# Engaging Lawyers in Agri-biotechnology in the Philippines

## Challenges and Prospects

# Source:

## Legal Discourse on Agri-Biotechnology: Implications to Lawyers' Engagement in Biotechnology in the Philippines

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# Key questions

- What are the lawyers' ideas  about agri-biotechnology?
- What are the influencers of such ideas?
- What are the challenges and prospects of lawyers' engagement in agri-biotechnology in the country?

# Methodology

- Descriptive: mini-survey, focus group discussion
- Partnership with 2 lawyer-collaborators from Integrated Bar of the Philippines
- 39 Lawyers from Metro Manila and Davao City
- Purposively selected from government and private agencies
- Included a group who were anti-GMO

# Profile of lawyer-participants

- 58% Female
- Age range 35-50; mean age 40
- Pre-law course: 85% Social sciences

  10% biophysical sciences (bio, food tech, computer science)
- Year graduated: 46%  2001-2010
- School graduated: 41%  UP Diliman, 34% Ateneo
- Years in law practice: 61.5%  almost 15 years

# Nature of legal practice and specializations

- Nature of practice:
  - 67% Private practitioners
  - 59% Litigation
- Specializations:
  - Labor, taxation, arbitration, human rights
  - Intellectual property law

# Lawyers' ideas of agri-biotech

**Benchmark definition of agri-biotechnology:**

A set of tools that uses living organisms or parts of organisms to make, modify a product or improve plants, trees, and animals; or develop microorganisms for specific uses.

- ISAAA,2010

# Lawyers' ideas of agri-biotech

## Dialectical perspective

- Opposite of "organic" or "natural"

**Organic** = use of natural products and processes to grow plants & animals

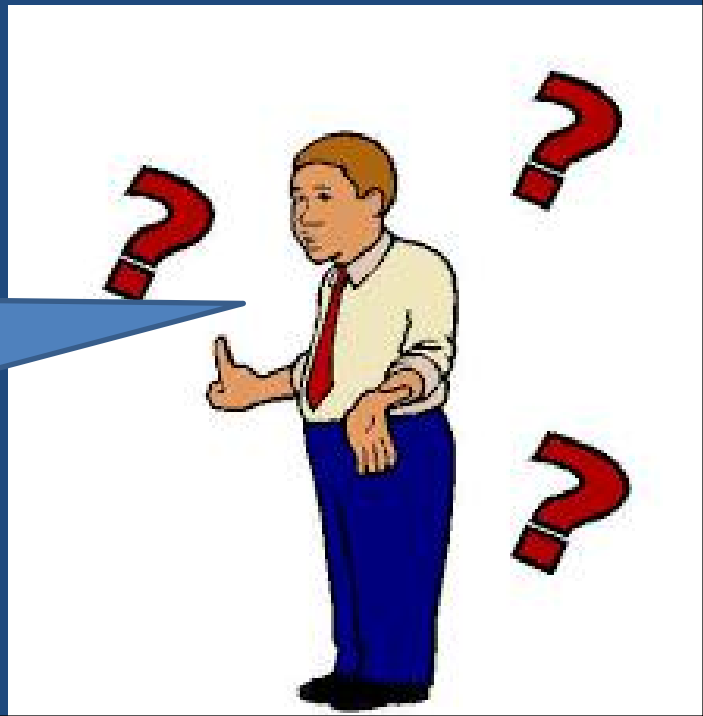
**Agri-biotech**= GMOs= involves some kind of processing & use of chemicals or artificial products

# Lawyers' ideas of agri-biotech

## Nature and process

- Involves  gene alteration or transfer to improve performance of crops and animals
- Low comprehension of genes

But cannot exactly figure out how the process is done…



# Lawyers' ideas of agri-biotech

## Surrounding controversy

- A controversial technology due to its health and safety risks
- A contested issue worldwide


# Lawyers' ideas of agri-biotech



**Perceived value**

- Technology for improving life
- Inevitable to help address food security
- Does not guarantee zero risk

