ILLUSIONS OF SAFEGUARD: A CRITICAL APPRAISAL OF WARRANTLESS SEARCHES UNDER §185 BHARATIYA NAGRIK SURAKSHA SANHITA

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Abstract

This paper examines whether §185 of the Bharatiya Nagrik Suraksha Sanhita (BNSS) 2023, successor to §165 of the Code of Criminal Procedure, 1973 (CrPC), provides real accountability in warrantless searches or whether its safeguards remain largely illusory. While the provision seems to balance investigative necessity with the protection of individual liberty and privacy, the twofold safeguard distinguishing between conditions that 'shall be followed' and those applicable 'so far as may be', opens the door to circumvention. This weakness has also been reinforced by judicial interpretation, where even mandatory safeguards are treated as directory, where omissions have been excused on some general grounds of urgency or public unwillingness, and violations have been reduced to the status of mere irregularities. Courts have further prioritized evidentiary utility over procedural integrity, placing the burden on the accused to prove prejudice and thereby incentivizing unlawful shortcuts. Nonetheless, the supposed right to resist unlawful searches is similarly hollow since individuals cannot meaningfully verify compliance at the time of intrusion. Compounding this is the almost total absence of sanctioning mechanisms against police misconduct, with departmental remedies being rather ineffectual, as are criminal-level sanctions and institutional remedies. The paper argues that without reforms that shift the burden of justification to the police, provide for contemporaneous disclosure of reasons, maintain the inviolability of some safeguards, and enhance independent oversight, the accountability prescribed by §185 shall remain merely a symbolic one. In effect, warrantless searches risk becoming the norm rather than the exception, undermining liberty and privacy in the name of investigative convenience.

Keywords: *warrantless searches, criminal procedure, liberty perspective, accountability, procedural safeguards, judicial dilution, police misconduct.*

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I. INTRODUCTION

The power of the police to conduct searches without a warrant has long occupied a contested space between investigative necessity and the protection of individual rights. §185 of *the Bharatiya Nagarik Suraksha Sanhita, 2023* ('BNSS') [formerly §165 of *the Code of Criminal Procedure 1973 ('CrPC')*] embodies this tension by granting extraordinary authority to the police in urgent situations while seeking to limit arbitrariness through procedural safeguards.[1] These safeguards, in principle, aim to protect citizens from unlawful intrusion into their property, liberty, and privacy. Yet, the effectiveness of these safeguards remains doubtful. On that contention, this paper interrogates whether §185 BNSS meaningfully ensures accountability in warrantless searches, arguing that its protections may be more illusory than real.

This piece adopts a 'liberty perspective'.[2] The normative assumption made under the same is that the criminal process must function primarily as a restraint on state power and not as an instrument of it.[3] Such an orientation is drawn from the constitutional promise of life and personal liberty under Article 21 of the Constitution of India.[4] This approach treats procedural safeguards not as technical formalities but as substantive assurances that give effect to the rule of law.[5] Accordingly, a liberty-focused view of criminal procedure requires that exceptions to the warrant requirement be narrowly construed, strictly justified and subjected to accountability.[6]

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1 The Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS 2023), s 185; The Code of Criminal Procedure 1973 (CrPC 1973), s 165.

2 Aparna Chandra and Mrinal Satish, 'Criminal Law and the Constitution' in Sujit Choudhry, Madhav Khosla & Pratap Bhanu Mehta (eds), *The Oxford Handbook of the Indian Constitution* (Oxford University Press 2016).

3 *Constituent Assembly Debates*, vol 9 (Lok Sabha Secretariat 1986) 1498–519, 15 September 1949 (Thakur Das Bhargava, N Ahmad, HV Kamath); *Constituent Assembly Debates*, vol 7 (Lok Sabha Secretariat 1986) 851–57, 6 December 1948 (KM Munshi, ZH Lari); *Constituent Assembly Debates*, vol 9 (Lok Sabha Secretariat 1986) 1556, 16 September 1949 (BR Ambedkar).

5 The Constitution of India 1949 (Constitution), art 21.

6 *Constituent Assembly Debates*, vol 3 (Lok Sabha Secretariat 1986) 441, 29 April 1947 (Interim Report on Fundamental Rights).

Methodologically, this piece proceeds by a doctrinal and jurisprudential analysis. It focuses on the relevant Supreme Court ('SC') and High Court ('HC') decisions interpreting § 165 CrPC and, by extension, § 185 BNSS.[7] Mapping this, the piece unfolds in five parts, pointing towards judicial dilution of safeguards for warrantless search, an illusory remedy for illegal search, and the absence of an effective sanction mechanism.

First, it examines the statutory design of §185 BNSS, uncovering its twofold safeguard structure (Part II). Second, it shows how the twofold safeguards of §185 BNSS have been reduced to dispensable formalities, eroding the requirement of following them for a search not to be illegal (Part III). Third, it shows how the consequences of illegal search create a perverse incentive for police to disregard procedural safeguards of §185 BNSS (Part IV). Fourth, it shows how the absence of a meaningful sanctioning mechanism for illegal search ensures that breaches of §185 safeguards carry no real consequence, rendering safeguards symbolic (Part V). Finally, this piece concludes with policy considerations, arguing for reform, offering thought-provoking reflections on police accountability and the functioning of warrantless searches (Part VI).

