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## *Imprimatur as Adversary: Press freedom and colonial governance in India, 1780–1823\**

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### **Abstract**

Examining cases of libel between 1780 and 1823, this article analyses how the theory and practice of press regulation and governmentality was initially articulated in colonial India, embodied in everyday transactions between the newly invented East India Company state and an emerging newspaper press. While Company officials recognized that scrutiny by a free press was central to establishing their fairly new claims to just governance and public legitimacy, they feared that public critique would destabilize the very sovereign authority that they sought to establish. Concerned with appearing arbitrary, officials developed strategies through which they could demand obedience without necessarily predicating it on censorship. Journalists derived much of their negotiating power from the early colonial state's vulnerability to public scrutiny, but they also knew that the state possessed extensive control over their livelihood. Cognizant of the power and constraints of colonial governmentality at this juncture, they produced their own mechanisms of permissible intransigence. This uneasy equilibrium generated the questions explored in this article: What rights of comment and critique practically accrued to newspapers? What was the legal authority of executive regulations censoring newspapers and how far were these enforceable? Why, in practice, did punishments remain strikingly similar across periods with and without formal censorship? The cases between 1780 and 1823 not only reveal the historical negotiations that structured this foundational—though somewhat marginalized—period of India's press history, but also explain the strategic shifts that followed as, in 1823, the fulcrum of crime and punishment turned away from press censorship and towards press licensing.

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## Introduction

In October 1791, James Landon, a civil servant employed by the English East India Company (hereafter EIC or Company), complained of being ‘wantonly traduced’ in the *Madras Courier*. He referenced the ‘Chinese Anecdote’, which detailed the misdemeanours of a fictional Chinese mandarin named ‘Long Chin’ who had been tasked with collecting taxes in the ‘belligerent province’ of Ponche (also fictional). Long Chin’s private actions had angered Ponche’s residents: the mandarin had prematurely abandoned a rental villa, refused to buy a horse that he had lamed, or pay for a harp that he had had repaired. Faced with the displeasure of Ponche’s residents, Long Chin abused his official authority and temporarily starved the city of supplies. Consequently, he was dismissed for ‘disgracing the nation and his order’.<sup>1</sup>

Landon insisted that the ‘Chinese Anecdote’ was a barely veiled attack on him. Likely referencing the ongoing Anglo-Mysore conflict (1790–92)—in which the French were allied with the princely state of Mysore—he pointed out that he had been appointed revenue collector at Arcot and stationed near Pondicherry, a French outpost close to EIC possessions in Madras. Pondicherry, he said, was Ponche. He admitted to none of the personal disgraces attributed to Long Chin but highlighted how similar they were to his own actions in Pondicherry: he had vacated a rental earlier than agreed upon, refused to purchase a horse from an officer in the French sepoy, and had had a harp repaired. He then argued that such accusations of private misdemeanour constituted *public defamation* of him in his official capacity, one instigated by Pondicherry’s French residents. Characterizing the ‘Chinese Anecdote’ as an attack on the collective body of Company officials in India, he deemed it an assault on the ‘credit and dignity’ of the ‘*national character*’ of the ruling nation (emphasis mine).<sup>2</sup> Hence, he asked the government at Fort St George (Madras) to penalize the *Madras Courier*

<sup>1</sup> Libel on Mr Landon, a civil servant, published in the *Madras Courier*, pp. 1–52, in Proceedings relative to the Madras press, 1791, Restrictions on the press in India, 1791–1822, India Office Records (IOR).H (Home Miscellaneous)/539, British Library, London (BL), esp. Letter from Landon to governor-general (Charles Oakley Bart), Fort St George, 28 October 1791, pp. 1–25. The archival text refers to both ‘Landon’ and ‘London’.

<sup>2</sup> Libel on Landon, Landon to governor-general, 28 October 1791, p. 6.

on his behalf.<sup>3</sup> Such ‘public interference’ was imperative, he argued, since the *Courier* was an ‘officially recognized’ newspaper: thus what it printed constituted official notification of ‘orders and resolutions’ for Company functionaries.<sup>4</sup>

The Madras government intervened on Landon’s behalf, suggesting that officials sympathized with his claim that even the fictional analogy in the ‘Chinese Anecdote’ was defamatory and that such criticism of an administrator, even if for private actions, disrupted public perception of governmental authority. However, the *Courier* did not lose its official status. Officials accepted the editor’s claim that he did not know the provenance of the piece, one among many that he had found strewn around on his desk.<sup>5</sup> They asked the editor to print an apology (which they subsequently could not trace).<sup>6</sup>

Why parse the Landon case? Because, when read collectively and comparatively with a series of cases that occurred between 1780 and 1823, it illuminates how press freedom and colonial governance mutually constituted each other in early colonial India. That is, it demonstrates how power was *materially* transacted and distributed between two emerging institutional structures: a fledgling newspaper press and the newly invented Company state. The negotiations in question grappled with the practical content and boundaries of two capacious concepts—defamation and censorship—both as important to defining the limits of legitimate governance as to underscoring the rights of the press. The discussions themselves are not saturated with either term but both were constitutive to the struggles that unfolded. Official concern with defamation—or more specifically its printed form, libel—is embodied in the range of material identified as such, and in the insistence that permitting newspapers to critically scrutinize governance violated the ‘proper authority’ of the emerging Company

<sup>3</sup> Ibid., p. 18. The *Madras Courier* was established in 1785 by the government printer, Richard Johnson. B. N. Ahuja, *History of Indian press: growth of newspapers in India* (Delhi: Surjeet Publications, 1996), p. 4.

<sup>4</sup> As long as it carried the signature of secretaries to government or others duly authorized. Ahuja, *History of Indian press*, p. 4; B. M. Sankhder, with a foreword by Amba Prasad, *Press, politics, and public opinion in India: dynamics of modernization and social transformation* (New Delhi: Deep and Deep Publications, 1984), p. 220. Newspapers with the ‘sanction and authority’ of government also enjoyed commercial privileges such as paying reduced or no postage.

<sup>5</sup> Libel on Landon, Letter from editor, J. S. Hall, 31 October 1791, pp. 31–34.

<sup>6</sup> Libel on Landon, Extract Fort St George Public Cons., 23 November and 6 December 1791, pp. 41, 50–51.

state. This claim ran up against those made by an emerging newspaper press, which sought to establish its public authority through arguments about its political and professional responsibilities. Positioning themselves as custodians of governmental probity and rectitude, journalists—a term that includes the conglomerate of editors, printers, and proprietors in this period—insisted that no legitimate power could, or should, limit their right to public scrutiny.<sup>7</sup> This was a particularly vital function of the press, they insisted, since the colonial state was characterized by an excess of executive power. Thus, it was in constant danger of being—or becoming—arbitrary and despotic.

Many Company officials recognized unrestricted scrutiny by a free press as a *public* means to legitimate their newly established power in India. However, they remained anxious that public critique in newspapers would destabilize the very sovereign authority that they sought to establish. Meanwhile, while journalists derived much of their negotiating power from the early colonial state's vulnerability, they knew that, censorship aside, the state possessed extensive administrative and financial rights over their profession. The practical boundaries of press freedom and state power were worked out in this uneasy equilibrium, through a series of negotiations that structured this constitutive—though somewhat overlooked—period in India's press history.

The first part of this article examines the political and legal landscape that characterized the period between 1780 and 1823, while the second scrutinizes specific cases to delineate how press and state negotiated their competing claims to public authority. In contrast to much existing scholarship, this article neither splices these decades around the twists and turns of formal changes in press regulation, nor understands it through the biographies of famous journalists. Instead, it focuses on those *patterns* of journalistic intransigence and governmental intervention that defined everyday transactions *across* these four decades—patterns embodied in the following set of questions: How could journalists offend repeatedly, despite the onerous penalties prescribed for violating official regulations? Why was the state wide-ranging in what it considered libellous but more parsimonious in what it was willing to prosecute?

<sup>7</sup> Discussing early European newspapers, Andrew Pettegree uses the term 'news men', pointing out that the publisher's task 'was essentially editorial' since he was responsible for content. He also states that early newspapers left 'little scope for what we might regard as journalism' since reports were not long enough to leave room 'for much in the way of comment and commentary'. Andrew Pettegree, *The invention of news: how the world came to know about itself* (New Haven, CT: Yale University Press, 2014), pp. 11–12.

Did the repeated use of formal censure mark the limits of state power or represent a performative ritual of control? And, finally, why was it that those editors and proprietors who were penalized were not tried for their journalistic violations but instead had their licences to live and work in India revoked? In conclusion, the article argues that the 1823 licensing or registration ordinance marked a conceptual and strategic change in how the press was to be regulated. It not only unshackled the state from many of the constraints that had limited executive action between 1780 and 1823, but was also premised on an emerging argument of colonial difference—that, in a colonial context, responsible governance required not a free press but instead close regulation of the press.<sup>8</sup>

### State, press, and public

#### *Contours of precarious power*

In 1780 James Hicky established the *Calcutta Gazette and General Advertiser*. It was at this point that printed newspapers—distinct from the manuscript *akhbārs* that had preceded them—began circulating in colonial India, gradually expanding over the next few decades.<sup>9</sup> Graham Shaw's bibliographic study documents 24 weekly newspapers and magazines published in Calcutta itself between 1780 and 1800.<sup>10</sup> Several of these

<sup>8</sup> Anything printed in a press required a licence from the governor-general, on the submission of an application stating the names and other particulars of the press, newspapers, etc. Durga Das Basu, *Law of the press in India* (New Delhi: Prentice, Hall, 1980), p. 249. For details, see Margarita Barns, *The Indian press: a history of the growth of public opinion in India* (London: George, Allen and Unwin, 1940), pp. 115–23; and J. Natarajan, *History of Indian journalism: part II of report of the press commission* (Delhi: Publications Division, Ministry of Information and Broadcasting, Government of India, 1955), Chapter 3.

<sup>9</sup> Excluding (Dutch national) William Bolts' abortive attempt in 1776. Barns, *Indian press*, p. 45; Ahuja, *History of Indian press*, p. 2. Michael H. Fisher points out that manuscript *akhbārāts* were 'gradually supplanted' by printed newspapers during the nineteenth century, although they did continue into the next century. Michael H. Fisher, 'The office of *Akhbār Nawīs*: the transition from Mughal to British forms', *Modern Asian Studies*, vol. 27, no. 1, February 1993, pp. 45–82, esp. pp. 77–78. Pettegree discusses how printed newspapers differed in form and content from earlier manuscript services and news pamphlets. See Pettegree, *The invention of news*, Introduction and Chapter 1, esp. pp. 8–9.

