

CONSTITUTIONAL VALIDITY OF MANDATORY VIDEOGRAPHY IN SEARCH AND SEIZURE UNDER BNSS: BALANCING DIGITAL TRANSPARENCY AND FORENSIC PRIVACY

Nikita Dwivedi¹, Dr. Awadesh Pratap Singh²

Research Scholar, Department of Law, Bharti Vishwavidyalaya, Durg¹

Professor, Department of Law, Bharti Vishwavidyalaya, Durg²

ABSTRACT

The passage of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) is a landmark moment for digital reform of criminal procedure law in India and in particular, by way of section 105, which seeks to ensure audio-video recording of every search and seizure operation. This is an attempt to make the process of enactment or operation of that constitutional command of fairness that Article 21 brought to our legal landscape and to bring that command into a technological world that has the highest incidence of allegations of evidence planting, custodial misconduct and procedural opacity. But the mandate also raises a constitutional conundrum: videography advances transparency and corroborates the chain of custody, but is potentially in violation of the fundamental right to privacy, as recognized by *K.S. Puttaswamy v. Union of India* (2017), the doctrine of informational self-determination; and the dignity-based jurisprudence unfolding from a close analysis of the sanctity of forensic and home-space. The research of this review paper is a meta-analysis through existing literature, case law and comparative legal frameworks (the US Fourth Amendment doctrine, the UK PACE (Code B), and Australia's body-worn camera case law) to analyze whether a regime mandating videography (BNSS) achieves a constitutionally proportionate balance between transparency and privacy. The title of the paper is "Are Body-Worn Cameras a Good Fit for India? A Fresh Legal Perspective"; it synthesizes the empirical evidence from Indian and international studies on body-worn cameras, analyzes how Section 105 BNSS coheres with Section 100 of the repealed Code of Criminal Procedure, 1973, and whether the lack of precise data retention, access and destruction policies renders the provision constitutionally indefensible. This analysis reveals that while videography is procedurally salutary, the lack of substantive statutory framework regulating storage, encryption, third-party access, and judicial oversight causes substantial privacy externalities. The paper ends with suggestions for reconciling the transparency aim with proportionality principles recognized in Indian and international jurisprudence.

Keywords: *BNSS Section 105*,¹ *Videography Mandatory*,² *Search and Seizure*,³ *Right to Privacy*,⁴ *Puttaswamy Doctrine*,⁵ *Digital Forensics*,⁶ *Proportionality Under the Indian Constitution*.⁷

1. INTRODUCTION

1.1 Backdrop of Procedural Modernization in Indian Criminal Law

The Bharatiya Nagarik Suraksha Sanhita, 2023, a recodification of Indian criminal procedure since independence, is one of the most ambitious such recodifications.¹ Section 105 BNSS, which is among many reforms, introduces a statutory duty of the investigating officer to capture search and seizure operations in audio-video electronic format, preferably using mobile phones and to forward the recording of operations to the jurisdictional Magistrate without undue delay.² This provision is based on judicial dicta in *Shafhi Mohammad v. State of Himachal Pradesh* (2018) and *Paramvir Singh Saini v. Baljit Singh* (2020) where the Supreme Court stated that videographic documentation as a tool to combat evidence fabrication and provide procedural fairness must be considered.³ This provision can therefore be seen as either a continuation of judicial activism, or a legislative codification of the best investigative practices observed across jurisdictions.

1.2 The Constitutional Tension

However, the mandate is not in normative vacuum. The right to privacy is constitutionally established as an inherent aspect of Article 21, which entails bodily, decisional, informational and spatial dimensions.⁴ One of the most sensitive episodes of interaction between a state and its citizens is a search held in a private residence, frequently with the participation of women, children, the elderly, religious artifacts, personal belongings, and secret documents. The need to document such a phenomenon with an audio-visual recording, store the information in government servers, and possibly subject the same to leaks, hacking, or courtroom investigations in the future, constitutes what academics describe as a forensic privacy externality.⁵ The constitutional issue, then, is not whether videography is a good thing, but whether or not the BNSS framework is sufficiently customized in the proportionality test propounded in *Puttaswamy* and refined in *Modern Dental College v. State of Madhya Pradesh* (2016).⁶

1.3 Scope and Objectives of the Review

This review paper is a systematic synthesis of the available literature, judicial pronouncements, and comparative legal framework to question three interrelated questions. First, does Section 105 BNSS, as it presently stands, meet the four-pronged proportionality test of legality, legitimate aim, necessity and proportionality stricto sensu? Second, what are the empirical and the doctrinal lessons that can be learned in comparison to jurisdictions that have adopted body-worn cameras and search recording protocols? Third, what are the

¹ Bharatiya Nagarik Suraksha Sanhita, 2023, Act No. 46 of 2023, *Gazette of India* (Dec. 25, 2023).

