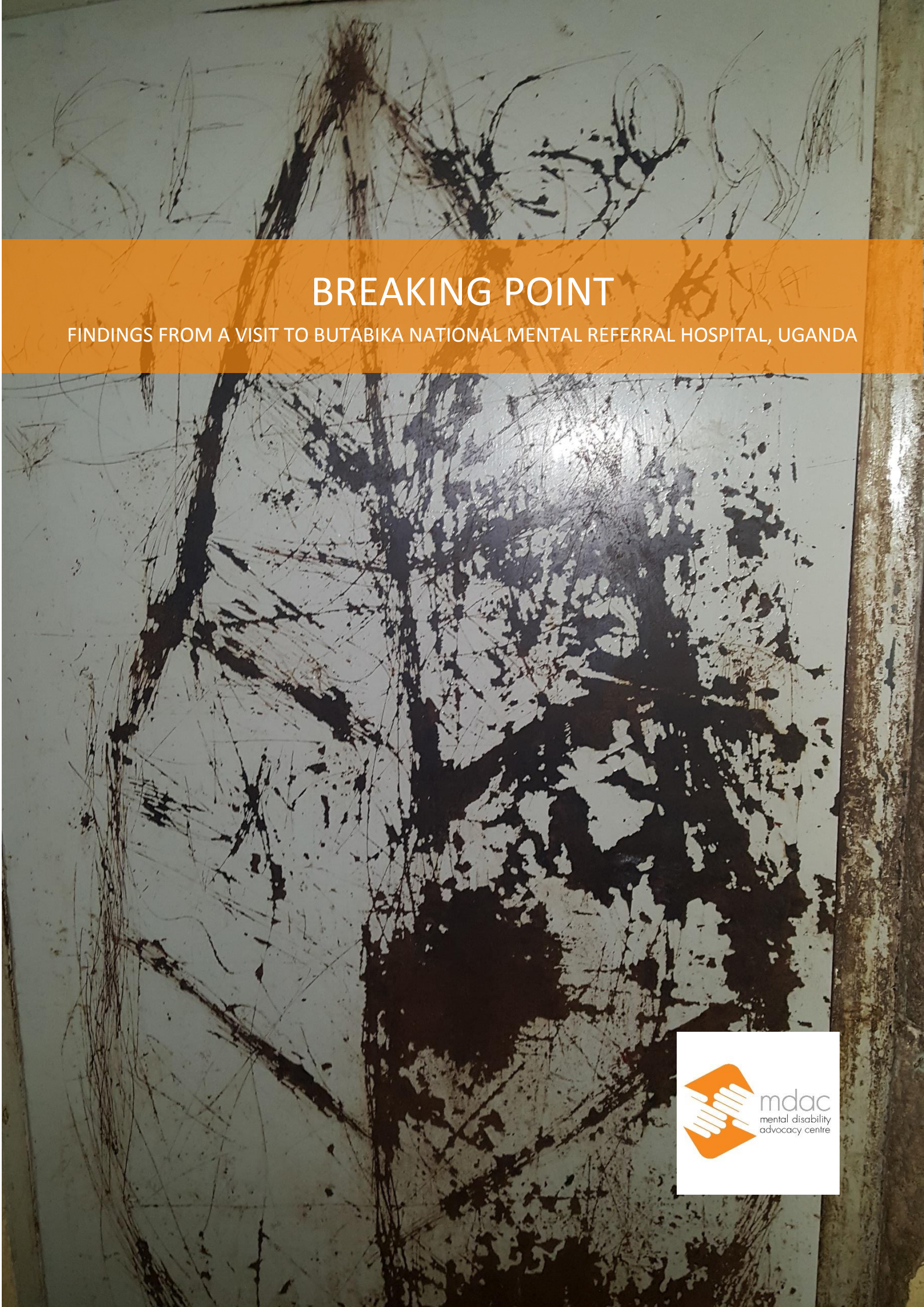

# BREAKING POINT

## FINDINGS FROM A VISIT TO BUTABIKA NATIONAL MENTAL REFERRAL HOSPITAL, UGANDA

mdac
mental disability
advocacy centre

Cover: The inside view of the metal door to a seclusion room at Butabika National Mental Referral Hospital, Uganda. © MDAC. Taken on 17 May 2017.

# BREAKING POINT

## Findings from a visit to Butabika National Mental Referral Hospital, Uganda


MDAC is a Foundation established in Hungary, with programmes internationally.
Website: www.mdac.org.

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# EXECUTIVE SUMMARY

Butabika National Mental Referral Hospital is located about 20 kilometres outside of Kampala. The MDAC team paid a visit to the hospital on the evening of May 17 after a meeting with Dr. Sheila Ndyanabangi, Ministry of Health, Mental Health Department who encouraged the team to visit the hospital. Butabika is located in a serene environment with lush green grounds which contrasts strongly with the fences surrounding every ward and the conditions therein.

Although we were informed that this was an "open hospital", we found wards surrounded by fences with limited freedom of movement. Most residents in this overcrowded institution were locked into wards which were only opened by guards at the gates, and a number of residents informed us that they were detained against their will.

MDAC witnessed many harmful practices including the use of seclusion, locking people behind bars and suspected use of chemical restraint. The conditions on some wards were dirty, overcrowded and lacked basic protections of human dignity such as privacy, personal bedding, etc. There also appeared to be a shortage of general and specialist health care, including on one ward where women with tuberculosis were left in the open – motionless, sitting and lying on floors with fresh blood stains and with no obvious sign of care being provided. Of profound concern was that we found a 3-year-old child on this ward – not because she was receiving treatment, but we were told she was being held there after her mother had been admitted on a different ward.

Unfortunately, it appears that there has been little change since MDAC and Mental Health Uganda (MHU) published findings from visits to Butabika and other psychiatric facilities in 2014. The seclusion cells remain. Women at Butabika still have their heads shaved and are detained against their will. Food appeared to be insufficient and the environment can only be described as overwhelmingly debilitating, with the exception of the positive practices seen at the Butabika Recovery College. Nationally, Butabika remains at the pinnacle of a mental health system which fails to provide basic services to the majority of people in the country who need them.

In some cases, the practices inside Butabika amount to torture and ill-treatment which are absolutely prohibited under national law, including the Prevention and Prohibition of Torture Act 2012. While staff, residents and the public more widely may not immediately recognise some of these practices as harmful, it is important to underline that people with mental health issues have the same rights and protections as everyone else – the rights to life, liberty, equality, and choice about the services they use and about where they live. Many of these are guaranteed in the Ugandan Constitution, as well as under the UN Convention on the Rights of Persons with Disabilities which Uganda ratified in 2007.