<sup>10</sup> Graham Shaw, *Printing in Calcutta to 1800: a description and checklist of printing in late 18<sup>th</sup>-century Calcutta* (London: The Bibliographical Society, 1981), pp. 4, 215–32. Ahuja describes many of the late eighteenth- and early nineteenth-century newspapers: Ahuja,

continued into the next century. These early newspapers were published in English and were owned, printed, and edited by Europeans domiciled in India. Their primary readership, at least initially, lay within the limited European community, including Company functionaries, merchants, and various professionals.<sup>11</sup>

In was in these same decades, having been recently elevated to ‘the status of a state’ through Lord North’s Act of 1773, that the EIC sought to establish its claim to sovereign power in India.<sup>12</sup> However, as both Thomas Metcalf and Nicholas Dirks have shown, given the ‘rapacious years of conquest’ that preceded this quest, British claims to sovereignty in India could be legitimated only through arguments of ‘just governance’.<sup>13</sup> Thus, the 1773 Act not only introduced British parliamentary oversight over EIC administration but also mandated Warren Hastings, the first governor-general, to be the ‘the Indian agent of reform’.<sup>14</sup> Yet, the 1773 Act had barely begun to veil the ‘corruption, venality, and duplicity’ that marked the Company’s initial administrative foray in India—after it had secured revenue rights through the Treaty of Allahabad (1765)—that colonial governance became embroiled in further scandals.<sup>15</sup> It hardly helped that these scandals arose from the tenure (1773–84), resignation, and subsequent impeachment trial of Warren Hastings himself.

Thus, even though the Company state entered the 1780s ‘newly ennobled as the legitimate agent of British interests’, its claim to sovereign power in India was far from established.<sup>16</sup> Instead, cementing the claim required publicly mediated laundering of the Company’s scandalous foundational decades. As Dirks has shown, some of these reformist exercises, which would eventually make empire ‘safe’ for Britain, occurred in Westminster, where Hastings was lacerated for ‘cheapening the idea of sovereignty through the use of arbitrary power and despotic action’.<sup>17</sup>

*History of Indian press*, pp. 3–11. Barns points out that a printing press was in operation in Madras in 1772 and that an official printing press was established in Calcutta in 1779. Barns, *Indian press*, p. 44.

<sup>11</sup> Fisher, ‘Office of *Akhbār Nawīs*’, pp. 77–78.

<sup>12</sup> Nicholas B. Dirks, *The scandal of empire: India and the creation of imperial Britain* (Cambridge, MA: Harvard University Press, 2006), pp. 59, 185.

<sup>13</sup> Thomas R. Metcalf, *Ideologies of the raj, Volume III, Part 4*. New Cambridge History of India. (Cambridge: Cambridge University Press, 1997 [1995]), p. 1; Dirks, *Scandal of empire*, pp. xii, 25, 129.

<sup>14</sup> Dirks, *Scandal of empire*, pp. 59, 185.

<sup>15</sup> *Ibid.*, p. xii.

<sup>16</sup> *Ibid.*, pp. 129, 187, 197.

<sup>17</sup> *Ibid.*, p. 197.

However, critical elements of this same ritual of reform occurred more locally, in India, embodied in the public image that the Company state sought to secure in these early decades. Publicly it was increasingly difficult to deny that an unfettered press was an imprimatur of legitimacy, necessary to communicate an image of a sovereign authority committed to just governance. And yet, the press remained a potent adversary, one whose practical scrutiny would make visible not only specific administrative lapses and injustices but also highlight the degree of arbitrary power that characterized the Company state's authority. After all, as Jeremy Black has pointed out when discussing defamation and censorship in eighteenth-century Britain, the issue of press regulation is integral to debates about the very nature of the governmental system itself.<sup>18</sup>

While the vulnerability of the Company state allowed newspaper editors and proprietors to probe the practical boundaries of official control, these men themselves were in a precarious situation. Even as many of them asserted that the press served as the public mediator of legitimate sovereignty, they also recognized that formal censorship was only one of many ways in which the state could exert power. As William Bolts' abortive attempt to start a newspaper in 1776 shows, governmental approval remained necessary, at least in practice.<sup>19</sup> The state also controlled other avenues of patronage, which affected circulation and receipts. Newspapers endorsed as purveyors of official news had a commercial edge over their rivals. Further, official status often included privileges such as significantly reduced or no postal charges. This decreased operating costs, while increasing circulation, making these newspapers more viable and competitive at a time of limited subscribers and minimal advertising revenue. As the editor of the even relatively successful *Calcutta Chronicle* lamented, while newspapers 'crowded' upon each other, projectors failed to consider 'where the money to support them is to come from'.<sup>20</sup>

Between 1780 and 1823, the demographic composition of newspaper proprietors, printers, and editors made them vulnerable to other kinds of control. Since most of them were Britons (or other Europeans), their right to reside, work, or trade in India was controlled by the Company state, which possessed the authority to deport them. Consequently, they had to be in good official standing: deserving of 'the confidence and

<sup>18</sup> Jeremy Black, *The English press in the eighteenth century* (London: Croom Helm; Philadelphia, PA: University of Pennsylvania Press, 1987), p. 175

<sup>19</sup> Barns, *Indian press*, p. 45.

<sup>20</sup> Quoted in Shaw, *Printing in Calcutta*, pp. 4-5.

protection of the Government'.<sup>21</sup> However, as British subjects residing in India, many instead claimed their right to be tried under British law as administered in India. The 1773 Act had established the Supreme Court at Fort William, with jurisdiction over civil and criminal law, and hence over charges of libel.<sup>22</sup> However, formally, the law of defamation in British India was articulated only through the 1860 Indian Penal Code (IPC).<sup>23</sup> Thus, in this early period, the Company state wrestled with the legal status of the various executive orders through which it sought to control newspapers in British India. Journalists could and did invoke the rights of the press in Britain to challenge executive orders in colonial India: they demanded that, as in Britain, charges of libel be subject to legal process rather than executive authority.<sup>24</sup> It helped their case that British law on defamation changed significantly in 1792 when Fox's Libel Act not only left it to juries to decide on charges of libel but also specified that 'expressions whose offensiveness consisted merely in being distasteful to the authorities' were no longer regarded as criminal.<sup>25</sup> This was in contrast to colonial India where executive regulations continued to proscribe critical scrutiny of public officials. It was the characteristics and constraints of this political and legal landscape, one in which neither the Company state nor the emerging newspaper press could monopolize power, which structured the transactions involving allegedly libellous, disobedient, or intractable editors.

<sup>21</sup> Quote in Barns, *Indian press*, p. 89.

<sup>22</sup> John F. Riddick, *The history of British India: a chronology* (Westport, CT: Praeger, 2006), p. 187.

<sup>23</sup> Articles 499–502 (Chapter XXI) defined criminal liability for 'malicious defamation'. English common law distinguished between slander as verbal defamation and libel as written or printed, while civil liability came under the law of torts. The 1860 IPC, however, held both written and spoken defamation subject to 'criminal remedy'. It would not consider defamatory 'any opinion whatever respecting the conduct of a *public servant* in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct'. Abdul Halim, *The law of defamation as administered in British India* (Lucknow: S. L. Kharbanda and Co., 1947; Allahabad: Hind Publishing House, 1947, 2nd edn), pp. 4–5, 34–37, 77.

<sup>24</sup> In Britain, licensing laws lapsed in 1696, after which the press was regulated through the courts, with the law of seditious libel being used to control 'anti-government printing'. Theodore F. T. Plucknett, *A concise history of the common law* (Union, NJ: The Lawbook Exchange, 2001, 5th edn), pp. 500 ff; Philip Hamburger, 'The development of the law of libel and the press', *Stanford Law Review*, vol. 37, no. 3, February 1985, pp. 661–765, esp. p. 667.

<sup>25</sup> Plucknett, *Concise history of the common law*, pp. 499–502.



*Reframing the chronology of negotiations*

While the cases in question all occurred in British-controlled presidency areas yet, at first glance, they seem disparate. They involved a range of newspapers, with different proprietors, printers, and editors, and a heterogeneous set of aggrieved parties, ranging from a tax collector to a deputy-superintendent of police, from a pastor to the governor-general himself. Most significantly, they occurred under different, even contradictory, regulatory regimes. Some of them occurred between 1780 and 1798, *before* formal censorship was enacted. Others occurred *during* 1799–1818, under formal censorship. And yet others occurred *after* censorship was rescinded in 1818 and before a new licensing ordinance was introduced in 1823.

Thus, scholars have generally organized the defining features of this period around the chronology of changing regulation.<sup>26</sup> In contrast, this article argues for taking en bloc the entire period between 1780 and 1823. Close scrutiny of the cases shows that *everyday* transactions between press and government remained strikingly similar across these decades, irrespective of whether or not formal censorship was in place. First, what officials sought to regulate did not change materially: the same concern with public scrutiny of government action and functionaries that had drawn official ire since the 1780s continued to define intransigence and libel. Second, how government intervened also remained visibly similar. Even as officials insisted that newspapers respect their authority, they continued to hesitate over using legal means to prosecute libellous material and, notwithstanding thundering declarations of ire, they were somewhat dilatory in enacting formal compliance with the onerous executive regulations that they themselves had issued. Consequently, we see a pattern in which intractable editors faced repeated censure or chastisement, usually accompanied by demands for printed retractions or apologies, and dire warnings about penalties that future transgressions would entail.

To some extent, these negotiations were, of course, about the practical limits of state power. Robert Darnton and Deana Heath have both discussed this when writing, respectively, of the British Raj's literary 'surveillance' and moral regulation even at the height of its power after

<sup>26</sup> Barns, *Indian press*; Ahuja, *History of Indian press*; Natarajan, *History of Indian journalism*; Rangaswami Parthasarthy, *Journalism in India: from the earliest times to the present day* (Delhi: Sterling, 1989); Sankhder, *Press, politics, and public opinion*.

the mid-nineteenth century.<sup>27</sup> However, there is an important difference. Darnton has shown how the established colonial state relied on ‘elaborate legal rituals’ to disguise its coercive power.<sup>28</sup> In contrast, in the earlier period that this article analyses, the colonial state relied heavily on direct power but had to exercise more caution, given the intimate correlation between political legitimacy and an uncensored press. While keeping this distinction in mind, Heath’s broader argument—that control involves processes of governmentality, rather than only formal legislative and legal mechanisms—is important.<sup>29</sup> The practicalities of official intervention between 1780 and 1823, in fact, reveal both ‘productive and disciplinary’ aspects of enforcing control.<sup>30</sup> Concerned about appearing arbitrary, colonial officials—especially censors—had to discipline themselves in how they exercised those punitive powers that they had ascribed to themselves, while developing new strategies through which they could enforce obedience without necessarily predicating it on censorship. Such strategies also underscore Dominic Boyer’s call to understand censorship as a ‘productive intellectual practice’ and the censor as both a ‘social actor’ and an ‘indexical other’—one who allowed knowledge-producers, including those producing news and mediating opinion, to define themselves *reciprocally*.<sup>31</sup>

Cognizant of both the power and constraints of colonial governmentality, newspaper editors and proprietors produced their own

<sup>27</sup> Robert Darnton, ‘Literary surveillance in the British raj: the contradictions of liberal imperialism’, *Book History*, vol. 4, 2001, pp. 133–76; Deana Lee Heath, ‘Creating the moral colonial subject: censorship in India and Australia, 1880–1939’, PhD thesis, University of California, Berkeley, 2003.

<sup>28</sup> Darnton, ‘Literary surveillance in the British raj’, p. 167.

<sup>29</sup> Heath, ‘Creating the moral colonial subject’, p. 19. In discussing ‘moral censorship’ between 1880 and 1939, Heath argues that in both Britain and India the state ‘did not feel the need to assert themselves as moral regulators when their populaces were doing such a good job of regulating themselves’: *ibid.*, p. 18.

