

FROM RISKS TO RIGHTS: CHALLENGES FOR BIOTECHNOLOGY POLICY

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DEMOCRATISING BIOTECHNOLOGY

In the new biotech era, scientists and industry have been instrumental in shaping biotechnology policy and law. They have emphasised the protection of individual interests – both human and corporate – through tight property laws, globalised trade rules and narrow regulatory regimes. Within this framework the only ‘acceptable’ restriction on biotechnology development is safety. Regulation focuses on the containment of risk through science-based assessments. Little attention has been given to broader social, cultural or development concerns, and critically, to rights. But gradually this is changing, with consumers and farmers challenging dominant problem framings. Such a rights approach, is key to rethinking biotechnology policy development.

Rights approaches

Rights approaches draw on well-established human rights and international law principles and have become prominent in development debates.

The human rights movement promoted the development of legal provisions for civil and political participation, alongside wider cultural, economic and social rights. The original aim was the restoration of dignity by putting people back in control of their lives. However, legalistic interpretations that focus on civil and political rights have shaped most national law systems. Consequently, although human rights have brought significant political and civil gains, there have been few social, cultural and economic benefits for the poor. A rights approach seeks to address this by acknowledging the inter-relatedness and indivisibility of rights.

Rights, whether enshrined in national constitutions, legislation or global agreements, only become real when they are exercised or adhered to. The ability of poorer, marginal farmers to claim them is dependent both on organisational capacity and power dynamics. Rights approaches recognise the political dimensions of policy, and the consequences of unequal power relations.

The following sections, drawing on experience in Zimbabwe, show how an emphasis on rights has influenced thinking about property, consumer, livelihood and development rights.

Property rights: assuring the rights of farmers

Intellectual property rights (IPRs) are often argued to be central to innovation and technology development. But current IPR approaches, reinforced by international agreements such as WTO and TRIPS, favour those with access to resources and the ability to patent genes and processes – generally northern-based multinational companies (see Briefing 4). In many instances, these approaches have meant that farmers’ rights to seed have been effectively downgraded.

Acknowledging the links between farmers’ rights, genetic and biological diversity, internationally-recognised rights to an adequate standard of living and of local communities to the maintenance of their cultural identity calls into question narrow definitions of ownership and control (see box).

FARMERS’ RIGHTS IN ZIMBABWE

Together with others in Africa, Zimbabwean activists have been at the forefront of the struggle to protect the rights of local communities and farmers. The motivation is to protect and ensure access to the genetic resources that form the basis of local livelihoods, culture and knowledge. After many years of active lobbying they succeeded in getting the OAU (now the African Union) to adopt a model law as a guide to help African countries develop national legislation to protect these rights. This model acknowledges the connection between livelihood, property and social-cultural rights. The rights of farmers, breeders and local communities to their biological resources, traditional knowledge and technologies are protected over individual and corporate rights. Now efforts to develop national legislation based on the model are afoot, with a Zimbabwean NGO recently bringing together a range of stakeholders to discuss a ‘white paper’ on appropriate law for Zimbabwe.

‘ A rights approach is key to rethinking biotechnology policy development ’

A rights approach emphasises the right of citizens, together with governments, to choose technology futures

Consumer rights: allowing for informed choice

Consumer groups have drawn attention to their right to evaluate the risk posed by new agricultural biotechnologies and to make an informed choice. Here, rights to information, labelling and issues of liability have emerged as key.

In Zimbabwe, consumer organisations have effectively lobbied for labelling regulations to be adopted, not only on the grounds of safety, but also to ensure that food choices remain consistent with cultural and other belief systems. This marks an important deviation from narrow risk approaches, where safety is the only consideration. They have, however, maintained a cautious respect for the 'right' of companies to market their products. Voluntary standards are currently being developed, through a multi-stakeholder process led by the Standards Association of Zimbabwe. The dilemma over importation of GM food aid sharply illustrates this difference between risk and rights approaches (see box).

ZAMBIA REJECTS GM FOOD AID

In August 2002, in the midst of a drought, Zambia rejected GM food aid. This followed a national debate incorporating NGOs, farmers, women's groups, church leaders, traditional leaders and politicians, and advice from Zambian scientists and economists. Zambia, asserting its national sovereign right, argued for a wider consideration of risks, including future trade and agriculture options. Concerns included:

- the speculative nature of safety reassurances;
- suspicion that the promoters of GM – like those of hybrid seed before them – provided skewed information highlighting only the positive and failing to warn of associated costs;
- concerns about economic impacts and marketing of agri-products to the EU; and
- uncertainty about environmental impacts.

Rights to livelihoods and development

Recognising the rights of citizens as custodians of germplasm or as consumers of food, although important, is not enough. These rights are essentially protective and are designed to offset potential risks associated with new technologies. They do not address the well-demonstrated need for people to have control over development. A rights approach requires a focus on local understandings of 'development' and 'technology'.

Today technology development is no longer solely the domain of the public sector, where the 'public good' is assured. In contrast to the Green Revolution era, private sector technology R & D now has a dominant role (see Briefing 3). A rights approach emphasises the right of citizens, together with governments, to choose technology futures that support locally-defined livelihood needs and do not undermine or foreclose livelihood and development options. This validates issues of humanity, culture, society and economy as legitimate and so creates space for a wider range of voices and issues.

Several initiatives in Zimbabwe focus on local rights. Spanning several decades, community- and farmer-focused organisations have developed projects that are based on farmers' self-defined needs. These include biotechnology projects focusing on fermentation or tissue culture, for example. Recently an NGO-led grouping has begun a deliberative process where farmers and other community members actively engage with scientists, corporations, government officials and others in defining technological futures consistent with their livelihood vision (see Briefing 13).

Challenges for the future

Making local participatory rights real requires supportive legislative provisions. These may include administrative justice provisions such as rights of access to information and rights to be given reasons for public decisions. Other reforms may include rights to deliberate over potential socio-economic impacts of GM crops prior to commercialisation, priority-setting exercises – both by public and private sector agencies – and the development of codes of conduct, protocols and laws. Such provisions may be included in biosafety regulations. To date these kinds of mechanisms for assuring wider rights have not been fully incorporated into legal or other provisions in Zimbabwe, as in many other countries. Addressing this is a key challenge for future livelihoods and technology policy.

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