# Lawyers' ideas of agri-biotech


**Regulation aspect**

- Believe that applications of agro-biotech **are not** properly regulated in the country
- Perceive that large agricultural and multinational companies are the ones benefiting from agri-biotech applications

# Lawyers' ideas of agri-biotech

- Bt corn
- Golden rice
- GM wheat
- GM mosquito
- GM tilapia

- Chickens whose growth is induced by hormones
- GWashington industrial peanut
- Placenta soap- for anti ageing, skin whitening

# Familiarity with laws related to agri-biotech

- Intellectual Property Code
- Data Privacy Act, 2012
- Bioprospecting Law
- Natl Com on Biosafety in the Phil
- Phil Plant Variety Protection, 20002
- Cartagena Protocol on Biosafety
- Convention on Biological Diversity
- DAO 8, 2002
- Freedom of Information

# Influencers of lawyers' ideas about agri-biotechnology

- TV programs- History & Discovery Channel, National Geographic, BBC, CNN
- Journal articles (UPLB and BPI)
- Google search
- Food labels
- Seminars, fora
- Clients in agric product patenting cases

# CHALLENGES

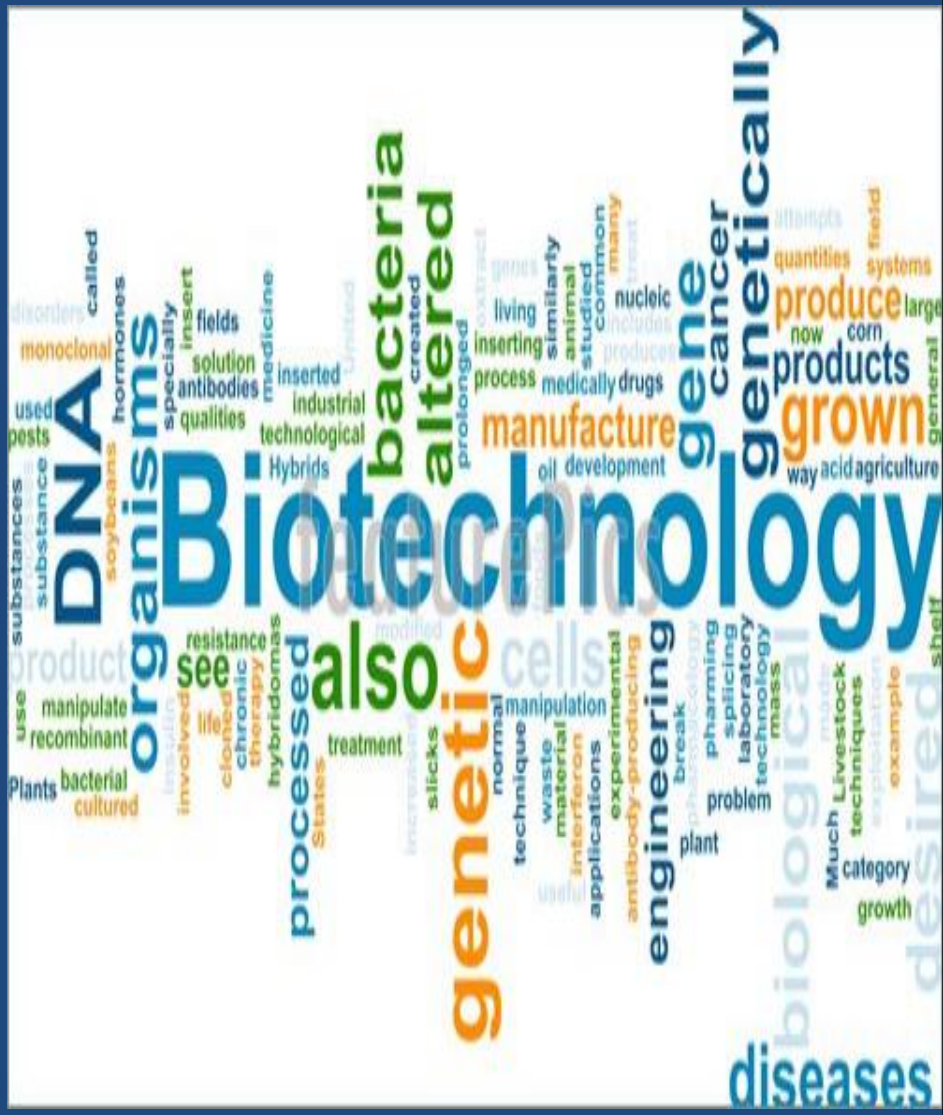
Refer to lawyers' encounters and sources of information that do not always lead to clarifying agri-biotechnology and even lead to the building up of misconception about it

