ISER

Facilitating Social Justice

INITIATIVE FOR SOCIAL AND ECONOMIC RIGHTS

ISER Policy Advocacy Note

Shortchanging social and economic rights: *Why Parliament should not pass the Public Finance Bill, 2012 in its current form*

The Government of Uganda has proposed a Bill for an Act of Parliament to be entitled ***The Public Finance Act.*** Once passed into law, this Act will repeal the Public Finance and Accountability Act, 2003 and the Budget Act, 2001 that currently govern the fiscal and monetary policies in the country, and provide for the budget process.

The new Act will among other things provide for fiscal and macroeconomic management, revise the budget process and provide for the Charter of Fiscal Responsibility, provide for Virements, the Contingencies Fund, and the Consolidated Fund. Also introduced under the Bill is Chapter VII that seeks to deal with Petroleum Revenue Management which covers the collection, deposit, management, investment, and expenditure of petroleum revenue which accrues to Government from the exploitation of the petroleum reserves in Uganda.

Notably, the Public Finance Act will be one of the most important legal instruments in the country because it governs the income and expenditure of the country and the process of arriving at expenditure priorities. While the Public Finance Bill makes some very good proposals, especially on reporting and accountability, there are significant omissions, and specific provisions which if passed in their current form will negatively impact on social and economic rights in this country. It is these provisions and omissions that we seek to highlight in this note and urge policy makers to amend as necessary before passing the Public Finance Bill, 2012.

1. Shortchanging social and economic rights

Clause 55(3) of the proposed Bill states that:

"For avoidance of doubt, petroleum revenue shall be used for the financing of infrastructure and development projects of Government and not the recurrent expenditure of Government."

The import of this section is that oil revenues shall not be spent on recurrent government expenditure which ordinarily includes public service salaries and social services like health and education. The Minister of Finance and Economic Planning has also been quoted to have stated that "Government plans to use about 30 percent of the oil money in developments and the rest on investment and others."

Many have argued that investment in infrastructure and development projects will create employment that will result in higher standards of living for majority of Ugandans. While valid in many respects, this argument leaves many questions unanswered. For example what happens to old people, children particularly the orphans, and some persons with disability who cannot engage in gainful employment? And why should government put all oil revenues in development

projects and infrastructure in a country where maternal and infant mortality rates remain high, the quality of education is deteriorating, and where there is no universal health or social security system?
It must also be remembered that development usually comes with a higher cost of living and wider income inequalities. This inevitably makes certain services like health and education difficult for ordinary people to access – including those who are employed, unless government comes in to subsidize these sectors.

There is need to balance investment and infrastructural development that will in the long run benefit those who are able to engage as a productive workforce with a pro-active approach of improving the provision of public goods and social welfare that provide a safety net for the disadvantaged in society. Majority of the old, children and persons with disability are not able to benefit from gainful employment but have equal rights to enjoy such services.

Accordingly, we **recommend** that Clause 55(3) should be amended to expressly incorporate expenditure of some oil revenues on recurrent government expenditure, including social services like health and education**.**

2. Undermining Public participation in the Budget Process

Clause 11(1) of the proposed Public Finance Bill states that:

"The Minister shall, in consultation with other stakeholders prepare the annual budget of Government for a financial year."

The above section is the only one under the Bill that could be interpreted to include public participation in the budget process. However, the use of the phrase "other stakeholders" is very vague and can be subject to a very narrow or wide interpretation depending on the interest of the Minister, hence putting public participation in a balance. The right of every Ugandan to participate in the affairs of government and influence government policy is guaranteed under article 38 of the Constitution of the Republic of Uganda.

We therefore **recommend** that the section be amended to clearly provide for public participation in the budget making process.

3. Diminishing the Role of Parliament in the Budget Process

The Bill is a big departure from the Budget Act, 2001 that provides for a detailed budget process involving the role of Parliament and having provision for the Parliament Budget Committee and Budget office within Parliament. Under section 19 of the Budget Act, 2001, the Parliament Budget Committee has the responsibility to focus on the preliminary estimates and the macroeconomic plan and programs and submit recommendations to the speaker, as well as consider the national budget, compile amendments and refer them to the relevant committees.

The Parliamentary Budget Office under the Budget Act, 2001 has the mandate to provide Parliament and its committees with objective and timely analysis required for economic and budget proposals and the information and estimates required for Parliamentary budget process. Doing away with this office (consisting of budget and economic experts), as the current Public Finance Bill seeks to do would be a kin to removing the office of the Legislative Counsel which provides technical legal support to the various committees of Parliament.

We therefore **recommend** that the proposed Public Finance Bill maintains the role of the parliamentary budget committee and the budget office as provided for under the Budget Act, 2001.

Note: The **Initiative for Social and Economic Rights (ISER) is a member of the Civil Society Budget Advocacy Group (SCBAG) in Uganda**
(A more detailed analysis of the Bill as a whole has been done and published by the Group)