

COVID-19 Symposium: The Combined and Uneven Geography of COVID-19, or on Law, Capitalism and Disease



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Francisco de Vitoria [was obsessed with food](#). I do not refer here to his private habits, but rather to the importance he assigned to the consumption of raw food and cannibalism (real or imagined) as markers of savagery. Indeed, imaginaries of cannibalism were central to the imperialist imaginary, including that of international lawyers, and were often mobilised to [signify racial difference](#) and justify the domination over and exploitation of non-European peoples.

In this respect, there is something familiar about the current obsession and moral panic about Chinese dietary habits and their links to the COVID-19 outbreak.

~~point about Chinese eating habits and their link to the COVID-19 outbreak.~~

However, there is a crucial difference between present and past obsessions with food in international law and politics, with the former operating as a form of **displacement**. Let me explain: focusing on Chinese **wet markets** and **eating habits** comes with an implicit or explicit attribution of the outbreak to Asian backwardness, primitiveness and (economic, cultural, moral) under-development. However, it is not Chinese backwardness or underdevelopment that render this (and previous) coronavirus so dangerous, but quite the opposite: the country's rapid capitalist development and increased incorporation into the global circuits of capital.

Both in China and elsewhere, the last few decades have witnessed an **unprecedented expansion of commercial farming** and other forms of commercial exploitation of land to the detriment of, amongst other things, wild forests. This trend pushes everyone, including wild animal growers, deeper into previously uninhabited lands increasing the risks of contact with unknown viruses. Secondly, the rise of Chinese capitalism has resulted in the **increased domestic mobility of millions of workers**, who labour and live under unsafe conditions, while maintaining 'traditional' lifestyles, including eating habits. Furthermore, the centrality of Chinese capitalism within **global value chains** means that Chinese nationals, capital and goods have become fundamentally integrated in the global economy and therefore, dreams of local containment (partly encapsulated in the early closing of borders and the imagining of this as a uniquely 'Chinese' virus) are always destined to fail. Far from being the outcome of backwardness, the frequency and fatality of viruses such as COVID-19 are unique products of globalised neoliberal capitalism.

It would be a unique form of lawyerly narcissism to say that international law is to blame for these developments, which are the unique outcome of formal, informal, legal, a-legal and illegal processes and implicate a multitude of legal systems interacting in ways that often diverge from their formal relations. However, the entanglement of (international) law with processes such as '**land-grabbing**' and the construction of **global value chains** is impossible to miss.

For example, many international legal fields, including the workings of international financial institutions and international investment law, have played a central role in the conceptualisation of the world within which we live as either the **object of property and investment** or as '**vacant**' and '**under-utilised**' and, therefore, the ideal object of commodification with few, if any, negative consequences. In this context, scientific knowledge is **essential to justify restrictions** to market activity, but the expansion of such markets has come to be considered the default rule and most self-justified. This move both ignores other, non-expert forms of knowledge, but also subsumes science to the discipline of competitive markets and capitalist accumulation. In a context where the expansion of commercial activity and the production of commodities becomes the (international legal) rule, while everything else – **including public health** – needs to be conceptualised as a narrowly-tailored

exception, our [well-documented lack of full understanding](#) of the inter-connectedness and fragility of all living things cannot operate as a moral or political barrier to economic expansionism. So far, [climate change](#) has certainly been the most prominent unintended consequence of the encounter between capitalist accumulation, its legal infrastructure and the living world, but the current crisis indicates that potential catastrophes do not stop there.

This is not a romantic critique of international law as a ‘corrupt’ product of rationalist modernity, nor a call to return to a ‘simpler’, supposedly unmediated relationship between human societies and nature. Rather, I am suggesting the radical and definite undoing of the Hayekian formula about the relationship between knowledge, markets and regulation.

Hayek, one of the most sophisticated neoliberal intellectuals, argued that in the light of humanity’s overwhelming lack of understanding of the function of the ‘economy’, conscious regulation of market activity was virtually impossible and it would inevitably trigger unintended consequences which would, in turn, lead to never-ending governmental interventionism and, eventually, totalitarianism. This formula, which [surrenders to uncertainty only to turn this surrender into a pro-market default rule](#), has been a prominent way of governing human life during the last few decades and has exerted crucial influence on international economic law, which tends to only allow for anti-competitive regulation in the light of overwhelming scientific evidence.

The undoing (and reversal) of this formula is, in my mind, long overdue in the light of the ongoing events. Crucially, there is no necessary link between such a reversal and anti-scientific alarmism. In fact, a second de-linking is necessary here in order to re-orient our relationship with the complex inter-relation of beings that surrounds us. Severing (or, at the very least, disrupting) the links between scientific research and profit-making would enable the re-orientation of much scientific work into questions essential for our collective survival (and thriving) and away from short-term financial incentives. To a significant extent, this re-orientation would require the sovereign decision of nation-states to invest in their domestic research capacities. However, international law has a significant role to play here insofar as it has tended to incorporate extensive protections of intellectual property and only to allow for limited deviations, even in the light of public-health disasters, such as the [HIV-AIDS](#) pandemic, or periodic [Ebola](#) outbreaks.

There is little doubt that the international legal and political order will emerge fundamentally altered at the end of this disaster. The challenge that lies ahead of us is to shape these changes and make sure that we emerge on the other side equipped with [tools and ideas](#) that will enable us not only to push against state authoritarianism, anti-Chinese hysteria and the most reactionary forms of Malthusianism, but also to remake our legal orders in ways that [will make life](#)

possible.



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