

relation of "rights" can be nothing other than the rights of corporations as legal persons competing against the fictitious abstract persons constructed by the discourses of private property. The debate over property relations in general and intellectual property rights in particular hinges upon these juridical implications.

This explains why the juridical notion and practice of "rights" is absolutely integral to the imperial world order and necessary for the abstract self-expansion and accumulation of capital as against the particularities of real life. Ecological movements that would like to see the flourishing of human possibilities cannot but oppose such a juridical notion. The claim that communities can benefit if intellectual property rights are allowed to govern seed and genetic resources is flawed. The claim that farmers should, like corporations, have the "right" to patent their seeds and knowledge is based on an uncritical understanding of the abstract juridical notion of "rights".

Against this trend, Nayakrishi's position is neither juridical nor "closed". It is surprisingly simple. The position we have adopted came from the farmers – particularly women farmers, who first coined the simple but effective slogan of the movement: "Sisters, keep seeds in your hand". Keeping seed "in the hands of farmer women" is not a property relation or a juridical proposition. It is a demand for power.

Nayakrishi Andolon is aware that what we are indeed discussing is a battle, not for "rights" or "property", but for power, a battle between corporations and the people of the world. Once the people of the world are united to create alternative power we will be able to go beyond the present phase of capitalist history and reveal the joy that is possible in community and global relations. From the perspective of the Shahaj way to Ananda, "rights" and "persons" are only a passing phase of history, and we should engage politically to make this phase as short as possible.



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Rights have historically been both a defensive response to power and a tool to impose power structures. The "divine rights of kings" is as an example of the latter. In Western societies, movements for "no taxation without representation" have been examples of the former.

What is critical is not just the intent of rights but their definition and construction, coupled with mechanisms that allow rights to be exercised with their true intent. This also creates obligations for those who hold certain rights to participate and exercise them. Voting rights come rapidly to mind in this regard. One has to make a distinction between rights that are societal (democratic, human, and so on) and those constructed to protect property or commercial gain. At the level of the nation state, constitutions have been carefully constructed to protect democratic rights. At the international level, nation states have been ceding their sovereign rights to international corporations, either by coercion or duplicity. These states willingly give their resources and sovereignty to private entities when the public

good becomes defined as anything that promotes private economic gain. This is largely due to the acceptance of property rights being established over an increasing dominion and the belief that there are no alternatives.

Areas such as seeds become subject to international constructs such as the International Union for the Protection of New Varieties of Plants (UPOV), Trade-Related Intellectual Property Rights (TRIPS), and the World Intellectual Property Organisation (WIPO), which are endorsed and enforced by the nation state. Increasingly, there is a shift where all decisions incorporate a "market" component, and rights become characterised by property and trade relations rather than custom and tradition. Ultimately, the fight for rights has become reactionary, a form of resistance necessitated by commercial control.

There is an inherent association between the word "right" and justice. So even intellectual property rights benefit from this implicit assumption on the surface.



The rule known as UPOV '91 plays this dichotomy out with the market-based philosophy of breeders needing to be compensated through cascading rights (the right to collect compensation beyond simple seed sales at all points in processing or crop production), while at the same time offering the so-called "Farmers' Right or Privilege" to save and re-use seed. This right is effectively negated by the breeders' ability to control the stocking (storing) and conditioning (cleaning) of seed. A farmer who can neither store his seed nor have it cleaned essentially has nothing suitable to plant. His "right" is extinguished.

Carry on sharing

So how does one create options and protect biodiversity when rights regimes are so easily compromised? I think the fundamental requirement is to reject all international agreements such as UPOV and TRIPS, which commodify the public space. This can be done by behaving as farmers have always done, by saving, exchanging, and selling seeds so as to make these agreements unenforceable. Important work at a national level is to break international monopolies or oligopolies through calls for anti-trust legislation. A century ago in the US, Carnegie Steel and Standard Oil

were each dismantled because it was not in the public interest to have a single company dominate a basic resource. Now we have international firms that dwarf these former conglomerates. Turning everything into property seems to create economic activity out of thin air, but the costs of this are huge. We can no longer allow our environment to be defined by marketable property. We are confronted by the Tragedy of the Private! In the western context one needs to reframe debate away from private economic growth to asking repeatedly who the real beneficiaries are of any programme or direction.

Sharing resources, genetic or otherwise, can be selective only when people have time to debate the merits and know that when a resource is shared, a future exchange is expected without it being sold back via IPRs. Biological controls and Genetic Use Restriction Technologies (GURTS) present another challenge from contract law and other jurisprudence, and these must be banned at all levels to ensure that they do not become the next stage of property control. The rights-based approach can succeed only when the power structures that seek to privatise and enrich themselves are sufficiently weakened and controlled. Rights alone, no matter how carefully crafted, will not stop the negative outcomes we are seeing.



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Before we look at the problems associated with "rights" it is important to understand what the word means, not least because it means different things to different people at different times. "Rights" are commonly understood to mean entitlements to do or not do something, and for others to respect that entitlement. Social justice activists often believe that the corollary of "rights" is obligations and responsibilities, and that social injustices exist not because of problems with the concept of "rights" as such but because the concomitant of "rights" – "obligations" and "responsibilities" – have been erased from our

thinking and from debates about "rights". These beliefs are based on misunderstandings of the real nature of "rights". The misunderstandings arise partly because "rights" are a philosophical, political and juridical idea, and the concept and its meanings in philosophy, political theory and law are not the same. Confusions arise because the three overlapping fields are used interchangeably in different contexts.

In part, misunderstandings about "rights" persist within social justice movements because they have forgotten the history of "rights" and the critique of "rights" by revolutionary thinkers of