We call upon the Ministry of Health, the Parliamentary Health Committee, the Parliamentary Human Rights Committee and the Ugandan Human Rights Commission to further investigate the findings of this report and to carry out their own independent inspections of Butabika. Where human rights violations are identified, there must be both accountability for perpetrators as well as support, reparations and rehabilitation for the victims. Immediate assistance should be provided to the residents of Butabika and their families, and we urge a moratorium on new admissions. Seclusion and the use of chemical restraints must be stopped immediately.

At the time of publishing this report, the Parliament of Uganda was scrutinising a Mental Health Bill proposed by the Ministry of Health to reform the system. However, the Bill does not adequately address the issues in Butabika or nationally. The draft fails to adopt a human rights based approach to the provision of mental health care – something the Government was required to do by the United Nations Committee on the Rights of Persons with Disabilities last year. Instead, it opts for an

approach to care that is based on coercion, involuntary confinement and legalisation of abusive practices such as seclusion and electroconvulsive therapy (ECT). The Bill must be redrafted in line with international law and with the involvement of persons with mental health issues themselves – including the residents and families of people in Butabika.

The Government should adopt a long-term strategy to address the challenges faced by person with mental disabilities and their families, based on a vision of providing support and inclusion in the community. It is only through building more inclusive communities that the human rights of persons with mental disabilities can be truly respected.

## Acknowledgments

We are very grateful to all residents who were willing to speak with us about their lives both before and inside Butabika. This report is dedicated to them.

Our thanks also go to Dr. Sheila Ndyanabangi for her permission and encouragement to visit the hospital. We hope this report can inform the Ministry of Health on the reforms currently being undertaken. We would also like to express our thanks to the staff of Butabika Hospital for allowing us to visit the hospital at short notice and for allowing us to tour the wards and grounds.

The content of this report has been edited to protect the identities and dignity of residents, in compliance with relevant Ugandan and international law. MDAC thanks numerous professionals, lawyers, specialists and human rights defenders who advised in the preparation of this report.

MDAC works within an international network of people, civil society organisations and organisations of persons with disabilities who are committed to ending isolation, segregation and abuse against people with disabilities worldwide.

**Note:** A draft version of this report was sent to the Ministry of Health on 23 June 2017. No official response had been received on the date of publication.

# RECOMMENDATIONS

Uganda has human rights obligations under United Nations and African Union treaties which it has ratified. It has accepted obligations to protect, respect, promote and fulfil the human rights of everyone on its territory, including people with mental disabilities. Based on the findings set out in this report, MDAC urges the Ugandan Parliament and Government to take urgent steps, including:

1. Immediately provide urgent medical and other assistance to all residents of Butabika, providing for their basic and emergency physical, psychological and psychiatric needs.

2. Immediately abolish all practices which amount to torture or ill-treatment, including the use of seclusion cells, chemical and other forms of restraint, and deprivation of food, light, water and heat.

3. Open police investigations into the allegations in this report, including acts of torture or ill-treatment, under the Prevention and Prohibition of Torture Act 2012.

4. Ensure reparations for victims of human rights violations, in conformity with the African Commission on Human and Peoples' Rights' General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5), and UN General Assembly Resolution 60/147 of 16 December 2005 on "Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law".

5. Ensure that Butabika and all services for persons with disabilities, are opened for independent monitoring by representatives of national and international civil society, without restriction, and in compliance with Articles 16(3) and 33 of the UN Convention on the Rights of Persons with Disabilities.

6. Immediately ratify the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

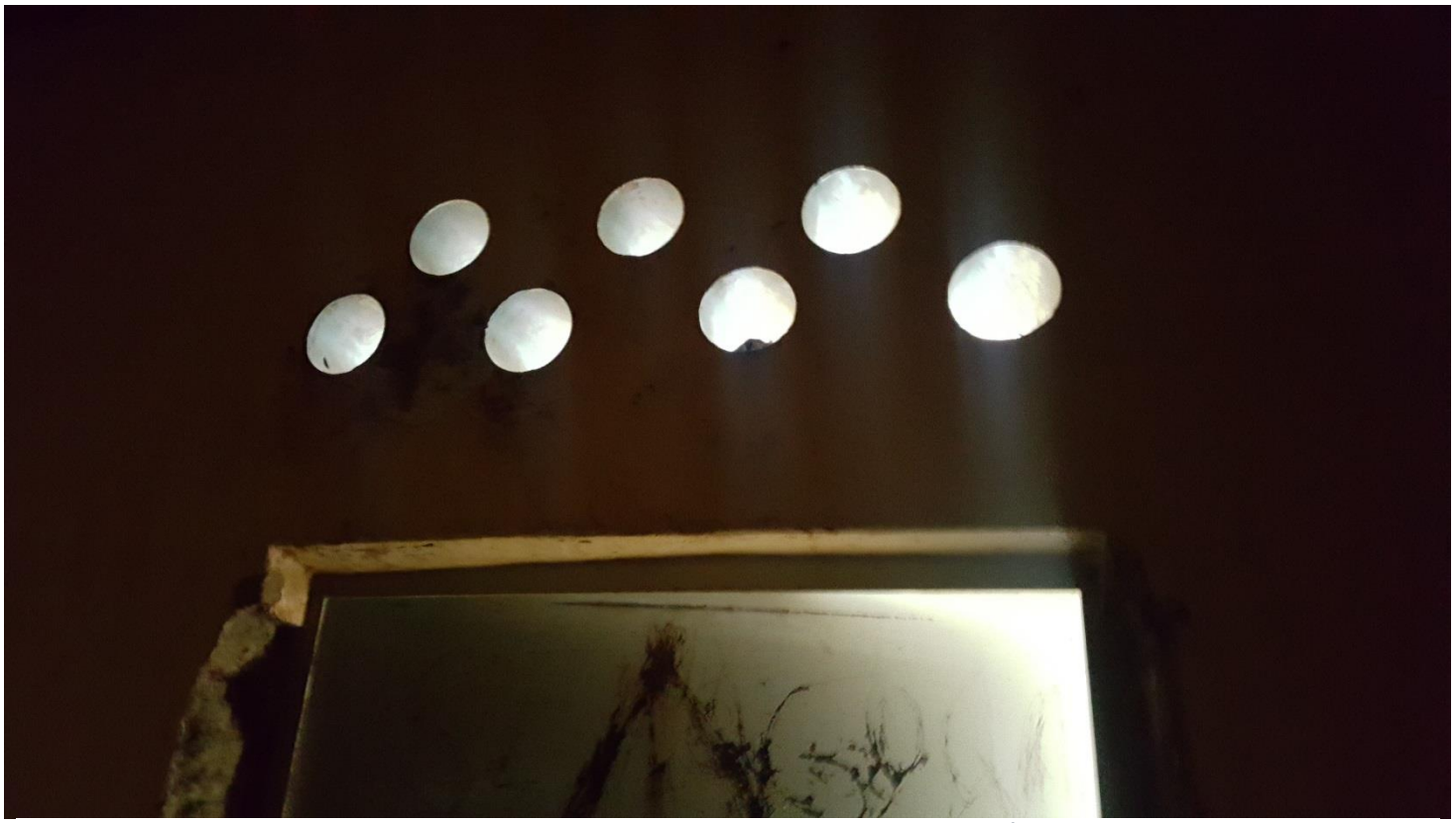
MDAC urges the Parliamentary Health and Human Rights Committees to:

1. Jointly inspect Butabika Hospital in person as a matter of priority and publish their findings and analysis based on the Constitution, international human rights standards and the Prevention and Prohibition of Torture Act 2012.

2. Review and redraft the Mental Health Bill to bring it into greater compliance with international human rights law. Specifically, the Bill should legislate the right for people with disabilities to live in the community, to receive services in the community (including primary mental health care), and to access treatments on the basis of full and informed consent, in line with the UN Convention on the Rights of Persons with Disabilities. Involuntary detention and involuntary treatment should be banned. A national consultation exercise should be undertaken with the active participation of persons with mental health issues and the residents of Butabika.

MDAC urges the Ugandan Human Rights Commission to:

1. Exercise its mandate to monitor all places of detention, including Butabika, and publish findings in line with the standards noted above.



Minimal light and ventilation is available in the seclusion rooms. Male forensic ward.
© MDAC. Picture taken 17 May 2017.

The 'bed' is comprised of a concrete block, with a damaged and unhygienic foam mattress for a covering. Male forensic ward.
© MDAC. Picture taken 17 May 2017.

# 1. INTRODUCTION

## a. MDAC's programmes in Uganda

The Mental Disability Advocacy Centre (MDAC) is an independent, international non-governmental organisation that uses the law to advance the human rights of people with mental health issues and people with intellectual disabilities worldwide.[1] It has consultative status with the United Nations Economic and Social Council (ECOSOC) and participatory status with the Council of Europe. MDAC also has a pending application for consultative status with the African Commission on Human and Peoples' Rights (AComHPR). MDAC has extensive experience of monitoring psychiatric facilities across Europe and Africa and contributed to the development of a specialised toolkit for this purpose which is now used internationally.[2]

In 2014, MDAC, in collaboration with Mental Health Uganda (MHU), published two human rights monitoring reports on the lives of people with psycho-social disabilities (mental health issues) in Ugandan mental health facilities and in communities.[3] The reports can be accessed online at www.mdac.org/uganda. Two further research reports were released in 2015 on access to justice for people with mental disabilities providing detailed recommendations on how the justice system must respect, protect, promote and fulfil human rights.[4]

In 2008, Uganda become the first African nation to ratify the UN Convention on the Rights of Persons with Disabilities. Last year (2016), the country underwent its first periodic review before the United Nations Committee on the Rights of Persons with Disabilities ("CRPD Committee").[5] To coincide with the review, MDAC and our partners produced a short film entitled *"Stop the Abuse!"*, highlighting the abuses faced by Ugandans with mental health issues in the community and in mental health institutions.[6]

## b. Roadmap

**This chapter** sets out key descriptive information regarding Butabika National Mental Referral Hospital ("Butabika"), including some information collated regarding the financing of this institution.

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[1] In this report, MDAC uses the term "persons with mental disabilities" to refer to people with actual or perceived psycho-social (mental health) disabilities, people with intellectual disabilities, people with other developmental or cognitive impairments, people with autism and people with Alzheimer's or related conditions, or those who have brain injuries. These groups are not exclusive, and the term "persons with disabilities" is an evolving concept, see: Convention on the Rights of Persons with Disabilities, Perambulatory paragraph (e).

[2] The ITHACA Project Group, *The ITHACA Toolkit for monitoring Human Rights and General Health Care in mental health and social care institutions* (London: Institute of Psychiatry, King's College London, 2010), available online at http://mdac.info/sites/mdac.info/files/ithaca_toolkit_english.pdf (accessed 18/07/2017).

[3] MHU and MDAC, *"They don't consider me as a person": Mental health and human rights in Ugandan communities*, 2014, available online at http://bit.ly/1wfpYPR (accessed 18/05/2017); and, MHU and MDAC, *Psychiatric hospitals in Uganda: A human rights investigation*, 2014, available online at http://bit.ly/1ukvuNO (accessed 18/05/2017).

[4] MDAC, *Access to Courts and Reasonable Accommodations for People with Mental Disabilities in Uganda* (Budapest: MDAC, September 2015), available online at http://www.mdac.org/sites/mdac.info/files/access_to_courts_in_uganda.pdf (accessed 18/05/2017); and MDAC, *Justice for People with Mental Disabilities in Uganda: A Proposal for Reform of Rules of Court* (Budapest: MDAC, September 2015), available online at http://www.mdac.org/sites/mdac.info/files/uganda_rules_of_court_proposal.pdf (accessed 18/05/2017).

[5] Following the review, the CRPD Committee released detailed recommendations to Uganda to strengthen respect for the human rights of persons with disabilities in the country: CRPD Committee, *'Concluding Observations on the initial report of Uganda'*, CRPD/C/UGA/CO/1, 12 May 2016, available online at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fUGA%2fCO%2f1&Lang=en (accessed: 18/05/2017).

[6] MDAC, '*Stop the Abuse!*' [video], April 2016, available online at https://youtu.be/tEaWFCmPsMg (accessed: 18/05/2017).

Chapter 2 sets out key findings following a visit to the institution by MDAC representatives on 17 May 2017 with the permission of the Ugandan Ministry of Health. The findings are analysed with reference to key national and international human rights laws, including the Ugandan Constitution, the African Charter on Human and Peoples' Rights, the UN Convention on the Rights of Persons with Disabilities and the UN Convention against Torture. Chapter 3 goes on to provide specific observations in relation to wards that were visited on 17 May 2017.