II. STATUTORY FRAMEWORK OF §185 BNSS

§185 of the BNSS empowers the officer in charge of a police station or an investigating officer to conduct a warrantless search in cognizable offences.[8] However, such searches are confined to the limits of the station and subject to key safeguards.[9] These safeguards that shall be followed include: (i) reasonable grounds of necessity; (ii) urgency preventing undue delay; (iii) reasons recorded in a case diary specifying so far as possible the thing to be searched; (iv) electronic recording of the search preferably via mobile phone; (v) report to the Magistrate within 48 hours.[10]

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7 ibid.

8 While some decisions discussed arise from searches conducted under special statutes, this piece relies on them only insofar as courts in those cases interpret or apply safeguards derived from §165 CrPC. Particularly, the requirement of recorded necessity and procedural restraint. The analysis is thus confined to transferable doctrinal reasoning on warrantless searches, not to the special statutory schemes themselves.

9 BNSS 2023, s 185.

10 *Wazir Chand v The State of Himachal Pradesh* (1954) AIR SC 415 [8], [10].

In addition, §185(4) of this section also incorporates provisions from §103 of the BNSS which govern search warrants and procedures, applying 'so far as may be'.[11] These include: (i) facilitation of search and requirement for warrant production on demand; (ii) decency in personal searches, especially of women; (iii) presence of local independent witnesses; and (iv) search and seizure memo made in presence of and signed by witnesses and a copy of the list prepared delivered to the occupant; (v) occupant or representative must be allowed to attend the search.[12]

The distinction between safeguards that '*shall be followed*' and those applying '*so far as may be'* creates a twofold safeguard structure for warrantless searches. While one might argue that §103 safeguards fully extend to §185 unless inconsistent, courts have rejected such 'pen and ink' incorporation.[13] Instead, '*so far as may be'* has been read as requiring only general adherence, allowing deviation where necessary.[14] This suggests that §185 safeguards carry stricter force, while §103 safeguards operate with greater flexibility in search without a warrant.

Judicial interpretation of the same is a different issue, yet even at the level of legislative design, this distinction is problematic. Placing crucial protections, such as the presence of witnesses, on-the-spot preparation of seizure memo, the occupant's attendance, etc., within the flexible category permits circumvention of safeguards that are vital to preventing police misconduct and fabrication of evidence. While this critique arises from the text itself, the larger difficulty, as Parts III, IV & V show, lies in how judicial interpretation has further diluted these protections.

III. JUDICIAL DILUTION OF SAFEGUARDS

The safeguards under §185 BNSS cannot be viewed in isolation from Article 21 of the Constitution. As interpreted in *Maneka Gandhi v Union of India*, the phrase 'procedure established by law' demands that any procedure depriving a person of liberty must be fair, just, and reasonable.[15] The statutory safeguards provided by §185, which involve the demonstration of urgency, the recording of

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11 BNSS 2023, s 185.

12 ibid, s 185(4).

13 ibid, s 103.

14 *Partap Singh and Ors v Director of Enforcement, Foreign Exchange Regulation Act and Ors* (1985) AIR SC 989 [12]-[13].

15 ibid [12]; *Parshotam Dass v State* (1973) SCC OnLine Del 263 [18]-[20].

reasons at the same time, and prompt notification to a Magistrate, are a legal expression of the constitutional guarantee. Therefore, in case these protections are violated, the search resulting from it is not only irregular but also constitutionally invalid since the person has been deprived of liberty without being afforded a just or reasonable procedure, which is against Article 21, thus violating their rights.[16] This mixing of doctrines highlights that compliance with the law is not a mere administrative formality but rather the constitutional prerequisite for legality.

However, judicial interpretations of §185 BNSS have often deviated from this constitutional framework, revealing two significant issues. First, courts have departed from legislative intent by treating safeguards that are expressly mandatory and 'shall be followed' as merely directory, on par with §103 BNSS. This misreading weakens the preconditions for a lawful search, further raising the threshold for treating a search as illegal. Second, courts have further relaxed even the directory safeguards under §103 and §185 BNSS, treating compliance as optional and eroding the requirement of demonstrating genuine necessity before departing from statutory procedure. Together, this reasoning weakens not only the §185 mandatory safeguards but also dilutes §103 safeguards, meant to be directory. This reflects a 'public-order perspective' that prioritises enforcement over legislative intent and individual liberty.[17]

A. THE DEPARTURE

While non-compliance with mandatory provisions renders a search *per se* illegal, directory provisions may be relaxed in cases of urgency or impracticality, making the search merely irregular.[18] However, absent such justification, failure to comply renders the search illegal.[19] Moreover, from the very beginning, judicial interpretation of §185(4) BNSS has consistently treated the safeguards of §103 as directory rather than mandatory.[20] Courts have held that compliance of §103 BNSS safeguard under §185(4) BNSS must be attempted 'so far as it may be practicable', excusing deviations only when genuinely warranted by circumstances.[21]

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16 *Maneka Gandhi v Union of India* (1978) AIR SC 597.

