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MON-SAINT OR SINNER

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INTRODUCTION

Genetic engineering is one of the greatest human achievements of the twenty-first century. Genetically Modified ('GM') foods are extremely popular among both the consumers and the farmers. Its various benefits, including increased supply, reduced cost, longer shelf life, and lesser chemicals, make it a preferred choice compared to the other products. The major companies that are involved in GM seeds production include Monsanto, Dow, DuPont, BASF, Syngenta, and Bayer. Among these companies, the US company Monsanto is the market leader in GM seeds. The main aim of these companies is to increase the profitability of the farmers. This paper will focus on Monsanto. I will be discussing the impact of Monsanto's products and their Corporate Regulations with their licensing agreements on the third world farming community and why they continued to exist, and thrive despite their detrimental impact. This paper is divided into five sections. The first section introduces the concept of GMO seeds and states its positive and negative impacts. The second section talks about Monsanto and its product. It also highlights the problems with Monsanto's products and their licensing agreement. The third section talks about the impact of Monsanto on the farming community focusing on the farmers of India and US. The fourth section talks about the Bayer-Monsanto Merger and its impact. Finally the fifth section addresses why Monsanto continued to thrive despite their detrimental impact.

I. GENETICALLY MODIFIED SEEDS

Genetically Modified (GM) are seeds that are modified by directly inserting genes into the DNA of the seed. They have specific traits like resistance to pests, tolerance to herbicides, and resistance to plant viruses.¹ GM seeds were introduced to help the farmers prevent crop loss.² As it is resistant to pests, farmers need not spray pesticides excessively or regularly. Moreover, its

¹ Krufft David, 'Impacts of Genetically-Modified Crops and Seeds on Farmers' [2001] The Agricultural Law Resource and Reference Center https://pennstatelaw.psu.edu/file/aglaw/Impacts_of_Genetically_Modified.pdf.

² Nutrition C for FS and A, 'How GMO Crops Impact Our World' [2022] FDA <https://www.fda.gov/food/agricultural-biotechnology/how-gmo-crops-impact-our-world>.

characteristic of being tolerant to herbicides enables the farmers to control the weeds without harming the crops. All of these results in increased crop yield. This was further proved in a study done by the Economic Research Service (ERS) using the 1997 data that discovered a significant correlation between higher crop yields and a rise in the use of GM seeds that are resistant to herbicides and pesticides.³ Increased crop yield also means an increase in profit for the farmers. However, despite all these benefits, there are a few concerns with regard to the use of GM seeds. One of the concerns is that the continuous use of these seeds will lead to the development of 'super weeds' and 'superbugs' that become resistant to GM seed and herbicides/pesticides.⁴ These weeds and pests are even more difficult for farmers to deal with. Another major issue with GM seeds is the issue with regard its patents. The companies generally acquire patent rights for GM seeds and their seed technology. This will decrease competition in the market and increase the prices. This issue will be further explained in detail in the next section of the Paper.

II. MONSANTO

The agricultural giant Monsanto is an agricultural biotechnology corporation that has captured the majority of the GM seeds and herbicides market. Started by John Queeny in 1901 as a company that produced the artificial sweetener saccharin, it expanded very fast to other products like aspirin, vanilla, and synthetic fibers. Further after the Second World War, it expanded to herbicides as well.⁵ Monsanto's goal in the 1980s was to create crops that wouldn't suffer damage from the application of its herbicide, Roundup.⁶ The company then went on to produce GM cotton seeds and Roundup Ready soybeans. This is how Monsanto started their journey of producing GM seeds. To achieve a significant amount of influence over seed germplasm, it has acquired most of the major seed firms or merged with them. Moreover, Monsanto also acquired patents on their GM seeds which helped them in capturing a dominating position in the market. They forced all the farmers purchasing their seeds to enter into a licensing agreement with them which prohibited the farmers from saving seeds from one harvest to plant in the next season. As per the licensing agreement, the company had the right to monitor and inspect the fields. This clause in the agreement helped the company to ensure that farmers are not saving any seeds.⁷ Hence the farmers were forced to buy new seeds for the next season. Monsanto also filed lawsuits

³ Kruff David, 'Impacts of Genetically-Modified Crops and Seeds on Farmers' [2001] The Agricultural Law Resource and Reference Center
https://pennstatelaw.psu.edu/file/aglaw/Impacts_of_Genetically_Modified.pdf.