### LIST OF ACRONYMS

| | |
|---|---|
| *AComHPR* | African Commission on Human and Peoples' Rights |
| *ACHPR* | African Charter on Human and Peoples' Rights, ratified by Uganda in 1985 |
| *AU* | African Union, to which Uganda acceded in 1963 |
| *CAT* | Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a UN treaty, ratified by Uganda in 1986 |
| *CEDAW* | Convention on the Elimination of all Forms of Discrimination against Women, a UN treaty, ratified by Uganda in 1985 |
| *CRC* | Convention on the Rights of the Child, a UN treaty, ratified by Uganda in 1990 |
| *CRPD* | Convention on the Rights of Persons with Disabilities, a UN treaty, ratified by Uganda in 2008 |
| *GC-4* | General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5) |
| *ICCPR* | International Covenant on Civil and Political Rights, a UN treaty, ratified by Uganda in 1995 |
| *ICESCR* | International Covenant on Economic, Social and Cultural Rights, a UN treaty, ratified by Uganda in 1987 |
| *OP-CAT* | Optional Protocol to the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment, a UN treaty, which has not yet been ratified by Uganda |
| *PPT Act* | Prevention and Prohibition of Torture Act 2012 (Uganda) |
| *TCIDTP* | Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment |
| *UN* | United Nations |
| *WHO* | World Health Organization |

## c. Description of Butabika

Butabika Hospital was established in 1955 and is currently the only national referral mental health institution in the country.[7] It is located about 10 kilometres east of Kampala. The hospital's mandate is to "provide super specialized health care" to people with mental disabilities. It is also a teaching hospital supervising primary mental health care and is the main recipient of the national mental health budget. In addition to in-patient services, Butabika also provides outpatient services. Butabika has a bed capacity of 550 people but, according to the hospital, the number of in-patients "often ranges between 750-780".[8] A representative of the Ministry of Health, however, informed MDAC that there are at times close to 1,000 in-patients at the hospital.

There are male, female, children's and forensic wards at Butabika: each is contained in a separate building with a yard surrounded by fencing. The wards are spread around a large outdoor area of

[7] Butabika Hospital, *'Mandate'*, available online at http://www.butabikahospital.com/index.php/en/about-the-hospital/our-mandate (accessed 18/5/2017).
[8] Butabika Hospital, *'Welcome to Butabika Hospital'*, available online at http://www.butabikahospital.com/index.php/en/ (accessed 18/5/2017).

some 22 hectares (54 acres). The female wards consist of an admission ward, an acute ward, a "female sick" ward and a female forensic ward. The same structure applies regarding the organisation of wards for men with mental disabilities. Butabika is the only hospital in Uganda with a children's ward for children with mental disabilities. This ward is supposed to provide habilitative and rehabilitative care for children with mental disabilities and is the only facility in Uganda that ostensibly provides such services. Butabika also has a private wing and a drug and alcohol unit.

While most of the wards are spread across the grounds, the male and female forensic wards are in the same building and are separated by a fence. Next to the forensic wards is the Butabika Recovery College. This is a private-public partnership between the hospital and Butabika East London Link, associated with the East London NHS Foundation Trust in the UK.[9] The Recovery College is a community outreach programme which encourages peer-to-peer support services for people with mental disabilities. The Recovery College is based on the principle of co-production between the hospital and peers.

## d. Financing

Butabika's finances come from budgetary allocations by the Ugandan Government through the Ministry of Health. The WHO reports that, although the Government has increased allocations for health funding, the total funds provided remain below 10% of the national budget. This falls significantly below the recommended allocation under the Abuja Declaration.[10] In addition, the current funding of 27 USD per person per annum is far below the recommended amount for general health provision to the population.[11]

According to a 2017/18 Ugandan Sector Budget Framework Paper,[12] the targets for the provision of specialised mental health services were 86,500 outpatients, 35,750 investigations to be carried out and a mere 3,519 individual outreaches to be conducted. Butabika was allocated 11.038 billion Ugandan shillings (UGX) (approximately 2.7million EUR), for the current fiscal year, which accounts for 0.6% of the national health budget.[13]

This information indicates significant under-funding on a percentage basis for mental health care services and a clear policy bias towards the provision of such services at Butabika (and to a lesser extent, at regional referral mental health units). This means a reduced focus on the development of community-based services to persons with disabilities at all health care levels and around the country. This is despite the fact that this is now required by international human rights standards that are binding on Uganda, most notably those contained in Article 19 of the UN CRPD, which guarantees the right to independence and inclusion in the community for all people with disabilities.

Unfortunately, the current mental health care services and policy frameworks result in a major 'push factor' for people with mental disabilities towards Butabika, or, instead, into the hands of unregulated traditional healers.[14]

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[9] *'Butabika East London Link'*, website www.butabikaeastlondon.com (accessed 18/5/2017).
[10] The Abuja Declaration (2001), pledged during an African Union summit in Abuja, Nigeria, whereby AU Member States committed to allocating 15% of their annual budgets to health care provision.
[11] World Health Organization, *Analytical Summary Health Financing System, Uganda*, available online at http://www.aho.afro.who.int/profiles_information/index.php/Uganda:Analytical_summary_-_Health_financing_system (accessed 18/05/2017).
[12] Ministry of Finance, Planning and Economic Development, *Sector Budget Paper Financial Year 2017/18* (March 2017), available online at http://budget.go.ug/budget/sites/default/files/National%20Budget%20docs/Final%20BFP%20FY%202017_18.pdf (accessed 18/05/2017), pp. 185, 198.
[13] Ibid.
[14] See, for example, MDAC and MHU, *"They don't consider me as a person"*, supra note 3.

View through the metal fencing on the women's acute ward. All women on this ward were in a uniform and had shaved heads.
© MDAC. Picture taken 17 May 2017.

An image of the grounds of Butabika as presented on the official website of the hospital.
www.butabikahospital.com/index.php/en/images-of-hospital

# 2. FINDINGS

## a. Key findings

This section sets out key summative findings. To analyse these, key national, regional and international human rights guarantees adopted by Uganda have been set out. Following this section, detailed observations and findings are presented for each of the wards that were visited by the MDAC team.

