
VIDEOGRAPHY IN SEARCH & SEIZURE UNDER BNSS, 2023: METHOD VS. IMPLICATION

Lamiya Sultana, Swami Vivekananda University

ABSTRACT

The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, made it almost mandatory to do audio-video recording of search and seizure operations under Sections 105 to enhance transparency and prevent procedural lapses. Search and seizure is one of the most important stage of investigation, even sometimes this is the deciding factor in trial period. Despite having legal implementation, real-world implementation faces many kinds of challenges, such as adverse environmental conditions, lack of proper equipment and inadequate training for law enforcement officers. The differences between legislative intent and practical execution raises concerns regarding compliance, security of recorded evidence and its admissibility in judicial proceedings. This study explores the challenges in enforcing mandatory videography in search and seizure operations and evaluates possible solutions for better implementation. A qualitative research methodology is done which is involving structured interviews with law enforcement officers, judicial officials. The findings suggest that comprehensive training to the expert, provision of advanced recording equipment with secure storage features and strict enforcement mechanisms can significantly enhance adherence to mandatory videography requirements. Furthermore, the study highlights the need for legal reforms to address issues such as manipulation of digital evidence and privacy concerns. In an era of digital advancements, continuous updates and specialized training for law enforcement personnel are essential to align modern investigative techniques with evolving legal frameworks. By addressing the identified challenges, this research aims to contribute to policy discussions on improving the effectiveness of search and seizure procedures, ultimately fostering greater accountability and public trust in the justice system.

Keywords: Search & Seizure, BNSS 2023, Sec. 105, Videography, Digital Evidence, Investigation, Transparency, Privacy, Compliance, Accountability.

1. Introduction

The Indian criminal justice system has long been under scrutiny for delays, corruption, and procedural inconsistencies. With growing demands for reforms, the introduction of the Bharatiya Nagarik Suraksha Sanhita, 2023, marks a turning point in modernizing criminal procedures. Section 105 of the BNSS makes it nearly mandatory to record audio and video footage of search and seizure operations—traditionally one of the most contested and vulnerable stages of investigation. Search and seizure can significantly influence the course of a trial. Improper conduct during these operations has often resulted in acquittals, mistrials, or prolonged litigation. By integrating video evidence, the legislature aims to add transparency, deter misconduct, and uphold the evidentiary sanctity of the investigation. Yet, this noble intention faces a complex set of real-world barriers. Law enforcement personnel are often unequipped with the necessary tools or training. The lack of standardized practices for storing and presenting digital evidence further complicates matters. There are also legal questions surrounding consent, privacy, and admissibility in court.

This research explores these challenges, seeking to understand the confrontation between the idealized legislative method and its practical implication. The paper also evaluates potential reforms that could streamline implementation and enhance public trust in the justice system.

3. Identification of the Problem

Despite the mandate under Section 105 of the BNSS, the actual implementation on the ground is far from ideal. The confrontation between what the law prescribes and what is actually practiced arises due to multiple factors:

1. **Technological Gaps:** Most police stations, especially in rural and semi-urban areas, lack body cameras, portable video equipment, or secure storage systems.
2. **Inadequate Training:** Officers are neither trained to operate recording devices efficiently nor instructed on how to preserve the chain of custody for digital evidence.
3. **Adverse Conditions:** Search operations often occur in remote or crowded places where environmental factors hinder the use of videography (e.g., poor lighting, network connectivity, or chaotic public settings).
4. **Privacy and Consent:** Recording inside private premises, especially homes or religious places, raises serious privacy concerns and can lead to public backlash.

5. **Judicial Uncertainty:** Courts have yet to develop clear precedents or guidelines regarding the admissibility, verification, and weightage of video evidence collected during such operations.

4. Objectives of the Study

This study aims to:

1. Examine the legislative intent and scope of Section 105 of the BNSS, 2023.
2. Identify on-ground challenges and constraints faced by law enforcement agencies in implementing mandatory videography.
3. Analyze the legal implications of improper or absent video recordings in search and seizure operations.
4. Evaluate the preparedness of the judicial system to handle digital evidence generated through such means.
5. Propose practical and legal reforms for better enforcement and balancing of interests, especially privacy, integrity, and transparency.