# Low engagement in agri-biotech development

- Experience handling cases related to biotechnology:
  - 72% have not been engaged at all
  - 6% handled patent cases based on Plant Variety Protection Act and Techno Transfer Act
  - 2 were involved in Bt talong case
    - 1 as litigation partner
    - 1 as drafter of cease and desist order

# Tendency to get lost in the jargons

- Hardly understand the jargons of the policies they read related to agriculture and biotech; information difficult to retain
- Without clear understanding, impossible to spot the issues, their implications and finally take a stand.



# Vulnerability to be influenced by myths

| To be well and beautiful, GM foods are a big no, no. | Beauty and wellness seminars |
|---|---|
| Cancer and auto immune diseases are brought about by processed or GM foods. | Facebook ads on organic foods |
| Natural food is unaltered, thus, safer for babies than GM foods. | Friends, relatives who are mothers with young children |
| Some good traits in crops are lost if we use agri-biotechnology; e.g., pest resistant bananas are not anymore sweet. | Observations based on experience |

# Exposure to pseudo-scientific or science fiction programs

- National Geographic
- Discovery Channel

- Leads them to think and imagine that any “super” technology, like those involving pest resistance, can become a “monster” or uncontrollable creature that may destroy life

- Can lead to a wild mutation of “Captain America giving birth to “Spiderman”

# Exposure to misleading food labels and advertisements

- "Organic" hype prompts them to read food labels and be biased for "all natural" tag line.
- Labels readily insinuates that GM foods are bad products.

# Credible sources of information are inaccessible

| | | |
|---|---|---|
| R&D institutions (IRRI, BPI) | Academe (UPLB, UPMin) | Regulatory Body (Natl Seed Industry Council) |
| Govt specialists & experts | Scientific journals (Peer reviewed) | Except… Google scholar |

# Lawyers favor use of agri-biotech but with precautions.

- Needs to be regulated.
- Needs to be certified “safe” by the government
- Risks to be addressed
- Public to be educated about it: pros & cons
- Issue to focus more on level of use
- Leave out multinational companies in the process

# Bigger challenge...

While lawyers perceive agri-biotech as an interesting topic, they do not find it as a **lucrative area** of legal practice as yet.