### HUMAN RIGHTS

The poor conditions, abusive practices and severe overcrowding violate the right to respect of the dignity inherent in a human being and the rights to respect for life and integrity of the person of residents at Butabika. It is of profound concern that this hospital is the sole institution in the country considered to be capable of providing specialist care and treatment to people with mental disabilities yet it clearly fails to respect basic human rights or provide for resident's basic needs.

## b. Failure to provide for basic needs and degrading treatment

Butabika's resources are clearly stretched to the seams and manifestly unable to provide basic dignity to the majority of residents. Despite the pleasant grounds of the institution, the wards are closed, filthy and unsanitary, and many have strong smells of fresh urine and faeces. There is significant overcrowding, a severe shortage of staff, and the physical environment on the wards is dilapidated. Overcrowding appears to have increased since our previous report and, according to one source at the Ministry of Health, financing for the facilities have recently been dramatically cut by some 85%, although it was not possible for MDAC to verify this claim.

On a number of wards, the MDAC team found evidence of malnutrition, and many residents had skin conditions, cuts, and poor general hygiene. It was not clear how accessible clean water or washing facilities are for the residents.

The condition of residents on the female "sick ward" was of serious concern. We were told that some of the residents there had tuberculosis, yet the MDAC team were free to enter and it was not an isolated or specialised ward. Just one staff member on this ward was providing assistance to residents when the MDAC team arrived and it was clearly not possible to provide the specialised forms of care that are needed for people with such serious health conditions. As a result, women were left on their own, lying on concrete floors and apparently suffering from malnourishment. The basic dignity of these residents was seriously compromised and urgent assistance was clearly needed.

The severe overcrowding at Butabika means that individualised care and assistance is almost impossible to deliver on any of the wards visited. Residents told the MDAC team that people are sometimes forced to share beds or sleep on the floor in large dormitory rooms, and observations from the female acute ward raised a concern that some women may even sleep on bedding outside. Residents have no privacy and are forced to wear uniforms rather than wearing their own, individual clothes.

### HUMAN RIGHTS

The findings represent clear violations of core international human rights protections for basic dignity and survival enshrined in international law and to which the Ugandan Government has committed

itself. Many of these conditions, individually and/or cumulatively, likely breach minimum human rights standards and engage the prohibition on inhuman and degrading treatment for which there can be no justification under international human rights law.

- Right to life: Ugandan Constitution, Article 22; ACHPR, Article 4; African Charter on the Rights and Welfare of the Child, Article 5; ACHPR Protocol on the Rights of Women in Africa, Article 4; ICCPR, Article 6; CRC, Article 6; and CRPD, Article 10.
- Protection of the rights of the child from neglect or negligent treatment: African Charter on the Rights and Welfare of the Child, Article 16; and CRC, Article 19.
- Right to dignity, including of persons deprived of their liberty: Ugandan Constitution, Article 24; ACHPR, Article 5; African Charter on the Rights and Welfare of the Child, Article 21; ACHPR Protocol on the Rights of Women in Africa, Article 3; ACHPR GC-4, paras. 8, 10 and 18; and CRPD Articles 1, 3 and 16.
- Right to survival, development, dignity and human potential of the child, and the right of women to realise their full potential and advancement: Uganda Constitution, Article 33; African Charter on the Rights and Welfare of the Child, Article 5; and CRPD Article 24.
- Right to an adequate standard of living including adequate food, clothing and housing; the right to continuous improvement of living conditions; and the right to be free from hunger: Ugandan Constitution, Article 39; African Charter on the Rights and Welfare of the Child, Article 14; ACHPR Protocol on the Rights of Women in Africa, Articles 15 and 16; ICESCR, Article 11; and CRPD, Article 28.
- Right to live independently and be included in the community for all persons with disabilities on an equal basis with others: African Charter on the Rights and Welfare of the Child, Article 13; and CRPD, Article 19.
- Right to a private and family life: African Charter on the Rights and Welfare of the Child, Articles 10, 19 and 25; ICCPR, Article 17; ICESCR, Article 10; CRC, Article 8; CEDAW, Article 16; and CRPD, Article 23.

### c. Involuntary confinement, seclusion and chemical restraint

Although we were informed by a representative of the Ministry of Health that the institution is an "open facility", it was clear that few residents could move around freely outside of the wards, and the MDAC team were informed that the vast majority of people are brought there by force, either by police, family or other community members. It was not clear for the residents that we met whether there is a legal basis for their arrest, detention or treatment, although concerns have previously been raised about systemic failure to apply the current legal standards in this regard.[15]

All wards are surrounded by fencing and the majority have their front gates closed and guarded to prevent people from freely entering or leaving.

While, at the time of the visit, the team did not see anyone in physical restraints, other highly coercive practices were observed, including the use of seclusion cells, shaving of women's heads on both the acute and "sick" wards, and many residents who appeared to be highly medicated. In MDAC's experience and in previous visits to Butabika, residents are often over-medicated as a form of chemical restraint or "patient management".[16]

In the male forensic ward, the team discovered that seclusion cells apparently remain in use, and we were told that people are placed, naked, into these concrete, dark cells and left for significant

[15] See: MHU and MDAC, *Psychiatric hospitals in Uganda*, supra note 3, Chapter 2(B).
[16] See: ibid, Chapter 2(A).

periods of time. There can be no therapeutic justification for this abusive practice which should be immediately ended.

Two particular situations raised specific concern for the safety and welfare of children at Butabika. On the female "sick ward", the team was deeply concerned to identify a very young child, between 4 and 6 years old, detained there with women who had multiple health issues, tuberculosis and mental disabilities. A teenage girl and two young children were also observed on the female acute ward. Detaining children with adults in settings such as these clearly places them at significant risk of abuse, harm and psychological trauma.

## HUMAN RIGHTS

These findings raise violations of the rights to personal integrity and to liberty of all residents to the extent that they cannot leave the wards, seclusion rooms or institution freely. Additionally, the use of chemical restraints and seclusion further restricts their right to liberty on the basis of disability and is prohibited under the right to be free from torture, cruel, inhuman and degrading treatment or punishment.

In relation to the detention of children with adults, this falls foul of clear UN guidelines which state that:

> "In all detention facilities juveniles should be separated from adults, unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special programme that has been shown to be beneficial for the juveniles concerned."[17]

The UN Special Rapporteur on Torture has pointed out that there should be "an absolute ban on all coercive and non-consensual measures, including restraint and solitary confinement of people with psychological or intellectual disabilities".[18] In a description that is highly pertinent to the situation at Butabika, he went on to say that:

> "The environment of patient powerlessness and abusive treatment of persons with disabilities in which restraint and seclusion is used can lead to other non-consensual treatment, such as forced medication and electroshock procedures."[19]

The UN Special Rapporteur on Torture has also authoritatively stated that "there can be no therapeutic justification for the use of solitary confinement and prolonged restraint of persons with disabilities in psychiatric institutions; both prolonged seclusion and restraint may constitute torture and ill-treatment."