17 Constitution, art 21.

18 Aparna Chandra and Mrinal Satish (n 2). The Court conceives the criminal process as a truth-seeking instrument serving public order, aimed at identifying and punishing the guilty rather than safeguarding the accused, thereby aligning procedural innovation with the pursuit of factual guilt.

19 *Parshotam Dass* (n 14) [19].

20 *State v Sant Prakash and Ors* (1976) Cri LJ 274 [19].]

21 *Saudan and another v State of Rajasthan* (2002) SCC OnLine Raj 241 [17]-[18], [24].

Nevertheless, contrary to the §103 BNSS safeguards, it is very clear from a bare reading that §185 BNSS safeguards 'shall be followed' and are mandatory.

Initially, this position was reinforced by judicial decisions. For instance, in *State of Rajasthan v Rehman* ('*Rehman*'),[22] the SC held that although the power to search derives from the statute, compliance with procedural safeguards (particularly the recording of reasons) is a necessary condition.[23] Consequently, ignoring these requirements renders the search in contravention of §185 BNSS.[24] HCs have reinforced this view: in *Public Prosecutor v Uttaravalli Nageswararao*, the Andhra Pradesh HC excluded evidence obtained in violation of §165 CrPC.[25] While in *State of Gujarat v Bai Radha* and *New Swadesi Mills v Rattan*, courts emphasised that recording reasons is a condition precedent indispensable to protecting citizens against arbitrary searches.[26]

However, this clarity was later diluted. In *Bai Radha v State of Gujarat* ('*Bai Radha*'), the SC interpreting *Rehman* reframed the safeguard, holding that even though power stems from the statute, omission to record reasons renders the search irregular, not illegal.[27] In effect, *Bai Radha* inverted *Rehman,* prioritising statutory power over procedural compliance. This reduced a mandatory safeguard to a matter that can be circumvented. This line of reasoning is also furthered in *Fedders Lloyd Corporation v Lakshminarayana Swami* ('*Fedders Lloyd Corporation*').[28] The Court, re-reading *Rehman* held that §165 safeguards are directory, and 'substantial compliance' suffices.[29] For the idea of substantial compliance, the court relied on *The Commissioner of Commercial Taxes and Ors v RS Jhaver* ('*The Commissioner of Commercial Taxes*') to hold that only total non-compliance renders a search illegal, while 'substantial compliance' suffices to maintain the legality of the search.[30]

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22 *Parshotam Dass* (n 14) [19].

23 *The State of Rajasthan v Rehman* (1960) AIR SC 210 [7]-[9].

24 ibid [7]-[8].

25 ibid [8].

26 *Public Prosecutor, Andhra Pradesh v Uttaravalli Nageswararao* (1965) AIR AP 176 [7].

27 *State of Gujarat v Bai Radha and Ors* (1968) 9 GLR 278 [11]-[12]; *The New Swadesi Mills of Ahmedabad Ltd v SK Rattan and Ors* (1968) 9 GLR 364 [8]; *Thakur Tanti v The State* (1964) AIR Pat 493 [10].

28 *Bai Radha* (n 26) [6].

29 *Fedders Lloyd Corporation (P) Ltd v BA Lakshminarayana Swami and Ors* (1969) AIR Delhi 26 [20]-[21].

30 ibid.

It is argued that in *Fedders Lloyd Corporation*, the Court misread *The Commissioner of Commercial Taxes*. The doctrine of substantial compliance in *The Commissioner of Commercial Taxes*, was only meant for the accommodation of minor lapses (e.g., hurried recording of reasons).[31] However, the Delhi HC in *Fedders Lloyd Corporation* extended/overstated the doctrine to include even serious omissions into the ambit of excusable defects, weakening mandatory safeguards.[32] It is further clarified that substantial compliance cannot justify bypassing safeguards that §185 BNSS declares 'shall be followed' and which the SC has treated as necessary conditions.[33] For instance, while urgency may justify hurried or imperfect recording of reasons, it cannot justify total omission.[34] Excusing such failures destroys their role as a safeguard for a lawful search.