⁴*Id.*

⁵ 'Monsanto: Corporate Rap Sheet | Corporate Research Project' <https://www.corp-research.org/monsanto>.

⁶*Id.*

⁷*Id.*

against farmers who violated the agreement. Another major issue with Monsanto's GM seeds is its high cost. GM seeds are expensive and hence it increases the expense for the farmers. Moreover, not being able to save seed from harvest means buying new seeds every season which adds on to the financial burden of the farmers. This way Monsanto continuously exploited the farmers. Moreover, some of their crops like the Bt cotton which is popular amongst Indian farmers, includes pesticides within the plant.⁸ Pesticides helps to prevent the insects from feeding on the plants and since the plant contains pesticides within itself, the farmers do not need to additionally spray pesticides.⁹ However, this turns plants into a toxic substance such that any animal feeding on it will die. In India, farmers reported that thousands of their sheep died as a result of grazing on the Bt Cotton fields.¹⁰ All these showcases the detrimental impact of Monsanto's products.

III. IMPACT OF MONSANTO ON THE FARMING COMMUNITY.

INDIA-

Monsanto introduced GM cotton seeds in India, also known as Bt Cotton (*Bacillus thuringiensis* Cotton). They marketed the Bt. Cotton by pointing out its benefits like reduced use of pesticides and assured the farmers of higher yield. Indian farmers were extremely intrigued and interested by Monsanto's GM seeds that they took out loans to buy the same. However, GM seeds do not survive in all regions of India and hence, the farmers whose harvest failed fell into the debt trap. Unable to bear the financial burden, they ended up committing suicide. Monsanto was consequently accused of more than 2,90,000 farmer suicides.¹¹ As per the data of the Government of India, the high cost of input purchases, which is mainly the seeds, is the cause of approximately 75% of rural debt.¹² Since Monsanto's entry into the Indian market, cotton seeds prices increased by 80,000% i.e., from just Rs. 5-9 per kg to around Rs. 1,600 for 450 grams.¹³ Monsanto's seeds are very costly and even if the farmers somehow made enough money to buy the seeds, they also

⁸ Sandri, Rachel N, 'The Effects of Monsanto on Indian Farmer Suicide Rates' [2017] Salve Regina University https://digitalcommons.salve.edu/cgi/viewcontent.cgi?article=1001&context=env334_justice.

⁹*Id.*

¹⁰GMWatch. "Mortality in Sheep Flocks after Grazing on Bt Cotton Fields Warangal District, Andhra Pradesh." GM Watch. April 29, 2006. <http://gmwatch.org/en/latest-listing/1-news-items/6416-mortality-in-sheep-flocks-after-grazing-on-bt-cotton-fields-warangal-district-andhra-pradesh-2942006>.

¹¹ Sandri, Rachel N, 'The Effects of Monsanto on Indian Farmer Suicide Rates' [2017] Salve Regina University https://digitalcommons.salve.edu/cgi/viewcontent.cgi?article=1001&context=env334_justice.

¹²Times E, 'Bayer-Monsanto Merger: CCI Please Stop This Merger & Save Indian Farmers' Suicides' *The Economic Times* <https://economictimes.indiatimes.com/blogs/et-commentary/bayer-monsanto-merger-cci-please-stop-this-merger-save-indian-farmers-suicides/>.