- Right to survival, human dignity and human potential: Ugandan Constitution, Articles 24, 33 and 35; ACHPR Article 5; African Charter on the Rights and Welfare of the Child, Article 5; and CRPD, Articles 5 and 28.

[17] UN General Assembly, 'United Nations Rules for the Protection of Juveniles Deprived of their Liberty', Resolution, A/RES/45/113, 68th plenary meeting, 14 December 1990, para. 29, available online at http://www.un.org/documents/ga/res/45/a45r113.htm (accessed 19/5/2017).
[18] United Nations Human Rights Council, Twenty-second session, 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E Méndez', A/HRC/22/53, 11 February 2013, para. 63, available online at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf (accessed 26 April 2017).
[19] Ibid.

- Right to be free from torture, cruel, inhuman and degrading treatment or punishment: Ugandan Constitution, Article 24; PPT Act, s.3 and 7; ACHPR, Article 5; African Charter on the Rights and Welfare of the Child, Articles 16 and 17; ACHPR Protocol on the Rights of Women in Africa, Articles 4 and 20; CAT, Article 2; and CRPD, Article 15.
- Right to reparations, including rehabilitation, for victims of torture, cruel, inhuman and degrading treatment or punishment: PPT Act, s.6; ACHPR Protocol on the Rights of Women in Africa, Article 4; ACHPR GC-4, paras. 26, 38, 40-43 and Recommendation VIII; CAT, Article 14; and CRPD, Articles 15 and 16(4).
- Freedom of liberty and security of person: Ugandan Constitution, Articles 23 and 34; ACHPR, Article 6; and CRPD, Article 14.
- Right to live independently and be included in the community for all persons with disabilities on an equal basis with others: African Charter on the Rights and Welfare of the Child, Article 13; and CRPD, Article 19.

## d. Denial of health, habilitation and rehabilitation

There is clear evidence of denial of health, habilitation and rehabilitation in Butabika hospital. The MDAC team saw little evidence of treatment, therapy or any other form of necessary care. No evidence was found on the residential wards of any form of occupational therapy or other activities, with the vast majority of residents left almost completely to their own devices with nothing to do – a situation that appears unchanged since MDAC last visited this institution in 2014. Neglect and denial of health, habilitation and rehabilitation were particularly reflected in the sick wards. There were 35 residents in the female sick ward while the MDAC team were there. The day shift doctor was doing rounds at 6.00pm. He spent approximately 10 minutes in the ward where the majority of residents have tuberculosis. There was no nurse on duty, only a mental health assistant who was waiting for the nurse to report for duty.

### HUMAN RIGHTS

Everyone has the right to the highest attainable standard of health. Governments must ensure basic, emergency, specialist and other healthcare services. This duty is enhanced in relation to people who are detained by the State, which includes the residents at Butabika. People with disabilities, including children, also have the right to access to services and supports for habilitation and rehabilitation, and to facilitate their active participation in society. Such services can provide concrete support for people to be reunited with their families and communities, enable people with mental disabilities to receive support from their peers, and play an important role in sign-posting people to appropriate, disability-sensitive services in the community. This is particularly critical for victims of TCIDTP.

- Right to the highest attainable standard of physical and mental health: ACHPR, Article 16; African Charter on the Rights and Welfare of the Child, Article 14 and 21; ACHPR Protocol on the Rights of Women in Africa, Article 14; ICESCR, Article 12; CRC, Articles 23 and 24; CEDAW, Article 12; and CRPD, Article 25.
- Right to habilitation and rehabilitation: PPT Act, s.6; CRC, Articles 23 and 24; and CRPD, Articles 19 and 26.

## e. Discrimination

The failure of the State to ensure that the residents of Butabika can live with their families and communities with necessary support and with choices on an equal basis with others is a form of discrimination on the basis of disability. Residents of Butabika have been detained in this segregating, isolating institution because of their impairments and are subjected to the violence, abuse, neglect, ill-treatment and other rights violations described out above on the same basis.

Moreover, the discrimination perpetrated in Butabika is multiple and intersecting. The disproportionate impact of the placement and conditions in Butabika on the children in this institution, the denial of their specific basic and developmental needs and the clear failure to act in accordance with their best interests amounts to age-based discrimination. The team found gender-specific abuses and violence: MDAC were informed that the women have their hair shaved to prevent the spread of lice. When we enquired as to the process, we were informed that Butabika has a contract with an outside company that handled the shaving of people's hair. We were told that women are shaved by men, including shaving pubic and other body hair.

## HUMAN RIGHTS

The principle of non-discrimination and the right to equality are fundamental standards of international human rights law, found across all international treaties. They entail specific obligations for governments. In the context of disability based discrimination, this includes the obligation to ensure and promote the full realisation of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind, and to recognise that all persons are entitled without any discrimination to the equal protection and equal benefit of the law. States must prohibit all discrimination on the basis of disability, and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds. They must take all appropriate steps to ensure that reasonable accommodations are provided.

- Right to equality and non-discrimination: Ugandan Constitution, Articles 21 and 33; ACHPR, Articles 3, 18 and 28; African Charter on the Rights and Welfare of the Child, Articles 3, 21 and 26; ACHPR Protocol on the Rights of Women in Africa, Articles 2, 22 and 23; ICCPR, Article 2; ICESCR, Article 2; CRC, Article 2; CEDAW, Article 2; and CRPD, Articles 5, 6 and 7.

A row of four seclusion cells. Male forensic ward.
© MDAC. Picture taken 17 May 2017.

Spare bedding on a wet floor, outside the seclusion cells. Male forensic ward.
© MDAC. Picture taken 17 May 2017.

# 3. DETAILED OBSERVATIONS

What follows is a detailed description of the findings from each of the wards visited by the MDAC team.

## a. Access

MDAC was told by a representative of the Ministry of Health that Butabika is an "open facility" available for visiting by civil society. MDAC was actively encouraged by this representative to visit, see in practice that the facility provides specialist health care facilities, and report back in case any issues were identified.