<sup>30</sup> Heath, ‘Creating the moral colonial subject’, pp. 10–11, draws on Michel Foucault’s analysis of governmentality: ‘a modern regime of power in which power operates in both productive and disciplinary ways’. This resonates with William Mazzarella and Raminder Kaur’s argument (also drawing on Foucault) that ‘[c]ensorship, then, would be not so much a desperate rear-guard action as a productive part of the apparatus of modern governmentality’. See their introduction in William Mazzarella and Raminder Kaur (eds), *Censorship in South Asia: cultural regulation from sedition to seduction* (Bloomington, IN: Indiana University Press, 2009), esp. p. 5.

<sup>31</sup> Dominic Boyer, ‘Censorship as a vocation: the institutions, practices and cultural logic of media control in the German Democratic Republic’, *Comparative Studies in Society and History*, vol. 45, no. 3, July 2003, pp. 511–45, esp. pp. 512, 539–40.

mechanisms of *permissible intransigence*. Many continued to disregard executive orders, publishing material that was critical and/or had been specifically prohibited. However, they remained somewhat circumspect and circumlocutory in how they did so, whether in explaining violations as stemming inadvertently from their working conditions or in the lavishness with which they expressed contrition. Thus, even as they repeatedly defied regulations and official censure, several of them deployed ritualized language to placate official wrath and retain their work licence and commercial privileges. At the same time, they reminded government that exerting too strong a hand against the press smacked of arbitrary power. The pattern was certainly broken when some offending editors were deported. However, such punitive exercise of executive power tended to focus on their right to work in India, thus skirting around the issue of libel or other infractions of press regulations.

Given this pattern, the article also suggests that the 1823 Licensing Ordinance—with which it concludes—was not simply another change in regulatory policy instituted by another change in political leadership. Instead, in turning the fulcrum of crime and punishment away from censorship and towards controlling the press through strict licensing laws, it indicated a changed *strategy*—one informed by those practical lessons in executing control that had emerged between 1780 and 1823. The Ordinance also reflected new needs, determined by the changing nature of the press itself in terms of both ownership and language. Deportation became an ineffective threat as Europeans began to partner strategically with Indians or Anglo-Indian/Eurasian proprietors in newspaper ventures.<sup>32</sup> Further, even though a ‘significant web’ of Indian-owned newspapers only emerged in the late nineteenth century, publications owned and edited by Indians and published in Indian languages had begun circulating from the late 1810s and early 1820s onwards—engendering changes in the needs and patterns of regulation.<sup>33</sup>

<sup>32</sup> Before 1911, Anglo-Indians—those born in India and with one Indian parent (usually the mother)—were referred to as Eurasians.

<sup>33</sup> Robin Jeffrey, ‘Communication and capitalism in India, 1750–2010’, *South Asia: Journal of South Asian Studies*, vol. 25, no 2, 2002, pp. 61–75, quote on p. 67. He dates this ‘web’ to the 1870s. Gangadhar Bhattarjee’s short-lived *Bengal Gazette* (established in 1818) is described as the ‘first Indian newspaper in English’, followed in 1820 by *Samvad Kaumadi* in Bengali and in 1822 by the *Mir’at’l-Akhbar* in Persian, the latter two associated with Ram Mohan Roy. Ahuja, *History of Indian press*, pp. 8–9.

*Circulation, 'scarcity', and impact*

Since it was the practical ramifications of their insistence on core aspects of press freedom that gave significant leverage to journalists operating between 1780 and 1823, it is relevant to ask how public was the impact of newspapers in a period well before mass circulation? In the context of eighteenth-century Britain, Jeremy Black has highlighted the practical difficulty in assessing the political impact of newspapers and how this uncertainty affected political choices about subsidizing or prosecuting them.<sup>34</sup> While the density of newspapers in Britain and India obviously varied, Black's point underscores the political anxieties generated at a time when the link between formal circulation and public impact remained particularly ambiguous. Yet, as he points out, the political impact of the press was certainly affected by the 'widely held belief that it either was or could be influential'.<sup>35</sup>

Particularly relevant here is Robin Jeffrey's analysis of how it was in phases of *scarce*—rather than mass—circulation that print was most politically potent. Evoking Jurgen Habermas' argument that newsprint became a disenchanted commodity in its mass phase (in 'a culture that no longer trusts the power of the printed word'), Jeffrey states that it was in its scarce phase—between the rare and mass phases—that newspapers effectively 'alerted and troubled political authorities'.<sup>36</sup> He defines the scarce phase as one when periodicals and newspapers were 'published regularly and from a number of outlets', even though many of them lacked large numbers of paying subscribers. Circulation could remain as low as 30 copies per 1,000 people; however, since each issue was read widely and in public places 'over days and weeks', its content remained more temporally durable and politically potent.

In Jeffrey's typology, the scarce phase began in Britain in the early 1700s, but in colonial India it did not begin until the mid-nineteenth century.<sup>37</sup> Thus, in British India, 1780–1823 does not correspond to a

<sup>34</sup> Black, *English press*, pp. 143–44.

<sup>35</sup> *Ibid.*, p. 135.

<sup>36</sup> Robin Jeffrey, 'Testing concepts about print, newspapers, and politics: Kerala, India, 1800–2009', *Journal of Asian Studies*, vol. 68, no. 22, May 2009, pp. 465–89, esp. pp. 468, 479.

<sup>37</sup> His chronology roughly coincides with broader shifts in print culture, especially Ulrike Stark's description of the commercialization of print, particularly in regional languages, from around the 1840s onwards, and Priya Joshi's of the growing importance and popularity of public libraries in British India in a similar period. Ulrike Stark,

scarce phase *unless* we modify his argument somewhat: that is, we apply his ratios not over the entire colonial space but instead constrain it to a circumference in and around the presidency enclaves, which included the maximum number of those conversant in English. Christopher Bayly estimates the number of Europeans in Calcutta in 1790 at 3,000–4,000: thus, statistically speaking, only 90–120 copies would be required in this context to meet Jeffrey’s numerical definition of scarce.<sup>38</sup> And, as Shaw’s bibliography has shown, even though sustained success was a hallmark of only some of them, at least two dozen newspapers and magazines are identifiable in Calcutta alone between 1780 and 1800. Some of these died out in the early 1800s but they were replaced by new ones. That the number of printing presses in Calcutta itself increased markedly, from one in 1777 to between nine and 11 by 1799, also speaks more generally to the expanding density of print in this period.<sup>39</sup>

The significant demographic expansion occurring in Calcutta, Bombay, and Madras during these decades also widened circulation and readership. Calcutta’s population grew from 200,000 in 1780 to about 350,000 by 1820; Bombay’s from probably 80,000 in 1780 to 200,000 by 1825, and Madras’ stabilized at 300,000 in 1802.<sup>40</sup> This not only meant that the public space for circulation and discussion of newspapers was widening in these cities but also intimates the growing presence here of Indians, many of them conversant with English. And this was precisely when the colonial state was seeking ‘a new dominance’ in these increasingly stratified colonial capitals.<sup>41</sup> These figures should be further contextualized in light of how scholars have analysed the multi-modal ways in which the printed word circulated in colonial India: whether in tracing how the consumption of print remained ‘immersed in preprint practices of sharing the written word’ or in highlighting how

*An empire of books: the Naval Kishore press and the diffusion of the printed word in colonial India* (New Delhi: Permanent Black, 2008), pp. 3–4; Priya Joshi, *In another country: colonialism, culture, and the English novel in India* (New York, NY: Columbia University Press, 2002). See also Anindita Ghosh, ‘An uncertain “coming of the book”: early print cultures in colonial India’, *Book History*, vol. 6, 2003, pp. 23–55.

<sup>38</sup> C. A. Bayly, *Indian society and the making of the British empire, Volume 1, Part 2* (Cambridge: Cambridge University Press, 2002 [1988]), p. 71. The circulation numbers coincide with Natarajan, *History of Indian journalism*, p. 11, but not with the conclusion that they had no political impact in India.

<sup>39</sup> Shaw, *Printing in Calcutta*, table on p. 39.

<sup>40</sup> Bayly, *Indian society*, p. 68.

<sup>41</sup> *Ibid.*, pp. 69–71.

pre-colonial and colonial Indian society remained one ‘acutely aware of literacy’, even if formally defined as non-literate.<sup>42</sup> Thus, to combine Black’s argument with Jeffrey’s typology, the anticipated impact of even these limited newspapers cannot be ascertained only on the basis of circulation figures or literacy statistics.

### **Patterns of intransigence and intervention**

In highlighting *how* libel, regulation, and censorship were practically articulated, the cases occurring between 1780 and 1823 delineate how an emerging newspaper press and an emerging colonial state contested claims to public authority. As journalists developed strategies to negotiate executive power, so colonial officials sought to disguise their use of direct power when dealing with journalistic infractions. Examining these cases cumulatively, across these four decades, also allows us to look beyond the boundaries of changing regulations and instead identify the constitutive patterns of intransigence and intervention that cumulatively characterize this period.

This is not to suggest that the period has been ignored in scholarly analyses of India’s press history. However, the distinctly European orientation of newspapers in this early period has tended to subtly divorce it from broader and longer discussions of the modern press in India. Some assess this period as a ‘pre-history’ or ‘preparatory phase’ or else as a ‘cultural isolate of the European settlers in India’ by emphasizing that these were English-language newspapers owned and edited by Europeans, included a lot of material from British newspapers, and circulated (at least initially) within the limited European community.<sup>43</sup> Others argue that ‘real’ journalism only started in India in 1818 with James Silk Buckingham, and that most others took up the profession from ‘sheer accident’ or out of ‘acute helplessness’ or else were simply disgruntled Company employees (or ex-employees) using newspapers to publicly resolve their ‘rivalries and jealousies’.<sup>44</sup> Yet others argue that the politics of these newspapers primarily embodied factional battles over reform and radicalism occurring

<sup>42</sup> Robert Darnton, ‘Book production in British India, 1850–1900’, *Book History*, vol. 5, 2002, pp. 239–62, esp. p. 240; Ghosh, ‘An uncertain “coming of the book”’, p. 47; Stark, *Empire of books*, p. 16; Bayly, *Empire and information*, quoted in Stark, *Empire of books*, p. 13.

<sup>43</sup> See N. Ram, ‘Foreword’, in Parthasarthy, *Journalism in India*, p. xiii; and Sankhder, *Press, politics, and public opinion*, p. 333.

<sup>44</sup> Sankhder, *Press, politics, and public opinion*, p. 217; Barns, *Indian press*, p. xiii; Ahuja, *History of India press*, pp. 5–6; Parthasarthy, *Journalism in India*, p. 27 and Chapter 2.

in England at the time.<sup>45</sup> A few give more weight to how the colonial context structured this relationship. However, some do this by splicing the period biographically, suggesting that the liberalism or conservatism of high-ranking British administrators in India determined the nature of state control over the press.<sup>46</sup> Others focus on biographical analyses of some of the more famous editors, whether William Duane or James Buckingham.<sup>47</sup>

Chronologically, this early period remains somewhat marginal to other critical scholarship on regulation, control, and censorship, which focuses on the Indian press.<sup>48</sup> As part of the analyses of the broad colonial project of regulating print—politically, culturally, and morally—these centre on the period after the mid-nineteenth century, or at least after the 1830s.<sup>49</sup> Equally, critical questions about surveillance and sedition, or discussions of how a rising nationalist press challenged the imperial state, focus on late-nineteenth- and early twentieth-century India.<sup>50</sup>

<sup>45</sup> Also theological differences. The 1813 Charter Act allowed for Anglican and Presbyterian churches to be established in India and some of their functionaries became editors or proprietors of newspapers. Ahuja, *History of Indian press*, pp. 6, 8.