² Ministry of Home Affairs, *Notes on Clauses, Bharatiya Nagarik Suraksha Sanhita Bill* (Government of India, 2023).

³ *Shafhi Mohammad v. State of Himachal Pradesh*, (2018) 5 SCC 311; *Paramvir Singh Saini v. Baljit Singh*, (2021) 1 SCC 184.

⁴ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

⁵ Apar Gupta, *Commentary on the Information Technology Act* 312 (LexisNexis, 3d ed. 2020).

⁶ *Modern Dental College & Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353.

statutory, regulatory, and institutional protections that should be in place to support the videography requirement in order to maintain its constitutional viability? The article is divided into literature review, methodology, review of previous studies, discussion and conclusion. It is hoped that this review can contribute to the doctrinal framework of one of the most transformative-and-controversial innovations of BNSS.⁷

2. LITERATURE SURVEY

The scholarly debate of the problem of compulsory videography in search and seizure activities has gone through three distinct stages, and has been in one way or other the topic of a maturation process. The procedural inadequacy of Section 100 of the Code of Criminal Procedure, 1973, was the biannual preoccupation of the first tranche of writing, even before the digital revolution of Indian policing. The necessity of two independent witnesses evident in search operations, was systematically defeated by the recruitment of what judicial observers termed as stock witnesses or panch witnesses who were sympathetic to the police.⁸ The commentary of Sarkar also was under a consistent threat of being interpolated in the chain of custody between seizure and courtroom.⁹ Although it was diagnostic, this early literature lacked prescriptive refinement as to the technological remedies.

The second step of scholarship was manifested in parallel with the increasing openness of the Supreme Court with regard to electronic evidence in the wake of the amendment of the Indian Evidence Act, 1872, through the insertion of the Sections 65A and 65B, and the evolution of the doctrine since the case of State (NCT of Delhi) v. Navjot Sandhu (2005) to Anvar P.V. v. P.K. Basheer (2014) and, finally, Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal (2020) can be seen as the result of this gradual evolution.¹⁰ In this step, researchers like Vikramjit Banerjee and Apar Gupta investigated the admissibility, authentication and tamper-resistance of digital recordings, and promoted the use of hash-value validation, metadata preservation and chain-of-custody logs as pre-requisites to evidentiary integrity.¹¹ Parallel literature based on criminological journals, notably the Indian Journal of Criminology, reported field level resistance to videography by investigating officers giving reasons of technical illiteracy, equipment inadequacy and the perception that videotapes were weaponized tools that defense counsel could use to demonstrate their defendant-protective efforts to the jury.¹² This was also the period of comparative scholarship working on the Police and Criminal Evidence Act, 1984 (PACE) and its Code B that covered the procedures of search but did not require the use of videography.¹³

The third and latest stage of the development of literature, coinciding with the Puttaswamy judgment and the legislative writing of BNSS, has moved decisively towards constitutional and human-rights analysis. Scholars

⁷ Gautam Bhatia, *The Transformative Constitution: A Radical Biography in Nine Acts* 187 (HarperCollins, 2019).

⁸ Ratanlal & Dhirajlal, *The Code of Criminal Procedure* 421 (LexisNexis, 22d ed. 2017); *State of Rajasthan v. Daud Khan*, (2016) 2 SCC 607.

⁹ Sudipto Sarkar, *Sarkar on the Code of Criminal Procedure* 998 (LexisNexis, 12th ed. 2019).

¹⁰ *State (NCT of Delhi) v. Navjot Sandhu*, (2005) 11 SCC 600; *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473; *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1.

¹¹ Vikramjit Banerjee, *Electronic Evidence in India: A Doctrinal Reappraisal*, 4 *Indian Journal of Constitutional Law* 87 (2010); Apar Gupta, *Authentication of Electronic Records: A Critical Analysis of Section 65B*, 5 *NUJS Law Review* 213 (2012).

