

THE UN F.A.O RIGHT TO FOOD FORUM

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THE CIVIL SOCIETY PERSPECTIVE ON THE IMPLEMENTATION OF THE RIGHT TO ADEQUATE FOOD IN UGANDA

Introduction

The Government of Uganda and other national and international stakeholders have been instrumental in implementing initiatives aimed at establishing several institutions and mechanisms to ensure the realization of the right to adequate food in particular and other economic, social and cultural rights in general.

At the international level, for instance, Uganda ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1987. The act of ratification, *inter-alia*, imposes obligations on a signatory state to respect, protect and fulfill the rights provided in the Covenant.

Uganda has also embraced a multiplicity of other international commitments to eradicate hunger, food insecurity and malnutrition. The country voted for the United Nations Millennium Development Declaration in 2000, which proposes to reduce by half the proportion of the population who suffers from hunger and malnutrition by the year 2015. Uganda is party to the Declaration on Agriculture and Food Security in Africa (Maputo, Mozambique, 2003), among other commitments.

The Role of the Civil Society in the Food and Nutrition Policy and Strategy

There continues to be active participation of civil society stakeholders in the process of legislating for the right to adequate food in Uganda. The government approved the Food and Nutrition Policy in 2003 and to date, concerted efforts to ensure that civil society representatives are part of the decision making process has been adhered to. Civil society organizations (CSOs), community based organizations (CBOs), non-governmental organizations (NGOs), indigenous peoples' groups, etc, are important elements in ensuring that the demands and interests of the most affected sections of the population are heard and taken into account.

In Uganda, like in many countries, civil societies organizations are diverse and do not usually have similar interests. In most instances, some of these organizations do not often have the

specialized skills and knowledge to contribute to important processes like the formulation of framework legislation on the right to adequate food. This situation is more pronounced for organizations that operate at local or district levels. However, it is always possible to mobilize these organizations if there is sufficient willingness by the relevant authorities, and this happens many times.

In an ideal situation, it is usually suggested that civil society participation be ‘centralized’ through a single body and that appropriate procedures be established for this involvement in all relevant institutions. This mechanism of participation needs to be established in the country. There has not been any regularized mechanism through which the participation is anchored. There is as yet no single, centralized civil society body that is consulted by the relevant government institutions. The criteria of selecting the civil society organizations have also not been clearly spelt out so far. The role of the civil society organizations in the monitoring and coordinating functions needs more clarification.

Analysis of the Uganda Draft Food and Nutrition Bill- The Three Levels.

1. Whether or not the right to adequate food has been/ is incorporated into the National Constitution.

The Uganda Constitution of 1995, while generally rights-sensitive, does not explicitly provide for the right to adequate food as it is elucidated under the International Covenant on Economic, Social and Cultural Rights (ref. General Comment 12 of the Committee on ECSCR). Moreover, the right to food (as indeed other economic, social and cultural rights) is located in the preambular, non-binding part of the Constitution, the so-called National Objectives and Directive Principles of State Policy.

The NODPSP (Objective XXII) requires that government development plans and programs ensure equitable socio-economic rights, including the right to adequate food and nutrition by:

- Taking appropriate steps to encourage people to grow and store adequate food;
- Establishing national food reserves;
- Encouraging and promoting proper nutrition through mass education and other appropriate means in order to build a healthy nation.

There are many observers who hold the view that the 2005 amendment¹ of the Uganda Constitution has made the NODPSP justiciable. But it is pertinent to note that even though this may indeed be true, there is not yet any legal precedent created by the Courts in Uganda to make this a reality.

2. Whether there has been adoption of a framework law on the right to adequate food.

The adoption by any country, of a framework law on the right to adequate food is, in my view, intended to achieve a vital objective; that is, to clearly indicate and establish the government's political commitment to pursue measures for the realization of the right to adequate food for its people. The Government of Uganda, in many respects, has made tremendous achievements in as far as establishing the normative, policy and institutional frameworks for the realization of the right to adequate food.

The Uganda Food and Nutrition Bill is a clear manifestation of the government's commitment to realize the right to adequate food. The civil society stakeholders have been fully involved in the entire process that has led to the drafting of this Food and Nutrition Bill. We think the Bill adequately takes care of all the major issues and concerns to ensure the realization of the right to adequate food in the country. However, like other legislations, the major constraints have not been the laws *per se*, but their actual implementation, so as to make them meaningful in the daily lives of the people.

