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I want to begin by thanking Sidra Hamidi, Nathalia Justo, and Caroline L. Silva for their careful engagement with *Mr. Mothercountry: The Man Who Made the Rule of Law*. It is heartening that I was able to transmit the curious history of the British colonial office and make the struggles of Stephen and his son resonate with the debates over the rule of law today. All three readers were extremely gracious, and in this reply I will focus on their questions and concerns to best repay their attention to the book.

I am dividing their questions into a few broad categories, the first and most central being the method of exploring the colonial legacies of the rule of law by focusing on James Stephen and his son, James Fitzjames Stephen. Linked to the question of method is my clearly ambivalent portrayal of James Stephen; should he be regarded as friend or foe? The second is the relationship between the colonial deployment of the rule of law and the common dysfunctions of legality and policing in postcolonial contexts. The last is whether I see the possibility of an alternative genealogy of the rule of law being told, and if so, what might that look like?

So first, the question of method. Writing this book was a surprising endeavor, and the research led me in paths that I could have never anticipated. The project began as an investigation of contemporary debates about criminal code reform and police violence in India. My queries quickly uncovered the fact that the Malimath Commission was attempting to reform the criminal code that had first been articulated by Macaulay and later regularized and codified by James Fitzjames Stephen. I was just finishing a book, co-authored with Margaret Kohn, called *Political Theories of Decolonization: Postcolonial Politics and the Search for Foundations*. I was pursuing an interest in the patterns evident in many postcolonial regimes after tracing the guiding ideas and strategies of anticolonial struggles. It had never occurred to me that so much of the legal structure put in place by the colonizers would remain relatively untouched at this point in time.

I presented my initial research at a conference on Criminal Law at the University of Chicago, and made a rough argument that a direct line could be drawn between the British imposition of the rule of law and the current struggle to achieve anything that resembles a meaningful limitation upon state power in India. Bernard Harcourt provided an invaluable suggestion, that the rule of law as an overall construct might be “too blunt an instrument” for me. I decided to delve more deeply into the way that the British empire determined what the rule of law was and should be, and how exactly they deployed it in different colonial possessions. I found my way to the India Office archives at the British Library and started digging. As I stated in my book, I was sure I was going to unearth a cast of unsavory characters brimming with a sense of false cultural superiority and utter disregard for the well-being of the subjects whose lives they were seeking to administer. I was going to show that the rule of law was nothing other than an elaborate scrim for the realities of brute domination.
What I found was James Stephen--more precisely--hundreds of memos written by James Stephen in the Colonial Office archives. In these carefully articulated missives, I found someone who truly, and in the most robust fashion possible, struggled to articulate what a singular conception of the rule of law might look like as it was disseminated into a breathtaking variety of social, cultural, political and economic contexts. It was through his memos that I started to apprehend the literal impossibility of actually achieving the rule of law. First of all, the rule of law is inherently linked with the power of human beings. We would like to see it all as an enterprise carried on by thousands of public servants whose faces do not matter, and yet as anyone who has a favorite US Supreme Court justice knows (a fun party game amongst the legal scholar set), personalities are embedded in jurisprudence. Second, it seemed to me that at a superficial level, Stephen was a proxy for Bentham’s idea of the legislator of the world. Here was someone trying to achieve an international, if not cosmopolitan, version of the rule of law. Most surprisingly to me, Stephen revealed himself as someone who was critical of British colonialism and who fervently cared about limiting the abuses of British agents upon their colonial subjects.

As my patient editor at Oxford could attest, I went through dozens of different potential outlines for this book, but ultimately decided that focusing upon the intent, struggles and legacy of James Stephen would provide a lens to present the rule of law as a dilemma to readers. Caroline Silva noted that I did not offer a concrete definition of the rule of law, nor did I end up systematically engaging the existing literature on the rule of law. Indeed, this is a result of my methodological choice to structure the discussion around the experience of James Stephen instead of developing a more traditional exploration of the existing bodies of literature. This decision has limitations such as the one noted by Silva, however, the more I wrestled with what developing the rule of law entailed for just one individual, the more dissatisfied I became with the existing definitions. They seemed rooted in abstraction, and my research had driven me deep into the difficulties of practice and implementation.

Nathalia Justo asked “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”? The rule of law is rarely explored at its point of origin, since of course, it is not really supposed to have a point of origin. The subtitle of the book, “The Man Who Made the Rule of Law” directly contests the common understanding of the rule of law as an abstraction. Coming from a commitment to anticolonialism, I was reluctant to discount local colonial agents, and the experience of the colonized. To give all three perspectives the attention that they deserved in order to pry open the mutually constitutive aspects of their activities would have required looking at only one location in one time period. Instead, I am happy to cede the territory of exploring the rule of law in postcolonial contexts to the excellent work of Mark Massoud, Jothie Rajah and Nick Cheeseman whose brilliant work on Sudan, Singapore and Myanmar make excellent companions to Mr. Mothercountry.