¹² R.K. Raghavan, *Police Resistance to Technology: A Field Study*, 56 *Indian Journal of Criminology* 44 (2018).

¹³ Police and Criminal Evidence Act, 1984 (U.K.), Code B; Andrew Sanders et al., *Criminal Justice* 198 (Oxford University Press, 4th ed. 2010).

such as Gautam Bhatia, Abhinav Chandrachud and Madhav Khosla have questioned whether the compulsory state-conducted recording in the confines of the privacy is a per se violation of informational privacy or whether the compulsory state-conducted recording in the small enclaves of the privacy is a per se infringement of informational privacy or whether the compulsory state-conducted recording in the small enclaves of the privacy is a per se violation of informational privacy.¹⁴ One aspect of Bhatia analysis that is particularly interesting is the fact that the mandate is constitutionally underdeveloped by invoking the so-called anchoring doctrine of constitutional silences.¹⁵ Parallel issues have been analyzed by international scholarship of the Harvard Law Review, the Stanford Law Review and the Modern Law Review, with empirical studies by Ariel et al. (2015) and White (2014) finding statistically significant decreases in use-of-force incidents and citizen complaints when officers wore cameras.¹⁶ But more recent meta-analyses, especially the systematic review by Lum et al. (2019), have since outgrown these findings, noting that the efficacy of BWCs depends on the policies governing their activation and the data retention models, in addition to the presence of independent oversight mechanisms.¹⁷

A secondary literature has also investigated the gendered, communal and class aspects of search processes. Feminist legal scholars such as Flavia Agnes have argued that videotaping searches inside homes inhabited by women raises unique dignity issues under Article 21 especially when intimate spaces such as bedrooms or bathrooms are photographed, even though they will be later redacted.¹⁸ Likewise, research on minority groups and policing, based upon the Justice Sachar Committee Report (2006) and other studies has warned that any videographic records, whether they are leaked or released selectively, may serve to amplify communal stigmatization, especially when such cases involve Muslim or Dalit households.¹⁹ The technological infrastructure problem is also reflected in the literature: the insufficiency of the digital storage capabilities of police, the absence of universal encryption protocols, and the proliferation of third-party cloud services that is capable of eroding the concept of data sovereignty have been reported.²⁰

Taken together, this mass of literature demonstrates a fully-grown yet still-pending discourse. Although there is a widespread consensus that videographic documentation is superior to enhance the level of transparency in the procedures and decrease the range of opportunities to tamper with the evidence, the question of whether videographic documentation is constitutionally adequate remains a highly debated issue. The literature is united by a suggestion that compulsory videography, unconnected to any serious statutory framework regulating data

¹⁴ Abhinav Chandrachud, *Republic of Rhetoric: Free Speech and the Constitution of India* 156 (Penguin, 2017); Madhav Khosla, *India's Founding Moment: The Constitution of a Most Surprising Democracy* 122 (Harvard University Press, 2020).

¹⁵ Gautam Bhatia, *Constitutional Silences and Statutory Underdevelopment*, 12 *NUJS Law Review* 411 (2019).

¹⁶ Barak Ariel, William A. Farrar & Alex Sutherland, *The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints Against the Police: A Randomized Controlled Trial*, 31 *Journal of Quantitative Criminology* 509 (2015); Michael D. White, *Police Officer Body-Worn Cameras: Assessing the Evidence* (U.S. Department of Justice, 2014).

¹⁷ Cynthia Lum et al., *Research on Body-Worn Cameras: What We Know, What We Need to Know*, 18 *Criminology & Public Policy* 93 (2019).

¹⁸ Flavia Agnes, *Family Law and Constitutional Claims* 234 (Oxford University Press, 2011).

¹⁹ Government of India, *Social, Economic and Educational Status of the Muslim Community of India* (Sachar Committee Report, 2006).