The importance of this principle becomes even clearer when distinguishing between different types of cases. The judicial dilution has not been uniform across contexts. For example, in tax and economic offences, courts have often reflected a more relaxed approach to safeguards on grounds of public interest, urgency, and the need for surprise to prevent the destruction of evidence.[35] Conversely, in ordinary criminal cases or those concerning individual liberty, courts have treated procedural compliance as indispensable, emphasising more on statutory conditions to protect against arbitrary state action.[36] Moreover, in cases of heinous or security-related offences, courts have tended to invoke 'practical necessity' to excuse minor procedural deviations, though not total non-compliance.[37]

However, while these exceptions may be justified on a case-by-case basis, they must remain a narrow exception. What began as flexibility for specific circumstances has gradually evolved into a broader judicial tolerance for procedural deviation. By treating mandatory safeguards as merely directory or satisfied through 'substantial compliance', courts have blurred the distinction between illegality and irregularity. This shift does not reflect a guiding principle of interpretation but a structural relaxation that undermines the normative force of statutory preconditions,

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31 *The Commissioner of Commercial Taxes and Ors v RS Jhaver and Ors* (1968) AIR SC 59 [21].

32 ibid [21]-[23].

33 *Fedders Lloyd Corporation* (n 28) [20]-[21].

34 *Rehman* (n 22) [7]-[9].

35 *The Commissioner of Commercial Taxes* (n 30) [21].

36 ibid; *Fedders Lloyd Corporation* (n 28) [20]-[21].

37 *Rehman* (n 22) [7]-[9]; *The New Swadesi Mills* (n 26) [8].

allowing exceptions to eclipse the rule itself and eventually transforming violation of statutory procedure into tolerable lapses. This not only undermines legislative intent but also weakens constitutional commitment to individual liberty under Article 21 of the Constitution, allowing executive convenience to override legality. Essentially, searches breaching the conditions that 'shall be followed' may still not be illegal.[38] Nonetheless, the deeper flaw in the reasoning lies in the assumption that treating safeguards as directory does not erode legislative intent.[39] At first glance, even the directory reading appears pragmatic, acknowledging the difficulties of following procedure in urgent investigations. However, the problem lies in the manner in which courts have further relaxed this interpretive approach.

B. PROBLEM WITH THE DIRECTORY READING

Directory provisions do not confer discretion to ignore the law but recognise practical flexibility within an obligation to comply.[40] The prerequisite to that flexibility is a demonstrable necessity justifying circumvention.[41] As held in *Jagdish Chandra Gupta v Union of India*, even directory provisions are 'intended to be obeyed' and cannot license deliberate violation.[42] This means that statutory commands, even when flexible, are designed to guide and discipline administrative power and not to legitimate its breach.

However, in the context of safeguards governing warrantless search, there has emerged a troubling judicial trend. Courts have conveniently eroded the requirement of necessity before departing from the directory provision. This trend includes the §185 BNSS safeguards, which the courts have treated as directory and relaxed even further, departing from the statutory procedure despite being framed in mandatory terms. It is argued that this relaxation undermines the liberty-protective purpose of such safeguards, reducing measures designed to protect individuals from arbitrary searches to peripheral formalities rather than substantive guarantees. This trend is manifest in three distinct but overlapping judicial tendencies.

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38 *Bai Radha* (n 26) [6].

39 ibid.

40 *Fedders Lloyd Corporation* (n 28) [20].

41 *Jagdish Chandra Gupta v Union of India* (1965) AIR P&H 129 [10]-[11].

42 *Parshotam Dass* (n 14) [19].

(i) Dilution of Illegality

First, courts frequently hold that violations of procedural safeguards affect only the *weight* of evidence, not the *legality* of the search itself. Under §103 BNSS, for instance, the absence of independent witnesses has often been characterised as a minor irregularity.[43] Similarly, under §185 BNSS, omission to record reasons is viewed as a defect that does not vitiate the search.[44] In *Sunder Singh v State of U.P.* ('*Sunder Singh*'), for instance, the absence of 'respectable inhabitants' as witnesses was deemed a minor omission that merely diminished evidentiary value.[45] Most recently, in *SNJ Breweries Pvt. Ltd. v. Principal Director of Income Tax*, the Madras HC described procedural norms as mere 'guidelines' and held that minor violations do not vitiate a search.[46]

This moves the focus away from the question of whether the deviation was because of a genuine necessity and relocates it to the evidentiary domain. The flaw is the inversion of priority. Instead, the inquiry should first address why the safeguard was not followed and whether the circumstances justified the departure. And it is only thereafter that evidentiary implications should be considered. By treating all breaches as a matter of evidentiary weight, the courts have effectively insulated investigative illegality from legal consequences. This transforms safeguards to determine the lawfulness of search into a *post facto* consideration of reliability, effectively diluting the normative force of the procedural legality that should be followed *ex ante*.

(ii) Acceptance of Convenience

Second, courts readily accept generalized justifications for non-compliance without demanding concrete or contemporaneous proof. In *Parshotam Dass v State* ('*Parshotam Dass*'), the Delhi HC excused the absence of independent witnesses on the police's claim that delay might have led to information leakage.[47] The court treated police justification for omission as sufficient without any requirement of any

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43 *Jagdish* (n 40); also followed in *Vipin V Rajan and Anr v Sub-Registrar (Marriage Officer)* (2007) AIR KER 264 [3]

44 *State of Madhya Pradesh through CBI, and Ors v Paltan Mallah and Ors* (2005) 3 SCC 169 [28]-[31],[33].