¹³*Id.*

needed to buy Monsanto's pesticides and fertilizers which further requires money. Furthermore, farmers had to buy new seeds every season as they cannot save seeds from the previous harvest because of their contract with the company.

Adding on to the hardship, the market price of cotton also reduced tremendously. Moreover, only Bt cotton seeds are available in the market, hence cotton farmers had no other option.¹⁴ Therefore, with the high cost of production and decreased market price, farmers fall into the debt trap as they are unable to pay back the loans. The only way to pay back the debt would be to plant more crops for which they have to again take loans. Additionally, the inbuilt pesticides inside the seeds, lead to the creation of super bugs that have grown resistant to the pesticides, and hence farmers have to pay extra for expensive chemicals to get rid of the bugs.¹⁵ More use of chemicals also degrades the quality of the soil which is another factor contributing to crop failure. Widows of the deceased farmers gave testimony as to how their husbands took loans to buy Monsanto's GM cotton seeds.¹⁶ Few farmers quit farming and went looking for other jobs to pay back the loan. So they approached companies that offer them employment abroad. Farmers had to take another loan to cover the cost of travel and accommodation. Instead of paying back the loan, they would use the money they make to reimburse the company for their services.¹⁷ This burden and pressure led them to suicide. Either way, the farmers who fall into the vicious trap of Monsanto's GM seeds had no option but to commit suicide. According to reports, till March 2016 around 3 lakh Indian farmers had committed suicide as a result of debt traps and crop failures and 84% of these suicides are directly attributable to Monsanto's Bt. Cotton.¹⁸ Ironically, farmers commit suicide by consuming pesticides produced by Monsanto.¹⁹

US-

Monsanto controls the majority of the US seeds market. They hold a 93% stake in American soybean seeds and an 80% stake in American corn seeds. This limits the farmers' options when

¹⁴ Sandri, Rachel N, 'The Effects of Monsanto on Indian Farmer Suicide Rates' [2017] Salve Regina University https://digitalcommons.salve.edu/cgi/viewcontent.cgi?article=1001&context=env334_justice.

¹⁵ Chow H, 'The Story behind Monsanto's Malicious Monopolies in India' (29 September 2016) <https://www.globaljustice.org.uk/blog/2016/09/story-behind-monsantos-malicious-monopolies-india/>

¹⁶ *Id.*

¹⁷ Local NYU, 'The Vicious Cycle Of Farmer Suicide, Human Trafficking, And Monsanto' (*Medium*, 16 November 2016) <https://nyulocal.com/the-vicious-cycle-of-farmer-suicide-human-trafficking-and-monsanto-a2fcd34040f>.

¹⁸ Times E, 'Bayer-Monsanto Merger: CCI Please Stop This Merger & Save Indian Farmers' Suicides' *The Economic Times* <https://economictimes.indiatimes.com/blogs/et-commentary/bayer-monsanto-merger-cci-please-stop-this-merger-save-indian-farmers-suicides/>.

¹⁹ Sandri, Rachel N, 'The Effects of Monsanto on Indian Farmer Suicide Rates' [2017] Salve Regina University https://digitalcommons.salve.edu/cgi/viewcontent.cgi?article=1001&context=env334_justice.

