



DPO and NGO information to the United Nations Committee on the Rights of
Persons with Disabilities for consideration at the 15th Session

Regarding the First Periodic Report of the Republic of Uganda under the
Convention on the Rights of Persons with Disabilities

Submitted by

Mental Health Uganda (MHU)

- and -

Mental Disability Advocacy Centre (MDAC)

7 March 2016

Contents

I. Introduction	3
II. Specific rights.....	4
Article 6 and 27: Women with disabilities, and work and employment.....	4
Article 8: Awareness-raising	4
Article 12: Equal recognition before the law	5
Article 13: Access to justice	6
Article 14: Liberty and security of the person.....	7
Articles 15 and 17: Freedom from torture or cruel, inhuman or degrading treatment or punishment, and protecting the integrity of the person	7
Article 16: Freedom from exploitation, violence and abuse	8
Article 19: Living independently and being included in the community.....	9
Article 25: Health.....	9
Article 29: Participation in political and public life.....	10
Article 31: Statistics and data collection	10
Bibliography.....	13
Publications.....	13
National Legislation and Bills	13

I. Introduction

1. This joint written submission outlines key issues of concern with regard to Uganda's implementation of the Convention on the Rights of Persons with Disabilities (hereinafter "the CRPD"). The submission seeks to assist the Committee on the Rights of Persons with Disabilities ("CRPD Committee:") with its consideration of the Republic of Uganda's initial report during the upcoming 15th Session. The submission has been written jointly by Mental Health Uganda ("MHU") and the Mental Disability Advocacy Centre ("MDAC"). This information is provided in addition to a previous report made for consideration in compilation of the List of Issues made by MHU, MDAC and Heartsounds Uganda (HSU).¹
2. **Mental Health Uganda (MHU)** is a national membership organisation, established in 1997, and one of the organisations that represents people with psycho-social disabilities in Uganda. It has set up regional and district-based branches of users membership associations across Uganda and is one of the largest membership organisations of people with mental health issues on the African continent. MHU hosted the founding session of the Pan African Network of Users and Survivors of Psychiatry (PANUSP) in 2008. In 2014, it had over 20,000 members nationwide.
3. The **Mental Disability Advocacy Centre (MDAC)** is an international human rights organisation which uses the law to secure equality, inclusion and justice for people with mental disabilities worldwide. MDAC's vision is a world of equality where emotional, mental and learning differences are valued equally; where the inherent autonomy and dignity of each person is fully respected; and where human rights are realised for all persons without discrimination of any form.² MDAC has observer status with the UN Economic and Social Council (ECOSOC).
4. This submission responds to the List of Issues adopted by the Committee on 8 October 2015.³ In particular, it provides information about the rights of persons with psychosocial and/or intellectual disabilities in Uganda.

¹ MHU, HSU and MDAC, 'DPO/NGO information to the 4th Pre-sessional Working Group of the United Nations Committee on the Rights of Persons with Disabilities for consideration when compiling the List of Issues on the First Report of the Republic of Uganda', 2 September 2015.

² MDAC has three international campaigns to challenge the most widespread and systemic human rights violations against people with mental disabilities worldwide. *My Home, My Choice* seeks to challenge the institutionalisation of people with mental disabilities and advocate for the right to independent living in the community. *I'm a Person* seeks to advance the right to legal capacity, ensuring that supports are provided for people with mental disabilities to make decisions recognised by the law and ensuring that they can author their own lives. *Schools for All* challenges the segregation of children with mental disabilities in education systems and calls for all children to be educated in common learning environments with access to individualised supports. Further information is available at www.mdac.org.

³ Committee on the Rights of Persons with Disabilities, 'List of issues in relation to the initial report of Uganda', CRPD/C/UGA/Q/1, 8 October 2015.