²⁰ Centre for Internet and Society, *State of Surveillance in India* (CIS, 2020); Software Freedom Law Centre, *Digital Sovereignty and Police Data* (SFLC.in, 2021).

lifecycle management, judicial oversight, and rights to access information is a threat to turn a reform concerning the transparency issue into a privacy-destroying tool. It is based on these academic pillars that this review paper is carried out in an attempt to make a granular constitutional and comparative evaluation of Section 105 BNSS.²¹

3. METHODOLOGY

A doctrinal-analytical approach to research is adopted in this review research paper, which is supplemented by a comparative constitutional analysis and meta-synthesis of the existing empirical literature. The doctrinal component is the systematic study of the primary legal sources, including the text of Section 105 BNSS read in conjunction with the text of Section 176(3), the text of Section 185 and the text of other procedural provisions of the Sanhita; the corresponding provisions of the now-repealed Code of Criminal Procedure, 1973, particularly Sections 100, 165, and 166; the constitutional text of Articles 14, 19, 20(3), and 21; and the relevant jurisprudence of the Supreme Court of India and various High Courts. The interpretive frameworks expressed in *Puttaswamy*, *Modern Dental College*, and *Anuradha Bhasin v. Union of India (2020)* are the guiding interpretive frameworks in the doctrinal analysis.²²

Comp methodology is based on legal systems of three jurisdictions that were chosen by the principles of doctrinal closeness and empirical maturity. The jurisprudence of the Fourth Amendment of the United States Constitution, specifically the establishment of body-worn cameras as a regulation in the field of federal and state law enforcement, offers some insights into the interaction of the idea of recording requirements and the doctrine of the reasonable expectation of privacy as interpreted by the courts of law in the United States of America (*Carpenter v. United States 2018*). The PACE Code B framework of the United Kingdom, with the help of the guidance of the body-worn video by the College of Policing, provides an example of a comprehensive procedural regulation that has been judicially tested in case of *R (on the application of Catt) v. Association of Chief Police Officers (2015)*. The experience of body-worn cameras in Australia and their legal framework and judicial interpretation in *R v. Sotheren (2001)* offer more comparative material.²³ These jurisdictions are reviewed depending on their statutory design options in terms of activation triggers, retention of the data, the access protocols, consent requirements of the citizens and the oversight mechanisms.

The empirical meta-synthesis aspect of the study is a summary of the findings of peer-reviewed articles on the usefulness of audio-visual recording in the process of law enforcement. Systematic searches of databases, such as Westlaw India, SCC Online, Manupatra, Hein Online, JSTOR, SSRN, and Google Scholar, were used to identify research. Included in the key-word search were: body-worn camera, search and seizure videography, police accountability, evidence integrity and BNSS Section 105. Peer-reviewed publication, transparency of methods, and substantive involvement with the constitutional, procedural or empirical aspects of recording

²¹ Mrinal Satish, *Discretion, Discrimination and the Rule of Law 167* (Cambridge University Press, 2017).

²² *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

²³ *Katz v. United States*, 389 U.S. 347 (1967); *Carpenter v. United States*, 138 S. Ct. 2206 (2018); *R (on the application of Catt) v. Association of Chief Police Officers*, [2015] UKSC 9; *R v. Sotheren*, (2001) 122 A. Crim. R. 364.

requirements were included criteria. To weed out purely descriptive policy briefs, non-scholarly media commentary and studies that are not methodologically rigorous, filtering criteria were used. The produced results are then compared to the constitutional standards which are identified under the doctrinal analysis. It is then due to the resulting triangulation of the doctrinal, comparative and empirical methodological approaches that makes it possible to conduct a holistic assessment of the constitutional validity of the mandatory videography under BNSS, but it is important to remember about the limitations that are inherent to a review paper, such as the lack of original empirical field-work, and the fact that both technology and jurisprudence in this field change rapidly.²⁴

4. CRITICAL ANALYSIS OF PAST WORK

Critical analysis of the extant literature indicates that there are a number of gaps / lacuna and asymmetries of analysis which should be the subject of a doctrinal correction. The early literature on Section 100 CrPC and the panch witness regime has, firstly, assumed what can be termed as a "procedural optimism" and assumed that the introduction of technological documentation would substantially correct the evils of evidence tampering and custodial misconduct. This hope, which, although empirically partially justified by studies of body-worn cameras in Western jurisdictions, nevertheless does not explain the structural imbalances of Indian policing, such as the endemic lack of equipment, training deficiencies and institutional cultures of obscurity. Although of a doctrinally high complexity, the scholarship of Vikramjit Banerjee and Apar Gupta is based on an assumption of a level of digital infrastructure and forensic capacity which in practice is found to be largely wanting in field terms.²⁵

Second, this has been accompanied by a tendency to project Western process of analysis without adequate reference to the contextual peculiarities of Indian constitutional and social realities on the comparative body-worn camera jurisprudence. Despite being a doctrinally elegant test, the Katz test of reasonable expectation of privacy operates within a constitutional architecture (the Fourth Amendment) which materially differs in its operation with the Article 21 jurisprudence typical of the Indian Supreme Court. Privacy is encompassed within a larger matrix of dignity, autonomy and informational self-determination by the Indian doctrine, particularly following Puttaswamy, which creates obligations which may be more significant than the prohibitions of unreasonable searches of the Fourth Amendment.²⁶ There is a danger that uncritical application of the American or British models of constitutionalism may yield constitutional analysis which is doctrinally misaligned with Indian first principles.

