Spectral Legal Personality in Interwar International Law: On New Ways of Not Being a State

Between the two world wars, international legal personality (ILP) emerged as a central and pressing question for research and analysis. Scholars pointed to a range of non-sovereigns — including individuals, minorities, and mandate territories — that seemed to have acquired some sort of standing in international law, thereby undermining the state’s stranglehold on international personality. Yet most jurists maintained that these new or would-be subjects lacked full capacity. This paper explores the analogies, typologies, and metaphors that interwar jurists employed to theorize these new legal persons and their semi-presence, or qualified capacity, in international law. In reaching for correlates such as ghosts, slaves, and unborn children, interwar jurists turned the jurisprudence of ILP into a kind of netherworld of international law, populated with a catalogue of legal archetypes that straddled the line between legal being and non-being. Drawing on new interest in law’s world-making and subject-making capabilities, I argue that analogies enabled a particular purchase on the way in which certain legal persons could be both present and absent simultaneously: the inbetweeness of the halfpersons had its argumentative analogue in the metaphorical register, both concrete and figurative at once. In exploring the imagined community of interwar international law, “Spectral Legal Personality” experiments with the possibility of an anthropology of international law’s fictional persons.