II. Specific rights

Article 6 and 27: Women with disabilities, and work and employment

5. Women with psychosocial disabilities experience multiple and intersectional forms of discrimination in Uganda as a result of “limited financial and transport resources and [the] poor social and economic status of women in society”.⁴ Field-research with people with psychosocial disabilities during 2013-14 undertaken by MHU and MDAC found that women with psychosocial disabilities often find themselves in a situation of “financial dependency” as a result of social discrimination, patriarchal attitudes to the management of money, and barriers to accessing financing.⁵
6. Activities undertaken by MHU with its members in recent years have attempted to tackle problems including barriers to women with psychosocial disabilities inheriting property and the removal of girls from education. With regard to accessing finance, MHU established a micro-credit facility for members in Mpigi district. 42 of the 98 beneficiaries so far have been women and the project is tackling discriminatory social practices whereby men control their income, yet the project has received no support from the authorities.

Proposed recommendation to the Government of the Republic of Uganda:

- Take specific measures to tackle multiple and intersectional discrimination against women with disabilities in Uganda, and particularly women with psychosocial and/or intellectual disabilities, including through financing, developing and supporting schemes which increase their economic and social independence. Specific attention should be taken to support peer-to-peer social and economic empowerment programmes, such as credit unions and micro-financing schemes, building on the promising practices which already exist in the country.

Article 8: Awareness-raising

7. Stigma and discriminatory attitudes remain prevalent against people with psychosocial and intellectual disabilities in Ugandan society. Such attitudes are reflected by State employees in the law enforcement, justice, health and education systems, and create barriers to people accessing work and employment.⁶ No Government-sponsored sensitisation campaigns have been rolled out across the country to tackle such attitudes. Those which have taken place have been led by civil society organisations such as through MHU’s regional membership groups which operate with minimal support.

Proposed recommendations to the Government of the Republic of Uganda:

⁴ Uganda Ministry of Health, ‘Health Sector Strategic & Investment Plan: Promoting People’s Health to Enhance Socio-economic Development, 2010/11-2014/15’ (Kampala, July 2010), p. 14.

⁵ MHU and MDAC, “They don’t consider me as a person: Mental health and human rights in Ugandan communities” (Kampala and Budapest, December 2014), pp. 18, 36.

⁶ Ibid., Chapters 4, 5 and 6.

- Undertake awareness-raising campaigns on the rights of people with disabilities, including those with psychosocial and/or intellectual disabilities, at all levels of society and targeting professionals in the spheres of health, education, justice, democratic governance, etc.
- Promote disability rights literacy and education through university and other professional courses, and support capacity-building schemes for persons with disabilities and their representative organisations through the National Council for Disability.

Article 12: Equal recognition before the law

8. Persons with psychosocial disabilities experience serious restrictions on exercising their legal capacity as a result of widespread social discrimination, and through restrictive norms and practices related to persons labelled as “mentally ill”.⁷ Testimonies from MHU and MDAC’s joint research showed that people with psychosocial disabilities face multiple barriers to executing legal acts, with many finding themselves socially and financially dependent on family or community members who make substitute decisions in their lives. Apart from peer support groups organised by MHU, no supports are available for persons with psychosocial disabilities to exercise their legal capacity. We submit that this situation means that many persons with psychosocial disabilities find themselves in a situation of *de facto* guardianship.⁸
9. The Mental Treatment Act, which was last revised in 1964, denies the legal capacity of persons with psychosocial disabilities. According to our joint research, health practitioners ignore the current provisions in practice. This leads to a dangerous situation whereby people with psychosocial disabilities are forcibly admitted, detained and treated by health professionals without even the pretence of applying due process, or giving effect to person’s will and preferences.⁹
10. Although a new Mental Health Bill was in development during 2014 and 2015, this process took place in a closed process which lacked transparency, excluded persons with psychosocial disabilities, and even without the input of the Ministry of Gender, Labour and Social Development which is mandated to lead on national disability policy.¹⁰ The resulting Bill was gazetted on 29 April 2015 but has not received its First Reading in Parliament, retains compulsion in psychiatric treatment and does not provide for supports to persons with disabilities in exercising their legal capacity.