<sup>46</sup> Barns, *Indian press*, pp. 73–75. Also A. F. Ahmed, *Social ideas and social change in Bengal 1818–1835* (Leiden: Brill, 1965), pp. 55, 67; Nancy G. Cassel, *Social legislation of the East India Company: public justice versus public instruction* (New Delhi: Sage Publications, 2010), p. 366; Derek Jones (ed.), *Censorship: a world encyclopaedia* (London; New York, NY: Routledge, 2015), p. 1160.

<sup>47</sup> Nigel Little emphasizes the Indian context in understanding Duane's biography, including the links 'between editors and malcontent officers' in the EIC's armies. However, he argues that instead of judging men like James Hicky and William Duane 'within an imperial framework, where they are the "libellous little men of empire"', they should instead be located in the 'wider Anglo-American tradition' of radicalism. N. Little, *Transoceanic radical, William Duane: national identity and empire 1760–1835* (London: Pickering and Chatto, 2008), pp. 1, 6, 70–1, 82.

<sup>48</sup> Newspapers in Indian languages or English-language newspapers owned and edited by Indians.

<sup>49</sup> Darnton, 'Literary surveillance in the British Raj', pp. 133–76; Heath, 'Creating the moral colonial subject'. For the moral regulation of cultural expression (especially drama and film), see Nandi Bhatia, *Acts of authority, acts of resistance: theater and politics in colonial and postcolonial India* (Ann Arbor, MI: University of Michigan Press, 2004); Kaur and Mazzarella, *Censorship in South Asia*; G. D. Khosla, *Pornography and censorship in India* (New Delhi: Indian Book Co., 1976); and Monika Mehta, *Censorship and sexuality in Bombay cinema* (Austin, TX: University of Texas Press, 2011).

<sup>50</sup> For sedition, see N. Gerald Barrier, *Banned: controversial literature and political control in British India, 1907–1947* (Columbia, MO: University of Missouri Press, 1974); Sukeshi Kamra, *The Indian periodical press and the production of nationalist rhetoric* (New York, NY: Palgrave Macmillan, 2011). In a 2005 presentation 'Race, religion and libel law: the Parsi colonial case study' (Legal theory workshop series), Faculty of Law, University of

However, as this article suggests, the denouement of cases between 1780 and 1823 is integral to understanding how the triangular relationship between press, public, and state in India was initially constituted. Thus, while the discussion below is organized into three sections based on the scholarly periodization conventionally ascribed to them, the emphasis is on demonstrating the remarkable *continuities* in patterns occurring across these four decades.

*Before 1799: delineating a framework for later decades?*

In colonial India the formal beginning of censorship is dated to the 1799 executive order issued by Richard Wellesley, governor of Bengal and governor-general of British India (1798–1805). Detailing his ‘strong’ words and actions, Barns points out that while heading a state in conflict with Mysore and the French, he also saw himself ‘as a great Eastern ruler’.<sup>51</sup> Thus, he disapproved of any printed matter that could weaken his position, or that of the Company state. Consequently, his 1799 order required that Bengal’s editors submit proofs of every issue prior to publication to secure government’s approval for all content. The ‘censor’, usually the chief secretary to government (or anyone so authorized), could eliminate any material affecting British ‘influence and credit’, alluding to ‘war and peace’, or commenting on ‘the conduct of government or any of its officers, civil or military, marine, commercial, or judicial’.<sup>52</sup> This censorship order is why 1799 is

Toronto, 2005), Mitra Sharafi analysed how Parsi identity was contested through defamation laws in early twentieth-century India. This focus resonates with global interest in press regulation and the concomitant struggle of journalists to establish the press as a bulwark of freedom in civil society. Early analyses, while detailing the everyday needs fulfilled by newspapers, also trace the ‘heroic struggle’ of the fourth estate. F. Knight Hunt, *The fourth estate: contributions towards the history of newspapers and of the liberty of the press*, 2 vols (London: David Bogue, 1850), p. 2. The thread is visible in more contemporary scholarship, including Jeremy Black’s study of eighteenth-century England or Jeremy Popkin’s reconstruction of the eighteenth-century European continental press. Black, *English press*, p. 152; Jeremy Popkin, *News and politics in the age of revolution: Jean Luzac’s ‘Gazette de Leyde’* (Ithaca, NY: Cornell University Press, 1989), Chapter 1. The *Gazette de Leyde* was published in the Netherlands but printed in France. See also Kathryn Temple, *Scandal nation: law and authorship in Britain, 1750–1832* (Ithaca, NY: Cornell University Press, 2003).

<sup>51</sup> Barns, *Indian press*, pp. 73–75, quote on p. 74.

<sup>52</sup> For a list, see *ibid.*, p. 75.



conventionally seen as a moment of rupture and why the period between 1799 and 1818 (when it was rescinded) is characterized as one of the ‘darkest’ epochs in India’s press history.<sup>53</sup> However, the cases below indicate that the critical choices that defined governmental action after 1799 were already in place in the preceding decade.

*When did ‘censorship’ begin? The Anderson case in Bombay*

In September 1791, barely a month before Mr Landon asked the Madras government to defend him against the *Madras Courier*, James Anderson, deputy of police in Bombay presidency, complained to the Bombay government about an ‘unjustifiable’ attack on his ‘character and conduct as *your* Officer of Police’ (emphasis mine).<sup>54</sup> He had taken umbrage at a ‘public intimation’ in the *Bombay Gazette* that hoped to spur the police chief and other officers to ‘greater exertions’ in discharging their ‘duty’ by highlighting how ‘gangs of ruffians’ kept Bombay’s residents in ‘constant alarm’.<sup>55</sup>

Just as Landon would, Anderson demanded that government defend him publicly and that it take steps to protect all its officers against similar attacks. He also insisted that the offence was more potent because the *Bombay Gazette* was validated as an official newspaper, just like the *Madras Courier* when it published the ‘Chinese Anecdote’. The Bombay government endorsed Anderson’s claim that only government magistrates—and not newspapers—possessed the right to scrutinize whether or not he had discharged his duty effectively. To restrict such ‘exceptionable passages’ from being published, the editor was ordered to henceforth send proofs of forthcoming papers to government for inspection.<sup>56</sup> This demand made by the Bombay government in 1791 was identical to what was required of editors under the formal censorship order instituted in Bengal in 1799.

*Licence, not libel? The Humphreys’ case in Madras*

Equally instructive is the case of Samuel Augustus Humphreys in Madras. When, in 1794, the Madras government refused him permission to publish a newspaper (while also turning down his request to act as an attorney in

<sup>53</sup> Sankhder, *Press, politics, and public opinion*, p. 254.

<sup>54</sup> Extract Bombay Public Cons., 30 September 1791, pp. 329–39, in Proceedings relative to the Bombay press, IOR.H/539, BL.

<sup>55</sup> *Ibid.*

<sup>56</sup> Extract Bombay Public Cons., 31 August 1792, esp. pp. 338–39, in Proceedings relative to the Bombay press, IOR.H/539, BL.

the court of appeal), Humphreys printed and distributed gratis a pamphlet highlighting the collective failure of Company administrators. He argued that in failing to ensure that ‘all men who sought to labour would find work’, government had violated its fundamental *public trust*, making it complicit in any crime that he committed while unemployed. Additionally, he also accused the heir-apparent to the British throne of harbouring incestuous feelings.

The attorney-general advised against prosecuting Humphreys for libel. He was worried about the substantial ‘mischief’ that this ‘dangerous character’ could do in the time that it would take to bring the suit to issue.<sup>57</sup> Since Humphreys was residing in India without the requisite government licence, he suggested instead that government rely on its legally sanctioned executive authority to arrest and deport ‘unlawful trader[s]’.<sup>58</sup> This would minimize Humphreys’ impact in India by preventing any discussion of the charges he had made. Significantly, few had actually been deported for being unlicensed: the president-in-council actually stressed ‘the numbers of persons’ who, lacking the requisite licence, had been permitted to remain in India ‘without molestation’ if ‘deserving of such indulgence’.<sup>59</sup>

In deciding to deport Humphreys, officials thus bypassed a potentially long, drawn-out legal battle.<sup>60</sup> Their approach was not singular: the better known contemporary case, of course, is that of William Duane—the ‘turbulent and seditious’ editor of the *Bengal Journal* and then *The World*—who narrowly escaped deportation once, to be deported a few years later, in 1795.<sup>61</sup> However, officials chose deportation despite

<sup>57</sup> Case of Mr Humphreys, pp. 53–156, IOR.H/539, BL. See Letter to Court of Directors, 24 April 1795, pp. 53–67, esp. pp. 54–55, and Fort St. George Cons., 7 April 1795, pp. 83–120, esp. pp. 93–94.

<sup>58</sup> The 1793 Charter Act continued to empower the EIC to grant licences to its employees and others to work in its Indian territories. Humphreys’ claimed he had permission to reside in India, but failed to produce a covenant executed by government.

<sup>59</sup> Case of Mr Humphreys, Fort St. George Cons., 7 April 1795, pp. 93–94.

<sup>60</sup> The president-in-council added that, if advisable, Humphreys could be tried for libelling the Prince of Wales in England.

<sup>61</sup> Case of Mr William Duane, 1791–94, pp. 1–226, IOR.H/537, BL, esp. Public Letter to Bengal, 5 January 1796, pp. 225–26. Duane was almost deported for publishing an article suggesting that the French in Bengal were responsible for an unfounded rumour about the death of Charles Cornwallis, the British commander-in-chief and governor-general; officials said this violated ‘the regard due ... to maint[aining] proper authority of Government’: *ibid.*, Foreign letter from Bengal, 17 August 1791, pp. 1–4. After the *Bengal Journal* was forcibly closed down, Duane set up another newspaper, *The*

the fact that there was a successful legal precedent for libel prosecutions. As early as 1781, James Hicky had been charged with publishing ‘scurrilous allegations’ against the wife of the (then) governor-general Warren Hastings in *Hicky’s Gazette* and of then accusing Hastings of using ‘arbitrary power’ to ban his paper from being circulated through the post office, while granting postal facilities to the rival *Indian Gazette*.<sup>62</sup> Arrested in June 1781 and, unable to pay the Rs 80,000 bail required of him, he was remanded until January 1782, when he was tried and indicted on both counts.

Given this history, did choosing deportation represent the power of the colonial executive and the powerlessness of the press? Not necessarily. As seen in the discussion of Humphreys’ case, officials were explicit about their concern that public discussion of his accusations and a possibly unsuccessful prosecution would tarnish governmental authority. This anxiety was visible even decades later, in the case of James Buckingham, the editor of the *Calcutta Journal (CJ)*, who flagrantly violated official warnings between 1818 and 1822, before being deported in 1823. Legal prosecution for libel continued to be perceived as risky and, instead, revoking the licence required for non-Indians to conduct business in India became the more pragmatic—if circuitous—mechanism for *legally* asserting executive authority over journalists.