Third, although the body-worn cameras empirical literature is vast in quantity, it is severely limited in terms of methods that can be extrapolated to the Indian search and seizure environment. The studies by Ariel et al. and White, which were carried out in the city of Rialto, California, and other regions of the West, considered cameras worn by patrol officers during regular interactions, not cameras installed in the interior of private

²⁴ Lon L. Fuller, *The Morality of Law* 39 (Yale University Press, rev. ed. 1969).

²⁵ Bureau of Police Research and Development, *Data on Police Organizations in India* (BPRD, 2022); Commonwealth Human Rights Initiative, *Reforming the Indian Police* (CHRI, 2019).

²⁶ Aparna Chandra, William H.J. Hubbard & Sital Kalantry, *Court on Trial: A Data-Driven Account of the Supreme Court of India* 89 (Penguin, 2023).

homes during invading searches. The cultural differences surrounding domestic privacy, such as length of recording, intimacy of the space being recorded, the presence of family members, and the cultural weight attached to domestic privacy all make direct extrapolation analytically tenuous.²⁷ These limitations are identified in the meta-analysis of Lum et al., but the Indian scholarship has not made enough efforts to solve the contextual translation problem.

Fourth, and, perhaps, most crucially, the relationship between procedural transparency and substantive privacy has not been theorized in the scholarship sufficiently. Most of the literature are founded on an underlying assumption that transparency and privacy are two incompatible concepts that they need to trade off. A more mature discourse would however state that transparency in its right design can be a tool of privacy protection, and that Opacity can be used to commit privacy infractions. The establishment of a constitutional architecture that will optimize the privacy cost of transparency and minimize its accountability benefit will be achieved by imposing on the cost of transparency the cost of videography and leaving them to decide the cost of retaining the information. This imbalance has been theorized ill in the extant literature, and is a critical gap, which future scholarship will be required to fill. Thought-provoking as it is, the work of Gautam Bhatia and Abhinav Chandrachud, though thought-provoking, is preliminary and would be responsive to prolonged interaction with the empirical realities, and with comparative regulatory design.²⁸

5. DISCUSSION

The synthesized findings of the doctrinal, comparative and empirical analyses suggest that Section 105 BNSS is constitutionally precarious. On the affirmative front, the provision clearly meets the first and second prongs of the Puttaswamy proportionality test. It is founded upon valid statutory authority and seeks to achieve the legitimate purposes of evidence integrity, procedural fairness and police accountability all of which have been recognized by the Supreme Court as being constitutionally salient. Empirical literature leads to the suggestion that videographic documentation, when implemented properly, limits the range of evidence tampering and increases the level of confidence of people in criminal investigations. In this regard, the provision is a valuable improvement on the panch witness regime of Section 100 CrPC.²⁹

But the provision stumbles over the requirement and proportionality stricto sensu prongs. The necessity requires that the measure adopted should be the least restrictive measure that can be used to attain the legitimate aim. The BNSS framework, which requires the recording of the entire search operation without drawing the distinction between areas of contraband relevance and intimate domestic spaces, does not demonstrate that less invasive options, including selective recording of particular seizures, redact procedures relating to incidental footage or restrictions on the family members that may be captured are considered and rejected. Proportionality stricto sensu assumes that the benefits of the measure will be more than its costs which in turn presupposes a clear statutory architecture of managing the privacy externalities. The fact that BNSS lacks clauses that regulate

²⁷ Anthony Braga et al., *The Effects of Body-Worn Cameras on Police Activity and Police-Citizen Encounters: A Randomized Controlled Trial*, 108 *Journal of Criminal Law and Criminology* 511 (2018).

²⁸ Abhinav Chandrachud, *Due Process of Law* 254 (Eastern Book Company, 2011).