45 *Radhakishan v State of UP* (1963) AIR SC 822 [5]; *Pooran Mal v The Director of Inspection (Investigation) New Delhi and Ors* (1974) AIR SC 348 [25]-[26]; *Sant Prakash* (n 19) [19].

46 *Sunder Singh v State of UP* (1955) 2 SCC 438 [8], [11].

47 *SNJ Breweries Pvt Ltd v The Principal Director of Income Tax and Ors* (2024) 468 ITR 37 (Mad) [4.51].

contemporaneous record or evidence to verify.[48] Similarly, in *Manish Dixit v State of Rajasthan* ('*Manish Dixit*'), the SC accepted the prosecution's contention that no one agreed to act as a witness, citing general reluctance among citizens,[49] even though the search occurred in Connaught Place, a densely populated area. Such claims, however, are inherently unverifiable and rest entirely on police assertions.

The problem with this is that the police can repeatedly invoke unverifiable claims to bypass safeguards, leaving compliance to judicial discretion. This converts a procedural duty into narrative persuasion, where legality depends on rhetoric rather than proof. In some instances of special statutes, courts have adopted a stricter approach.[50] However, it remains episodic. Further, the source for such a strict position is not the absolute nature of safeguards but the problem of the credibility of the police in those specific situations.[51] In effect, this creates a self-validating regime of convenience over compliance.

(iii) Technical Irregularities

Third, courts increasingly treat procedural lapses as technical irregularities that do not vitiate the proceedings. In *Khet Singh v Union of India* ('*Khet Singh*'), the absence of a seizure memo and witnesses was dismissed as a procedural defect since the accused were present and could not show prejudice.[52] The SC treated the accused's presence as enough to cure the lapse, assuming that mere visibility ensured fairness.[53] *Khet Singh* sets a landmark SC precedent, consistently being applied in cases like *Narcotics Control Bureau v Kashif* and *Bharat Aambale v State of Chhattisgarh*.[54] This further consolidates a precedent that confines procedural compliance to a bare minimum formality rather than a legal condition that is mandatory.

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48 *Parshotam Dass* (n 14) [21].

49 ibid; *Bai Radha* (n 26). These cases have accepted unrecorded claims of urgency and treated the absence of contemporaneous reasons as an irregularity rather than illegality.

50 *Manish Dixit and Ors v State of Rajasthan* (2001) AIR SC 93 [22].

51 *State v Ravi Kumar @ Toni* (2024) DHC 9117 [24]-[29]; *Mohd Masoom v State of NCT of Delhi* (2015) DLT 271 [11]-[13] rejecting the routine explanation that 'passersby refused to join the raid' and holding that the absence of independent witnesses in such circumstances undermines the credibility and reliability of the prosecution case.

52 *Prithvi Pal Singh v State* (2000) SCC OnLine Del 182 [8]-[10]; *Mohd Masoom* (n 51); see also *Thomas Karketta v State* (2015) SCC OnLine Del 11609 illustrating episodic judicial strictness driven by doubts about police credibility on the facts, rather than a principled insistence on the mandatory nature of procedural safeguards.

53 *Khet Singh v Union of India* (2002) AIR SC 1450 [11],[16]-[17].

54 ibid.

The deeper problem with this reasoning is that it conflates the validity of the criminal proceeding with the legality of the search itself. Even if such lapses do not vitiate the trial, they nonetheless render the search itself unlawful. By overlooking this distinction, courts effectively erase the concept of an 'illegal search' from procedural jurisprudence. The inquiry shifts from whether the search complied with statutory conditions to whether the lapse prejudiced the accused, thereby normalising illegality as long as the proceeding endures. This reasoning undermines the very foundation of warrantless search safeguards, which are meant to regulate state power at the stage of intrusion, not merely to preserve fairness at trial.[55]

(iv) Addressing Judicial Justifications

Even though the judicial reasoning critique shows a steady pattern of weakening, the courts' method is quite often supported by practical justifications that seem to be reasonable from an institutional point of view. There are five such major justifications.

First, investigative exigency: the argument that strict compliance with procedural safeguards could prevent urgent searches or let suspects destroy evidence.[56] This argument considers urgency as an exception instead of a justification. The statutory system of §185 BNSS has already incorporated such an emergency by requiring timely recording of reasons and quick informing to a Magistrate.[57] To consider the exclusion as not significant is to merge necessity with convenience, thus confusing the constitutional requirement that legality must come before efficiency.

Second, fear of acquittals in serious crimes: the view that strict proceduralism risks allowing the guilty to escape punishment.[58] Yet, this rationale misconceives the purpose of safeguards. The Constitution deliberately accepts the possibility of acquittal as the moral cost of lawful governance. Article 21 of the Constitution, as interpreted in *Maneka Gandhi v Union of India*, makes clear that liberty cannot be curtailed by procedures that are expedient rather than fair, just, and

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55 *Narcotics Control Bureau v Kashif* (2024) INSC 1045 [29]-[30]; *Bharat Aambale v State of* Chhattisgarh (2025) INSC 78 [28]-[29]; Ratanlal and Dhirajlal, *The Bharatiya Nagarik Suraksha Sanhita, 2023* (23rd edn, LexisNexis 2024) ch XIII.