### *Duties and apologies. The Rider case in Bengal*

The case of Jacob Rider, the magistrate of Ghazipur, lets us analyse how things stood in 1799, just before formal censorship was introduced. In May 1798, Rider complained to the Bengal government about two letters printed in the *Telegraph*: the first, of 28 April, was signed by Charles Maclean, and the second, of 12 May, published under the fictive signature of ‘Habeas Corpus’. Both commented on the ‘disagreeable effects’ of the magistrate’s interference in a dispute in Ghazipur.<sup>63</sup> Insisting that his conduct had been guided by regulations

*World* which also published material that the Bengal government considered libellous, leading to his deportation. See also Little, *Transoceanic radical*, Chapters 3 and 4.

<sup>62</sup> Initially entitled *Bengal Gazette* or *Calcutta General Advertiser*. Barns, *Indian Press*, pp. 46–47. The first earned him a year’s imprisonment and a fine of Rs 2,000 and the second, a fine of Rs 5,000 (which Hastings forgave). Parthasarthy, *Journalism in India*, p. 25. A recent biographical study is Andrew Otis, *Hicky’s Bengal Gazette: the untold story of India’s first newspaper* (Chennai: Westland Publications, 2018).

<sup>63</sup> Case of Charles McLean, 1798, pp. 289–315, IOR.H/537, BL, esp. Extract Law Letter from Bengal, 29 September 1798, pp. 289–92, and Extract Bengal Law Cons., 30 July 1798, pp. 297–98.

as well as the opinion of judges in the Benaras circuit court, Rider asked government—like Landon and Anderson had previously—to defend him against the charge of ‘improper interference’; as in both previous cases, the *Telegraph* was ordered to print an apology for commenting on ‘the conduct of a public officer for acts done in his official capacity’.

The *Telegraph’s* editor was not recalcitrant but neither was he intimidated. He invoked his ‘duty’, which he said required him to publish Maclean’s signed letter, and claimed that publishing the anonymous ‘Habeas Corpus’ was necessary to correct the account of a public transaction misrepresented in the *India Gazette* and *Hircarrah*.<sup>64</sup> Nevertheless, like many before and after him, he was willing to apologize for his ‘error in judgement’.<sup>65</sup> It was not long after the *Telegraph* case, however, that the court of directors approved the Bengal government’s request for censorship, endorsing their desire to ‘effectually’ prevent ‘the insertion of improper paragraphs and Essays in the Newspapers’.<sup>66</sup> However, as the next section demonstrates, formal censorship did not materially change what was considered ‘improper’ or explicitly prohibited; neither did it change how officials dealt with public criticism of governance in the press, much of it published in explicit violation of executive regulations.

### *Censorship between 1799 and 1818: theory versus practice?*

The period of formal censorship between 1799 and 1818 is characterized as one of ‘rigid control’ over the press, one in which ‘every printed word had the mark of the censoring authority’.<sup>67</sup> Now, all printers were required to identify themselves at the bottom of each paper, and editors and proprietors had to inform government about their name and place of abode. Although the only explicit prohibition was against publishing newspapers on Sunday, no newspaper was to be printed until ‘previously inspected’ by the officially designated ‘censor’. As penalty

<sup>64</sup> Case of Charles McLean, Extract Bengal Judicial Cons., 3 and 19 July 1798, pp. 293–96, 312–14. Meanwhile, officials had discovered that Maclean was the person who, in March 1795, had been ordered to be returned to Europe for quitting the ship he was attached to. However, he had gone missing (like Humphreys).

<sup>65</sup> Case of Charles McLean, Extract Bengal Judicial Cons., 3 July 1798.

<sup>66</sup> Case of Charles McLean, Extract Law letter to Bengal, 11 June 1800, p. 315.

<sup>67</sup> Natarajan, *History of Indian journalism*, p. 12; Sankhder, *Press, politics, and public opinion*, p. 254; Barns, *Indian press*, pp. 72, 86.

for violations, the order formalized what already existed in practice: threatening offenders with ‘immediate embarkation for Europe’.

The editors, proprietors, and printers of Calcutta newspapers—*Asiatic Mirror*, *Calcutta Courier*, *Hircarrah*, *India Gazette*, *Morning Post*, *Oriental Star*, and *Telegraph*—promised compliance in rather deferential, if formulaic, language.<sup>68</sup> However, in practice, their compliance was rather patchy: not only are there several violations on record but also, during the period in which this order was in force, officials continued to pass ‘special prohibitory orders’.<sup>69</sup> Some of these additional prohibitions protected strategic information, whether the strength, ‘disposition or situation’ of the army corps (1801) or naval and shipping intelligence (1803 and 1804). Only material with express governmental sanction or that already printed in an authorized government gazette was exempt. The special orders of 1803 and 1804 were issued in the midst of the second Anglo-Maratha conflict (1803–5) and were probably prompted by special exigencies (though the first special prohibitory order of 1801 about military intelligence was not issued in the midst of such large-scale conflict).

However, such special orders would have been unnecessary *if* the 1799 censorship regulation had been enforced effectively—and newspapers had turned in their proof sheets for governmental approval *prior* to publication. In fact, in an 1807 circular, the censor was explicit about such lack of compliance. Reiterating the special orders of 1803 and 1804, the circular chastised the editors of Calcutta newspapers for inserting naval intelligence in newspapers ‘*without any authority, and in direct contradiction of the existing orders of Government for the guidance of the conduct of the Editors of Newspapers at this Presidency*’ (emphasis mine).<sup>70</sup> However, instead of immediately enforcing the threatened deportation for such violations, the circular *entreated* editors to refrain from publishing such intelligence without prior authorization and, in a tone rather more circumspect than in 1799, threatened governmental ‘displeasure’ should further contraventions occur.

None of these missives made editors particularly compliant. Almost simultaneously with the 1807 order, the *Mirror’s* editor had to explain

<sup>68</sup> Imposition of the censorship, 1799, pp. 339–59, IOR.H/537, BL, esp. Extract Bengal Public Cons., 26 May and 3 June 1799.

<sup>69</sup> Special prohibitory orders issued to the editors of newspapers, 1801, 1803, 1804, pp. 369–75, 377–84, and Special prohibitory orders extended to editors of newspapers at the subordinate presidencies, 1807, pp. 385–92, both IOR.H/537, BL.

<sup>70</sup> Extract Bengal Public Cons. 19 June and 2 July 1807, pp. 385–95, IOR.H/537, BL.

why he had recently published naval intelligence and details of a court martial.<sup>71</sup> Similarly, the editor of the *India Gazette* had to clarify why he had published a special issue without prior inspection, thus flouting those ‘express orders’ that Calcutta editors had been ‘repeatedly notified’ of (emphasis mine).<sup>72</sup> No explanation is recorded, nor was the editor deported as the regulation threatened. Instead, he was instructed not to let the special issue be sent out of Calcutta.

In June 1807, the Madras and Bombay governments were instructed to remind editors in those presidencies about the prohibitions issued in Bengal between 1799 and 1807.<sup>73</sup> Again, this was repetitive, since the 1799 order had been communicated in that very year to the *Madras Courier* and *Madras Gazette*, with an additional order of November 1799 specifically ordering the *Madras Gazette* not to publish orders related to the army unless previously submitted for official inspection.<sup>74</sup> Indeed, a December 1795 order had already prohibited the *Madras Gazette* from publishing anything amounting to military intelligence unless previously approved.<sup>75</sup> Similarly, censorship had been communicated to Bombay newspapers well before the 1799 order (or the 1807 reminder): the denouement of deputy of police James Anderson’s 1791 accusation against the *Bombay Gazette* was that government had asked for proof sheets to be sent to it for inspection.<sup>76</sup>

And yet, ‘improper’ publications continued to surface in both Madras and Bombay. In 1807, Madras newspapers were questioned about their decision to publish charges made by the jurist Henry Gwillam to a grand jury at Madras and were chastised for allowing ‘mischievous’ opinions tantamount to ‘an attack upon the Government’ to be

<sup>71</sup> Extract Bengal Public Cons., 2 July 1807, esp. pp. 393–95.

<sup>72</sup> Extract Bengal Public Cons., 19 June and 2 July 1807.

<sup>73</sup> Extract Bombay Public Cons., 18 June 1807, pp. 435–39, IOR.H/539, BL, esp. chief secretary to government, Fort William (Thomas Brown), to chief secretary to government of Fort. St. George, 18 June 1807. The same was sent to Bombay and Prince of Wales’ Island.

<sup>74</sup> Extract Fort St. George Public Cons., 29 and 30 June 1799, pp. 161–66, IOR.H/539, BL.

<sup>75</sup> Publication of government general orders previously to inspection by the military secretary prohibited, 1795, pp. 159–60, IOR.H/539, BL, esp. Extract Military Miscellany Book from 1<sup>st</sup> to 14<sup>th</sup> December 1795, to editor of *Madras Gazette*, 12 December 1795.

<sup>76</sup> Extract Bombay Public Cons., 30 September and 27 December 1791, IOR.H/539, BL, pp. 329–39, 403–4.

circulated ‘through the country by means of the Press’.<sup>77</sup> Suggesting that the circulation of newspapers extended beyond the limited European community, officials were specifically concerned that ‘*Native Inhabitants*’—who they insisted were incapable of forming a correct opinion of statements such as Gwillam’s—were ‘liable to be misled by the dangerous doctrines’ printed in newspapers (emphasis mine).<sup>78</sup>

The *Madras Gazette* claimed that its action was not inconsistent ‘with former usages’, an argument that underscores how censorship orders were violated without attracting prescribed penalties.<sup>79</sup> Not long after the Gwillam incident, the *Madras Courier* was reminded about prohibitions on observations ‘injurious to the character of public officers’.<sup>80</sup> And yet the *Courier* is recorded as being ‘severely censured’ again, this time in 1816, for publishing an ‘unauthorized’ report.<sup>81</sup> The editor was warned that such disregard for official regulations would—in *future*—subject him to penalty and forfeit the newspaper its licence. Soon afterwards, when the *Madras Gazette* had to explain another unauthorized publication, its editor explained that the violation was due to working conditions: while apologizing profusely, he simply stated that he had received the report too late in the evening to include it in the proofs prepared for the censor.<sup>82</sup>

In Bombay too, censorship was spottily enforced. In July 1802, the *Gazette’s* editor was censured for advertising his intention to publish information on a murder trial. While its proprietor insisted that no paper was issued until ‘examined agreeably’ by government, he simultaneously admitted the ‘impropriety’ of having inserted this specific advertisement without sanction.<sup>83</sup> Here, too, editors referenced

<sup>77</sup> Henry Gwillam’s charge to grand jury suppressed, pp. 177–84, IOR.H/539, BL, esp. Extract Separate Law Letter from Fort St. George, 21 October 1807, pp. 177–78, and Extract Fort St George Public Cons., 1 September 1807, pp. 179–80.

<sup>78</sup> Henry Gwillam’s charge, Extract Law Letter from Fort St. George, 21 October 1807.