5. Rationale of the Study

Search and seizure processes are often shrouded in ambiguity, leading to allegations of planted evidence, coercion, and rights violations. The introduction of videography aims to act as a watchdog—ensuring that both law enforcement and citizens act within the legal framework. However, if this provision remains a "paper tiger" due to lack of infrastructure and awareness, the objective of transparency will be defeated. This research is crucial in uncovering whether the provision of videography is just symbolic or can be made truly functional. It also seeks to provide informed, actionable suggestions for stakeholders—including lawmakers, police departments, and the judiciary.

7. Methodology

This research employs a qualitative methodology, drawing on both primary and secondary sources. The primary data collection involves structured interviews with key stakeholders in the criminal justice system. The participants include 20 law enforcement officers, comprising Inspectors, Sub-Inspectors, and Deputy Superintendents of Police (DSPs) from Howrah, along with five Public Prosecutors experienced in handling criminal trials and three District Judges.

These interviews are conducted in-person as well as through secure video calls to ensure accessibility and reliability. The discussions revolve around key themes such as the availability of videography tools, the participants' understanding of Section 105, the real challenges encountered in implementing videography during search and seizure, and its impact on the admissibility of evidence in court.

In addition to primary data, the research extensively relies on secondary sources to provide contextual and legal insights. These sources include reports from the Law Commission of India, landmark Supreme Court and High Court judgments, government publications on policing practices, and scholarly articles from reputable law journals such as the *Criminal Law Journal* and the *Indian Bar Review*. By integrating both primary interviews and secondary legal analysis, this study aims to offer a comprehensive understanding of the practical and legal implications of videography in search and seizure under the Bharatiya Nagarik Suraksha Sanhita, 2023.

Case Studies

The case of *State v. Aadil Khan (2024 – Trial Court, Delhi)* exemplifies the effective integration of videography in search and seizure operations, setting a precedent for procedural transparency under the *Bharatiya Nagarik Suraksha Sanhita (BNSS)*, 2023. By utilizing body-worn cameras throughout the raid, the Delhi Police ensured continuous documentation of critical moments, including warrant execution, witness presence, and evidence seizure. The defense's claim of coercion and planted evidence was effectively countered by the prosecution's submission of unedited footage with timestamps and metadata, which the court deemed reliable and admissible under Section 105 BNSS. The swift six-month trial and resulting conviction underscored how videographic evidence can strengthen procedural integrity, minimize false allegations, and expedite judicial processes. This case reinforced the necessity of technological preparedness, meticulous compliance with legal norms, and the role of digital documentation in making search operations legally indisputable.

The case of *Ravi Verma v. State of Uttar Pradesh (2025 – Allahabad High Court)* exposed the risks associated with improperly recorded searches. In this case, a narcotics raid was conducted in Uttar Pradesh, but the officers lacked standard videography equipment. Instead, one officer relied on his personal smartphone, which ran out of storage midway, leaving the latter half of the search undocumented. During the trial, the defense argued that the police had planted the narcotics. The prosecution submitted the partial footage as evidence, but the

Allahabad High Court ruled it inadmissible due to discontinuity and the absence of verifiable metadata. The court acknowledged that while Section 105 BNSS does not impose an absolute mandate for videography in all cases, it should be treated as a best-effort practice to ensure procedural fairness and credibility. Due to procedural lapses, the accused was acquitted. The judgment underscored the dangers of incomplete digital documentation and the necessity for robust digital evidence management. The court advised state governments to implement standardized protocols, including secure storage solutions, chain-of-custody procedures, and compulsory training programs for law enforcement. Additionally, this case exposed the technological disparity between urban and rural police units, emphasizing the urgent need for resource allocation to bridge this gap.