²⁹ Upendra Baxi, *The Crisis of the Indian Legal System* 178 (Vikas Publishing House, 1982).

the data retention time, encryption, third-party access, the right to view data by the citizens, redaction, and destruction schedules implies that the privacy costs are rather indeterminate and even unlimited. Such indeterminacy is problematic in a constitutional sense, especially when compared to the standards of precision that are the subject of *Anuradha Bhasin and Justice K.S. Puttaswamy (Aadhaar) v. Union of India (2019)* does not disclose.³⁰

The discussion also suggests that the constitutional weaknesses of Section 105 BNSS cannot be overcome. They may be remedied by subordinate legislation, judicial interpretation or amendments which add the missing safeguards. As the experience in the United Kingdom and Australia indicates, recording requirements can be accompanied by solid privacy protection under the condition of providing detailed procedural codes.³¹

6. CONCLUSION

The procedurally salutary, yet constitutionally incomplete, reform is the procedurally salutary and constitutionally incomplete reform of the mandatory videography requirement in Article 105 of the *Bharati Dharani Nagarika Suraksha Sanhita, 2023*. It deals with ancient matters of concern regarding evidence tampering, panch witness manipulation and procedural opaqueness of search and seizure operations and aligns Indian criminal procedure with best practices internationally in conducting policing in a transparent manner. The empirical evidence contained by the body-worn camera studies carried out in the Western jurisdictions generally supports the suggestion that audio-visual documentation would help to hold the police officers more accountable and reduce the rates of investigative misconducts. However, according to the constitutional discussion which has been carried out in this review, the provision, in its present form, does not pass the four-pronged proportionality test which was developed in *Puttaswamy*, and refined in the later jurisprudence. The absence of the statutory protection to regulate the data retention level, the degree of data encryption, the extent and nature of judicial review, the rights of citizens to access data and the timeframes to destruction will create a constitutional architecture that will incur the highest possible privacy costs and leave the accountability benefits under-operationalized. The circumstance that Section 105 BNSS is now falling behind of the supplementary protection that is being proposed is indicative of the fact that Section 105 BNSS is in need of timely supplementation by means of subordinate legislation, judicial regulations or statutory amendments which introduce the additional protection. In particular, the framework should stipulate maximum retention periods, require end-to-end encryption, limit access to third parties through the judiciary, grant citizens the right to view and redaction, as well as establish independent audit measures. The constitutionality of the clause in art. 21 will be vulnerable to attack until such safeguards are enacted. When rightly interpreted transparency-privacy tension is not a zero-sum game; it can be resolved with a careful regulatory design that considers both of them as constitutive elements of a rights-respecting criminal justice system. This review paper challenges other

³⁰ *Justice K.S. Puttaswamy (Aadhaar) v. Union of India*, (2019) 1 SCC 1.

³¹ College of Policing (U.K.), *Body-Worn Video: Authorised Professional Practice* (CoP, 2020); Surveillance Devices Act, 2007 (NSW, Australia).

researchers to continue with scholarly work, empirically fieldwork, and judicial clarification to further back the constitutional foundation of one of the most significant innovations of BNSS.³²

