

The Right to Know, The Need to Know (about Biotech in Hawaii?)

By ACSH Staff — March 1, 2005

The often-claimed "right to know" -- now being espoused by anti-biotech activists seeking the location of biotech testing areas -- cannot be fully understood without the related principle, the "need to know."

The right to know is deeply rooted in the methods of science and may have had its origins there. An individual scientist who conducts an inquiry and makes various discoveries and reaches conclusions is under no obligation to share with anyone what materials and methods were used in the research endeavor. However, should a researcher wish the fruit of his or her inquiry to be considered science and taken seriously by the scientific community, then full disclosure sufficient for the experiment to be replicated is necessary. Not only do scientists submit to these requirements, they enthusiastically support them.

Many leading journals require a variety of other personal disclosures that are considered necessary for the reader to be on guard for any likely biases. Unfortunately, journals seem to believe that financial relationships are the only significant source of potential bias (or conflict of interest). Highly ideological NGOs, on the other hand, are often seen as pure and unblemished.

The right to know in science is largely based on the need to know. Full disclosure of all methods and materials of a research effort is necessary for the peer reviewers to evaluate it properly, for others to replicate it, and for its incorporation into the body of scientific knowledge. Though science can seem arcane and mysterious to those not trained in it, in reality scientific inquiry is probably the most transparent endeavor in modern society. The right of others to know is so ingrained in modern science that scientists feel uncomfortable when, like those working on the atom bomb in World War II, they are put in a position in which they are not allowed to share their knowledge with anyone except a few (similarly constrained) co-researchers.

The demand for transparency (which is simply another way of stating the right of others to know) is increasingly permeating modern society. Accounting rules are promulgated to give any number of interested parties -- shareholders, employees, governmental authorities -- the right to know some of the critical financial workings of business enterprises. Various freedom of information acts give citizens the right to know about some of the important decision-making processes of government. Even when an individual has a right to withhold information about a discovery or invention, modern society can acquire the right to know from the creator in exchange for granting a patent (which literally means "open") that gives a monopoly privilege to exploit it. In these and other instances, a need to know is clear and compelling.

Biotech: Does What You Don't Know Necessarily Hurt You?

Without the slightest bit of shame, some of the NGOs who are most vociferous about their right to know about everyone else also argue that transparency requirements would be burdensome and harmful to them, preventing the NGOs from doing their duty to civil society. In a free democratic society, we all cherish our right to privacy. But at some time or other, we all have to trade small bits of our privacy in order to enter into public endeavors, particularly where others have a legitimate right to know.

Unfortunately, a right to know is too often claimed when there is no clear need to know. Over the last few years, there has been a repeated assertion of the consumers' right to know as grounds for labeling transgenic (genetically-modified or "GM") food. At first blush, it seems reasonable that consumers in a free society have a right to know what it is that they are eating. On closer inspection, the argument falls apart. Since the dawn of agriculture, stored grains have always been contaminated with insects, rodent hairs, and excreta. Modern grain storage has vastly lowered these contaminants but not to zero. Do consumers really want and need a label that reads "may contain insects and rodent hairs or excreta"?

Plants are chemical factories and may contain a thousand or more compounds, many of which are toxic, some of them known rodent carcinogens. The plants we use in agriculture are the products of a vast array of breeding techniques including mutation breeding by either radiation or carcinogenic chemicals. Probably 70% or more of our produce is the result of breeding techniques developed in the last century. So-called "natural" or "organic" produce is likely to have an even higher percentage of new-fangled techniques, the result of an ongoing effort to produce more-resistant plants in order to reduce the need for pesticides.

An organized campaign at the start of any of these breeding techniques could have easily frightened consumers and given rise to demands that such foodstuffs be so labeled. Fortunately, most of these techniques have been used safely for decades, so it is a little late in the game to frighten people about them. Given that there is a limitless amount of information that a consumer has a purported right to know, I have suggested that a CD-ROM be provided with every produce item giving its complete provenance as far as can be ascertained. Obviously, this is absurd but no more so than the demand that products be labeled GM or GM-free while ignoring all other aspects of their history, breeding, and constituency.

What Makes GM Special?

The question is: what privileges the claims of those who want GM labeling? There would clearly be a right to know if there were a health or other need to know. There are hazards in the foods that we eat, and some people have special conditions such as severe allergenic reactions to foods such as tree nuts, in which case proper labeling becomes essential. Many hazards such as plant toxins or carcinogens exist in such infinitesimal quantities as not to pose a real threat, but conventional breeding has on occasion produced plants that express large enough doses of a toxin to be a health risk.