<sup>79</sup> Henry Gwillam’s charge, Extract Law Letter from Fort St. George, 22 September 1807, pp. 183–84.

<sup>80</sup> Editors of the Madras newspapers ordered to contradict an erroneous statement respecting a French officer, pp. 189–98, IOR.H/539, BL, esp. Extract Fort St George Public Cons., 3 and 4 May 1808, pp. 189–92, 193–98.

<sup>81</sup> Editor of *Madras Courier* censured, 1816, pp. 215–24, IOR.H/539, BL, esp. Letter from secretary to government, public department (G. Stratchey) to Secretary at the India House (James Cobb), 1 May 1816, pp. 215–16, and Letter from G. Stratchey to editor of *Madras Courier*, 4 May 1816, pp. 223–24.

<sup>82</sup> Editor of *Madras Gazette* censured, 1818, pp. 231–36, IOR.H/539, BL.

<sup>83</sup> Proprietor of *Bombay Gazette* censured, 1802, pp. 417–21, IOR.H/539, BL.

working conditions and the production process in explaining lapses, highlighting that several news items had reached them too late to be included in proof sheets sent for inspection. Thus, in 1804, the editor of the *Bombay Courier* blamed the ‘lateness of the hour’ at which material was received to explain why he had published an article that the Bombay government objected to.<sup>84</sup>

The recorded instances of such violations are not overwhelming in number. However, official reiteration of prohibitions, combined with continued threats about penalties for future violations, indicates that the documentary evidence includes only a partial list of infractions. In some cases—such as that (above) of the *Bombay Courier* in 1804—even those editors who were sending in proofs for official scrutiny did not include material that arrived *after* the proofs were submitted. Sometimes regular omissions only came to light later. Thus, in July 1808, when the editor of the *Calcutta Gazette* was chastised for publishing ‘several articles of intelligence’, he was also asked to explain why he had failed ‘for several weeks past’ to send the paper for inspection. The editor offered no explanation for his ‘inadverten[t] omission’ but promised to be dutiful ‘hereafter’.<sup>85</sup>

On occasion, printed pieces were inserted as handbills, such as a private libel on assistant surgeon-general Robert Tytler that was circulated with the *Hircarrah*.<sup>86</sup> The editor insisted that this had ‘formed no part’ of the newspaper as he sent it out.<sup>87</sup> The proprietors shared the name of the author but denied any malice in printing this *private* communication; they also stated that they were unaware that papers of a private nature had to be vetted before being circulated with their newspaper.<sup>88</sup> Consequently, government had to issue additional instructions that all notices, hand-bills, and other ‘ephemeral publications’ must be sent for

<sup>84</sup> Apology by editors of the *Bombay Courier* and second apology by editors of the *Bombay Courier*, pp. 422–34, IOR.H/539, BL, esp. Extract Bombay Public Cons., 5 January and 23 March 1804, pp. 430a–b, 431, 433–34.

<sup>85</sup> Neglect of editors to submit the proof sheets of their papers for the inspection of the government previously to publication, censured, 1808, pp. 397–401, IOR.H/537, BL.

<sup>86</sup> Home: Public: Cons., 22 October 1813, nos 34–35, 38, 39, and 40, National Archives of India, Delhi (NAI). Libel against surgeon Robert Tytler, 1813, pp. 415–32, IOR.H/537, BL.

<sup>87</sup> Ralph James, editor, *Hircarrah*, to chief secretary (Dowdeswell), 22 September 1813, Home: Public, 22 October 1813, no. 39, NAI.

<sup>88</sup> Libel against Tytler, proprietors of *Hircarrah* press to chief secretary (Dowdeswell), 9 October 1813, pp. 427–29.



inspection, just like newspapers.<sup>89</sup> Most tellingly, the governor-general concurred with Tytler's conclusion that a violation of this nature could not have occurred 'had the general rules respecting the press been duly observed'.<sup>90</sup>

When combined with the fact that some offending pieces were brought to notice by a third party, it is reasonable to conclude that government lacked a formal process to ensure compliance: the records do not, obviously, reflect pieces that were published without scrutiny but escaped attention. Thus, when the *Mirror* published a piece that the government censor had struck out in the proofs, its editor defended the explicit violation by pointing out that the same piece had already appeared in the *Times*[?].<sup>91</sup> The censor insisted that *if* he had seen the article, he would have deleted it; however, it turned out that the *Times* had not sent him the relevant proofs.<sup>92</sup>

The enforcement of censorship not only varied between areas, but also fluctuated with the zealotry of the censor. Despite multiple violations, the *Mirror's* editor was far from contrite. Instead, he complained of the 'sudden and unexpected rigour and the zeal' of the present censor (Mr Monckton?), claimed that it marked a dramatic change from the 'constantly increasing licence' to newspapers afforded under the previous censor (Mr Tucker?), and accused the new censor of bringing 'trivial matters to the notice of Government' (emphasis mine).<sup>93</sup> In a later case, John Adams (acting chief secretary to the Bengal government) faced the even more serious charge of overreaching in his use of censorial powers.<sup>94</sup> Citing its 'sarcastic tone' as one that could lead to dissension within the community, Adams had deleted from the proofs of the *Asiatic Mirror* a critical review of a book by an EIC lieutenant—*Observations of the Opinions of Several Writers on Various Historical[,] Political*

<sup>89</sup> Libel against Tytler, chief secretary to proprietors of Calcutta presses, 16 October 1813, pp. 430–32.

<sup>90</sup> Libel against Tytler, chief secretary (Dowdeswell) to Tytler, 11 September 1813, pp. 420–21.

<sup>91</sup> Irregular conduct of editor of *Mirror* (Lieutenant James Ralph), 1815, pp. 433–57, IOR.H/537, BL. In the 1813 discussion immediately above, Ralph James was editor of the *Hircarah*.

<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*, esp. pp. 443–47.

<sup>94</sup> Case of Rev. Dr. Bryce, editor of *Asiatic Mirror*, pp. 459–545, IOR.H/537, BL, esp. Extract Bengal Public Cons., 7 June 1817, pp. 459–65.

and *Metaphysical questions*.<sup>95</sup> The *Asiatic Mirror*'s editor, the Rev. Samuel Bryce insisted that Adams was departing materially from established practice, at least as it had been under that of his predecessor.<sup>96</sup> He then invoked his rights 'as a British subject, subject to British laws' to insist both on his editorial 'privilege of freely discussing literary subjects' and his *duty* to highlight Adams' 'misuse' of censorial powers.<sup>97</sup>

Since his licence was in order, Bryce escaped with the almost inevitable censure. Intriguingly, he was also offered a viable defence: the suggestion that his 'highly disrespectful' behaviour stemmed from the 'shortness' of his residence in India, which prevented him from understanding the impact of such dissentious discussion here. Anglican and Presbyterian churches had been established by licence in India under the Charter Act of 1813, and Bryce, the first Presbyterian minister, had acquired the *Asiatic Mirror*.<sup>98</sup> While grasping this lifeline, Bryce continued to insist—much as editors like Duane had and others like Buckingham would—that only a free press that publicly scrutinized government could safeguard it against despotism. To quote him, it was 'in the discharge of a public duty' that he had brought to light what he saw as being '*an unauthorized act of the Censor himself*' (emphasis mine).<sup>99</sup>

Thus, in this period of formal censorship, although there are certainly more recorded instances of violations than before 1799, everyday transactions remained substantively similar to what had come before. First, what was introduced through executive order in 1799 was already being practically enforced in other presidencies several years previously. Second, although editors voiced their compliance with the censorship order, yet in practice they often violated it; when censured, they continued to remind the government that exerting too strong a hand against the press smacked of arbitrary power. Third, government's methods of dealing with offending editors remained essentially the same: threats to punish, either followed by official inaction or extreme

<sup>95</sup> Case of Dr. Bryce, Report of the acting chief secretary (J. Adams), 3 June 1817, pp. 491–96, and Letter from secretary (James Trotter) to Bryce, 7 June 1817, pp. 502–8.

<sup>96</sup> Case of Dr. Bryce, Bryce to Adams, 18 July 1817, pp. 534–42.

<sup>97</sup> Case of Dr. Bryce, Bryce to Adams, 5 June 1817, pp. 459–65, and Bryce to Adams, 4 June 1817, pp. 498–500.

<sup>98</sup> Ahuja, *History of Indian Press*, p. 8. Natarajan, *History of Indian Journalism*, p. 14. Joseph Hardwick links the 'vestry politics' of Calcutta's Anglican churches in the 1820s to the emergence of a reform movement among British expatriates in Calcutta: J. Hardwick, 'Vestry politics and the emergence of a reform "public" in Calcutta, 1813–36', *Historical Research*, no. 84, 2011, pp. 87–108.

<sup>99</sup> Case of Dr. Bryce, Extract Bengal Public Cons., 10 June 1817, pp. 509–25.

executive action like deportation—not for libel but if an unrelated charge like a missing licence could be discovered. Much of this continued in the next five years, *after* censorship was formally rescinded.

*1818–23: a ‘liberated’ press or more of the same?*

On 19 August 1818, Governor-general Francis Rawdon-Hastings rescinded the 1799 censorship order. In Bengal, newspaper editors no longer had to submit proofs for official scrutiny. Instead, they became personally liable for publishing any material that contravened what was proscribed by executive regulation as well as anything ‘at variance with the general principle of British Law as established in this country’.<sup>100</sup> Described as a magnanimous act that marked ‘the dawn of a new era’, this 1818 order is attributed to Rawdon-Hastings’ ‘liberal turn of mind’ and his lack of desire to force the press into ‘an attitude of relentless hostility’ towards the administration.<sup>101</sup>

In practice, however, not much changed. Rawdon-Hastings only rescinded the censorship halfway during his ten-year tenure as governor-general. Thus, for the first five years of his administration, the press remained under the censorship regulations instituted by the ‘despotic’ Wellesley. Wellesley’s tenure had ended in 1805 and the two others who assumed the post before Rawdon-Hastings (in 1813) continued with his censorship ordinance. Further, while the 1818 Regulations were extended to Bombay in 1819, no similar changes were introduced in Madras, which continued under the old censorship orders.<sup>102</sup> Most significantly, while the 1818 regulation abolished formal censorship, it continued to prohibit *every* category of material proscribed in the previous decades. The exhaustive list of prohibitions issued in 1818 included:

1<sup>st</sup>. Animadversions on the measures and proceedings of the Honorable Court of Directors and other public authorities in England connected with the Government of India, *on disquisitions on Political transactions of the local administration, on offensive remarks levelled at the public conduct of the Members of the Council, of the Judges of the Supreme Court, or of the Lord Bishops of Calcutta.*

<sup>100</sup> Removal of the censorship, 1818, pp. 547–52, IOR.H/537, BL; also IOR.H/532 [no. 3], BL. Editors were required to lodge a copy of every publication in the chief secretary’s office

<sup>101</sup> Barns, *Indian press*, pp. 89–90; Sankhder, *Press, politics, and public opinion*, p. 225.

<sup>102</sup> Barns, *Indian press*, p. 72.