Therefore, in order to ensure that the Food and Nutrition Bill ultimately leads to the concrete realization of the right to adequate food for the people of Uganda, the Government and indeed all other stakeholders shall have to address issues like the following:

- Weak linkages and coordination between policy initiatives such as Plan for the Modernization of Agriculture (PMA) and Poverty Eradication Action Plan (PEAP);
- Under-resourced institutions (both in capital and human terms), notably the National Food and Nutrition Council, etc;
- Inadequate education and sensitization of the rural farming population who constitute the core of the country's agricultural production;

¹ See, Amendment Act (2005), Article 8A.

- Weak regulatory and supervisory frameworks and institutions like the national bureau of standards, consumer protection agencies, control of pharmaceutical companies, etc
- Poor governance and corruption practices that all adversely affect the delivery and effectiveness of services and programs intended to improve agricultural productivity in the country;
- Political and economic insecurity in several regions of the country, notably in Northern Uganda (situation improved in the last two years) and Karamoja in north-eastern parts of the country where chronic insecurity has devastated the livelihoods of the pastoralist communities.
- Problematic land legislations and tenure systems that inhibit expeditious land acquisition and optimum agricultural productivity;
- Lack of a human rights based approach to poverty reduction strategies

3. A comprehensive review of the related sectoral laws impacting on the enjoyment and realization of the right to adequate food. This effort, if accomplished, would essentially be aimed at reforming the existing legislation to ensure their compatibility (where appropriate), with international legal standards and practices pertaining to the right to adequate food. In Uganda, the existing relevant sectoral legislation that directly or indirectly impacts on the enjoyment of the right to adequate food includes the following:

- The Land Act 1998 – provides for ownership of land in accordance with legally recognized land tenure systems;
- The Food and Drugs Act Cap 271 – the Act provides for the prevention of adulteration of food and any other matters related to food safety;
- The Penal Code Act Cap 106 – the Penal Code provides for various criminal offences, including those relating to food;
- Income Tax Act No.11 of 1997 – some sections obliquely refer to the right to food, notably section 20 (employment income for taxation purposes does not include the value of a meal or refreshment provided by the employer to employee); and section 36 (expenditure on acquisition of farm works constitutes an individual’s pool of assets from which s/he can deduct appreciation);
- The Public Health Act Cap 269 – contains provisions on preservation of public health, including the protection of foodstuffs;
- The Children Statute No.6 of 1996 – provides for the duty of every parent, guardian or any person having custody of a child to maintain that child by, among others, ensuring adequate diet;

- The National Environment Statute No. 4 of 1995 – provides for sustainable management of the environment, with various provisions that impact on the right to food;
- The Local Governments Act No.1 of 1997 – provides for decentralization and devolution of functions, powers and services to local governments to ensure good governance and democratic participation of the population in administration; part 1 of the schedule lists agriculture as a function and service for which the Government is responsible and part 2 provides that Local Government is responsible for, among others, crop, animal and fisheries husbandry extension services as well as land administration;
- The Water Statute No.7 of 1997 – provides for the use, protection and management of water resources and supply; including access to clean and safe water;
- The National Forestry and Tree Planting Act No. 25 of 2003 – provides for the conservation, sustainable management and development of forests for the benefit of the population;

-Other Relevant Laws for the attainment of the Right to adequate food in Uganda include the following:

- Adulteration of Produce Act, Cap. 241
- Agricultural and Livestock Development Fund Decree No.12 of 1976
- Agriculture Weeds and Plant Statute No.10 of 1994
- Animal Diseases Act, Cap. 218
- Animals (Straying) Act, Cap 221
- Community Farm Settlement Decree No. 8 of 1975 (as amended by Decree No.5 of 1977)
- Control of Agriculture Chemicals Statute No. 8 of 1989
- Fisheries and Crocodiles Act, Cap 228 (as amended by Decree No. 21 of 1972)
- Cooperative Societies Statute No.8 of 1991
- Forests Act, Cap 246
- Game (Preservation and Control) Act
- Local Government (Amendment) (No2) Act 2008

There is therefore need by the Government and all stakeholders to ensure that there is comprehensive review of the above national legislations to make them compatible with the Food and Nutrition Policy, Draft Bill and international standards and practices. The civil society stakeholders have been part of this process so far, and we expect to continue to play

our rightful role as far as these efforts are concerned. We wish to urge a more concerted effort from institutions like the Law Reform Commission, in order to achieve faster results.

The Allocation of Financial Resources to the Right to Food: Results of a Budget Analysis

1. Overview of Uganda's Economy

Uganda has an agrarian economy, with up to 73 percent of its entire population employed in the agricultural sector. Between 2000/03 and 2005/06 there was no shift in the sectoral composition of employment as agriculture remained the dominant sector; employment increased from 66 percent in 2003/06 to 73 percent in 2005/06.²

For the last two decades, Uganda has registered impressive economic growth with annual GDP growth rates of over 5 percent. Unfortunately, gains of economic growth have not benefitted the majority of the population. Inequality has not only continued to increase between rural and urban areas, but it also has a regional dimension; the northern region has posted the worst socio-economic indicators in a long time.³

The widening gap between the rich and the poor as measured by the *Gini coefficient* currently stands at 0.43. This implies that the benefits of economic growth and income distribution have continued to be in the hands of the richest 20 percent of the population. Most growth has been registered in the manufacturing and the service sectors which employ a small portion of the labour force of less than 15 percent compared to 73.3 percent in agriculture.

