

## **TURMERIC, BASMATI, NOW WHEAT**

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The phenomenon of biopiracy does not seem to let up despite public outrage and the striking down of illegitimate patents as happened in the case of turmeric and to some extent, basmati rice. The most recent example to come to light is the patent on a wheat variety granted to Monsanto by the European Patent Office (number EP, 445929); the patented wheat called Galahad 7 was bred using a traditional farmer variety of wheat from India called Nap Hal. Nap Hal has been known to the food processing industry at least since the early eighties because of its special features like low levels of gluten which makes Nap Hal dough less elastic and therefore perfect for making crisp biscuits and crackers. As in the case of all crop gene pools, the actual knowledge of the specific properties of any crop variety is held by farming communities because they are the ones who have developed the varieties and landraces over generations, for specific needs like resistance to particular diseases or tolerance to high salt concentration in the soil. Nap Hal has been bred for its suitability for making the chapatti since the dough is firm rather than elastic. It is the same firm, inelastic dough property for which Nap Hal has been used in breeding Galahad 7, to be used for biscuits and crackers. This is a straight forward case of theft or misappropriation of property, in this cases a crop variety belonging to Indian farmers. No amount of legal semantics of what the wheat patent will or will not do to Indian farmers can alter this incontrovertible fact.

The farmer variety has been used by Monsanto in its breeding programs without taking prior permission from Indian farmers and without entering into any kind of benefit sharing agreement with them. This is not just grossly unethical; it is in violation of international agreements like the Convention on Biological Diversity (CBD) and the International Treaty on Plant Genetic Resources (ITPGR) which recognize the rights of the farming community over the genetic wealth used in agriculture. Both CBD and ITPGR also require that this genetic wealth can only be used after seeking permission and by sharing part of the profits with rural communities in a 'benefit sharing' agreement. Indian laws have in fact provided for such benefit sharing and have designated a National Gene Fund into which revenues from such use should flow.

Despite action at the national level, the phenomenon of biopiracy shows no signs of abating. Genetic resources, the valuable raw materials of the booming herbal industry and the threshold agri-biotechnology industry have become coveted and sought after. The dilemma is that these resources are the property of the worlds' farming and tribal communities, located largely in the south and the industries are largely multinational or located in the industrial north. Biopiracy is the expedient with which the industry has decided to help itself to valuable resources without paying anything for them. This clearly unethical situation continues even as national governments chase patent grants in the US and more recently, Europe, and spend thousands of dollars to present a challenge. In the case of turmeric, the patent was struck down and in the case of Basmati rice; there was a sort of

compromise. Chasing patents in foreign patent offices is a clearly untenable situation. Developing country governments need to join hands to force an international agreement against patents on biological materials that clearly belong to communities in the south. A start has been made by a joint submission in the TRIPS Council by India and other developing countries that under the WTO patent regime, it should be mandatory to declare the source of the biological material, proof of prior informed consent and agreements for benefit sharing, before the grant of a patent. Not surprisingly, the US, backed by the MNCs is opposing this move but this is where future negotiations and actions must focus.