- 2<sup>nd</sup>. Discussions having a tendency to create alarm or suspicion among the Native population, of any intended interference with their religious opinions or observances.
- 3<sup>rd</sup>. The re-publication from English or other Newspapers of passages coming under any of the above heads *or otherwise calculated to affect the British power or reputation in India.*
- 4<sup>th</sup>. Private scandal and personal remarks on Individuals tending to excite dissension in society. [All emphases mine.]<sup>103</sup>

Wellesley's list had included more detailed prohibitions on material related to military matters, while Rawdon-Hastings' list specifically prohibited anything smacking of 'intended interference' with the 'religious opinions or observances' of Indians, a difference that suggests both a growing non-European readership and anxiety about potential conflict that could result from critical comments on Indian religious practices emerging from an increasing missionary presence, especially after 1813. However, this aside, the same material continued to be prohibited under both—including public scrutiny of governmental decisions and official conduct, or anything that could 'affect the British power or reputation in India'. Thus, in 1818, the burden of censorship officially shifted from the government censor to the press itself *without* essentially changing the content of what was censored.

The Court of Directors in London also saw the 1818 regulation as representing continuity rather than change. Asking Rawdon-Hastings to rescind the order, the Directors (given the time taken for communications to go back and forth, the dispatch was of 7 April 1820), still stated that: 'It is clear from the tenor of these new regulations and from the nature and content of the restrictions imposed by them that you have not intended to liberate the press of Calcutta from all control on the part of Government...'<sup>104</sup> Having said this, they blamed the 'hasty' and 'partial' 1818 regulation for the 'inconvenience and public scandal' that it had allegedly already engendered.

This 'inconvenience and public scandal' was generated by several cases primarily occasioned by the *Calcutta Journal (CJ)* and its frequently offending editor James Buckingham, who published a range of material that caused as much official anxiety as it invoked ire. A piece that

<sup>103</sup> Removal of the censorship, 1818. Potential penalties were left somewhat open-ended: editors found to be in violation of the regulations would be 'proceeded against' as the government deemed 'applicable to the nature of the offence committed'. This differed from the 1799 order, which had specified 'immediate embarkation for Europe' as the penalty for violations.

<sup>104</sup> Report on the subject of the freedom of the press in India by N. B. Edmonstone, 6 January 1823, pp. 1–170, IOR.H/536a, BL. Quotes on pp. 17ff.

accused Hugh Elliot, governor of Fort St George, of being ‘despotic’ and describing his continued tenure as ‘a public calamity’ (26 May 1819) was labelled a ‘wanton’ and ‘injurious’ attack on EIC administration.<sup>105</sup> Considered equally ‘injurious’ was the subsequent allegation that the Madras government had used its executive power to ‘deliberately’ obstruct the circulation of the *CJ* (11 January 1820).<sup>106</sup> The *CJ* also published a letter titled ‘Merit and Interest’, which officials described as ‘a libel vilifying’ government and ‘tending to excite discontent in the Army’ (6 November 1820), while the Lord Bishop of Calcutta complained of another published letter that he characterized as ‘injurious to his public character’ (10 June 1821).<sup>107</sup> Then came a direct attack on the governor-general himself, including sarcastic comments on the ‘boon of a free press in Asia’ attributed to him (1, 2, 3, and 9 November 1821).<sup>108</sup> Continuing to defy government prohibitions, the *CJ* published extracts from John Malcolm’s confidential report on Malwa (22 April 1822) and then another letter—signed ‘Military Friend’—containing matter that officials insisted government could ‘not pass over with regard to its own dignity or authority or the interests of the public’ (5 May 1822).<sup>109</sup> The latter was seen as being particularly egregious for:

falsely and slanderously asserting that ... abuses and oppressions were permitted by that Government *until* they were exposed in the above Newspaper ... [emphasis mine].<sup>110</sup>

Rawdon-Hastings’ liberalism has been used to explain why Buckingham could offend repeatedly but the denouement of cases shows patterns of intervention continuing from previous decades. Underlining the long-term anxiety with using legal action to penalize libellous or intractable

<sup>105</sup> Attack on Governor Elliott, pp. 63–92, IOR.H/532, BL, esp. pp. 65–67, 83–87.

<sup>106</sup> Charges against Madras government for obstructing circulation of *CJ*, pp. 93–148, IOR.H/532, BL.

<sup>107</sup> Merit and interest: pay of Madras troops, pp. 149–90, IOR.H/532, BL, esp. pp. 151–57. The bishop was accused ‘of encouraging and upholding the clergy’ in neglecting their duties and of giving chaplains ‘perfect liberty on every idle pretence’ to leave their flock untended. Circulation post-free of the infamous prospectus and complaint of the bishop, pp. 191–284, IOR.H/532, BL, esp. pp. 217–27.

<sup>108</sup> Articles calculated to obstruct injustice, pp. 285–366, IOR.H/532, BL, esp. Extract Public Letter from Bengal, 1 January 1822.

<sup>109</sup> Publication of extracts from Sir John Malcolm’s report on Malwa, pp. 353–68, IOR.H/532, BL; Article in *CJ*, signed ‘A Military Friend’ (Lieut.-Col. W. Robison), pp. 369–438, IOR.H/532, BL.

<sup>110</sup> Article in *CJ*, signed ‘A Military Friend’, pp. 383–87.

editors the advocate-general discouraged legal proceedings in the Elliot case, explaining that a failed prosecution would entail ‘many ill consequences’.<sup>111</sup> He worried that the ‘libellous imputation’ of the offending text could not be proved without reading it in context. However, he was even more anxious that prosecuting for libel would engender ‘the agitation of the topics alluded to in the publication’. Believing that even a conviction would not counterbalance the public scrutiny of government that would ensue, he warned against ‘the disadvantages of renewing here and elsewhere the discussion of them in such a case’.<sup>112</sup> His reasoning was almost identical to that which had been stated in Humphreys’ case in 1794.

Further, appearances remained crucial in Buckingham escaping with just official censure. Unlike in Humphreys’ case, where deportation replaced legal action, here the government did not immediately use its ‘extreme powers’ to rescind Buckingham’s licence. However, the anxiety about appearing despotic is underscored in the advocate-general’s argument that the 1818 regulation was an executive order that lacked legal teeth. Thus,

enforcing obedience to the Orders of the Censor might be represented as despotic, or at least the charge of despotic principles might be palliated to a Jury as the exercise of a *power not legal* [emphasis in original].<sup>113</sup>

Wary of this imputation, Rawdon-Hastings’ government retreated, stating that exercising ‘such an unusual degree of rigor upon the *first* transgression which occurred after the previous Censorship had been relinquished would have appeared an act of unprecedented severity’ [emphasis mine].<sup>114</sup> However, this was not Buckingham’s first transgression. When censuring Buckingham, the Bengal government had stressed its prior lenience, pointing out that:

[T]his is not the only instance in which the *Calcutta Journal* has contained publications at variance with the spirit of the instructions above referred to.<sup>115</sup>

<sup>111</sup> Attack on Governor Elliott, Letter from advocate-general (R. Spankie), to chief secretary (W. B. Bayley), 31 May 1819, pp. 73–82.

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*

<sup>114</sup> Attack on Governor Elliott, Extract Public Letter from Bengal, 5 August 1819, pp. 65–67.

<sup>115</sup> Letter from Chief Secretary (W.B. Bayley), to Mr Buckingham, 18 June 1819, pp. 83–87, IOR.H/532, BL; Edmonstone, Report on the freedom of the press in India.

Much like the editors in the period between 1799 and 1817 who had violated censorship rules, often repeatedly, Buckingham expressed ‘contrition’ and ‘pledged’ not to reoffend.

This dueling anxiety about eschewing long drawn-out legal proceedings, while also avoiding the appearance of arbitrary power, is visible in official reactions to Buckingham’s other transgressions. Though Rawdon-Hastings’ 1818 regulation had not been introduced in Madras, Buckingham referred to a public speech that had taken place there in July 1819 (exactly when he was being censured for the attack on Elliott) to argue that the governor-general had publicly abrogated restrictions even on the Madras press. He based his claim on the fact that in the speech, the governor-general had dilated on the ‘advantages of a free press’ as well ‘the credit’ that this reflected upon a ‘liberal government’, one that had ‘nothing to disguise’.<sup>116</sup> Describing a free press as the ‘*most* powerful instrument that can appertain to *sovereign* rule’, he concluded that this distinguished England from ‘tyrant-ridden France’ (emphases mine).<sup>117</sup> Buckingham contended that since the governor-general had accepted praise for conferring ‘a boon on his fellow subjects here’, so the press in India was now subject only to those laws that regulated it in Britain; further, that British administrators in India had no more power except as the executive of British laws in India.<sup>118</sup> Despite previous warnings, Buckingham was only asked to apologize for his ‘disrespectful animadversions’.<sup>119</sup> Possibly trapped by the contradictions of his public pronouncements and his actual policy, Rawdon-Hastings preferred to conclude that Buckingham had ‘no real intent’ of offering disrespect

<sup>116</sup> Evidence of Charles Lushington, pp. 131–32, in Minutes of evidence presented before the select committee on the *Calcutta Journal*, 1 to 31 July 1834 (printed), included in Proceeding of the select committee of the House of Commons on the *Calcutta Journal*, pp. 619–825, IOR.H/536, BL. Buckingham also argued that he saw, even in government gazettes, ‘a constant violation of those instructions for the press that he was being chastened for violating’. Charges against Madras government for obstructing circulation of *CJ*, Buckingham to chief secretary (Bayley), 22 January 1820, pp. 104–132, 105–7.

<sup>117</sup> Address to Marquis of Hastings from principal inhabitants of Madras, 24 July 1819, and answer of the Marquis, pp. 5–8, IOR.H/538, BL.

<sup>118</sup> Charges against Madras government for obstructing circulation of *CJ*, Buckingham to chief secretary (Bayley), 22 January 1820.

<sup>119</sup> Charges against Madras government for obstructing circulation of *CJ*, Letter from chief secretary (Bayley), to Buckingham, 27 January 1820, pp. 139–47.

(similar to the lifeline offered to Samuel Bryce earlier).<sup>120</sup> This time, the individual censure was accompanied by the threat that such a lack of editorial discretion might revive censorship on the Calcutta press.

Buckingham's publication (on 6 November 1820) of the letter by Emulus, 'vilifying the Government and tending to excite dissent in the army', finally compelled government to proceed against him by criminal information but the charge was changed to 'seditious intent'.<sup>121</sup> Buckingham's protestations that he did not share the writer's views did not deter government; however, the prosecution did not deter Buckingham either. In fact, he now argued that the very fact that he was being proceeded against in the Supreme Court confirmed his opinion that only law—and not executive regulation—could be 'the chief guardian against any future abuses of the Press'. This was how he defended his decision to publish an anonymous letter that allegedly libelled the 'public character' of the Bishop of Calcutta, a charge in which he implicated government by accusing it of 'culpable inattention'.<sup>122</sup> He escaped with a warning but responded by insisting that freedom of opinion was *now* in a more 'perilous' and 'uncertain' state than it had been under formal censorship.<sup>123</sup> This was the same conclusion voiced by the British administrator John Malcolm, who argued that, in shifting responsibility from the censor to the author or editor, Rawdon-Hastings' 1818 regulation had actually 'imposed in a stronger degree the restrictions which were already in force' under formal censorship.<sup>124</sup>

Buckingham would be accused of more violations, including a personal attack on Rawdon-Hastings, before his licence was revoked in 1823 and he was ordered to quit India—like Humphreys and Duane previously. The *CJ* would, however, continue. Having realized *how* government was using its executive power, journalists adapted. The *CJ*'s new editor was a certain Mr Sandys who, having been born in India, counted as

<sup>120</sup> John Adams, a member of Council, who would succeed Rawdon-Hastings as governor-general, dissented from this 'indulgent construction'. Edmonstone, Report on the freedom of the press in India, p. 40.

