons with disabilities deprived of liberty in psychiatric inpatient settings or similar institutions, and proportion of them who have been informed of their right to leave detention, | 14.15: Number and proportion of staff of justice, police, and penitentiary systems and other types of detention centres trained on the rights of persons with disabilities, including the prohibition of seclusion, restraints, and the administration of psychiatric medication or other interventions without the free and informed consent of the person concerned; accessibility; and the obligation to provide reasonable and procedural accommodations, including | |

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<tr><td rowspan="3"></td><td colspan="3">to access to housing, and to means of subsistence and other forms of economic and social support[g]<br>14.13: Number of awareness-raising campaigns on the right to liberty and security of persons with disabilities on the absolute ban on deprivation of liberty on the basis of actual or perceived impairment, including any mental health-related detention and forced medication and other forced interventions, promoting their inclusion within the community and providing information about related supports available to persons with disabilities and their families; and proportion of population who had access to campaigns, disaggregated by age, sex, disability, profession and geographical location<br>14.14: Proportion of complaints received alleging deprivation of liberty on the basis of disability 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; each disaggregated by type of mechanism</td><td colspan="2">concerning information and communications in the context of arrest interrogation and detention of persons with disabilities<br>14.16: Number and proportion of persons with disabilities deprived of liberty in prisons and other detention centres, disaggregated by sex, age, disability, ground of detention,[h] type of detention centre and geographical location</td></tr>
<tr><td colspan="2">14.17: Proportion of persons with disabilities deprived of their liberty in the criminal system or in administrative detention promptly having access to free legal aid, disaggregated by sex, age, disability, place of detention and geographical location[i]<br>14.18: Budget allocated to and spent on providing legal aid services to persons with disabilities deprived of liberty in the criminal system or in administrative detention<br>14.19: Proportion of requests for procedural and age-appropriate accommodations granted to persons with disabilities in procedures related to deprivation of liberty</td><td>14.20: Proportion of complaints received by or on behalf of persons with disabilities alleging a lack of accessibility, denial of reasonable accommodation, torture or any other form of ill-treatment (including seclusion, forced medication and restraints) in any place of detention[j] 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; each disaggregated by type of mechanism<br>14.21: Budget allocated to and spent on improving conditions of detention, including accessibility-related measures (see also indicator 10.14 on the Convention on the Rights of Persons with Disabilities)</td></tr>
<tr><td colspan="4">14.22: Number of consultation processes undertaken on the design, implementation and monitoring of laws, regulations, policies and programmes related to the right to liberty and security, including of persons with disabilities; and proportion of persons with disabilities who participated in those processes, disaggregated by age, sex, disability and geographical location[k]</td></tr>
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| **Outcome** | 14.23: Number of persons with disabilities currently deprived of liberty on the basis of actual or perceived impairment, disaggregated by sex, age, disability, type of institution or place of detention (e.g. mental health institution, social care or residential institution, or residence for persons with intellectual disabilities) and legal ground for the institutionalization or detention[l]<br>14.24: Number of persons with disabilities currently deprived of liberty as a result of diversion from prosecution on the basis of actual or perceived impairment (e.g. "unfitness to stand trial", followed by the application of a security measure), disaggregated by sex, age, disability and type of institution or place of detention<br>14.25: Number of persons with disabilities who are released from disability-specific deprivation of liberty, disaggregated by sex, age, disability and place of detention (e.g. psychiatric institution or residences for persons with intellectual disabilities), and proportion of them who have been provided with access to housing, means of subsistence and other forms of economic and social support | 14.26: Number of persons deprived of liberty in prisons and other detention centres (non-disability specific) and proportion of them who are persons with disabilities, disaggregated by sex, age, disability, ground of detention,[m] detention centre and geographical area<br>14.27: Conviction rate of persons with disabilities as compared to the general conviction rate, disaggregated by age, sex, disability, crime/ground of detention and whether legal aid or lawyer of the person's choice was used[n]<br>14.28: Proportion of cases in which, after appeal, a sentence was reduced or a criminal conviction vacated, disaggregated by sex, age and disability | 14.29: Number and proportion of persons with disabilities deprived of liberty in any place of detention provided with reasonable accommodation, disaggregated by age, sex, disability, ground of detention,[h] detention centre and geographical area |

[a] See report of the Committee on the Rights of Persons with Disabilities (A/72/55, annex).