Proposed recommendations to the Government of the Republic of Uganda:

- Eliminate all forms of formal and informal substituted decision-making regimes and replace them with a system of supports to persons with disabilities in exercising their legal capacity, including for persons with psychosocial and/or intellectual disabilities.

⁷ Ibid.

⁸ On the concept of “*de facto* guardianship”, see: Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of Kenya, CRPD/C/KEN/CO/1, 30 September 2015, para. 23.

⁹ MHU and MDAC, “Psychiatric hospitals in Uganda: A human rights investigation” (Kampala and Budapest, 2014).

¹⁰

- Immediately repeal the Mental Treatment Act, and ensure that all future law and policy proposals are developed in transparent processes with the direct involvement of persons with disabilities, including those with psychosocial and/or intellectual disabilities, their representative organisations and civil society.
- Adopt measures to prohibit the deprivation of legal capacity through informal social processes or customary practices, unregulated professional practices, and particularly in conventional and traditional health delivery settings.

Article 13: Access to justice

11. During 2015, MDAC conducted focused research on access to courts and procedural accommodations for persons with psychosocial and/or intellectual disabilities in Uganda,¹¹ following which we released a proposal for reform to rules of court.¹² The research showed that very few persons with psychosocial and/or intellectual disabilities enjoy effective access to justice due to legal, procedural, practical and attitudinal barriers including:

- a. Provisions in the Local Council Courts Regulations, Magistrates Courts Act, Civil Procedure Rules, Court of Appeal Rules and Supreme Court Rules which require that persons of “unsound mind” (undefined in the law) can only participate in proceedings through third parties who are not required to act on their expressed will or preferences;
- b. No flexibility in rules of court or practice guidelines to provide procedural accommodations in the filing, hearing or disposal of cases;
- c. Consistent usage of discriminatory terminology by judges and other judicial officers;
- d. A requirement that legal statements must be sworn on the basis of being of “sound mind” to be admitted as valid evidence;
- e. Lack of accessible information;
- f. No availability of legal aid or assistance; and
- g. No specific training for judicial officers on the rights of persons with disabilities.

12. Regarding the criminal law, discriminatory procedures can be found in the Trial on Indictments Act as well at the Magistrates Court Act. Where a court becomes seized of the opinion that a person may be of “unsound mind” or is unable to make out his or her defence, a specific judicial inquiry takes place. During this process, persons can be detained pending a determination, which in some cases can take months or years. Where a person is found innocent by reason of “insanity”, they are detained in a mental hospital or other place of custody pending a “Minister’s order” for release. These orders were recently ruled by a Ugandan Court as constituting an infringement on the principle of judicial independence,¹³ and means that persons subject to such orders are subjected to arbitrary detention – in some cases lasting decades.

¹¹ MDAC, “Access to Courts and Reasonable Accommodations for People with Mental Disabilities in Uganda” (Kampala, 2015), available online at: <http://www.mdac.org/en/node/1852>.

¹² MDAC, “Justice for People with Mental Disabilities in Uganda: A Proposal for Reform of Rules of Court” (Kampala, 2015), available online at: <http://www.mdac.org/en/node/1852>.

¹³ Anthony Wesaka, “Court strips minister of powers to release mentally ill prisoners”, *Daily Monitor*, 27 July 2015, available at: www.monitor.co.ug/News/National/Court-strips-minister-powers--prisoner/-/688334/2810010/-/154pd1z/-/index.html.

13. Members of MHU also point out that persons with psychosocial disabilities are frequently denied access to justice through ineffective investigations into allegations of human rights violations, particularly on the part of police.

