Article 23: Illustrative indicators on respect for home and the family

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<tr><th colspan="4">Article 23: Illustrative indicators on respect for home and the family</th></tr>
<tr><th colspan="4">Right to respect for home and the family</th></tr>
<tr><th>Attribute/type of indicator</th><th>Non-discrimination in family life</th><th>Parental rights of persons with disabilities</th><th>Right of children with disabilities to grow up in a family environment within the community</th></tr>
<tr><td>Structure</td><td colspan="2">23.1: Legislation enacted on family life that is inclusive of persons with disabilities and that provides for the right to support or assistance for persons with disabilities and their families
23.2: No provision in the law relating to family life that restricts directly or indirectly on the basis of disability the right to marry on the basis of free and full consent, to found a family, and to decide on the number and spacing of children (including equal access to sexual and reproductive health-care services), and the right to adopt and to be adopted[a]</td><td>23.3: Legislation enacted that explicitly prohibits the separation of children from their parents on the basis of the disability of the child
23.4: Legislation enacted that ensures the right of children with disabilities without parental care to alternative care in a family setting within the community[b]</td></tr>
<tr><td></td><td>23.5: Adoption of regulations and policies to ensure equal access to sexual and reproductive health-care services and family planning services for persons with disabilities</td><td>23.6: Legislation enacted that prohibits the separation of children from their parents on the basis of the disability of one or both of the parents[c]
23.7: Adoption of policies to ensure the provision of support to parents with disabilities who request it to carry out their child-rearing responsibilities, including financial support, counselling, and community-based and personal assistance services[d]</td><td>23.8: Adoption of a moratorium on new admissions to institutions of children with disabilities[e] (see also indicator 19.2.3 on the Convention on the Rights of Persons with Disabilities)
23.9: Adoption of a national policy for the deinstitutionalization of children with disabilities, including time frames and measurable goals[f]
23.10: Adoption of a national policy to ensure support for families[g] of children with disabilities to prevent family separation, including the provision of appropriate and adequate social services for quality family-based alternative care options, to ensure the right of children with disabilities to a family life and inclusion in the community[h]</td></tr>
<tr><td>Process</td><td colspan="2">23.11: Budget allocated to and spent on measures to provide support or assistance to parents with disabilities to exercise their child-rearing responsibilities
23.12: Number and proportion of judges, notaries, health-care professionals, social workers and related professionals trained on non-discrimination on the basis of disability, in particular concerning the right to marry, the right to found a family, sexual and reproductive rights, adoption, parental rights, the obligation to provide procedural accommodations in legal proceedings, reasonable accommodation, and accessible and alternative forms of communication</td><td>23.13: Budget allocated to and spent on measures to deinstitutionalize children with disabilities compared to the budget allocated to institutional care[i]
23.14: Number and proportion of staff of residential institutions for children, social workers and related professionals trained on the rights of children with disabilities to facilitate their deinstitutionalization
23.15: Budget allocated to and spent on measures to ensure the provision of support to children with disabilities and their families, and to provide alternative care in a family setting within the community</td></tr>
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	23.16: Number of awareness-raising campaigns and activities to promote and inform persons with disabilities, their families and the general public about the rights of persons with disabilities in family life and relationships (including equal access to sexual and reproductive health-care services) and about the right of children with disabilities to live in a family setting within the community, and to combat related negative attitudes, myths and stereotypes; and proportion of population who gained access to those campaigns and activities, disaggregated by age, sex, disability and geographical location 23.17: Number of consultation processes undertaken on the design, implementation and monitoring of laws, regulations, policies and programmes related to the rights of persons with disabilities in family life and relationships, including the right of children with disabilities to live in a family setting within the community, and proportion of persons with disabilities who participated in those processes, disaggregated by age, sex, disability and geographical location[j] 23.18: Proportion of complaints received on the right to respect for home, family and relationships, alleging discrimination on the basis of disability and/or involving 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; each disaggregated by type of mechanism		
Outcome	23.19: Proportion of women and girls who make their own informed decisions regarding sexual relations, contraceptive use and reproductive health care (based on Sustainable Development Goal indicator 5.6.1), by age, disability and geographical location (see also indicator 6.19 on the Convention on the Rights of Persons with Disabilities) 23.20: Number of persons with disabilities who are victims of discrimination on the basis of disability regarding family life and relationships whose rights have been restored or their violations remedied[k]	23.21: Number and proportion of households with children with at least one parent with disability 23.22: Number of persons with disabilities gaining access to mainstream assistance and support services for the exercise of parental responsibilities, disaggregated by sex, age, disability, and type of assistance or support; and proportion they represent out of the total number of persons gaining access to those services 23.23: Number of persons with disabilities gaining access to disability-specific assistance and support services for the exercise of parental responsibilities, disaggregated by sex, age, disability, and type of assistance or support; and proportion they represent out of the total number of all persons with disabilities requesting those services 23.24: Level of satisfaction of persons with disabilities with support services for the exercise of parental rights[l]	23.25: Number of children with disabilities and their families gaining access to assistance and support services, disaggregated by sex, age, disability of the children, and type of assistance or support; and proportion they represent out of all families requesting those services 23.26: Number and proportion of children with disabilities in alternative care (as compared to all children in alternative care) with a breakdown of place of residence: in a family setting; in small group homes; or in other residential care facilities; disaggregated by sex, age, disability and type of setting (see also indicator 7.26 on the Convention on the Rights of Persons with Disabilities)