[b] For more information on disability-specific deprivation of liberty, see report by the Special Rapporteur on the rights of persons with disabilities (A/HRC/40/54, paras. 14–24). See also endnote e, below.

[c] Deprivation of liberty also encompasses the home confinement of persons with disabilities (see indicator 14.4 on the Convention on the Rights of Persons with Disabilities and endnote e), which poses serious challenges for data collection compared to data coming from administrative sources related to deprivation of liberty in prisons, psychiatric institutions and so forth. States should aim to produce and support data collection to address this issue through appropriate means.

[d] In particular, markers on spending should contribute to:

- Comparing the budget allocated to support services in the community for persons with disabilities released from disability-specific deprivation of liberty vis-à-vis the budget invested in institutions (maintenance, services, etc.) to track and verify the policy commitment to the right to liberty and security of persons with disabilities through resource allocation
- Determining annually the amount spent on rendering non-disability specific detention systems inclusive of persons with disabilities, including specifying funds for enhancing accessibility and providing reasonable accommodation

[e] This includes:

- Civil, administrative and social services legislation permitting forced institutionalization, including upon authorization of a third-party
- General health or specific mental health legislation permitting involuntary hospitalization or treatment, including upon authorization of a third-party, for any duration and for any purpose
- Criminal law and procedure permitting diversion from prosecution on the basis of being deemed "unfit to stand trial" or "non-criminally responsible" leading to the application of security measures, including deprivation of liberty and forced treatment
- Family law or related legislation permitting home confinement by family of persons with disabilities or permitting the family to authorize or petition for the institutionalization or hospitalization of an adult or child
- Imminent threat to liberty and/or security of the person for non-compliance with imposed regimes, such as forced treatment through community treatment orders or through power conferred on health, mental health or social service personnel or public authorities to detain individuals for observation and evaluation

Furthermore, legislation should be amended to ensure the removal of provisions that have the effect of criminalizing "atypical behaviour", which negatively and disproportionately affects persons with disabilities, namely, persons with intellectual disabilities, persons with psychosocial disabilities, persons with dementia and autistic persons, and must be eliminated as running contrary to non-discrimination and criminal law principles. See report by the Special Rapporteur on the rights of persons with disabilities (A/HRC/40/54, para. 34).

[f] Chemical restraint includes any administration of neuroleptic drugs without the free and informed consent of the person concerned.

[g] See Committee on the Rights of Persons with Disabilities, "Guidelines on article 14 of the Convention on the Rights of Persons with Disabilities: the right to liberty and security of persons with disabilities" (para. 24), citing United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court, guideline 20 (A/HRC/30/37, para. 107). See also Committee on the Rights of Persons with Disabilities, Guidelines on deinstitutionalization, including in emergencies (CRPD/C/5, para. 126).

[h] For "ground of detention", a distinction should be made between convicted persons and those in pretrial detention (e.g. facing criminal charges under pretrial detention).

[i] With respect to legal aid in the criminal system, see *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems* (United Nations publication, 2013).

[j] This includes both places of disability-specific deprivation of liberty that are contrary to the Convention where they continue to exist and other places of detention (e.g. prisons).

[k]

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 Convention on the Rights of Persons with Disabilities and general comment No. 7 (2018) of the Committee on the Rights of Persons with Disabilities, including consultation meetings, technical briefings, online consultation surveys, and 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 the provision of appropriate and accessible information
- Not withhold information or condition or prevent representatives of persons with disabilities from freely expressing their opinions
- Include both registered and unregistered organizations
- Ensure early and continuous involvement of persons with disabilities

- Cover related expenses of participants

[l] For “legal ground of detention”, see endnote e above indicating the different rationale behind deprivations of liberty on the basis of impairment and the legislation that typically still includes provisions legitimizing it, in contradiction with article 14 of the Convention on the Rights of Persons with Disabilities.

[m] For “ground of detention”, a distinction should be made between persons in pretrial detention and those who have been convicted.

[n] This indicator contributes to assessing whether there is an overrepresentation of persons with disabilities among the convicted population. In such cases, further inquiries and studies should be conducted in order to identify the causes of direct or indirect discrimination against persons with disabilities (e.g. due to a lack of access to legal aid, a lack of accessibility of communications, a lack of procedural accommodations during legal proceedings, etc.).