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FOUR ITEMS EN-PASSANT
**Compresence, free exchange of seeds, primal
law, putative tutelage**

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This brief article follows a previous one ("Landraces are commons") in which I attempted to outline the heritage value of landraces and the rights of local communities over them.

The heritage and rights of communities are sensitive issues, of topical interest these days, when we witness the attempt at wiping out the last remains of community prerogatives, as a result of a centuries-old process of denial and erosion, gradually effacing them from law and, then, from memory. Landraces are themselves subject to a peculiar form of erosion, made worse by the introduction of laws that legitimate either the appropriation by privates or the expropriation at the hands of public institutions. An example is the EU directive 98/95, which, by dictating the guidelines for national seed laws, declares the free exchange of seeds and reproductive material illegal; but without that exchange there exists no possibility to hand down landraces according to community custom, and the possibility of a dynamic preservation in the rural context that makes them specifically meaningful and valuable is thereby denied.

Rethinking local varieties as a function of the environmental and communitarian context by which they have been created and to whose creation, in turn, they contribute, we could observe that whenever a rural community ceases to exist - at the disappearance of even its last witness - then the meaning of their conservation is lost as well, and varieties may only be preserved as relics fit for a museum, or as a mere material support for breeding or gene technology. Really just a little thing. As a function of that context, for the ultimate goal of conserving landraces as heritage, rural communities can do without gene-banks, but the latter without the former are still as morgues.

On the other hand, proclaiming the rights of rural communities is not enough, unless we previously agree upon the meaning of 'local community', define the boundaries of their ownership rights, and finally discuss the issue of the relationship between ownership and tutelage. On this subject, I would like to propose a few suggestions without argumentation (provocatively, but also due to the limited space available).

1. The 'local community' is not a demographic or administrative unit, but the *compresence* of those who dwell and are hosted in a place and those who once dwelt there (I would be tempted to add: "and of those who *shall dwell* there"); from the logical impossibility to represent the compresence of generations derives the inalienability of community heritage and rights - including landraces, which may be collectively managed and handed over, but not appropriated, renounced, eroded or ceded.
2. The handing down of landraces is among the rights of the communities owning them, and implies the possibility of reproducing their seeds freely: it is therefore necessary to urge the adoption of national and regional laws, at least acknowledging the right to exchange, directly and in a local context, seeds produced autonomously by family farms in a quantity limited to their needs.
3. Such a right of exchanging may only be *acknowledged* by law, but cannot be the object of derogation or authorization, nor can it be limited or forbidden, since the exchange of seeds is a subsistence practice and, as such, pertains to the *primal law* that precedes (and constitutionally founds) the formation of any codified law.

4. Wherever a local community has no acknowledged corporate existence, the tutelage of landraces should be exercised - provisionally and in a putative form (on behalf of the community) - by local institutions, having the jurisdiction over the territory where landraces have traditionally been grown.

Community as compresence, free exchange of seeds in local context and limited quantity, primal law and putative tutelage: four items to talk of.

Short one-sentence summary

Proclaiming the rights of rural communities is not enough, unless we previously agree upon the meaning of 'local community', define the boundaries of their ownership rights, and discuss the issue of the relationship between ownership and tutelage.