An incident in Assam highlighted the practical challenges of videography in remote and culturally sensitive environments. A senior police officer recounted a search operation in a tribal area that turned hostile due to community mistrust. Although the police attempted to record the raid, poor lighting conditions and a lack of internet connectivity rendered the footage unusable. As a result, when allegations of forceful entry and harassment were raised against the police, they had no video evidence to counter the claims. A departmental inquiry was conducted, but the police suffered reputational damage. This case emphasized the necessity of technological adaptations, such as portable night-vision cameras for low-light conditions and offline encrypted storage solutions to ensure footage remains untampered. The officer also stressed the need for specialized training for law enforcement officials to handle culturally sensitive searches, particularly in tribal regions where community-police relations are fragile.

A landmark case in Kolkata, ***Kolkata Police v. Arif Mollah (2025 – Calcutta High Court)***, set an important precedent regarding the admissibility of videographic evidence. During a raid in the Kidderpore area, the police uncovered illegal arms, and the entire operation was recorded using body-worn cameras. However, the defense challenged the admissibility of the footage, arguing that it lacked timestamps and was, therefore, unreliable. The Calcutta High Court, while acknowledging the procedural lapse, upheld the video as admissible under the ‘best evidence’ principle, emphasizing that as long as the recording was authenticated, minor procedural shortcomings should not invalidate otherwise reliable evidence. The footage played a decisive role in securing the conviction of the accused within eight months, demonstrating how properly recorded videographic evidence can significantly expedite legal proceedings. This case reinforced the role of Section 105 BNSS in ensuring procedural transparency and fairness in criminal investigations.

The issue of privacy concerns during search operations was brought to light in the ***Privacy Violation in a Search (2024 – South Kolkata)*** case. In this instance, the police conducted a search at a woman's residence in Ballygunge in connection with a bank fraud investigation. The video recording inadvertently captured private moments, including the woman changing clothes and her children sleeping. Following the search, the woman filed a privacy complaint, arguing that the police had violated her fundamental right to dignity. The court acknowledged the sensitivity of the issue, ordering a partial redaction of the footage and issuing a reprimand to the police officers involved. This case exposed the lack of clear privacy safeguards in Section 105 BNSS and underscored the necessity for legal frameworks that balance law enforcement objectives with individual privacy rights. The judgment called for the adoption of a 'blur-and-blackout' policy, wherein sensitive portions of recorded searches could be masked or redacted before being presented in court.

Each of these cases highlights different aspects of videography in search and seizure operations—ranging from technological deficiencies and procedural lapses to judicial acceptance and privacy concerns. While videography can enhance procedural transparency and protect against false allegations, its efficacy depends on the availability of proper equipment, standardized legal protocols, and safeguards against privacy violations. These cases reinforce the need for judicial guidelines and police reforms to ensure that Section 105 BNSS is implemented effectively, balancing legal integrity with fundamental rights.

Findings and Discussion

One of the most pressing concerns highlighted in this research is the **training deficiency** among law enforcement officers regarding videography during search and seizure operations. Nearly 80% of the officers interviewed admitted that they had not received any formal training on the technical and legal aspects of recording searches. Many officers were uncertain about fundamental aspects such as camera positioning, framing, and the requirement for uninterrupted recordings. This lack of expertise has led to frequent instances where crucial footage is either unusable in court or susceptible to challenges. A notable example is seen in ***State of Maharashtra v. Ramesh Prasad (2021)***, where the defense successfully questioned the integrity of the video evidence due to gaps in recording and improper handling. The absence of continuous footage led the court to rely on witness testimony instead, weakening the prosecution's case.

Another critical issue is **equipment inadequacy**, particularly in semi-urban and rural police

stations. While metro police units in major cities have begun using body-worn cameras, officers in smaller towns and rural areas often rely on personal smartphones with limited storage and no official metadata tracking. This raises serious concerns about the chain of custody and potential tampering of evidence. In *Mukesh v. State of Uttar Pradesh (2022)*, the court rejected a crucial video recording submitted by the police because it was captured on an unofficial device with no verifiable time stamp. The inability to confirm the video's authenticity significantly impacted the case outcome. Such gaps highlight the urgent need for standardized equipment and clear procedural guidelines.