Proposed recommendations to the Government of the Republic of Uganda:

- Adopt measures to ensure that all persons with disabilities, and particularly persons with psychosocial and/or intellectual disabilities, have access to justice, including through abolition of discriminatory legislation and judicial policy, and creating an enforceable right to a variety of procedural accommodations in justice processes.
- Amend criminal legislation to abolish discriminatory and/or arbitrary forms of detention against persons with psychosocial disabilities.
- Undertake systematic training of judicial officers, police, lawyers and other professionals in the justice system on the human rights of persons with disabilities, including persons with psychosocial and/or intellectual disabilities, in close collaboration with the Ministry of Justice, Judicial Studies Institute, Judicial Services Commission, Law Council, Law Society, persons with disabilities, their representative organisations, and wider civil society.

Article 14: Liberty and security of the person

14. As mentioned above, the Mental Treatment Act still has not been reformed, and nor has the process of developing a Mental Health Bill been open, transparent nor inclusive of persons with disabilities, particularly those with psychosocial disabilities. Butabika Hospital remains the only tertiary mental health care facility in the country, and due to the disapplication of the Act in practice, all involuntary residents at Butabika find themselves in a position of arbitrary detention without any effective right to challenge this.

Proposed recommendation to the Government of the Republic of Uganda:

- Urgently repeal the Mental Treatment Act and take steps to prohibit, in all cases, deprivation of liberty on the basis of disability. All persons who have their liberty restricted must have access to a legal process to appeal, with legal advice and assistance as necessary.

Articles 15 and 17: Freedom from torture or cruel, inhuman or degrading treatment or punishment, and protecting the integrity of the person

15. Mental health care is virtually absent at the primary care level in Uganda. Psychiatric care is often available only at regional referral hospitals. As a result, many persons with disabilities cannot endure the long distances and travel required from their homes to these regional health centres. This creates a push-factor for persons with psychosocial disabilities to turn to traditional and faith-based forms of healing in the community.¹⁴ These settings are largely unregulated, and research has shown that persons with psychosocial disabilities frequently experience ill-treatment such as physical violence, tying with ropes and chains, forcible application of potentially dangerous

¹⁴ MHU and MDAC, "They don't consider me as a person: Mental health and human rights in Ugandan communities" (Kampala and Budapest, December 2014), Chapter 5.

complementary or traditional medicines, exposure to the elements for extended periods, skin cutting and other ritualistic practices, and denial of food, water and light.¹⁵ People are either forced by their family members or community members to endure such practices, or feel they have no choice due to the unavailability of basic mental health care at the local level.

16. Forced treatment against persons with psychosocial disabilities also remains the norm in respect of conventional mental health care in Uganda, which is predominantly provided in regional mental health centres and at Butabika Hospital in Kampala. Treatment at these facilities can be characterised as highly coercive and at times abusive, lacking even limited safeguards for residents.¹⁶ Physical health treatment is often denied, restraint is regularly practiced, and upon admission and during detention at Butabika persons with disabilities are placed ‘seclusion’ cells, stripped naked and without access to basic hygiene facilities, food, water or light.¹⁷ Wards are commonly overcrowded, lack hygiene and there are regular outbreaks of communicable diseases.¹⁸

Proposed recommendations to the Government of the Republic of Uganda:

- Take legislative and policy steps to regulate all forms of traditional and faith-based healing provided to persons with disabilities, including those with intellectual and/or psychosocial disabilities with a view to preventing torture and other forms of ill-treatment.
- Immediately prohibit the most abusive practices in conventional mental health settings against persons with disabilities. In particular, prohibit isolation of people with psychosocial disabilities on the basis of disability at Butabika national referral mental health hospital and other mental health units, and take steps to end other practices such as physical and chemical restraint and forcible treatment, including in respect of practices which disproportionately impact on women and girls with disabilities.