it comes to seed purchases, and as a result, many of them end up buying Monsanto's seeds.²⁰ Purchasing Monsanto's seeds means signing their arbitrary licensing agreement which prohibits them from saving seeds and thereby forcing them to buy new seeds every year. Monsanto was looking into farmers and prosecuting those who violated their patent rights on seeds.²¹ The company even has a separate department with 75 employees and an annual budget of \$10 million just for investigating the farmers and taking legal action against them for patent infringement.²² Many cases do not go to court and farmers choose out of court settlement which would mean more money into Monsanto's pocket. There were a lot of patent infringement disputes between farmers and Monsanto in the US. One such case is *Monsanto Co. v. McFarling* wherein McFarling, a farmer in Mississippi was sued by Monsanto for patent Infringement and breach of contract for saving seeds from previous harvest and replanting them in the next year. McFarling argued that Monsanto's contract which prohibits the seeds is in violation of the doctrine of first sale.²³ The courts, however, rejected the claim and upheld Monsanto's ownership of the patents for both the original seeds and any subsequent generations of seeds. In order to ascertain damages, Monsanto filed a second lawsuit against McFarling in 2004. As a result, the court determined the amount of damages at \$375,000 in 2007.²⁴ Scruggs, another farmer in Mississippi was sued for patent infringement. However, unlike McFarling, Scruggs did not sign an agreement with Monsanto. Scruggs brought up the defence of patent exhaustion in court, but the judge dismissed the claim by pointing out that Monsanto's use of its patented technology was never completely unrestricted.²⁵ Thereby the court ruled in favour of Monsanto. Another instance is the 2009 patent infringement lawsuit filed by Monsanto against South Carolina farmer William Strickland as he was saving seeds and replanting them. The court yet again ruled in Monsanto's favour and ordered Strickland to pay Monsanto \$19,55.18 as infringement damages as well as

²⁰ Wojciechowski V, 'MONSANTO: THE DEATH OF AMERICAN FARMING' 23 ILLINOIS BUSINESS LAW JOURNAL https://publish.illinois.edu/illinoisblj/files/2018/05/IBLJ-Vol-23-P.-70-78_Wojciechowski-.pdf.

²¹ Savich J, 'Monsanto v. Scruggs: The Negative Impact of Patent Exhaustion on Self-Replicating Technology' [2007] Berkeley Technology Law Journal 115 http://www-jstor.org.opj.remotlog.com/stable/pdf/24118205.pdf?refreqid=excelsior%3A1b6c89f6378234d0c13fedb7b6018f78&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&origin=&acceptTC=1

²² 'Monsanto vs. U.S. Farmers' (Center for Food Safety 2005).

²³ Savich J, 'Monsanto v. Scruggs: The Negative Impact of Patent Exhaustion on Self-Replicating Technology' [2007] Berkeley Technology Law Journal 115 http://www-jstor.org.opj.remotlog.com/stable/pdf/24118205.pdf?refreqid=excelsior%3A1b6c89f6378234d0c13fedb7b6018f78&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&origin=&acceptTC=1

²⁴ Wojciechowski V, 'MONSANTO: THE DEATH OF AMERICAN FARMING' 23 ILLINOIS BUSINESS LAW JOURNAL https://publish.illinois.edu/illinoisblj/files/2018/05/IBLJ-Vol-23-P.-70-78_Wojciechowski-.pdf.

²⁵ Savich J, 'Monsanto v. Scruggs: The Negative Impact of Patent Exhaustion on Self-Replicating Technology' [2007] Berkeley Technology Law Journal 115 http://www-jstor.org.opj.remotlog.com/stable/pdf/24118205.pdf?refreqid=excelsior%3A1b6c89f6378234d0c13fedb7b6018f78&ab_segments=0%2Fbasic_search_gsv2%2Fcontrol&origin=&acceptTC=1

\$44,200 in royalties and legal costs.²⁶ In addition to these lawsuits, the US farmers also have to bear the general problems with GM seeds like the High cost and decreased market value. Moreover, US farming is reducing every year and with the population rising every year, they have to import food from other countries which raises the issue of food security and food access.²⁷