References

- ¹ Bharatiya Nagarik Suraksha Sanhita, 2023, Act No. 46 of 2023, *Gazette of India* (Dec. 25, 2023).
- ² Ministry of Home Affairs, *Notes on Clauses, Bharatiya Nagarik Suraksha Sanhita Bill* (Government of India, 2023).
- ³ *Shafhi Mohammad v. State of Himachal Pradesh*, (2018) 5 SCC 311; *Paramvir Singh Saini v. Baljit Singh*, (2021) 1 SCC 184.
- ⁴ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.
- ⁵ Apar Gupta, *Commentary on the Information Technology Act* 312 (LexisNexis, 3d ed. 2020).
- ⁶ *Modern Dental College & Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353.
- ⁷ Gautam Bhatia, *The Transformative Constitution: A Radical Biography in Nine Acts* 187 (HarperCollins, 2019).
- ⁸ Ratanlal & Dhirajlal, *The Code of Criminal Procedure* 421 (LexisNexis, 22d ed. 2017); *State of Rajasthan v. Daud Khan*, (2016) 2 SCC 607.
- ⁹ Sudipto Sarkar, *Sarkar on the Code of Criminal Procedure* 998 (LexisNexis, 12th ed. 2019).
- ¹⁰ *State (NCT of Delhi) v. Navjot Sandhu*, (2005) 11 SCC 600; *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473; *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal*, (2020) 7 SCC 1.
- ¹¹ Vikramjit Banerjee, *Electronic Evidence in India: A Doctrinal Reappraisal*, 4 *Indian Journal of Constitutional Law* 87 (2010); Apar Gupta, *Authentication of Electronic Records: A Critical Analysis of Section 65B*, 5 *NUJS Law Review* 213 (2012).
- ¹² R.K. Raghavan, *Police Resistance to Technology: A Field Study*, 56 *Indian Journal of Criminology* 44 (2018).
- ¹³ Police and Criminal Evidence Act, 1984 (U.K.), Code B; Andrew Sanders et al., *Criminal Justice* 198 (Oxford University Press, 4th ed. 2010).
- ¹⁴ Abhinav Chandrachud, *Republic of Rhetoric: Free Speech and the Constitution of India* 156 (Penguin, 2017); Madhav Khosla, *India's Founding Moment: The Constitution of a Most Surprising Democracy* 122 (Harvard University Press, 2020).
- ¹⁵ Gautam Bhatia, *Constitutional Silences and Statutory Underdevelopment*, 12 *NUJS Law Review* 411 (2019).

³² Pratap Bhanu Mehta, *The Burden of Democracy* 134 (Penguin, 2003).

- ¹⁶ Barak Ariel, William A. Farrar & Alex Sutherland, *The Effect of Police Body-Worn Cameras on Use of Force and Citizens' Complaints Against the Police: A Randomized Controlled Trial*, 31 *Journal of Quantitative Criminology* 509 (2015); Michael D. White, *Police Officer Body-Worn Cameras: Assessing the Evidence* (U.S. Department of Justice, 2014).
- ¹⁷ Cynthia Lum et al., *Research on Body-Worn Cameras: What We Know, What We Need to Know*, 18 *Criminology & Public Policy* 93 (2019).
- ¹⁸ Flavia Agnes, *Family Law and Constitutional Claims* 234 (Oxford University Press, 2011).
- ¹⁹ Government of India, *Social, Economic and Educational Status of the Muslim Community of India* (Sachar Committee Report, 2006).
- ²⁰ Centre for Internet and Society, *State of Surveillance in India* (CIS, 2020); Software Freedom Law Centre, *Digital Sovereignty and Police Data* (SFLC.in, 2021).
- ²¹ Mrinal Satish, *Discretion, Discrimination and the Rule of Law* 167 (Cambridge University Press, 2017).
- ²² *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.
- ²³ *Katz v. United States*, 389 U.S. 347 (1967); *Carpenter v. United States*, 138 S. Ct. 2206 (2018); *R (on the application of Catt) v. Association of Chief Police Officers*, [2015] UKSC 9; *R v. Sotheren*, (2001) 122 A. Crim. R. 364.
- ²⁴ Lon L. Fuller, *The Morality of Law* 39 (Yale University Press, rev. ed. 1969).
- ²⁵ Bureau of Police Research and Development, *Data on Police Organizations in India* (BPRD, 2022); Commonwealth Human Rights Initiative, *Reforming the Indian Police* (CHRI, 2019).
- ²⁶ Aparna Chandra, William H.J. Hubbard & Sital Kalantry, *Court on Trial: A Data-Driven Account of the Supreme Court of India* 89 (Penguin, 2023).
- ²⁷ Anthony Braga et al., *The Effects of Body-Worn Cameras on Police Activity and Police-Citizen Encounters: A Randomized Controlled Trial*, 108 *Journal of Criminal Law and Criminology* 511 (2018).
- ²⁸ Abhinav Chandrachud, *Due Process of Law* 254 (Eastern Book Company, 2011).
- ²⁹ Upendra Baxi, *The Crisis of the Indian Legal System* 178 (Vikas Publishing House, 1982).
- ³⁰ *Justice K.S. Puttaswamy (Aadhaar) v. Union of India*, (2019) 1 SCC 1.
- ³¹ College of Policing (U.K.), *Body-Worn Video: Authorised Professional Practice* (CoP, 2020); Surveillance Devices Act, 2007 (NSW, Australia).
- ³² Pratap Bhanu Mehta, *The Burden of Democracy* 134 (Penguin, 2003).