

November 3, 2011

STATEMENT OF CONCERN ON RELEASE OF GM (GENETICALLY MODIFIED) CROPS AND THE PROPOSED BIOTECHNOLOGY REGULATORY AUTHORITY OF INDIA BILL

GM or Genetically Modified crops are usually made by crossing the genes of unrelated species, in an attempt to transfer a desired trait. A large number of scientists across the world have questioned the safety of GM crops on health and environmental grounds. Less than 10% of the world's agricultural land is under GM crops because of rejection or severe restrictions in many parts of the world. India is an attractive target for GM seed companies.

We understand that there are about 50 to 70 GM food grains, vegetables and fruits currently under development for release in India. This is unprecedented anywhere in the world as many of them are directly consumed. It is not a matter that can be left to a handful of scientists to determine. It impacts every citizen in India, as a consumer, and his or her right to choose food that he or she considers safe. It impacts 600 million people who are farmers and their choice of seed. It impacts national sovereignty by increasing dependence on patented seeds controlled by a few multi-national corporations. The claim that GM crops lead to higher yields and are necessary to solve world hunger has been refuted in independent studies. Similarly, reports negate the claim that pesticide use decreases with use of GM insect resistant crops. The benefits are therefore questionable whereas the risks to natural environment and to health cannot be ignored. GM seeds are living organisms which have been seen to spread rapidly, uncontrollably and almost irreversibly once released.

We understand that a Bill is being tabled in Parliament entitled National Biotechnology Regulatory Authority of India (BRAI) Bill, to "regulate" genetically modified (GM) Crops. The contents of the Bill are of serious concern as it may well hasten the introduction of GM crops since the Regulatory body is in the same Ministry that is mandated to promote Biotechnology. The primary mandate of any Biotechnology Bill must be to ensure safety to consumers, farmers and the environment and not to facilitate quick clearances. In our view such a Bill should:

- 1) Ensure that every citizen's right to choose not to eat GM food is completely safeguarded. GM in food crops should not be permitted until consumers' choice to refuse GM can be guaranteed. This can only be done by mandatory labelling of all GM food entering the market, which is not feasible at present as most food is sold loose and unlabelled. There must be severe deterrent penalties for any lapses.
- 2) Bt cotton, the first GM crop, was officially permitted after it was illegally introduced and spread in India. After the introduction of Bt Cotton by powerful corporates, non-Bt Cotton seeds are now virtually not available to farmers. Seed prices and farmer suicides have not decreased but increased. In future the mechanisms for ensuring

wide availability of low cost non-GM seeds must first be ensured by Govt before clearing any GM seed.

- 3) The regulatory mechanisms must also ensure that no inadvertent contamination takes place, through wind and insect pollination, of organic or non GM crops.
- 4) The rights of State Governments and Gram Sabhas to be free of GM must be ensured by mandatory prior informed consent and appropriate regulations to contain spread.
- 5) There must be independent testing and not only test reports from GM Crop developers.

The penalties for transgressing of the rights of consumers or farmers to be GM free and for any environmental damage must be of a deterrent nature and quickly enforceable. The Bill should contain the relevant clauses for this. International agreements like the Cartagena Protocol, to which India is a signatory, prescribe that GM should not be allowed for crops in their Centres of Origin/Centres of Diversity. Since India is the Centre of Origin/ Diversity for most of the proposed Food Crops, genetic modification in such crops would be detrimental for India's biological wealth and national interests, and against the Cartagena Protocol, and must be prohibited in such crops.

The BRAI Bill as currently proposed does not meet these criteria and needs to be completely recast keeping in mind the best legislation for biosafety now available in other countries. Such vital legislation should be based on a healthy and transparent national discussion on issues of health, environment, agricultural productivity, farmer incomes, national sovereignty, etc. and not passed in haste. The Bt brinjal debates were a landmark of democratic functioning and the UN's Precautionary Principle was the basis for taking a responsible decision for a moratorium in an arena of risk and uncertainty.

Any regulatory and approval mechanism should consist of a cross section of Govt and non Govt representatives from the Ministries of Environment, Health, Agriculture, Rural Development and Biotechnology and consist of experts who are both for and against GM. It should also have representatives of consumer groups and farmer groups, especially those who do not wish to have GM contamination. We address this statement of concern to all those who directly or indirectly have a role to play in determining India's biotechnology regime.

LIST OF FORMER SUPREME COURT JUDGES WHO ISSUED THIS STATEMENT OF CONCERN ON RELEASE OF GM CROPS & ON BRAI (BIOTECHNOLOGY REGULATORY AUTHORITY OF INDIA) BILL

Sr.No	Name	Former Positions
1	Justice.M. H. Kania	Chief Justice, Supreme Court of India
2	Justice Kuldip Singh	Judge, Supreme Court of India
3	Justice Jeevan Reddy	Judge, Supreme Court of India, Chief Justice, Karnataka High Court

4	Justice Manoj Kumar Mukherjee (Letter has been sent by courier but not yet received)	Judge, Supreme Court of India Chief Justice Allahabad & Bombay High Courts
5	Justice Sujata Manohar	Judge, Supreme Court of India, Chief Justice, Bombay & Kerala High Courts Member, National Human Rights Commission
6	Justice M.B. Shah	Judge, Supreme Court of India Chief Justice, Bombay High Court President, National Consumer Dispute Redressal Committee
7	Justice Ruma Pal	Judge, Supreme Court of India
8	Justice Sam Variava	Judge, Supreme Court of India Chief Justice, Delhi High Court
9	Justice B.N. Srikrishna	Judge, Supreme Court of India Chief Justice, Kerala High Court
10	Justice Santosh Hegde	Judge, Supreme Court of India Lok Ayukta, Karnataka
11	Dr. Justice Shivraj Patil	Judge, Supreme Court of India Chief Justice, Rajasthan High Court