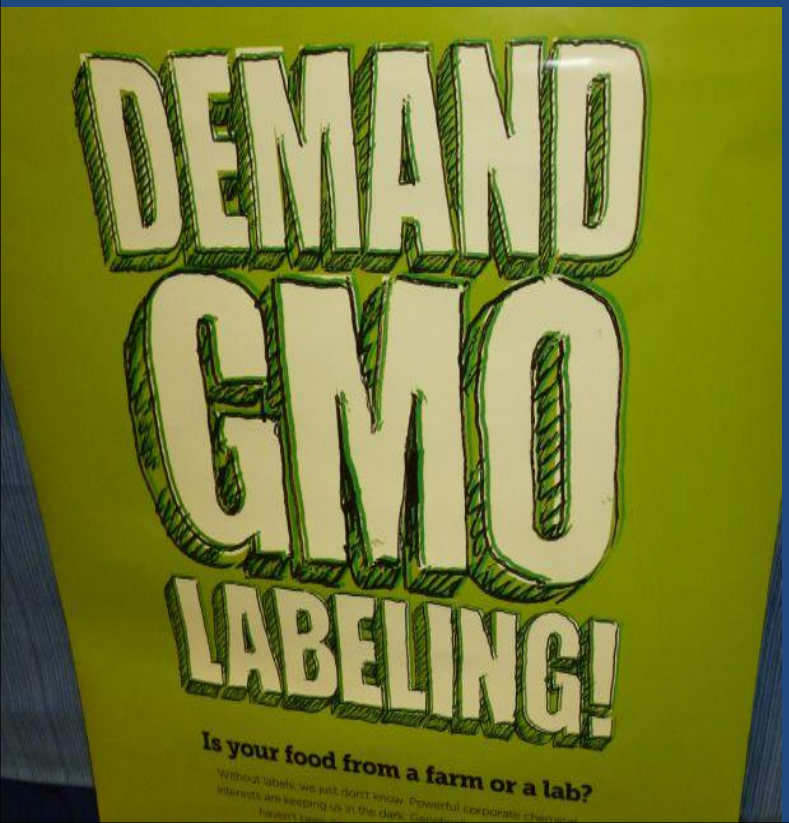
# PROSPECTS

Refer to activities, mechanisms, and measures that may be undertaken to help clarify agri-biotechnology and enhance lawyers ‘ engagement in its development and applications in the country.

# Full disclosure re: agri-biotech

"Whether or not scientists are protecting the intellectual property right or commercial value of their research, full disclosure about the pros and cons of agri-biotechnology is still wanting. For drugs and medicines, both the cure and side effects are disclosed and yet the public still buys them. The same should work for agri-biotech."

# Labeling of agri-biotech products




- Agri-biotech products may adopt the labeling being used for foods and medicines. Ingredients and nutritional facts are important for consumers to make informed decision.

- GM products are quite difficult to distinguish from non-GM ones, so labels can help differentiate.
- Protection of people's right to information and choice for their protection and safety.

# Partnership between scientists and lawyers

- Scientists to remain in the frontline developing the technology while lawyers guide the public on what can be done or cannot be done with the technology.
- Certain people's rights should have been reviewed already at the start of the process and not wait until the entire process is done.

"Scientists may be clueless about legalities; and lawyers, about how science works. Let the two complement each other."

# Development of lawyers with biotech expertise

- Lawyers see the value of developing biotech legal experts in their profession who will serve as “myth busters” on the topic.
- Less preference for scientists talking to them about agri-biotech.

“Lawyers trust their fellow lawyers more especially if they are to tread new ground like agri-biotechnology. “

# Integrate agri-biotech in lawyers' education: some options

- Agri-biotechnology may be included as a subject in their Mandatory Continuing Legal Education (MCLE)
- It can form part of their required 36 credit units every 3 years
- MCLE required for continuous legal practice

# Integrate agri-biotech in lawyers' education: some options

- Integrate agri-biotechnology topic in intellectual property or environmental law subjects; topic may not be too big to merit a separate 3-unit subject.
- Take up special short course on agri-biotech, outside of MCLE, to include bioethics, field testing protocol, field trip and visit to laboratories (IRRI, UPLB, BPI)

# Things lawyers are willing to do

- Learn about science and not leave everything to the scientists
- Attend sessions on agri-biotech but with lawyers as speakers
- Participate in sponsored study tours to visit laboratories and field experiments to observe how agri-biotechnology is done

# Things lawyers are willing to do

- Pay for extra cost of labeling GM foods as people should have the freedom of choice
- Do policy studies on gaps in agri-biotech regulation in the country
  - disclosure, labeling, regulatory bodies
- Participate in regulating agri-biotech and not leave it to the industry

# Bigger prospect …

- Expand agri-biotech involvement of lawyers beyond handling of cases.
- Work out greater understanding and involvement of lawyers in governance and regulation of agri-biotech.