56 Ratanlal and Dhirajlal (n 55).

57 *Parshotam Dass* (n 14) [21].

58 BNSS 2023, s 185; Ratanlal and Dhirajlal (n 55).

reasonable.[59] The rule of law demands fidelity to process even when it appears to hinder outcome.

Third, institutional necessity: the assumption that courts must give way to police testimony in order to keep the functionality of the already overworked system.[60] The system of deference turns the argument of procedural discipline upside down. The safeguards are there because it cannot be assumed that the institutional power, which is very much in control, will always act lawfully; authority verification, not trust, is what the Constitution requires.

Fourth, institutional good faith: the assumption that procedural lapses are innocent mistakes unless malice or prejudice is proven.[61] This presumption is frequently relied upon by Courts as a means of maintaining legality in the lack of direct compliance, thus transferring the constitutional burden from the state to the citizen. This view of accountability is erroneous: legality under the Constitution is not dependent on showing bad faith, but rather on proving proper procedure. The judiciary, by protecting official actions through the assumption of regularity, changes constitutional compliance into administrative discretion.

Fifth, the doctrine of substantial compliance: the idea that partial or near adherence to statutory safeguards is sufficient if the 'core purpose' of the provision is met.[62] The reasoning behind this basically recasts the constitutional rights as rather flexible guidelines, thus completely overlooking the very fact that Article 21 mandates the procedures to be fair, just, and reasonable both in their form and in their execution. Substantial compliance reduces the legal situation to an approximation. Therefore, it permits the erosion of procedural safeguards disguised as practical efficiency.

These arguments made altogether equate effectiveness with legality and truth-seeking with justice. By giving weight to the end result rather than to the process, the court replaces constitutional morality with convenience, thereby weakening the prior control that was intended to be imposed by §185 BNSS and Article 21 itself.

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59 *Pooran Mal* (n 44) [25]-[26].

60 *Maneka Gandhi* (n 15).

61 *Saudan* (n 20) [17]-[18], [24]; *Mithukhan v State of Rajasthan* (1969) AIR Raj 121 [4]-[6].

62 *Radhakishan* (n 44) [5].

C. PUBLIC-ORDER PERSPECTIVE

In sum, an analysis of Part A & B reveals that such reasoning reflects a 'public-order perspective'.[63] As scholars have observed, public-order orientation prioritises investigative expediency and truth-seeking over *ex-ante* limits on state power, evaluating safeguards mainly by whether they impede the pursuit of the 'factually guilty'.[64] Within this framework, safeguards are construed as investigative hurdles rather than constitutional constraints. For instance, court reads safeguards down to impede efficiency, assessing violations *ex post* through a prejudice-based lens and upholding safeguards from a position of truth-seeking rather than liberty.[65]

This posture directly undermines the legislative design of the BNSS, which treats compliance with procedural safeguards as an ex-ante constraint on police discretion. This is most evident in the context of judicial treatment of warrantless searches under §§103 and 185 BNSS, as shown above. Thus, the cumulative dilution of the §§103 & 185 BNSS safeguards entrenches a criminal-process philosophy centered on efficiency, truth-seeking and police discretion.[66] The problems here are not specific instances but a cumulative effect of judicial posture that normalizes circumvention.[67] By excusing violations as minor or evidentiary concerns, the courts have transformed procedural safeguards from conditions of legality into administrative convenience. This cumulative relaxation reorients the criminal process from one of restraint to one of results, erasing the normative distinction between legality and efficiency. Thus, systematically eclipsing the BNSS's *ex-ante* constitutional limits to a *post facto* consideration for evidence and outcome.

However, the judicial gravitation toward a 'public-order perspective' does not emerge in bad faith. As Chandra and Satish observe, such an approach highlights a practical issue of truth-searching and institutional effectiveness.[68] This view says that the criminal procedure must be a source of social peace by making sure that the

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63 *Fedders Lloyd Corporation* (n 28) [20]-[21].

64 Aparna Chandra and Mrinal Satish (n 2).

65 ibid; *Ajmal Kasab v State of Maharashtra* (2012) 9 SCC 1; see also *Hardeep Singh v State of Punjab* (2014) 3 SCC 92.

66 As demonstrated in Part-III-[A-B] discussing judicial dilution of §§103 and 185 safeguards and the resulting shift towards efficiency-driven criminal process.

67 Aparna Chandra and Mrinal Satish (n 2).

68 ibid.

guilty do not go unpunished.[69] Courts often justify this stance on two grounds: first, that the trial's ultimate function is to discover the truth rather than insulate the accused.[70] Second, that the strict compliance with the procedure may lead to the investigation being paralyzed in a poorly resourced system.[71] The argument is phrased in such a way that procedural safeguards are recast as technicalities that can justifiably give way to larger social concerns.

