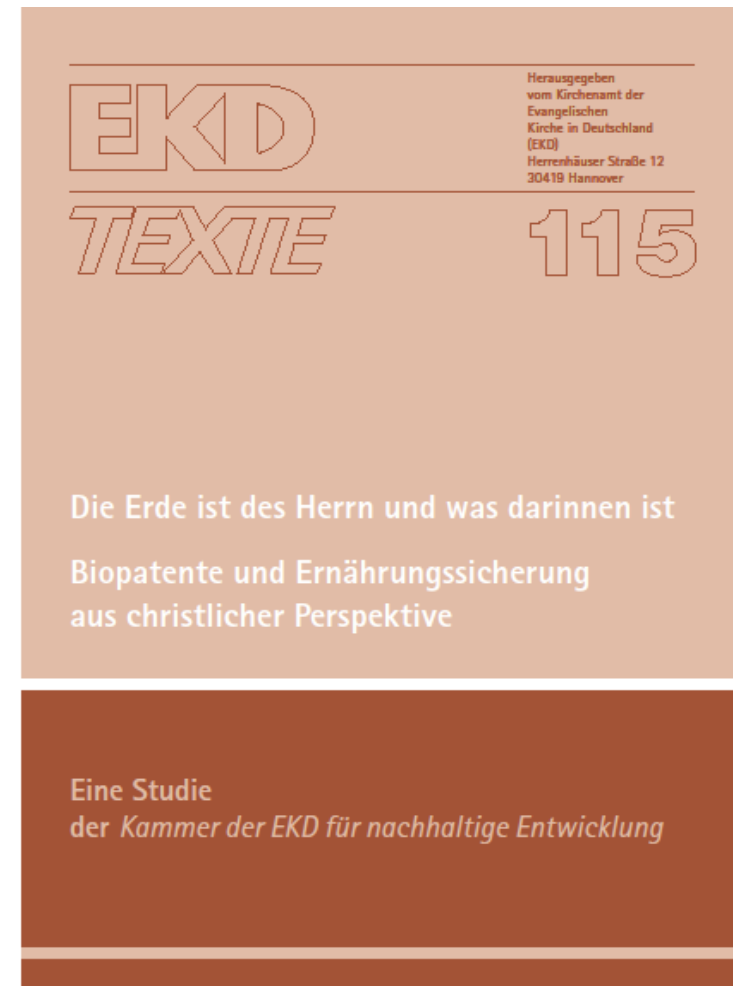


# The earth is the Lord's and the fullness thereof

## Biopatents and food security from a christian perspective

A Study  
by the Advisory Board for Development and  
Environment  
of the Evangelical Church in Germany (EKD)



# Key Findings

## Results of the Advisory Board

- patents on plants and animals are no appropriate instrument to enhance scientific and technical innovations
- patent claims are an obstacle for technical progress
- patent claims establish monopoly rights
- patent claims encourage the formation of positions that dominate markets
- patent claims have a deterrent effect on commercially competing research and development processes

# Ethical Analysis

## Categorical arguments against biopatents

Give reasons why biopatents are basically forbidden from an ethical view

- living beings are no inventions
- living beings should have special protection
- biopatents infringe human rights

## Consequential Arguments

Give reasons why biopatents should be forbidden because their consequences are ethically not acceptable

- Human Right to adequate food
- Protection of Traditional Knowledge

# Conclusions from a christian Perspective

Biopatents permit an exclusive disposal on plant and animal life. Therefore biodiversity and food security are clearly restricted.

This is the basis on which church has to raise critical questions on the granting of biopatents. How are biopatents reconcilable with the order of creation to preserve and use the gifts of creation in a way that they are a benefit to all?

From a christian perspective it would be better to give up patenting of biotechnological inventions and transfer innovations in the field of biology as commons.

# Conclusions

Regarding the pros and cons of patents on plants and animals there are few arguments pro biopatents. It is doubtful if they can fulfil the promise to enhance innovations. Furthermore they have negative social and ecological consequences.

From a pragmatic point of view there is a great need for action to reform the existing patent system in order to correct the described negative consequences and imbalances, at least partially.

# Recommendations 1

- strict standards for granting patents and claims  
By a more intensive examination of an application it should be avoided that patents with exaggerated claims or patents on „essentially biological processes“ are granted
- the criteria of the inventive step should be handled more strictly  
This is especially important in matters of „Evergreening“. Evergreening is a clear indication on the functional change which contradicts with the actual idea and the meaning of the patent system. Basically this is a misuse of the patent system.

# Recommendations 2

- **No patents on plant varieties and animal breeds**  
Claims should be reduced to the actual inventive achievement.  
There should be mechanisms to analyse the social and ecological consequences of biopatents
- **Installation of an ethics committee in the EPO**  
to estimate the socio-economic and ecological consequences of patents
- **Institution for technology assessment of biopatents**  
This institution should analyse the impacts of certain biopatents.  
This body could be given the right of veto. Persons in this body should be independent from the patent office and of economic interests regarding patents

# Recommendations 3

- Democratic control of the EPO  
e.g. by European Parliament
- Strengthening civil society to file patent oppositions  
part of the patent fees should be used for a fund to finance oppositions



# Recommendations 4

In a global perspective each country/region should have the possibility to implement a system for IPRs that is appropriate to their requirements. The right for sui generis systems is to be recognised.

Global „one-size-fits-all“ systems that subordinate small scale farmers to the interests of globally acting commercial breeders are less meaningful.

Subsistence and small scale farmers should be basically free from all obligations from IPRs.

Traditional knowledge should be excluded from patenting. Patents should not be granted without a prior informed consent of indigenous peoples or the relevant authorities of the countries of origin of biological resources.

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