



Reading Group

Describing 'Corporate Personality': Between Metaphysics and Artifice

convened by Adil Hasan Khan

February – August 2023

For the upcoming semester one of our fortnightly reading groups will be organised around the theme of readings on the concept of 'Corporate Personality'. The idea behind choosing this specific theme is three-fold. First, as one of the (two) inaugural reading groups for the Laureate Program on Global Corporations and International Law, this broad and basic theme will allow us all to draw something from the readings for (from) all of our respective projects, and towards the overall project. Second, the jurisprudential framing is amenable for a joint training in the specific method, ethos, and idiom of the 'Melbourne School of historical jurisprudence'. Third, this theme should nicely complement our other fortnightly reading group being organised by Dr. Tim Connor on the topic of 'Conceptions of the Corporation'.

The key organising thread for the proposed readings on this theme is that of describing the rival traditions that contribute to, and struggle over, the concept of 'Corporate Personality' – and have done so for several millennia – namely, that of (Christian) Metaphysical Theology/Philosophy and Roman Law Jurisprudence (in other words, between *metaphysics* and *artifice*). Now, while the role of these entangled and antagonistic traditions in the making of our inheritance of the basic concept of person/personality has been somewhat more frequently acknowledged/examined in scholarship [e.g. Mauss; Marilyn Strathern; Hunter], their role in producing the combined concept of 'corporate personality' remains largely underexamined. One reason behind this might well be the separately complicated history of this rival entanglement when it comes to the concept of 'corporation' – drawing upon, as it does, a distinct (though related) focus of Christian Metaphysics (Eucharistic Liturgy and then the *Corpus Mysticum* – Kantorowicz below – as against the trinitarian focus of the Christian metaphysics of personhood), and of Roman Law Jurisprudence (*Universitas*).

The aim of this exercise is less to achieve conceptual clarity (*à la* analytical jurisprudence), and more to develop a better sense of the limits and possibilities of these concepts for our own projects, including a familiarity with some of the rival arguments/techniques that might be used to deploy against particular dominant formulations/definitions/conceptualisations in our own fields of engagement with Global Corporations and International Law, as well as the specific ethos they enable us to form/inhabit/live with.

List of Readings

1. Marcel Mauss, 'A Category of the Human Mind: The Notion of Person, the Notion of Self', W.D. Halls trans., in M. Carrithers et al. eds., *The Category of the Person: Anthropology, Philosophy, History*, Cambridge University Press, (1985) [Week 1].
2. Ngaire Naffine, 'Who are Law's Persons? From Cheshire Cates to Responsible Subjects', *Modern Law Review*, 2003 [Week 2].
3. Roberto Esposito, 'The Dispositif of the Person', *Law, Culture and the Humanities* 8 (1) 2021, 17. [Week 3]
4. Edward Mussawir and Conal Parsley, 'The law of persons today: At the margins of jurisprudence', *Law and Humanities* 11, 1 (2017), 44 [Week 4] – 22nd February
5. Yan Thomas, *Legal Artifices: Ten Essays in Roman Law in the Present Tense*, Edinburgh University Press, (2021), Select Essays [Week 5/6].
6. Frederick Pollock and Frederic William Maitland, *The History of English Law before the time of Edward I*, Vol. 1, pp. 512-554. [Week 7] – 22nd March
7. Ernst Kantorowicz, *The King's Two Bodies: A Study in Medieval Political Theology*, Princeton University Press, (2016) Select Chapters [Week 8/9/10]
8. David Runciman, *Pluralism and the Personality of the State*, Cambridge University Press (2009), Select Chapters [Week 11/12]
9. Maitland, *State, Trust and Corporation*, Cambridge University Press, (2003), Select Essays [Week 13]
10. Alexander Nekam, *The Personality Conception of the Legal Entity*, Harvard University Press, (1938), [Week 14].