Yet, this justification, while institutionally sympathetic, is constitutionally misplaced. It collapses the distinction between *efficiency* and *legality*, turning procedural guarantees from conditions of restraint into tools of convenience. Inconsiderate of the procedural protection, the courts may delegitimize the criminal justice system and the source of its moral authority, through such a 'public order' oriented justification. The balance the Constitution created was not crime control versus technicality; it was power versus liberty and the BNSS aimed to keep that balance intact. By treating safeguards as dispensable formalities, courts have shifted this balance, expanding discretion at the cost of restraint.

D. DOCTRINAL TEST

This interpretive shift to a public-order perspective exposes the absence of any doctrinal threshold that determines when a warrantless search crosses from *irregularity* to *illegality.* This paper does not attempt to construct such a test; rather, it identifies the gap as central to understanding why safeguards fail in practice. Nevertheless, to theorise one, in principle any workable test would need to make the legality of a warrantless search contingent on the police establishing a demonstrable necessity for bypassing the warrant requirement and the safeguards that the statute declares 'shall be followed.' The judicial reluctance to articulate this threshold has allowed illegality to dissolve into irregularity, leaving accountability dependent on convenience rather than constitutional discipline.

The importance of anchoring the legality of warrantless searches in demonstrable necessity is further illustrated by the introduction of an additional safeguard under §185 BNSS requiring electronic or audio-video recording of searches.[72] While the safeguard aims to limit arbitrary police intrusion by creating a

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69 ibid.

70 ibid; *Zahira Habibulla H Sheikh v State of Gujarat* (2004) 4 SCC 158 [36].

71 *Pooran Mal* (n 44) [25]-[26].

72 Ratanlal and Dhirajlal (n 55).

verifiable search record and has the potential to deter procedural violations,[73] at the same time, it raises some critical issues about people's privacy with respect to the extent of footage recorded, the storage and distribution of the recordings, and the possibility of misuse or unauthorised access. Without clear statutory guidance on the scope, custody, and application of electronic records, it would be very dangerous to privacy.

In practice, technology safeguards intended to prevent arbitrary intrusion risk becoming an empty promise without strict legal standards. Further, they are even more weakened by judicial leniency that treats compliance as optional. Hence, without a doctrinal insistence on demonstrable, situation-specific necessity and statutory consequences for non-compliance, even technological safeguards risk devolving into symbolic gestures.[74] On this note, the next section examines how judicial tolerance/reasoning towards illegal search produces a perverse incentive for the police to disregard the procedural discipline/safeguard that §185 BNSS was designed to enforce (Part IV).

IV. CONSEQUENCES OF ILLEGAL SEARCH AND PERVERSE INCENTIVES

While Part III demonstrated how judicial interpretation has raised the threshold for recognising a warrantless search as illegal by diluting both mandatory and directory safeguards, the accountability deficit does not end there. Part IV shows that even in the cases where courts acknowledge that a search has been conducted in violation of §185 BNSS, the legal consequences attached to such illegality remain negligible.

The SC in *Radhakishan v State of U.P.* ('*Radhakishan*'), admitted that even if search contravenes statutory safeguards, the seizure itself was not vitiated.[75] Illegality leads only to two consequences: careful scrutiny of evidence (Part IV-A)

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[73] 'Electronic Recording of Search and Seizure Processes is Mandatory Now' (*Nyaaya,* 24 January 2025) <https://nyaaya.org/article/electronic-recording-of-search-and-seizure-processes-is-mandatory-now> accessed 12 December 2025.

[74] *Ashish v State NCT of Delhi* (2025) DHC 8894; LiveLaw News Network, 'NDPS Act | Failure To Videography Chance Recovery Doesn't Vitiate Seizure: Delhi High Court' (*LiveLaw*, 9 October 2025) <https://www.livelaw.in/high-court/delhi-high-court/ndps-act-failure-to-videograph-chance-recovery-doesnt-vitiate-seizure-delhi-high-court-306355> accessed 25 January 2026, demonstrating how technological safeguards are diluted by judicial tolerance of non-compliance absent strict statutory consequences.

[75] *Radhakishan* (n 44) [5].

and the right to resist search (Part IV-B).[76] It is argued that these weak remedies not only fail to deter non-compliance but actively incentivise it, signalling police deviation from statutory safeguards as a practical investigative choice. While the admissibility standards ensure that unlawfully obtained evidence remains usable, the right to resist is rendered practically inoperable due to its contingent and retrospective nature.

A. ADMISSIBILITY OVER ACCOUNTABILITY

Building on *Radhakishan,* the SC in *Bai Radha* held that irregularities/circumvention of safeguards were disregarded unless the accused could demonstrate prejudice amounting to a miscarriage of justice.[77] The burden of proof to prove the same falls on the accused, not the prosecution, to establish why evidence obtained in violation of statutory safeguards should be excluded.[78] It is argued that this position on admissibility incentivises the police to treat compliance of safeguards as optional.