Representatives of MDAC therefore visited Butabika on 17 May 2017, arriving at the gates of the institution just before 5pm. The front gate to the institution was open, and, on approaching what appeared to be a security guard at the front gate, the team were flagged through. The team signed the Visitors Book of the establishment and were granted permission to visit the wards of the hospital. The team first spent time at the Butabika Recovery College, which was open and accessible in a separate building within the grounds. Following this, the team proceeded to visit the male admissions ward ("Kireka ward"), the "female sick ward", the male forensic ward ("Kiriinya ward") and observed the situation in the female convalescent ward through the fencing.

## b. Butabika Recovery College

### VISIT TIMES: Approximately 16:55 – 17:20

The MDAC team visited the Recovery College and observed a class ongoing where several residents were making beaded products. We were informed that these products are collected and then sold on the open market, some of which are shipped to Europe and the United States of America, and that people are paid for their involvement in creating the products. The College appeared to be well-equipped in a number of rooms suggesting a varied programme of educational and rehabilitative activities for residents and outpatients. This was the only place at Butabika where MDAC found evidence of habilitative or rehabilitative activities.

The team were informed that Butabika Recovery College has a peer-to-peer outreach programme for persons affected by mental health issues, and that volunteers assist with reintegrating residents of Butabika back with their families and into the community. The programme is not officially recognised by the Hospital, despite it reportedly being welcomed by management of the institution.

### HUMAN RIGHTS

While the efforts at the Butabika Recovery College are positive, and particularly the involvement of people with mental disabilities, the capacity of this service is not clear and could be strengthened through official recognition by the Government.

## c. Male admissions ward ("Kireka ward")

### VISIT TIMES: Approximately 17:30 – 17:50

The team arrived at this ward which is a separate building surrounded by fencing and a closed gate with a security guard at the entrance. A group of five medical professionals were arriving at the entrance at the same time as the MDAC team and the gate was opened for us to enter into the yard. Apart from this, two female staff were identifiable on the ward, one wearing a white uniform and the

second wearing a purple uniform. Some male residents had plates with Ugali (maize meal) and a few brown beans which apparently constituted their evening meal.

## FAILURE TO PROVIDE FOR BASIC NEEDS, DEGRADING TREATMENT

There were approximately 20 men in various states of dress and undress lining up in front of a female staff member in the yard. The medical personnel approached this line and began to speak to the staff member.

The MDAC team observed two large dormitory rooms containing over 30 beds each. The bedding was old, worn out, dirty and damaged. There were mattresses on the floor and a strong smell of urine in all the internal areas of the ward. Some men lay almost motionless on the concrete floor inside the ward. One man said he was waiting near the barred door to a dormitory so that he could get a bed before all the spaces were filled up.

Another resident informed us that cleaning was left to the residents on this particular ward. While some men had uniforms provided by the hospital, some lacked shirts "because they were not given". Aside from shorts and a shirt, residents informed MDAC that no other clothing is provided by the hospital, including during the cold weather. None of the residents appeared to be wearing clothes owned by them personally.

Many of the men on this ward appeared to have visible skin conditions, cuts and sores, dirty hands and hair, and poor general hygiene. Although medical personnel were on the ward at the same time as the team, there was no communication between these staff and the residents – the vast majority of residents on this ward were left completely unattended. The team observed one man urinating openly in the yard and a number of men eating next to open drains. No clean, running water could be seen in the yard, although what appeared to be a shared shower was visible at the end of one of the dormitories, however this latter observation could not be confirmed as the room was locked.

## INVOLUNTARY CONFINEMENT, SECLUSION AND CHEMICAL RESTRAINT

A number of male residents were milling around the yard upon arrival of the MDAC team, some with bare torsos. Some were drooling heavily, and others were shuffling very slowly. Both of these behaviours indicate heavy doses of psychiatric and / or sedative medications.

The team entered the building on this ward via a corridor which had two large dormitory rooms on either side. Each of these rooms was closed with a locked, metal-barred door, and each had an additional wooden door which was bolted open, meaning that the team could see inside the rooms through the bars. There were a number of men locked up in the dormitory on the right-hand side who informed us that they are not let out because they were deemed to be "mad, dangerous".

There did not appear to be any form of supervision for these men. One of the residents told MDAC that seclusion cells are used on this ward, but this was not possible to verify as they were allegedly behind a side door which was locked with a metal, barred door.

## DENIAL OF HEALTH, HABILITATION AND REHABILITATION

We were informed at the time of the visit, there were about 50-70 persons in the male ward with only one nurse to administer medication, instructions, food and monitoring. No evidence was found of health, habilitative or rehabilitative activities, and it appeared that the environment was instead debilitative.

## d. "Female sick ward"

VISIT TIMES: Approximately 17:50-18:05

MDAC were informed that "sick wards" are those wards at Butabika where a person is taken should they fall ill with any disease or condition that needs a general doctor. This ward was surrounded by fencing, although the gate to the yard was open. One female staff member in a purple uniform was present during our visit.

### FAILURE TO PROVIDE FOR BASIC NEEDS, DEGRADING TREATMENT

Several women were immediately visible in the yard lying on the grass and concrete outdoor terrace, mostly motionless, some lying in pools of urine or other dirty water. A couple of women appeared to be eating Ugali on the same concrete floor.

The female staff member informed MDAC that there were 35 residents on the ward, although the full bed capacity is 75. It was apparent that many of the women were in an exceptionally poor physical condition, with shaved heads and sitting or lying almost entirely motionless. Pools and streaks of what appeared to be fresh blood on the concrete floors were clearly visible, along with dirty water. Some of the women were showing clear signs of malnutrition and were extremely gaunt.

One woman who was able to stand up stumbled across the yard and, apparently unaware of anyone else's presence, removed her clothing and began urinating. No assistance was provided to this woman.

### INVOLUNTARY CONFINEMENT, SECLUSION AND CHEMICAL RESTRAINT

Although MDAC was unable to verify the forms of drug-based treatments provided on this ward, we were concerned to see many of the female residents unable to move and barely responsive to our presence. It was not clear whether the women on this ward were involuntarily detained or whether they had consented to the treatments being provided to them.

### DENIAL OF HEALTH, HABILITATION AND REHABILITATION

During our visit to this ward, a day shift doctor arrived (the same as had been observed briefly at the male admissions ward) and was doing rounds. Accompanying him was a young male and two young female student doctors. The doctor briefly greeted the team before proceeding on his rounds, and, similarly to on the men's ward, spent approximately 10 minutes on the ward.