<sup>121</sup> Article in *CJ*, signed 'A Military Friend', Extract Bengal Public Cons., 17 November 1790, pp. 159–64, IOR.H/532, BL, esp. correspondence between advocate-general (R. Spankie) and chief secretary, 10, 11, and 13 November 1820.

<sup>122</sup> Circulation post-free, pp. 191–284, esp. Extract Bengal Public Cons., 27 July 1821, pp. 241–84, esp. pp. 255–56.

<sup>123</sup> Circulation post-free, Extract Bengal Public Cons., 27 July 1821; and Extract Public Letter from Bengal, 1 October 1821, pp. 193–209.

<sup>124</sup> Barns, *Indian press*, p. 91. Malcolm had served under Wellesley.



‘native’ and could not be deported.<sup>125</sup> Sandys would be ‘assisted’ by two Englishmen, Sanford Arnot and James Sutherland, who had the right to veto any material from being published.<sup>126</sup>

Buckingham’s insistence on his right to publicly scrutinize governance and comment critically on the policies and actions of its functionaries has been explained through his fundamental commitment to press freedom; similarly, his nine lives have been explained through Rawdon-Hastings’ liberality.<sup>127</sup> Neither biographical characterization needs to be discounted, but the arguments and actions presented by both visibly follow long-term patterns of transactions between press and government, established over the last several decades. Thus, Buckingham’s language repeatedly invoked Hastings’ own assertion that a sovereign (rather than despotic) government had nothing to disguise. In contrast, official discussions suggested that Buckingham’s provocative editorial choices were driven by his desire to increase circulation (and profit) or to intervene (like other members of the English-language press in India) in the political battles over reform and radicalism occurring in England at the time.<sup>128</sup> Whatever interpretation one puts on this, Buckingham’s constant reference to the rights of a free press must be paired with his profuse apologies and his claim that it ‘pain[ed]’ him to have ‘*unintentionally* given such grave and serious offence’ to a government that he wanted to ‘honor, respect, and obey’ (emphasis mine).<sup>129</sup>

As for Rawdon-Hastings, the governor-general eventually found himself at odds with members of his own council over Buckingham: in June 1822 he rejected their suggestion that Buckingham’s licence be revoked.<sup>130</sup> Although it is tempting to read this as a straightforward conflict between Rawdon-Hastings’ liberality and the conservatism of other members of his council, administrators like Charles Lushington paint a more complex picture.<sup>131</sup> Lushington pointed out that even as he was endorsing press freedom in his 1819 address in Madras, Rawdon-

<sup>125</sup> *Ibid.*, pp. 109–10.

<sup>126</sup> *Ibid.*, p. 110.

<sup>127</sup> Cassel, *Social legislation of the East India company*; Little, *Transoceanic radical*.

<sup>128</sup> Suggesting that *CJ* was a tool of the ‘perverse spirit’ of those in Calcutta who dissented from the conservatism of Robert Jenkinson (English prime minister, 1812–27). Articles calculated to obstruct injustice, pp. 285–352, IOR.H/532, BL.

<sup>129</sup> Circulation post-free, Extract Bengal Public Cons, 27 July 1821.

<sup>130</sup> Article in *CJ*, signed ‘A Military Friend’: Governor General’s note, 1 June 1822, Fort William, pp. 411–18.

<sup>131</sup> Ahuja sees the conflict as representing the council’s support for Wellesley’s rather than Rawdon-Hastings’ policy. Ahuja, *History of Indian press*, p. 11

Hastings was simultaneously ‘authorizing ... remonstrances and threats’ against Buckingham.<sup>132</sup> He saw the governor-general’s actions as stemming from the fundamental contradiction of his position: he ‘felt committed’ to his public utterances on press freedom and, thus, ‘though he *acknowledged the necessity of curbing and coercing* the Editor of the *Calcutta Journal* to the very utmost, yet he was in a dilemma...’ [emphasis mine].<sup>133</sup>

Thus Buckingham’s truculence and Rawdon-Hastings’ liberality stemmed from a familiar tension: an official preoccupation with publicly establishing the government’s authority as legitimate—which necessitated government being open to public scrutiny by the press—combined with the anxiety that any such public critique would undermine the authority being sought. And the journalists involved were well versed with the intensity of this anxiety. Thus, when a livid John Adams insisted that Buckingham’s licence be revoked, Rawdon-Hastings retorted that it was he as governor-general who had to answer for ‘*procedure*’ and doing so was ‘not so ... *clearly* just as it may appear on a Cursory glance’ (emphasis mine).<sup>134</sup>

## Conclusion

As the period drew to a close, Thomas Munro, the governor of Fort St George, summed up the structural dilemma rather unequivocally: in an official memorandum of 1822, he concluded that a ‘Free Press and the dominion of strangers, are things which are quite incompatible, and which cannot long exist together’.<sup>135</sup> He believed that if they were allowed to publicly critique government, newspapers would ‘undermine among the Natives all respect for the European character and authority’, generate ‘insubordination, insurrection, and anarchy’, and precipitate the fall of British dominion in India. As Burton Stein has

<sup>132</sup> Evidence of Charles Lushington, pp. 131–32, in Minutes of evidence. Even Leicester Stanhope, who eulogized Rawdon-Hastings, acknowledged that he had ‘threatened’ Buckingham over the latter’s ‘sharp sarcasms’ on the Bishop of Calcutta. L. Stanhope, *Sketch of the history and influence of the press in British India* (London: C. Chapel, Royal Library, Pall Mall, 1823), p. 2.

<sup>133</sup> Evidence of Charles Lushington, pp. 131–32, in Minutes of evidence.

<sup>134</sup> Public Letter from Bengal, 17 October 1822, including Minutes relative to the press, European and Native, pp. 527–55, IOR.H/532, BL. Also Article in *C7*, signed ‘A Military Friend’, Governor General’s note, Fort William, 1 June 1822.

<sup>135</sup> Minute by Thomas Munro, 12 April 1822, pp. 297–325, IOR.H/539, BL.

argued, Munro was no caricature despot.<sup>136</sup> Instead, his argument demonstrates how the struggles of the past decades—where colonial officials used executive orders to proscribe public scrutiny of government, while simultaneously insisting that their actions did not illustrate arbitrary power—had begun to engender strategic shifts in the nature of press regulation. Journalists had obviously discerned this vulnerability. However, they also recognized the state's extensive executive power over their professional life, most critically its legal right to control whether, as non-Indians, they could live and work in India. In the ensuing thrust and parry, journalists who violated executive regulations repeatedly faced official censure; they, in turn, ritually assuaged the state's authority through profuse apologies, while continuing to insist that a free press was a necessary imprimatur of legitimacy for a sovereign power. Some who continued to push the envelope eventually faced deportation but, often enough, the formal offence that they were charged with was either a lack or abuse of their right to domicile and not what had been printed under their auspices.

Realizing this indirect form of penalty, newspapers began including Indian-born (usually Anglo-Indian) persons who could not be 'sent back' to Europe as the owner or editor of record. Prior to Mr Sandys, who took over the *CJ*, there was the case of Mr Heatly, sole proprietor of the *Morning Post* (Calcutta), who in 1818 resisted the censor's attempts to expunge material from the newspaper. He persisted in publishing such material, pointing out that as he had been born in Bengal of a British father and Indian mother, the government could not penalize him by deporting him as they could European editors.<sup>137</sup> Meanwhile, recognizing such strategic circumventions, while continuing to be anxious about how to make a colonial state appear legitimate, British officials shifted towards arguments of colonial *difference*: that, unlike in England, responsible government required not a free press but close regulation of the press. Thus, the 1823 registration law—which required all presses to be officially licensed, the privilege to be revoked virtually at will—unshackled the state from many of the constraints that had limited executive action in the preceding period.

<sup>136</sup> Instead, that Munro had a vision of imperial governance in which knowledgeable and sympathetic 'pro-consul'-type administrators would remain at the helm until some undefined future when Indians would—theoretically—govern themselves. Burton Stein, *Thomas Munro: the origins of the imperial state and his vision of empire* (New York: Oxford University Press, 1989).

<sup>137</sup> Barns, *Indian press*, p. 89.

The mechanisms of control that we see between 1780 and 1822 had been executive regulations whose legal authority had been at issue; in contrast, the 1823 order was vested with legal authority (laid before the Supreme Court and promulgated under the authority of the Acts of 13<sup>th</sup> Geo. III. Cap. 63, sec. 36, and 40<sup>th</sup> Geo. III).<sup>138</sup> Secondly, its licensing provisions—anyone aspiring to print or publish a newspaper or periodical (along with other printed material) had to apply for an official licence, one that government could grant or deny—shifted focus away from the question of censorship per se, and thus from the foundational policy struggle that had defined and deadlocked government in the previous decades. Now, all material (save certain commercial items) printed in a press had to be ‘printed and published under licence’ and signed off on by the chief secretary.<sup>139</sup> Most importantly, the governor-general could invalidate any previously held licence, either by calling for a fresh application whenever deemed ‘expedient’ or by resuming or recalling one previously granted. Third, the changed punishment also reflected the practical lessons learned during the previous decades. Control over granting and revoking licences, combined with monetary fines, imprisonment, or else confiscation of the press itself for any violations of licensing regulations were punitive measures unaffected by demographics: now it did not matter whether the proprietor, printer, or editor was Indian, Anglo-Indian, or European.<sup>140</sup> Instead, the use of such executive power was now justified through arguments about the particular—and peculiar—needs of colonial governance. As newspapers in Indian languages began proliferating after the 1820s, this set the stage for a different set of discussions, challenges, and negotiations.<sup>141</sup>

<sup>138</sup> Ibid., p. 115; Natarajan, *History of Indian journalism*, pp. 26–27. Similar regulations were made in Bombay in 1825 and 1827; Basu, *Law of the press in India*, p. 249.

<sup>139</sup> Except ‘shipping intelligence, advertisements of sales, current prices of commodities, rates of exchange, or other intelligence solely of a commercial nature’. Every application required ‘the name or names of the printer and publisher of the proprietors, their place of residence, the location of the press and the title of the newspaper, magazine, register, pamphlet, or other printed book or paper’. Any change required a fresh application for a licence. Natarajan, *History of Indian journalism*, pp. 26–27.

<sup>140</sup> Ibid.

<sup>141</sup> One of the earliest challenges was Ram Mohun Roy’s representation to the Supreme Court referencing the *Mir’at’l-Akhbar* (est. 1822; in Persian), followed by that of Govind Chunder Gour and Anundo Gopal Mookerjia on behalf of the *Sambad Kaumudi*. (est. 1820; in Bengali). Ahuja, *History of Indian press*, pp. 8–9; Natarajan, *History of Indian journalism*, pp. 26–27.