Preface

Innovation tests boundaries of social norms, inevitably triggering reactions. Tort law and ethics are intertwined—we impose it against that which offends community standards without providing sufficient benefits. Tort law is flexible enough to evolve with expanding ethical norms that take in species, even ecosystems, as subject to legally-recognised “harm” that is compensable. With biotech crops, the world is poised on a series of fateful decisions, as nations adopt laws on liability for biotech crop production, transport, end use and disposal.

Twentieth-century agricultural innovations, like margarine, encountered stiff opposition that faded, while the most productive forms of agriculture remain contested methods by many seeking alternatives to industrial forms of crop production. Does industrial agriculture really feed the world or perpetuate the haves and have-nots? Do biotech crops pose hidden risks that will emerge over time, undetected by present “state-of-the-art” risk analysis? Should a “precautionary approach” to biotech crops be imposed in many nations of the world, while we wait and see (and perhaps some starve or otherwise needlessly suffer?). In this respect, the question of imposing legal barriers—liability, mandatory labelling, precautionary approval—all raise an important question of intergenerational ethics. Do we owe the coming generations a duty to prevent potential risks, and if so, will some of the biotechnology seed companies marketing biotech crops today find a long-tail of liability awaiting them in the future?

The question of whether to impose biotechnology-specific liability, and how strict to make such liability, inevitably leads to normative contests—in international biotechnology liability negotiations, in national and state legislatures and in community level divisions into non-genetically modified and conventional production zones, with corresponding tort liability regimes for failure to follow accepted community, state, national or international standards of care. International standards on “sustainability” may reinforce the fencing-in of biotech crops in some locations, making use of terms like “contamination” to reinforce claims that biotech crops should be “fenced-in” (making those who allow release from containment legally at fault).

While this book delves deep into the various “trees” of biotechnology crop liability, the broader questions of acceptance—the forest—should be held as a

reference point in reviewing the various legal requirements discussed by the authors.

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