Employment creation notably in agriculture should be of critical relevance if the economy is to be reformed to be more responsive to poor majority.

The budgetary allocations to the various sectors of the economy are good indicators of the importance the government places on each of them. A brief look at Uganda's budgetary allocations is quite revealing.

² Uganda Bureau of Statistics (UBOS) figures.

³ Uganda Bureau of Statistics (UBOS), Northern Uganda Survey, 2004.

2. Sectoral Budget Allocations (National Budget, 2008/09)

Table 1: Sectoral Budget Allocations (Proposed 2008/09 Budget)

	Wage	Non-Wage Recurrent	Domestic Dev.	Donor Project	Total excl. donor	%age excl donor
Water, Sanitation & Environment	4.76	8.25	86.05	50.08	99.06	2.72%
Education	550.32	156.68	67.54	48.74	774.54	21.80%
Agriculture & Security	192.74	234.96	26.13	6.84	455.23	12.46%
Health & Public Administration	123.77	84.52	20.82	0.89	136.13	3.61%
Works & Transport & Public Sector Management	45.88	162.89	94.52	119.95	352.79	9.76%

Justice, Law & Order	107.06	92.93	31.65	6.66	231.64	6.37%
Accountability	8.94	149.91	143.18	94.81	302.03	8.31%
Parliament	8.33	60.29	9.16	0.00	77.78	2.14%
Lands, Housing & Urban Devt.	2.34	2.31	6.15	0.00	10.80	0.30%
Energy & Mineral Devt.	1.80	3.07	250.18	202.23	25505	7.01%
Information, Comm., Technology	0.60	1.64	4.26	0.00	6.50	0.18%
Tourism, Trade & Industry	2.56	15.35	7.74	4.78	25.65	0.71%
Social Development	2.58	11.66	5.71	0.00	19.95	0.55%
TOTAL	1,137.78	1,428.80	1,070.00	958.22	3,636.58	100.00%
<i>%-age (excl. donor projects)</i>	<i>31.3%</i>	<i>39.3%</i>	<i>29.4%</i>	<i>26.3%</i>	<i>100.0%</i>	
<i>%-age (incl. donor projects)</i>	<i>24.8%</i>	<i>31.1%</i>	<i>23.3%</i>	<i>20.9%</i>	<i>79.1%</i>	

Source: National Budget Framework Papers and Civil Society Budget Advocacy Group (CSBAG) calculations for percentages.

Observations:

The budgetary allocations are short on enhancing robust economic growth and household incomes through increased production and productivity.

The budget is largely recurrent with only about 23 percent allocated for development expenditure, as Table 1 above clearly indicates.

Moreover, over 30 percent of the development budget is recurrent in nature and/ or is earmarked for luxury expenditure (like presidential jet, expensive vehicles⁰ and not poverty reduction programmes.

Therefore, with high levels of consumption expenditures (over 70 percent of the budget) the economy will not be able to generate the required investment for economic growth and development as well as substantive poverty reduction.

There is therefore need to re-orient the entire national budget to make it more developmental and less consumptive in nature.

The Government should provide a conducive environment (like access to farm inputs, credit, market information etc) and enabling legislation that can more effectively support the

development and strengthening of farmers’ cooperatives and saving associations to protect the members. This would boost food production in rural areas (where the majority of the population are located) and enhance Uganda’s export-led development strategy.

3. Resource Allocation and the Medium Term Expenditure Framework (MTEF)

The development of the MTEF (*see Table 2*) is still largely a preserve of the economists in the Ministry of Finance, Planning and Economic Development. Though consultation does occur, there is minimal actual input by key stakeholders like NGOs, research and academic institutions and Parliament.

