

The Biotechnology Regulatory Authority of India [BRAI] Bill 2011 – The bill to end the right to safe food!

Genetically Engineered food:

Genetically Engineered/Modified (GE/GM) crops are organisms created artificially in labs by forcibly inserting genes of unrelated organisms into the genetic structure of the plant.

Genetically engineered crops are unpredictable in their character and the plants once released in the environment are uncontrollable and can never be taken back.

There are several studies indicating the potential risk to human health and environment- this has resulted in a controversy across the world around the need for introducing such potentially risky organisms. Many countries in Europe, Asia and across the world have adopted a precautionary approach towards GMOs in their regulatory systems. India currently has a regulatory system in place, the intention and efficiency of which had been under question.

More than 10 state governments, covering a majority of the Brinjal growing regions have officially rejected the Bt brinjal and have written to the central government. Several scientists have advised not to approve Bt Brinjal, and there are no independent studies apart from the company data. More than 9000 people gave written submissions against the introduction of Bt Brinjal.

Bt Brinjal in a moratorium:

The debate in India on GE crops had started with Bt cotton, the only commercially approved GE crop in the country (March, 2002) and had become shrillest around the approval of Bt Brinjal, the first GE food crop in India.

The fact that government, pointing at precautionary principle, finally rolled back an approval given by GEAC, the apex body for approval of GMOs in our country, has validated the concerns raised by many against the existing regulatory system.

All these factors contributed to the moratorium.

A Bill to bring back Bt brinjal, Bt rice and others against the wish of the people.

The inadequacy of the existing system had long since been pointed out by many including the Swaminathan Task Force on Agri-biotechnology (2004), it's shocking the manner in which the Ministry of Science and technology is trying to lower the bar for the approval of GE crops and changing all the rules of the game to quell any future dissent against them.

This is being done through a bill that has been tabled in the Parliament in the current [Monsoon] session of 2011. This has been named as The Biotechnology Regulatory Authority of India bill.

Flawed process: The Present bill has its origins in 2005, and a draft version has been in circulation (in 2008). The selective consultations for these were totally biased and were done by the bio-tech consortium of India limited, an agency created to promote biotechnology in India. The Department of Biotechnology drove the process for the erstwhile NBRA and also drives the present version, BRAI. Several comments were received from the civil society and the scientists, farmers and consumers to change the structures, decision making processes and the need for ethical, and socio economic considerations before approving a GE (genetically engineered) crop. All these have been totally ignored in the present bill.

What is wrong with the bill?

A bill with a Wrong Mandate

The bill falls flat in terms of its capacity as a regulator because of the very fact that it seems more like a promoter than a regulator. It explicitly says in its introduction that it is for promoting safe use of Modern Biotechnology and to set up a regulatory body for that. Given that there is a strong body of evidence on the health, environmental and socio economic impacts of genetically modified crops there should be a regulation to ensure biosafety than to promote the use of modern biotechnology. This is not surprising as the bill is being tabled and championed by the Ministry of Science and technology that has the mandate to promote GM crops, the main product of modern biotechnology.

Conflict of interest between the BRAI and the Ministry of Science & Technology

The BRAI is hosted by the Ministry of Science and technology. Dept of biotechnology – under the ministry of S&T, has the mandate of promotion of GM crops. DBT funds several GE crop development projects using public funds and is the nodal agency for redirecting funds from foreign governments to GM crop development projects. It has been seen with the existing regulatory system where the Review Committee for Genetic Manipulation [RCGM], the committee under the DBT, has been mired in controversies with regard to conflict of interests. Many members of the RCGM are GM crop developers and body itself was sitting with in a department which was promoting GM crops.

With the promotion and regulation of GM crops under the same ministry, there is huge conflict of interest.

Undemocratic- Centralised, Technocratic decision making body

BRAI is a centralized technocrat run body with no scope for democratic intervention. The bill proposes to set up a 5 member Biotechnology Regulatory Authority of India, of which 2 are part-time members, under the Ministry of Science and technology which will take all decisions on the research, transport, import, manufacture and use of organisms and products created through modern biotechnology. All the other institutions proposed as part of the regulatory system like the Inter Ministerial Governing Board

and the Biotechnology Advisory Council are all advisory or supportive in nature.