The reason I decided that telling this history from the perspective of the Stephen’s family was instructive, even though not exhaustive, was that it allowed me to move from different colonies to London, through different periods of colonial strategy, from the past to the present, and knit
these components together through one narrative device. But James Stephen was also a deeply compelling figure to me precisely because he was so haunted by the possible futility of his decisions, intentions, and morals. He refused to approach the rule of law pragmatically, but was self-critical enough that he knew that he was failing to uphold his ideals nonetheless. My ambivalence towards him, noted by all three respondents in the symposium, comes from my admiration for his piercing self-criticism in combination with my dismay about his many failures, and indeed the legal legacy of the British Empire. I would like to believe that the figures often charged with upholding the rule of law as a benchmark in international relations today are as haunted by their inevitable shortcomings as he, but I fear that they are not. If Stephen appeared as a proxy for Bentham’s legislator at the world at the start of my research into his career, his nervous breakdown and failures led me to understand why Rousseau embraced the figure of the Lawgiver so adamantly in *The Social Contract*. No mere mortal can really deliver the rule of law.

Next, let me address the relationship between colonialism, Christianity and law that serves as an organizing trinity in *Mr. Mothercountry*. Justo points out that one of the most significant contrasts between James Stephen, father, and his son, James Fitzjames Stephen, was their relationship to Christianity. Stephen, father, was deeply committed to a sense of ecclesiastical justice in combination with an acceptance of mortal failing. Stephen’s faith is the only answer to the question of why he went to work every day doing something he was so painfully aware was imperfect. James Fitzjames Stephen, son, seemed to embrace Christianity as roughly equivalent to social science, another point of information to be considered. But, Justo asks, since both outlooks managed to help perpetuate the British Empire, can I really argue that one version of the law is morally superior to the other? This is an excellent question, and she points out that the codification of law coincides with an uptick in anticolonial resistance and colonial violence. I believe that the version of law that embraced and codified hierarchy did indeed accelerate colonial domination at the end of the 19th century. The previous version was unsustainable on its own terms, and would have been particularly unwelcome in contexts where British authority was more and more contested. This is speculation, but I believe Stephen’s final breakdown was a result of his comprehension that he would no longer be allowed to try and pursue the rule of law with the same rigor he had been. There was too much money to be made to worry about these details anymore.

The movement between father and son’s legal philosophy was not simply a philosophical shift due to a different relationship to Christianity; it was a shift from idealism to tactics. This shift is what makes the rule of law more easily compatible with inequality and less capable of taking on the abuses of the powerful today. While I move into a discussion of the contemporary ramifications of this legal shift in Chapter Five, “Macaulay to Malimath: Punishment and the Police in India”, bringing up the issue of colonial legacies and postcolonial legal structures. Hamidi notes, “McBride’s analysis points to complicated causal chain, which can be traced back to colonialism, but not entirely blamed upon it.” Too often in pointing to the legacies of colonialism, scholars can rob anticolonial actors and newly independent countries of agency and by extension, responsibility. I was struck by the fact that Nehru decided to keep in place the very provision that jailed him under the Raj, thinking it would help him consolidate his
power. This is why again, I think it important to emphasize that the rule of law does not speak for itself or act upon the world directly, the same laws operate differently in varied contexts and timeframes. To draw a connection between the structure of laws during one era is not to deny agency and responsibility in another. Yet again, I must refer to the powerful work of my colleagues as a more complete record of how the rule of law operates in a postcolonial context. I draw the line between this era and our own; they fill in the details about contemporary struggles more than I do in this book.

And the last question, are there other possible outcomes, or other genealogies that might be written about the rule of law? In one way, this book can be read as a narrative of decline. By pointing out that politics and the rule of law are inextricably connected, am I intending to discard the rule of law as a meaningful idea? Here I point to Ian Hurd’s book, How to do Things with International Law as presenting a similar argument that we need to see the rule of law within a political context. I don’t believe either of us intend to discard it as a tool or aspiration by pointing to this relationship. Though Hurd’s book focuses upon the contemporary era, he dwells less upon abstract formulations of what the principle is, and offers more concrete studies of how it does circulate, censor, and amplify certain voices and actors at the expense of others. There are many other stories to be written about the rule of law that can position the ideal in different contexts, and each one of these genealogies will be unique. Karuna Mantena remarked that Mr. Mothercountry offered a new way of studying ideology. Because I set out to point out how the rule of law was political, contingent, and nonetheless meaningful, I endorse this articulation. As a political theorist, I try to uncover the relations between ideas and context, not use one to negate the other. There is much work to be done to achieve a more accurate rendering of the rule of law by investigating its thousands of lives and afterlives.