[a] This includes:

- No provision restricting rights directly or indirectly on the basis of disability, such as on the basis of decision-making skills, mental capacity or legal capacity status
- No provision restricting the right to marry on the basis of disability, including through any form of deprivation of legal capacity (e.g. guardianship), in particular that of persons with intellectual disabilities and persons with psychosocial disabilities
- No requirement conditioning the right to marry, including health-related requirements, that directly or indirectly discriminates on the basis of disability (e.g. requiring judicial authorization for persons with intellectual disabilities to marry)
- No requirement of a mandatory prenuptial medical examination that applies exclusively to persons with disabilities as a precondition to marry, to choose their partner freely, or to receive financial assistance grants related to marriage or for any other purpose that may restrict those rights on the basis of disability
- No restriction on parental rights on the basis of disability, including no provision allowing for the separation of children from their parents or removal of custody from the parents on the basis of the disability of one or both of the parents
- No restriction imposed on adults on the basis of disability concerning guardianship, wardship, trusteeship, adoption of children or similar institutions, where those arrangements exist in national legislation
- No provision allowing involuntary practices (including where consent is given by a third party, such as parents or guardians, in contradiction with article 12 of the Convention on the Rights of Persons with Disabilities), such as forced sterilization, that violate the right of persons with disabilities, including children with disabilities, to retain their fertility and to preserve their identities

[b] The reference to "alternative care in a family setting within the community" encompasses situations where the immediate family is unable to care for a child with disabilities and requires States to undertake every effort to provide alternative care within the wider family and, failing that, within the community in a family setting, in accordance with article 23 (5) of the Convention on the Rights of Persons with Disabilities.

[c] The actual or perceived disability of a parent, on its own or jointly with other considerations, should be prohibited as justification to discontinue or remove parental rights, including custody rights. Determination of the best interest of the child should be based on non-discriminatory criteria.

[d] This should include a diverse range of non-mandatory support measures, including, for example, social protection benefits and support services that are tailored to the particular needs and circumstances of parents with disabilities (e.g. support measures for single parents with disabilities), parenting skills training programmes inclusive of persons with disabilities, and parent-peer support groups inclusive of parents with disabilities or those created by and for parents with disabilities. All support services and related information and communications should be made accessible for all persons with disabilities, taking into account the principle of universal design.

[e] This moratorium must include new admissions to both large and small group homes for children. For more details on what constitutes an institution in the context of this indicator related to children with disabilities, see Committee on the Rights of Persons with Disabilities, general comment No. 5 (2017) (para. 16 (c) *in fine*).

[f] On the deinstitutionalization of adults with disabilities, see the indicators on article 19 of the Convention on the Rights of Persons with Disabilities.

[g] Support measures must include the availability of early and comprehensive information, services and support to children with disabilities and their families and be tailored to the particular needs and circumstances of the child with disability and the family, such as funding for parents of deaf children to learn sign language. All support services and related information and communications should be made accessible for all persons with disabilities, taking into account the principle of universal design. Information, services and support related to psychosocial disability should avoid medicalization of children's distress and ensure that the child is supported directly and confidentially to express themselves within and outside the family.

[h] Policies should explicitly call for prioritizing investments in social services to support families and communities to prioritize family preservation; if the immediate family is unable to care for the child, alternative care within the wider family should be prioritized, and then quality family-based alternative care options, including kinship and foster care within family-based settings. See Committee on the Rights of Persons with Disabilities, general comment No. 5 (2017) on article 19 of the Convention on the Rights of Persons with Disabilities.

[i] This indicator requires the total amounts in order to compare the allocation of the public budget in both directions.

[j] 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

[k] This indicator includes:

- Persons formerly deprived of legal capacity on the basis of disability whose legal capacity has been restored, having their family rights, including parental rights, restored (e.g. regaining custody of their children)
- Persons with disabilities who have been subjected to forced sterilization, forced abortions or forced contraception, among others, and are entitled to reparation and redress

[l] Surveys on the level of satisfaction of persons with disabilities regarding the exercise of parental rights may prove useful as an assessment tool that captures the view of rights holders.