Article 16: Freedom from exploitation, violence and abuse

17. Neither conventional nor traditional health delivery settings are subjected to regular independent monitoring. Section 24 of the Mental Treatment Act provides the Minister with the authority to appoint “two or more fit persons” to visit mental hospitals with the power to visit and inspect conditions at least every three months (Section 25), make reports (Section 26), and see any “patient” or building (Section 27). Along with the rest of the Act, it appears that these provisions are dormant, meaning that no independent monitoring actually takes place.

Proposed recommendation to the Government of the Republic of Uganda:

- Establish a comprehensive independent monitoring framework in respect of all services provided for persons with disabilities, including those for persons with psychosocial and/or intellectual disabilities. This framework should function with the direct involvement of persons with disabilities and their representative organisations, and have a mandate to visit both

¹⁵ Ibid.

¹⁶ MHU and MDAC, “Psychiatric hospitals in Uganda: A human rights investigation” (Kampala and Budapest, 2014), Chapter 2.

¹⁷ Ibid.

¹⁸ Ibid., at p. 38.

conventional and traditional service-delivery settings, with a view to the prevention of exploitation, violence, abuse and other harmful practices against persons with disabilities.

Article 19: Living independently and being included in the community

18. As described above, many persons with psychosocial disabilities in Uganda report feeling unsafe in their communities and are commonly targeted on the basis of their actual or presumed disability. Many report having suffered negative attitudes, insults, threats and physical assault, exploitation and ill-treatment at the hands of local service providers, including the police. Abuse is also common in family settings, and this treatment commonly finds itself rooted in broader discriminatory and stigmatising attitudes in respect of persons with psychosocial disabilities in Uganda.¹⁹
19. In many cases, there are limited or no individual services available to persons with psychosocial disabilities to enable successful independent living. Although there is a Special Grant system in operation under the 2006 Uganda National Policy on Disabilities which has the purpose of assisting persons with disabilities to establish income-generating activities, this scheme is almost solely accessed by persons with physical or sensory impairments.²⁰

Proposed recommendation to the Government of the Republic of Uganda:

- Establish a national independent living and deinstitutionalisation strategy for persons with disabilities, including for persons with psychosocial and/or intellectual disabilities, with the participation of persons with disabilities, their representative organisations and civil society. The strategy should include detailed human rights-based indicators assessing progress in achieving the goals of independence and inclusion in the community, and set out clear timeframes and budgetary allocations to develop individual and general community-based services for persons with disabilities.

Article 25: Health

20. Beyond the lack of progress regarding mental health legislation (which retains the option of forcible treatment without consent), to our knowledge there has been limited progress in developing a regulatory system around traditional and faith-based healing practices which are prevalent in Uganda. In 2015, the Indigenous and Complementary Medicine Bill was tabled for First Reading in Parliament.²¹ According to Clause 2, the objectives of the proposed legislation are to, *inter alia*, register indigenous and complementary medicine practitioners; set out standards, rewards and sanction for practitioners; promote “authentic and quality indigenous and complementary medicine products”; develop scientific evidence around these practices; create a regulatory Council; and ensure professional discipline and good conduct. The Bill also contains

¹⁹ MHU and MDAC, “They don’t consider me as a person: Mental health and human rights in Ugandan communities” (Kampala and Budapest, December 2014), Chapters 3 and 4.

²⁰ Kalanzi William, “Local Governments and Social Protection for PWDs in Uganda: Opportunities and Challenges” (Uganda: UNICEF, ILO and EPRI, December 2014).

²¹ Available online at: <http://parliamentwatch.ug/bills/the-indigenous-and-complementary-medicine-bill-2015/>.

provisions for inspections (Clauses 36 and 37). “Informed consent of patients” has been included as a proposed “ethical principle” under Clause 49.

Proposed recommendation to the Government of the Republic of Uganda:

- Set out a clear timeframe for legislating the proposed Indigenous and Complementary Medicine Bill, and ensure that the resulting Act eradicates all practices which violate the right of persons with disabilities, especially those with psychosocial and/or intellectual disabilities, from expressing their free and informed consent with respect to treatment, and which prevent harmful practices.

