How would our understanding about the workings of the rule of law nowadays change if we take into consideration how a very small group of people, among them James Stephen – best known as “Mr. Mothercountry”, have participated in the history of its making? This can be considered one of the questions that motivated Keally McBride to write her watershed book *Mr. Mothercountry: the man who made the rule of law*. Perhaps as illuminating as her claim that we should question the sanctity of the rule of the law, which is recently replacing civil society in the collective political imaginary as a straightforward, overarching, and universal response to a myriad of otherwise complex problems, is the manner through which she develops this critique. Contrary to her initial expectation, the archival work has provided McBride with “another sort of genealogy” (35), not a Foucauldian sort, but a “historico-theological” one, organized around the Stephen clan and the Clapham sect. This group, marked by religion, class and descent, took such an active role in the shaping of the rule of law in the nineteenth century that some aspects of its old incarnations cast shadows in the current practices of the rule of law in postcolonial contexts. In this way, if McBride tells us the story of how the different renditions of the rule of law have been created in historical contexts that required reconfigurations to actualize and perpetuate British power, bringing in the role of individuals beautifully portrays the incomplete and open-ended character of the rule of law in the supposedly coherent collective project of colonialism. Paradoxically, only particularly positioned individuals can envision a kind of law that is comprehensive enough to establish order (or “rule”) in distant places, but they are constantly finding themselves amid limited conditions of possibilities for the scope of their creations.

In other words, McBride’s book can be read as a chronicle of the development of the rule of law in three phases where individuals have tried to shape it through a negotiation of personal and collective legal principles and the historical demands of colonialism. So, in Chapter 2 we see how James Stephen relied on his vast knowledge of the legal frameworks of the colonies to operationalize the rule of law as a practice in the beginning of the nineteenth century. Then, Chapter 3 depicts how the development of the principle of extraterritoriality in Sierra Leone, which functioned as a mechanism that reproduced international inequality and created hierarchies of sovereignty, was supported by members of the elite who wanted to secure economic exploitation. And, finally, Chapter 4 demonstrates how J. F. Stephen modified the content and meaning of the rule of law in the second-half of the nineteenth century through codification, especially in criminal law, which turned law into an even greater disciplinary device that relied on racialized conceptions of the populations it sought to regulate. This brief recapitulation prompts us to think that, to a certain extent, the power of the rule of law relies precisely on its very shortcomings, that is, on the fact it is open-ended enough to be differently articulated. In addition, the contemporary case study in the final chapter demonstrates how the reform projects of the criminal system in India have not escaped some of the logics that shaped the trajectories of the rule of law.

What would be the contributions of such an innovative epistemological and methodological approach? First, it allows McBride to present a more nuanced argument for the development of the rule of law. Instead of either a full-fledged solution, or a mere “blunt
instrument” (ix), McBride shows that “the rule of law is grinding, slow, and impossible work” (8), full of setbacks and contradictions. The rule of law is almost inseparable from the very individuals that were institutionally empowered and yet contextually restricted to advance it, individuals who had only mixed success to show for their efforts. Thus, James Stephen was unable to stop a development in the rule of law, namely the principle of extraterritoriality put forth by his contemporaries to advance the economic interests of the ruling class in the colonies, despite his attempt to uphold the connection between law, territoriality, and justice. Likewise, it was only with limited success that his son, J. F. Stephen, was able to achieve codification of criminal law – and that codification occurred only abroad, after revolutionary unrest, and not at home. Therefore, McBride’s account is not in any way a story about how the rule of law was just neatly imposed from the outside, neither is it a triumphalist account of the mastery of powerful individuals; rather, it shows that the rule of law depended on the potentialities and shortcomings of specific individuals when face to face with complex political situations. While she is highly effective in this aim, we are still left wondering what would this project have looked like if the individuals under scrutiny were not the Stephens, but members of the local elites who benefited from the political project of the rule of law. Certainly, the archival work in her book shows both sides of the colonial encounter, and support McBride’s claim that a more complex scenario is at play than mere imperial imposition, but the focus on the British political subjects still seems to indicate the evident power disparity between colonizers and local elites. Although local elites participated in the production of the rule of law, only these British subjects inhabited position of power to create law that was biding outside their own territories.

What is more, another contribution of McBride’s unique genealogy is her uncovering the way that different individuals delineated the relationship between religion, empire, and colonialism. Although there are indisputable continuities regarding the relationship between Christianity and imperialism, and shared elements of its influence on the members of the Clapham sect, it is significant that even between two close generations, James Stephen and his son, Christianity had been taken to inspire two distinct, albeit still related, tasks. James Stephen’s project for the advancement of the rule of law not only required him to differentiate, at some points, between law and justice, but invited greater appreciation for local legal practices through the acknowledgement of his own shortcomings. As McBride explains, “Stephen’s humility was key to his practice. […] Stephen never succumbed to the temptation of seeing himself as all-knowing, thereby trying to submit the law to his own reason or ends, he remained servant of both law and God, convinced to the end that he failed to achieve the majesties of either” (63). This ethical posture granted some (social) legitimacy to the production of the rule of law in the empire. In marked contrast, J. F. Stephen turned law itself into a religion. According to him, the concern with social order not only justified the codification and, indeed, glorification of law, but produced it through the assumption that the colonial subject was unable to regulate himself. Ironically, each moment of revolt or disruption in the colonial order was not taken to demonstrate the inadequacy of the law, but only the need for its recurrent reinforcement. To law was ascribed the transformational potential that had been previously associated with religion. But, J. F. Stephen’s commitment to a clear, universal law code disputed the fathomlessness of religion and law. Law was believed to produce desirable political behavior: “Law could be envisioned as a bridge between human nature, common morality, and the state” (105) because J. F. Stephen, “[u]like his father… was uncertain of the potential for grace and morality within his fellow men and instead saw the fact of power relations as completely unalterable” – hence the need for law (106). This new articulation of the rule of law was more useful in a political context of increasing revolts in the colonies. In sum,
the difference between father and son’s relationship to the rule of law is a powerful contrast that suggests that Christianity assumes different forms in different historical contexts. Moreover, McBride seems to be making a case for the desirability of the former’s project to the detriment of the latter’s. After all, she invokes Stephen’s humility in the concluding paragraph of the book. She also names the book after him (although she dedicates equal space to the different articulations of the rule of law within the work). This is an invaluable contribution to the literature, but we can keep asking: If both help to perpetuate the British empire, could one really be considered better than the other? And, how would these alternatives of the relationship between religion and law translate in contemporary contexts? Only consider the fact that James Stephen’s particular articulation seems to have been missing in the contemporary Indian context.

These two brief examples illustrate the powerful political implications of McBride’s take on genealogy. At the very minimum, it gives us more complex and nuanced ways of thinking about the workings of the rule of law. At its peak, it might invite less “modernized”/violent interpretations of the rule of law. The role of genealogy in the study case is illustrative. McBride states that while the confusion around reform projects could suggest that “[i]t would certainly seem that it is easier for an outsider to envision reform” (153), her book “should display how complex this process turned out to be, along with the unintended consequences it engendered” (154). Accordingly, what should the relationship between individuals and collectivities look like if they were to go beyond the colonial legacies of the rule of law? Since the rule of law acquired such different articulations, what could be the genealogical trace that unites these projects? Did James Stephen ‘transmit’ to his son something greater than the mere commitment to the project of the rule of law, something that allowed for the perpetuation of colonial and imperial power? If the book wisely does not give us these answers, it certainly leaves us with crucial questions: are other legacies, genealogies, and rule of law possible?