IV. WHY MONSANTO CONTINUED TO SURVIVE DESPITE THEIR DETRIMENTAL IMPACT?

LOBBYING PRACTICES

Monsanto has received tremendous hate due to the negative impacts of their products but yet it continued to flourish. One of the main reasons why Monsanto grew despite all the backlashes and hate is because of their influence on the government, their lobbying practices and corporate influence on government food policy. Whenever Monsanto faced hurdles in implementing its products or policies, they resorted to corrupt practices. They even persuaded the Clinton Administration officials to lobby against potential GMO restrictions in Europe in the late 1990s.²⁸ By using revolving door strategy, they constantly try to appoint retired government employees and legislators as lobbyists for them, including Carol Tucker Foreman who worked as the assistant secretary of agriculture and the executive director of the Consumer Federation of America. ²⁹Both Democratic and Republican administrations, including the Obama administration, have felt the sway of Monsanto. Monsanto's control over the government was so strong that their former executive and corporate lawyer, Michael R. Taylor was made the deputy commissioner for foods and veterinary medicine at the Food and Drug Administration (FDA) in 2010.³⁰ This shows how connected they are with the government. Another such example is of Margaret Miller who worked as a chemical laboratory supervisor at Monsanto. While working for the company, she prepared a report that was to be given to the FDA in order to assess the safety of Monsanto's growth hormones. She was later appointed as the deputy director of the Office of New Animal Drugs wherein she was responsible for deciding whether to approve the report that she had prepared for Monsanto.³¹ This demonstrates how Monsanto's political

²⁶Wojciechowski V, 'MONSANTO: THE DEATH OF AMERICAN FARMING' 23 ILLINOIS BUSINESS LAW JOURNAL https://publish.illinois.edu/illinoisblj/files/2018/05/IBLJ-Vol-23-P.-70-78_Wojciechowski-.pdf.

²⁷ Wojciechowski V, 'MONSANTO: THE DEATH OF AMERICAN FARMING' 23 ILLINOIS BUSINESS LAW JOURNAL https://publish.illinois.edu/illinoisblj/files/2018/05/IBLJ-Vol-23-P.-70-78_Wojciechowski-.pdf.

²⁸ 'Monsanto: Corporate Rap Sheet | Corporate Research Project' <https://www.corp-research.org/monsanto>.

²⁹*Id.*

³⁰'Monsanto Government Influence Has Fueled Unrivaled Corporate Power' (*Baum Hedlund Aristei & Goldman*) <https://www.baumhedlundlaw.com/blog/2017/may/monsanto-government-influence-has-fueled-unrival/>.

³¹*Id.*

influence benefits them greatly. Moreover in 2013, a provision in an agricultural appropriations bill limited the power of federal courts to halt the sale of genetically modified organism (GMO) seeds that were deemed to be dangerous to human health. The critics called it the Monsanto Protection Bill.³² Even Bayer-Monsanto merger took place despite all the opposition because of the Lobbying and corruption practices. All of these indicate how covertly Monsanto is influencing the country's food policies.

FARMERS CHOICE: MONSANTO?

The other reason why Monsanto continues to flourish despite their detrimental impact is because of the farmers itself. The farmers continues to buy Monsanto's products despite the negative impact because they are stuck in a vicious cycle where they need crops that are resistant towards weed killers and they need weed killers that does not harm their crop. Monsanto has marketed their products in such a way that the only solution to the farmers problem is Monsanto. The novelty in Monsanto's technology is what initially attracted the farmers. However, once they entered the Monsanto world, it was difficult to get out. This is because once they buy the GM seeds, they will need Monsanto's herbicides and once they start using these herbicides on their soil, they will need a stronger one to tackle the weeds that grows resistant to the herbicides. The new herbicide will also be produced by Monsanto itself. Finally, once they buy the GM seeds, they will have to continue with the GM seeds itself and since the Monsanto has major control over market, the farmers have fewer options and hence they go back to choosing Monsanto's GM seeds itself since Monsanto seed technology is better compared to other seeds. And thus the cycle continues.

V. HOPE FOR FARMERS?

Monsanto's journey was not always victorious one. There were many instances where farmers stood up for themselves and took action against them. One such case where a farmer took and action and even emerged successful was when Paul François, a cereal farmer, sued Monsanto as he suffered from neurological damage after inhaling fumes from Lasso, a weedkiller made by the company.³³ The weedkiller contained monochlorobenzene which was legal in France till 2007 but was banned in many other countries like Canada and Britain. François claimed that the

³² 'Monsanto: Corporate Rap Sheet | Corporate Research Project' <https://www.corp-research.org/monsanto>.