Article 29: Participation in political and public life

21. People with disabilities have too often been excluded from participating in the decisions that affect their lives. Their absence from decision-making processes reinforces barriers to full participation in society. For instance, there is still limited access to information about public meetings and consultations, political parties, voting, and registration; problems of hostility and/or exclusion of persons with psychosocial and/or intellectual disabilities in decision-making processes; and poorly trained election workers. Moreover, although there is not a specific provision which prevents persons with psychosocial disabilities from voting in the electoral law, other laws exclude persons with disabilities from standing for election as members of parliament (Local Government Act, Chapter 243, Section 116(2)(a)) in contradiction to Article 29 CRPD.

Proposed recommendations to the Government of the Republic of Uganda

- Undertake a review of existing electoral laws to ensure that they facilitate the political participation of all persons with disabilities, including those with psychosocial, intellectual and multiple disabilities. Remove those provisions, such as Section 116(2)(a) of the Local Government Act, which deny persons with disabilities the right to stand for election.

Article 31: Statistics and data collection

22. We are not aware of any disaggregated national statistics or datasets which provide a clear picture on implementation of the CRPD or the lives of persons with disabilities. The information that currently exists primarily comes from civil society research initiatives which receive limited official support from the Government of Uganda.

Proposed recommendations to the Government of the Republic of Uganda:

- Systematically facilitate the collection, analysis and dissemination of data disaggregated by sex, age, impairment-type and indigenous community, among others, across all sectors including health, education, employment, political participation, access to justice, social protection and violence.

For further information, please contact:

Derrick Kizza

Executive Director

Mental Health Uganda (MHU)

kizzaderrick@yahoo.com

Steven Allen

Campaigns Director

Mental Disability Advocacy Centre (MDAC)

steven@mdac.org

Bibliography

Publications

Mental Health Uganda and Mental Disability Advocacy Centre

“They don’t consider me as a person’: Mental health and human rights in Ugandan communities”, 2014,

http://www.mdac.org/sites/mdac.info/files/mental_health_human_rights_in_ugandan_communities.pdf

“Psychiatric hospitals in Uganda: A human rights investigation”, 2014,

http://www.mdac.org/sites/mdac.info/files/psychiatric_hospitals_in_uganda_human_rights_investigation.pdf

Mental Disability Advocacy Centre

“Access to Courts and Reasonable Accommodations for People with Mental Disabilities in Uganda”, 2015, http://www.mdac.org/sites/mdac.info/files/access_to_courts_in_uganda.pdf

“Justice for People with Mental Disabilities in Uganda: A Proposal for Reform of Rules of Court”, 2015,

http://www.mdac.org/sites/mdac.info/files/uganda_rules_of_court_proposal.pdf

Government of Uganda

“Health Sector Strategic Plan III: 2010/11-2014/15”, Ministry of Health,

http://www.health.go.ug/docs/HSSP_III_2010.pdf

UNICEF

“Local Governments and Social Protection for PWDs in Uganda: Opportunities and Challenges”, Kalanzi William, 2014,

http://www.unicef.org/tanzania/LOCAL_GOVERNMENTS_AND_SOCIAL_PROTECTION_FOR_PWDs-Kalanzi.pdf

National Legislation and Bills

Constitution of the Republic of Uganda 1995

Civil Procedure Rules, SI 71-1 of 2006

Local Council Court Regulations, SI No. 51 of 2007

Local Governments Act 1997, as amended

Indigenous and Complementary Medicine Bill

Judicature (Court of Appeal Rules) Directions, SI 13-10 of 2000

Judicature (Supreme Court Rules) Directions, SI 13-11 of 2000

Magistrates Courts Act 2000

Mental Health Bill

Mental Treatment Act 1938, amended 1964

The National Council for Disability Act 2003

Trial on Indictments Act 2008