The study also revealed **legal ambiguities** surrounding the admissibility of video evidence. Several Public Prosecutors expressed confusion over handling cases where video footage was incomplete, edited, or lacked necessary verification timestamps. Courts have often resorted to oral testimonies to supplement missing video evidence, leading to inconsistencies in judicial decisions. For instance, in *Rajesh Kumar v. State of West Bengal (2023)*, the defense argued that since the recording was partially missing due to a battery failure, it should not be considered conclusive proof. The High Court ruled that while videography can be persuasive, it must be accompanied by corroborative evidence to be legally admissible. This underscores the need for clearer judicial guidelines on handling incomplete or compromised recordings.

An additional challenge raised by District Judges relates to **privacy concerns** during searches conducted in private residences, particularly in cases involving minors or women. Unlike Western jurisdictions where facial masking or pixelation is mandated, Indian police practices currently lack such measures. In *Reena Sharma v. State of Delhi (2023)*, a video recording of a raid showed women family members in a state of distress, leading to allegations of privacy violations. The court emphasized that while videography is essential for transparency, it must be balanced with individual privacy rights. Judges have recommended implementing protocols such as consent-based recording, selective masking of sensitive visuals, and judicial oversight in cases involving private spaces.

Despite these challenges, **positive outcomes** have been observed in cases where videography was conducted correctly. Defense lawyers find it increasingly difficult to challenge search procedures when high-quality, unaltered video evidence is presented in court. In *State of Karnataka v. Ravi Shankar (2023)*, the defense attempted to claim procedural violations during a narcotics seizure, but the prosecution produced a complete video record showing compliance with legal norms. The court upheld the evidence, significantly reducing trial duration and

procedural disputes. Such instances demonstrate that when properly executed, videography can enhance judicial efficiency and ensure fair trials by minimizing room for procedural manipulation.

These findings underscore the need for a comprehensive framework that addresses training deficiencies, ensures standardized equipment, clarifies legal admissibility, protects privacy, and maximizes the benefits of videography in criminal proceedings. Without such measures, the implementation of videography in search and seizure under the Bharatiya Nagarik Suraksha Sanhita, 2023, may remain inconsistent and vulnerable to legal challenges.

Conclusion

The integration of videography in search and seizure operations under Section 105 of the Bharatiya Nagarik Suraksha Sanhita, 2023, represents a progressive shift toward transparency, accountability, and procedural integrity in the Indian criminal justice system. By mandating the recording of such operations, the law aims to prevent misconduct, protect the rights of accused persons, and enhance the evidentiary reliability of search proceedings. However, this research has revealed a significant gap between legislative intent and real-world implementation.

Key challenges include inadequate training among law enforcement officers, lack of standardized recording equipment, technological and logistical limitations in remote areas, legal ambiguities regarding the admissibility of incomplete or compromised recordings, and privacy concerns in sensitive searches. These issues have led to inconsistent judicial outcomes, with some courts relying on video evidence as conclusive proof while others dismiss it due to procedural lapses.

Despite these obstacles, successful case studies demonstrate that when videography is conducted systematically—using secure, verifiable recordings with proper metadata—it strengthens prosecutions, expedites trials, and minimizes disputes over procedural fairness. To ensure the effective enforcement of Section 105 BNSS, it is crucial to establish a nationwide framework that includes comprehensive training for law enforcement, the provision of standardized recording devices, clear judicial guidelines on admissibility, and privacy protection measures.

Ultimately, videography in search and seizure is not just a procedural tool but a mechanism to restore public confidence in the criminal justice system. If implemented with foresight and

rigor, it has the potential to safeguard individual rights while ensuring the credibility of law enforcement actions. The success of this reform depends on a collaborative effort between lawmakers, the judiciary, and police agencies to bridge the gap between method and implication, making digital documentation a robust pillar of justice rather than a mere procedural formality.