The only reason that there is any public demand for GM labeling, on the other hand, is a systematic campaign of misinformation that has raised a series of false fears about transgenic

food but maintained a deafening silence concerning all other forms of plant breeding. Until the critics can demonstrate a health hazard -- a need to know -- the call for compulsory labeling should be firmly rejected. Given that the anti-GM activists have lost every serious argument on the dangers of transgenic food, we should not let them frighten us into an action based on a false assertion of a right to know.

If we succumb to the right to know argument when there is no evidence of harm, others would assert equal rights-to-know (through compulsory labeling) any number of things, including other breeding techniques; the toxins and their dosage; or even the religion, ethnicity, or race of the producer. In a free society, if a segment of consumers want some special production methods and/or purity and are willing to pay for them, the products will be made available without the necessity of compulsion. The only role that government has to play in the labeling of halal or kosher is protection against fraud.

Anti-Biotech Activists: Coming Soon to a Field Near You

The activists' demands for the right to know have extended beyond the realm of labeling. They assert the right to know not only what bio-engineered crops are being grown by the U.S. Department of Agriculture but where they are being grown. Their demand to know what is being grown is understandable, even though one might be skeptical about their specific interest in transgenic crops. Certainly, citizens have right to know what actions their government is taking and then initiate a public debate about its safety or appropriateness -- even if some of us consider their fears to be frivolous and groundless (this debate has been going on for over a decade and as yet no harm has been demonstrated).

The activists have a clever slogan: absence of evidence of harm is not evidence of absence of harm. But mandatory labeling or other policies based on *absence* of evidence requires an anointed personage or organization to pronounce that which is maybe-harmful in absence of evidence. This would turn our democracy into a secular theocracy (if you'll pardon the oxymoron).

Absent evidence of possible harm, there is no need to know that could generate a right to know where the crops are being grown. On the contrary, given the tendency of some anti-biotech activists to vandalize labs and crops, there is real and substantive evidence of danger arising from the *disclosure* of the locations of crop production -- which suggests a need-not-to-know and thus no right to know, in this instance.

The Hawaii Decision: Law Over Science

A recent decision in Hawaii granted two NGOs limited rights to know where certain transgenic crops were being grown. Not being versed in the law, I do not know whether this was a legislative or judicial failing, but a failing it was.

Were there reasonable grounds that harm might result, then the appropriate action would have been to seek an injunction. This would have allowed for an open debate on the safety of transgenic crops, which many of us would have welcomed. Demanding to learn where they are being grown would seem to be a cowardly way of trying to interdict their development without the necessity of proving harm. Once again, the case should have to be made that there is potential

harm from the crops -- and that growing them in one location would cause harm while growing it in another would not. This argument, if proved, would in my judgment be the only possible basis for requiring the disclosure of location of planting. But given that activists argue the dangers of transgenic crops under all possible circumstances, a motion to ban such crops completely would have been in order. This argument was not made since the activists knew that they would lose it on the scientific merits.

For the sake of argument, let us grant the honesty and integrity of the plaintiffs. Any disclosure of the location of planting would nevertheless result in the entire activist anti-transgenic community learning of it even if the organizations themselves sought to limit access to it. Dedicated animal rights and anti-transgenic zealots have successfully infiltrated highly protected laboratories. Is there any doubt that even the most reputable environmental organizations include key people sympathetic to those who would engage in terrorist, willing secretly to share the knowledge of crop location with them? Groups who believe in rooting up transgenic crops in order to save the planet from mutant genes would quickly learn of the crops' locations. A number of activist environmental groups have publicly stated their intention of rooting up transgenic crops whenever and wherever they can, no matter how illegal it may be.

The Hawaii decision puts a legitimate scientific and economic research project at needless risk. At minimum, it raises the cost of the research process by requiring additional crop security. Given the difficulty of a twenty-four-hour defense of open agricultural fields, the decision could doom the project itself.

A government in a democracy needs to base its policies and actions on sound science. It also requires openness -- the right to know -- so that soundness of the science can always be challenged. This need to know is the basis of a right to know. Once policies are established, sound science, not pseudo-science, should always be allowed to challenge the policies. However, using the presumed right to know apart from the need to know is spurious and violates the very spirit of the right-to-know principle. It becomes an undemocratic tool to counter both the wishes of the majority and the dictates of sound science.

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