The female staff member informed us with some concern that many of the residents were suffering from tuberculosis, a communicable disease that is highly likely to spread. No other staff were present to assist the residents.

### CHILD-SPECIFIC CONCERNS

The MDAC team were immediately concerned upon entrance to the ward to see a very young female child between 4 and 6 years old on the ward. The female staff member informed the team that the child had been placed there that day after she had been picked up from the street with her mother, who at that point was being admitted to a separate ward of the hospital. The child was very quiet and appeared distressed, staring towards the other ward where she knew her mother was. The female staff member informed us that the child would likely be transferred to another ward at the

hospital later in the day, but it was unclear why the child had been placed on the sick ward in the first instance. Given the unsanitary and potentially dangerous health conditions of a number of adult residents on this ward, the MDAC team were extremely concerned for her safety.

## e. Male forensic ward ("Kiriinya ward")

### VISIT TIMES: Approximately 18:15-18:30

There is one entrance to this ward, which is within the same grounds as the female forensic ward (which the team did not visit). There was a security guard at the entrance gate who allowed the team through. On entering, the team passed the female forensic ward and a large open area where a football match was taking place. We were informed that people from the surrounding community occasionally use the grounds for sports with the agreement of the institution.

We observed several men who appeared highly medicated and were milling around the entrance to the building. Some of the men had little clothing on. Upon entering the ward, the MDAC team saw a female staff member with a white uniform seated in the staff room, together with two men in civilian clothing. There were two large dormitory rooms to the left and right of the staff room, each with approximately 48 beds. The rooms had bars on the windows and metal-barred doors. The door to the right dormitory was locked. Observing through the bars, the MDAC team saw a number of men in very poor physical condition. Many of the beds and much of the bedding ware damaged. In the left dormitory, the physical conditions appeared to be cleaner, with new bedding and sheets. With a capacity of 48 beds, the room was largely empty with approximately 8 men reading or lying on their beds. The team saw no space for storage of personal items and the beds were very close to each other, some touching, in three rows.

### FAILURE TO PROVIDE FOR BASIC NEEDS, DEGRADING TREATMENT

The dormitory room on this ward was cleaner than any other room the team saw. However, there appeared to be very little activity on the ward: the men were clearly bored, with nothing to do. Some appeared to be sleeping despite the fact it was early evening. It was clear that when this room is full there would be very little space for movement as the corridors between the rows of beds were narrow.

### INVOLUNTARY CONFINEMENT, SECLUSION AND CHEMICAL RESTRAINT

Although MDAC was unable to establish the legal basis for the placement of residents on this ward, we were informed that the majority had been placed there for one of three reasons: (i) "psychiatric evaluation" ordered by the courts; (ii) after transfer from prison due to their mental health; or (iii) pursuant to an order for detention by the courts. All of these reasons are discriminatory in nature as the detention appears to be based on the presence of an actual or perceived mental disability.[20]

The MDAC team were seriously concerned to identify at least four seclusion cells that still appear to be in use on this ward. At the time of our visit, one of these rooms was locked and three were open. They are concrete, single rooms, approximately two metres x four metres in size, containing concrete

[20] The CRPD Committee has stated that "[i]nvoluntary commitment of persons with disabilities on health care grounds contradicts the absolute ban on deprivation of liberty on the basis of impairments (article 14(1)(b)) and the principle of free and informed consent for health care (article 25)", at para 10; and further "declarations of unfitness to stand trial or non-responsibility in criminal justice systems and the detention of persons based on those declarations is contrary to article 14 of the Convention [CRPD] since it deprives the person of his or her right to due process and safeguards that are applicable to every defendant", at para. 16. Both: CRPD Committee, *Guidelines on article 14 of the Convention on the Rights of Persons with Disabilities: The right to liberty and security of persons with disabilities*, Adopted during the 14th session of the CRPD Committee, September 2015, available online at http://www.ohchr.org/Documents/HRBodies/CRPD/GC/GuidelinesArticle14.doc (accessed 19/05/2017).

plinths that are the only place to lie down and are apparently used as beds. One of these plinths had a dirty foam mattress on top of it but there were no other objects in the room. All the rooms had heavy metal doors without windows; the only ventilation and light came from small circular portals above the door. Dirty water, possibly urine, was visible on the floors in these rooms which are clearly not fit for human habitation. Scratch marks were clearly visible on the walls and metal doors in these rooms, suggesting that persons may be placed in the cells for extended periods of time.

No staff were present on this part of the ward, which was at the end of the building and secluded from the rest of the residents. It was not clear what would happen in the event of an emergency. We called out in an attempt to ascertain if anyone was present in the locked seclusion cell, but received no response.

#### DENIAL OF HEALTH, HABILITATION AND REHABILITATION

The team were unable to identify any activities related to habilitation or rehabilitation of the residents on this ward. Only one man appeared to be reading a book, while all other residents appeared to lack any form of activity, and seemed to be tired, bored or sleeping.

### f. Female convalescent ward

VISIT TIMES: Approximately 18:35-18:40 (observation outside the ward only)

Prior to departing the institution, the MDAC walked past the female convalescent ward, which was surrounded by metal fencing. At least 60 women were visible through the gates, all with shaved heads and many standing in a line. They were all wearing the same green uniform. Only one female staff member was visible, moving around the grounds handing out a small supply of bananas to some of the women.

#### FAILURE TO PROVIDE FOR BASIC NEEDS, DEGRADING TREATMENT

A few of the women approached the fencing in an attempt to make contact with the monitoring team. They appeared drowsy, and were standing beside a trolley which has numerous plastic cups and water jugs stacked on top of it. A number of other women were lying or sleeping in the yard, and the team saw several mattresses on the floor, raising a concern about whether some of the residents of this ward have to sleep outside. One woman who shuffled towards the team was drooling profusely – often a side-effect of over-medication – and the team saw some residents apparently asleep in the open air.

It was not clear why approximately 40 women were standing in a line as the front of the queue was not visible from behind the fencing. Some of the women were wearing sandals, but many were barefoot, including those who were walking around the soil yard.

#### INVOLUNTARY CONFINEMENT, SECLUSION AND CHEMICAL RESTRAINT

The ward was locked with no ability for the women to leave freely.

#### CHILD-SPECIFIC CONCERNS

Of serious concern, once again, was that children appeared to be placed on this ward along with adult women. One child appeared to be no more than 4 or 5 years old, and another girl seemed to be a teenager whom we estimated to be between 14 and 15 years old.