³³ France-Press A, 'French Court Finds Monsanto Guilty of Poisoning Farmer' *The Guardian* (11 April 2019) <https://www.theguardian.com/business/2019/apr/11/french-court-finds-monsanto-guilty-of-poisoning-farmer>.

company knew about the detrimental impact of Lasso and asked for damaged.³⁴ The French appeals court held Monsanto liable for poisoning him and ordered the company to pay €50,000 immediately to cover the legal cost.³⁵ This is an instance where a farmer won in this difficult fight against Monsanto. Another example is when the US Supreme Court jury held Monsanto liable for causing terminal cancer to a Dewayne Johnson, school groundskeeper who fell ill after using their popular weedkiller Round up. The court ordered Monsanto to pay US\$289 million to Dewayne.³⁶

In all these cases, Monsanto has been held liable for their dangerous products. However, looking back to the cases of patent infringement, the courts have ruled in favour of Monsanto. Despite the fact that Monsanto was held liable in the above cases where their weedkillers caused dangerous harm to the farmers, the courts are enforcing their arbitrary contracts against the farmers. Ordering the farmers to pay huge amount of money as damages is completely different than ordering Monsanto to do the same keeping in mind the huge class imbalance between a big MNC and a small farmer. Even if the courts are acknowledging the toxicity of Monsanto's products, they have completely ignored the toxicity of the system which Monsanto has created. The system is the system of exploiting farmers through licensing agreement and completely controlling all their actions. The courts are not taking any active efforts to break the farmers free of the system. In fact, the court only reinforce justice within this system

CONCLUSION

Monsanto was acquired by German chemical company Bayer in 2018. Under the new management, one would think that Monsanto's reign of terror was finally over, but Bayer-Monsanto merger was even more harmful for the farmers. Bayer and Monsanto, being direct competitors, would now hold a majority of market share. This will reduce competition in market and thereby reduce the bargaining power of farmers. Reduced competition will give tremendous monopoly to Bayer which would means that they can arbitrarily increase the price. Increase in price of seeds and pesticides will make it difficult for farmers to buy the products putting their livelihood at risk. So now the question is what can be done about this?

³⁴ France-Press A, 'French Court Finds Monsanto Guilty of Poisoning Farmer' *The Guardian* (11 April 2019) <https://www.theguardian.com/business/2019/apr/11/french-court-finds-monsanto-guilty-of-poisoning-farmer>.

³⁵ France-Press A, 'French Court Finds Monsanto Guilty of Poisoning Farmer' *The Guardian* (11 April 2019) <https://www.theguardian.com/business/2019/apr/11/french-court-finds-monsanto-guilty-of-poisoning-farmer>.

³⁶ 'Monsanto Asked To Pay US\$275mn for Causing Brain Damage to School Kids, Others; Bayer To Challenge the US Jury Verdict' (*Moneylife NEWS & VIEWS*) <https://www.moneylife.in/article/monsanto-asked-to-pay-us275mn-for-causing-brain-damage-to-school-kids-others-bayer-to-challenge-the-us-jury-verdict/68641.html>.

Farmers are the backbone of the country and indispensable to the agriculture industry; ensuring their rights should then be a matter of priority for the government. New laws should come up that focus on protecting the farmers and ensuring that monopolisation by a single company does not happen. Once the government acknowledges the exploitative practices that exist, they can act as a middle man in the sale of GM seeds to regulate the price and ensure that a single company is not allowed to manipulate prices in their favour. This can be done by the government buying seeds from these companies and selling it to the farmers at a fixed prices. Lastly since we have established that the farmers themselves are making the choice to stay in the vicious cycle, albeit forced by circumstances, they should be educated properly about all the products and its impacts in the long run.

