What's wrong with "rights"?

GRAIN

Peoples' rights have long featured prominently in GRAIN's analyses, deliberations and documents, as well as in those of our partners. As private companies – especially huge transnationals – have extended their control (and ownership) over wider and wider areas of life, peoples and communities around the world have seen how their chance of maintaining a decent and sovereign way of life, with their own values and norms and with respect for the human beings and the environment around them, is vanishing. Actions that were previously considered natural and taken for granted – such as keeping, reproducing and sharing seeds and animals, accessing water, copying a song, sharing information, reproducing medicines, borrowing books without charge from a library, and copying software – are no longer permitted but are becoming criminalised, all in the name of property rights. In this context, the concept of peoples' rights has become a defensive tool, one to be used as part of the ethical, political and cultural struggles for justice and dignity.

But recently a cruel paradox has emerged: the very concept of rights is being used to impose and expand neoliberalism. Social organisations and NGOs that have attempted to advance certain rights have ended up causing confusion and divisions, and even harming the very interests and welfare of those claiming the rights. Rights regimes have forced many peoples, especially indigenous peoples, to define according to alien values some fundamental aspects of their identity and way of life, such as their art, their medicinal and agricultural knowledge, their tenure systems and so on. These harmful effects are occurring even when the organisations involved are unquestionably committed to the well-being of those they represent.

From GRAIN's perspective, this process has been especially harmful when it has affected the way people collectively enjoy and manage local natural resources and biodiversity, using knowledge acquired over millennia. We have seen the aggressive expansion of private property over territories and ecosystems, including components as essential as water and air, all carried out in the name of the "right" of local communities to use local natural resources and biodiversity. We seem to be facing a tragic contradiction: the fight for rights – a component common to the struggles of peoples around the world – is being used by states, corporations and international organisations to worsen the conditions of the people involved.

GRAIN believes that we urgently need to reflect on these processes. We need to search for new concepts and ways of thinking that might help us to defend from corporate control the ways of life that people themselves have defined. We see this not as a theoretical exercise, but as a compelling political necessity. The debate needs to be as wide, collective and diverse as possible. Most of all, the debate should take place locally, as close as possible to the actual conditions people face and to the cultural and political strengths people possess.

To encourage this wider debate, GRAIN invited a group of people around the world to reflect on their concepts of rights and how they affect people's lives and welfare. We raised the same issues with people from Asia, Africa and Latin America. These are some of the questions we put to them: What, if anything, is wrong with "rights"? Do the problems stem from the fact that its intimate corollary – obligations and responsibilities (but see Radha D'Souza's contribution for a different view even of this point) – has been erased from the debate and our thinking? Or is it because "rights" have been equated with "property"? Or is it because there has been a decades-long attempt to standardise rights? How do we distinguish legitimate rights from illegitimate ones? And how do we socialise rights when most rights regimes and approaches today almost inevitably seem to favour individual rights, even if this is not always fully apparent? What sort of processes and approaches are required to keep biodiversity and knowledge outside the realm of "property rights"? How can collective goods – including public goods – be protected against exploitation by corporations? How can we build forms of social control that do not entail ownership? What are the traditional norms, customary practices or laws that in your community or country or region illustrate another way of viewing the world and defining relationships?

In the following pages we share with you the responses we received from over a dozen panellists from different countries, cultures and contexts. Our contributors have very different perspectives and experiences but they are all profoundly critical of current formal rights regimes. They all identify the expansion of private property and capital as a major source of disruption of the forms of life and coexistence that peoples and communities around the world have built over centuries, saying that this invasion is threatening or destroying their social and cultural relationships, their food sovereignty, their forms of education and their sources of welfare. One way or another, most panellists see the source of all the most serious problems to be the wide physical, cultural, political and social distance of local communities from the people who write legal definitions of rights. They also say that the imposition of formal education and health systems, cultural erosion, and the lack of reflection and discussion around ethical issues are, directly or indirectly, contributing to the increased inequity and the loss of sovereignty and dignity. All in all, the picture that emerges is that the evolution of rights regimes around the world have been clearly harmful to communities. The struggle for rights has not yielded a positive balance.

No clear picture emerges as to the way forward. The views of our panellists vary from those highly sceptical about the prospect of continuing to walk along the old road of appealing to governmental and state processes to those who still believe that it is possible to reform the formal rights systems. Very little was said by our panellists on the linkage between rights and responsibilities, or about the fundamental difference between rights and property, or how collective resources could be protected.

However, two promising lines of discussion seem to have emerged. The first concerns the need to shorten distances – physical, cultural and social – between those who define rules and regulations and those who live under them. In other words, increasing numbers of people, communities and organisations are seeing the need to bring the struggle for rights and dignity as close as possible, turning themselves – and not international or state bodies – into the main agents for building and defining the norms for coexistence, including individual and collective rights and obligations.

The second line of discussion concerns collective rights. Although no clear concept emerged as to how, precisely, they could be defined, several of our panellists mention these rights as a central component of their struggles. One says that a fundamental characteristic of collective rights is that people are not mere beneficiaries of these rights but have the capacity to decide how these rights should be exercised. Interpreted in this way, collective rights could be a way in which people and communities construct, in a supportive, reflective and deliberate way, the norms by which they will live together, without being obliged to make these norms comply with standards established, mainly in the interest of capital, in the centres of power.

GRAIN presents the points of view of its panellists as a catalyst for discussion. We agree with some of the observations made and disagree with others. It is evident that key issues – the link between rights and responsibilties, the precise nature of collective rights, the multiple links between the effective exercise of rights and the concrete conditions of everyday life, and others – need further discussion. It is in this spirit that GRAIN supports the call for a long and thorough debate that deals with the fundamental questions, such as values and ethics, and that strengthens the processes of autonomy. If the voices we present in this issue of Seedling contribute to this process, GRAIN will be fully satisfied.