Table 2: Govt MTEF Allocations (%-age): excl. Arrears & non VAT taxes and Donor Project

Sector/Vote	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
Security	12.3%	11.8%	11.4%	10.9%	10.3%	9.7%	10.1%
Works &	5.8%	7.2%	9.4%	11.6%	13.2%	15.4%	14.9%

Transport							
Agriculture	3.0%	3.1%	3.9%	4.8%	4.8%	4.7%	4.6%
Education	22.3%	21.3%	19.5%	19.5%	18.6%	19.4%	19.6%
Health	7.9%	5.7%	9.4%	8.5%	8.6%	8.1%	8.4%
Water & Environment	2.3%	2.8%	2.5%	2.8%	3.7%	3.5%	3.4%
Justice, Law & Order	6.2%	5.7%	5.8%	5.3%	5.2%	5.2%	5.1
Accountability	2.9%	3.7%	7.5%	7.2%	7.0%	6.7%	6.7%
EF & SS	11.6%	11.5	7.9%	7.4%	7.3%	7.3%	7.2%
Public Sector Mgt	7.7%	7.4%	8.9%	9.8%	9.7%	9.7%	9.9%
Public Administration	9.8%	9.0%	5.4%	5.4%	5.9%	4.6%	4.7%
Interest Payments	8.3%	8.9%	6.9%	6.9%	5.7%	5.5	5.4%
TOTAL	100.0%	100.0%	100.0%	100.0	100.0%	100.0%	100.0%

Source: MFPED (BTTB 2007/08 & NATIONAL Budget Framework Paper, 2008. Calculations for percentages by CS BAG)

Observations

As already indicated above, the MTEF allocations are largely skewed to sectors that are not a priority for the realization of the right to adequate food.

THE CSOs would like to see in Uganda a more pro-poor and pro-growth MTEF. The civil society Budget advocacy Group proposes additional funding for key priority sectors in order to enhance growth and poverty reduction.

In particular, this increased funding would constitute annual MTEF ceiling increments of 55 percent for agriculture, 40 percent for health, 30 percent for works and transport, 10 percent for education, 40 percent for water & environment, 10 percent accountability and 10 percent for EF & SS. Additional resources would be got from annual MTEF ceiling reductions of 5 percent for security, 20 percent for public administration, 20 percent for public sector

management, 15 percent for interest payments as well as additional resources from oil and gas revenues.⁴

2. The Need to Link the PEAP and the Budget

Though the Poverty Eradication Action Plan (PEAP) is in the process of being phased out, it remains the overarching development policy framework for Uganda for the time being. However, there is continued divergence between PEAP priorities and the annual budgets.

Firstly, while the PEAP recognizes agriculture as a key sector for poverty reduction in Uganda, the national budget seems not to reflect this position. The funding for the agriculture sector is largely not commensurate with its contribution to economic growth, employment and poverty reduction.⁵

Secondly, though the budget allocations show a degree of poverty sensitivity in sectoral allocations, a critical evaluation of the percentage share of expenditure on direct poverty-reducing sectors (agriculture, education, health, water, roads) indicates worrying trends. Spending on direct poverty-reducing sectors has continued to decline from 55 percent of the total budget in 2000/01 to 48 percent in 2007/08. On the other hand, expenditure on other sectors has continued to increase from 45 percent in 2000/01 to 52 percent in 2007/08, with public administration and public sector management accounting for the biggest share.⁶

Thirdly, the current structure of the budget does not effectively address the specific needs of certain categories of the poor, especially the so-called *non-active poor*. According to the Chronic Poverty Report (2005), approximately 26 percent of the total population (about 7 million people) lives in chronic poverty. Yet, some key sectors which should benefit the poor most continue to be resource-constrained. A notable illustration of this is the health sector: it requires more than double the current spending in order to realize the minimum health care package (MHCP) of US Dollars 28 per capita (currently government provides only US Dollars 9 per capita). With respect to the agriculture sector, which employs about 73.3 percent of the population, it is allocated only less than 4 percent of the national budget.⁷

Conclusion

⁴ See, *Civil Society Position Paper on the National Budget Framework Paper for Fiscal Year 2008/09*, prepared by Civil Society Budget Advocacy Group, April 2008, p.8-9, (Kampala).

⁵ See, *World Bank Assistance to Agriculture: An IEG View*, The World Bank, Washington DC, 2007.

⁶ See, MFPED, BTTB, NBFP (2008) and CSBAG Paper, (2008), p. 10.

⁷ See, Civil Society Budget Advocacy Group Paper, 2008, p.9.

There has so far been vibrant and consistent participation of civil society organizations in the process of legislating for the right to adequate food in Uganda. Civil society organizations will need to progressively enhance their own human and technical capacities in order to remain valuable partners in the process and institutions for the realization of the right to food. There will also be need for properly institutionalizing civil society participation in the country.

The brief analysis of the 2008 national budget with respect to key sectors like agriculture, water and sanitation, health, transport and other related sectors validates the argument that for a country whose 74 percent of the population depends on agriculture for its livelihood and income, much more attention needs to be paid to the allocation of adequate resources to agriculture and other relevant sectors. If this is done, the efforts towards the realization of the right to adequate food will be more effective.