The Proposed Plant Breeders Bill of Ghana and the Food Sovereignty Conundrum

By:

Daniel Acquah

April 17, 2019

In 2013, the government of Ghana brought a proposed Plant Breeders Bill (PBB) to Parliament for scrutiny and passage into law. The Bill seeks to establish a legal framework that will reward private sector investment in agricultural research and plant breeding activities to stimulate(and promote) agricultural development and ensure food security. However, the Bill was withdrawn in 2015 due to intense opposition from civil society groups and farmer unions. In a recent call, scientists from academic and research institutions have asked the government to reintroduce the Bill to parliament. There appears to be a divided opinion on the Bill. On the one hand, the civil society and farmer organisations are concerned that the Bill will erode the conservation of agricultural biodiversity for livelihood security and food sovereignty. On the other, the scientists argue that the passage of the Bill will encourage more private investments in the seed sector for the benefit of farmers and the nation,

making the country more competitive in the seed industry and ensuring food security.

Overtly, debates on the Bill have morphed into a contest between food sovereignty and food security. This comment will highlight the core issues, mostly from the perspective of advocates of food sovereignty, and underscore that food sovereignty and food security are two sides of the same coin. If properly exploited, both can complement government efforts in bridging the hunger and poverty gap in the country. It, therefore, proposes a middle way. On a cautious note, however, as both policy alternatives have their weaknesses, it is suggested that a law that is intended to address the problem of hunger may as well avoid this co-opting and contestation and instead, tackle the fundamental issues.

Food Sovereignty

Food sovereignty as a critical alternative to food security is generally defined as the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems. A grass-roots advocacy group Food Sovereignty Ghana leads the advocacy for food sovereignty. Among the issues raised by this side are:

1. Ghana is not a member of the International Convention for the Protection of New Varieties of Plants (UPOV). Neither is the African Regional Intellectual Property Organisation (to which Ghana is a member). However, in preparing to join UPOV, the government decided to model its PBB on the 1991 Act of UPOV and sought the advice of the UPOV Council in accordance with Articles 34(3) and 36(1)(i) of the UPOV 1991 Convention. Considering that, Ghana is under no international obligation to join UPOV, critics lament why the government would opt for such a strict regime when it could have chosen a flexible, effective sui generis system that caters to commercial breeders, small scale farmers and farming communities, as allowed under the TRIPS Agreement, such as the African Model Legislation.

2. Some provisions of the Bill are problematic. In particular, Section 10 of the Bill, which allows for a presumption of an applicant to be entitled to

protection as a breeder in the absence of any proof to the contrary. Considering that the Bill does not require a breeder to disclose the origin of the genetic material used to develop the variety it wishes to protect, nor does it provide mechanisms for prior informed consent, access and benefit sharing, the Bill may facilitate bio-piracy. Other problematic provisions are Section 20, which establishes far going requirements for authorization from breeders in a way that could prevent farmers from freely saving, using, and sharing seed from season to season, as they have always done; Section 22, which establishes an exhaustion regime that favours breeders, and Section 23, which pre-empts the laws of Ghana.

3. The Bill only incentivises uniform varieties. The proliferation of commercial uniform varieties will lead to the erosion of crop genetic diversity. This can pose serious threats to food supplies as it reduces resistance to pests, diseases and changing weather patterns etc.

4. Ghana bridged its poverty and food security gap in advance of its Millenium Development Goals' target of 2015.Policies like the Ghana Poverty Reduction Strategy II, the Food and Agriculture Sector Development Policy, the Savannah Accelerated Development Authority, the Ghana Commercial Agriculture Program and Planting for Food and Jobs Program has contributed to this. The government should focus on such policies rather than to introduce a regime whose implications might be deleterious.

PBB advocates, who argue that agriculture is predominantly practised on smallholder, family-operated farms using rudimentary technology to produce about 80 per cent of Ghana's total agricultural output, counter this. Less than 10 per cent of these farmers use improved seeds (for some crops), with the majority of them relying on traditional varieties that do not yield much. This has led to low yields for both staple and cash crops. For example, cereal yields are estimated at 1.7 tonnes per hectare compared to the regional average of 2.0 tonnes per hectare and with potential yields in excess of5.0 tons per hectare.

The Way Forward

While the early food sovereignty movement contrasted food sovereignty with food security, recent scholarship has shown that both are complementary

concepts, not contradictory. According to an FAO publication, both food security and food sovereignty:

1. Emphasise the need to increase food production and productivity to meet future demand.
2. Stress that the central problem today is access to food, and thus involves redistributive public policies in terms of income and employment.
3. Consider the necessary link between food and nutrition.

Undoubtedly, most, if not all the above thematic issues underlie major government policies on agriculture in Ghana. It is, therefore, a time the government bring concerned stakeholders in the agricultural sector to the table to work towards finding a middle ground. It appears much of the resistance to the Bill has to do with fear of intellectual property rights over seeds, the introduction of genetically modified organism foods and the view that Ghana will eventually have to depend on certified seeds invented by multinational corporations and other private seed producers, thus surrendering its food sovereignty to often-greedy private organisations. These are legitimate concerns. Hunger is a structural problem. It is not productive capacity *per se* but human-constructed economic and political structures that control how food is allocated and result in many going hungry. The aim should, therefore, be to come up with a Bill that will balance the interest of both breeders and farmers, and target making food available than a contest.

View online: The Proposed Plant Breeders Bill of Ghana and the Food Sovereignty Conundrum

Provided by Afronomicslaw