In comparison, the existing structure provides the final decision of any GE crop to the state governments. There are seven ministerial representatives in the GEAC – can intervene in each and every decision of the authority – a situation required for providing checks and balances on decisions that can have serious ramifications on diverse issues such as health of the citizens, Natural heritage of the country, cultural and socio-economic fabric of the nation ranging from a citizens health to the countries trade security.

Unconstitutional– Overrides State government’s role.

The State governments have been kept out of any decision making role even though agriculture and health are state subjects under the Indian constitution. **In Chapter I, Section (2)** it says that "It is hereby declared that it is expedient in the public interest that the Union take under its control the regulation of organisms, products and processes of modern biotechnology." This is going to override the role that the State Governments were finally awarded recently by the existing regulatory body in deciding on Field trials in their respective states. The state Biotechnology advisory committee, a role created in this body is once again being put under the Department of Biotechnology of respective states furthering the conflict of interest issue.

With this structure, neither open air field trials, nor final approvals can be opposed by the state governments.

Transparency- an option decided by the authority.

The Right to Information Act, 2005(RTI) is been considered as the one of the best tools for ensuring transparency in governance. It has immensely helped the citizen to exercise his/ her democratic rights to know about how our government takes decisions and has been empowering the public in various governance issues.

A recent central information commission order has even made it mandatory for the all bio safety data presented by the company to the regulatory authority to be disclosed to the public even when a GE crop is in a field trial stage. This order, the result of a 30 month long RTI appeal for the bio safety data of GM crops by Greenpeace, can now ensure independent review of the data on GE crops and enables participation of the civil society.

The section 28 subsection(1) of the BRAI bill super cedes the requirement of the Right to information act and places the decision to disclose information for public interest with the authority instead of the central information commission or the Delhi High court as required by the RTI act 2005. This means that once BRAI is in place the citizen’s right to know about safety of GM crops is killed for ever. This would kill any informed public debate on GM crops in future, one of the aspects that helped in stopping Bt Brinjal.

Makes a Mockery of Biosafety assessment

Given that there is a strong body of evidence on the impacts of GM crops on human health and environment, it is essential for any regulatory mechanism for GM crops to ensure longterm, independent biosafety assessments before one even thinks of environmental releases of any kind [field trials or commercialisation]. BRAI fails on these accounts and talks nothing about longterm independent assessments on the contrary by lowers the bar by even **letting non accredited labs to do biosafety assessments** as given in **section 41**.

It also is not talking about correcting the mistake of not comparing and evaluating the products of modern biotechnology against the best available sustainable alternatives . This should ideally be the first step for any evaluation of any risky technology.

BRAI Kills consumer choice and Promotes GM Polluters:

No labeling, deterring liability or rollback of products:

Present day testing procedures of GM crops are grossly inadequate to ensure its safety or ascertain its environmental impacts. Despite this being the case, there are no sections talking about roll back of approvals, or labeling of GM food, or deterring liability of the crop developer due to economic losses by contamination.

The Bill has a **Section 70** which says that no court shall take cognizance of any offence punishable under this Act save on a complaint made by the Authority or any officer or person authorized by it. It also absolves the regulator from any deleterious decision made thus leaving no room for accountability.

Remediation of contamination :

Following a contamination incident (or in the case of a wrong approval), remediation of the site and redress mechanisms for the affected are required to ensure the safety of public health and the environment. These find no note in the bill.

Socio economic assessments missing:

Socio economic studies for assessing GM crops are not part of the existing regulations. They don't find any mention in the new one either. Given that GM crops comes with patent tags and have been found to further corporate control on agriculture this will have a serious impact on a country like India where the majority is dependent on the farming sector.

If BRAI is in, safe food is at risk. Withdraw the bill!

If the BRAI is passed as an act in the parliament , Bt Brinjal will be back, and following it is GM Maize, Bt rice , Bt tomato, GE mustard and 40 other food crops.



It will take away the constitutional rights of the citizens, of the state governments, push our farmers into the mercy of multinational seed companies, kill the citizens choice on safe food and jeopardize the country's food safety and sovereignty.

Instead of the current BRAI the government should table a legislation to protect and enhance biosafety and to ensure democratic processes are adhered to when dealing with issues as important as food and farming in our country.

For more information:

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