The threshold for exclusion is set so high that a wide category of unlawful searches remains legally consequence-free. Thus, the standard does not merely tolerate procedural violations; it structurally insulates them. So long as the prosecution can establish recovery through police testimony, even serious departures from statutory safeguards fail to attract any meaningful consequence.

This analysis builds on Part III-B-3, which examined *Khet Singh* to show how courts displace the threshold inquiry from the legality of the search to the question of prejudice. The concern here is analytically distinct. Even where a search is acknowledged to be procedurally defective, the admissibility framework ensures that such illegality rarely affects outcomes. While the former analyses whether illegality is recognised at all, the latter investigates how even when recognised, illegality makes no practical difference to police outcomes. The consequence is not merely doctrinal leniency but institutional signalling. When evidence obtained through non-compliance remains fully usable, officers have little incentive to internalise statutory discipline. Thus, compliance ceases to function as a legal obligation and instead becomes a matter of investigative convenience.

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76 ibid.

77 ibid; *Bai Radha* (n 26) [6]; *State of HP v Sukh Ram* (2003) Cri LJ 219 [21].

78 *Pooran Mal* (n 44) [25]-[26].

The problem is compounded by the inconsistent application of the 'prejudice' standard. In *Manish Dixit*, the SC excused the absence of independent witnesses even in a densely populated area by citing public reluctance.[79] The court held that since the recovery was otherwise established through police testimony, the omission did not prejudice the accused.[80] Whereas in *Saudan v State of Rajasthan* ('*Saudan*') the same justification that despite contacting several persons, none were willing to act as witnesses was rejected.[81] As the Court found no contemporaneous proof of such efforts, and held that the police testimony was not enough and casts serious doubt on the fairness of the search.[82]

Building on this, it is argued that the normative basis for exclusion, though often articulated in evidentiary terms, must necessarily flow from constitutional and not from the efficiency of instruments. The prohibition of the use of unlawfully obtained evidence is not just a matter of preventing police misconduct but also of upholding the moral integrity of the law with respect to Article 21.[83] Current practices of conditional or discretionary exclusion make constitutional rights subordinate to the reasoning based on outcome and thus do not genuinely restrain state power.

Although the deterrence theory clarifies the reason for exclusion being effective, constitutional morality explains the reason for it being necessary.[84] Thus, in this way, exclusion is not a matter of the judicially bestowed favour but rather a necessity of the structural nature to maintain lawfulness, which is a prerequisite for the legitimacy of the power of the state. Overlooking the same, the extant admissibility doctrine, in addition to the risk due to judicial discretion as shown above, ensures that even acknowledged procedural illegality carries little consequence for the State. However, the accountability deficit does not stop at post-search adjudication but extends to the court-recognized right to obstruct illegal search. Following the same, the next part demonstrates how the right is rendered inoperable in practice.

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79 *Manish Dixit* (n 49) [22].

80 ibid.

81 *Saudan* (n 20) [17]-[18], [24].

82 ibid.

83 Constitution, art 21.

84 Andrew Ashworth, *Sentencing and Criminal Justice* (6th edn, Cambridge University Press 2015) 72-90.

B. PARADOX RENDERING RIGHT TO OBSTRUCT INOPERABLE

The jurisprudence on the right to resist a warrantless search demonstrates that this right is contingent entirely upon the legality of the search itself. Courts have consistently held that resistance is permissible only when the search is irregular or illegal.[85] However, the resistance must be proportionate, confined to reasonable force rather than extraordinary violence.[86] Importantly, the SC in *Shyam Lal Sharma v State of M.P.* clarified that such resistance is temporally limited: the right to obstruct arises only during the process of search and ceases once the seizure is complete.[87] Any obstruction beyond that stage, including wrongful restraint or assault on officials, has been deemed unjustifiable, irrespective of the underlying illegality.[88]

At first glance, this appears to offer meaningful safeguards against arbitrary intrusion. However, a practical application of the principle reveals a troubling paradox. While the legal framework recognizes a conditional right of obstruction against unlawful searches, it simultaneously denies the individual the means to meaningfully exercise that right. To substantiate the same, it is underscored that the person who is being searched has no effective way to ensure/confirm if the search is legal or illegal.

§185 BNSS imposes no express obligation on the police to communicate the reasons for the search to the affected person at the point of intrusion.[89] Consequently, the individual whose premises are searched is left in the dark as to whether the *ex-ante* statutory preconditions are complied with. Consequently, compliance with safeguards such as recording reasons or securing witnesses can only be tested on a *post-facto* basis. As a result, accountability shifts from prevention to belated and ineffective correction, allowing seizure to proceed unchecked.

As observed in *Thakur Tanti v State*, an accused may challenge the absence of independent witnesses.[90] Yet in the heat of the moment, he cannot reasonably

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85 *Radhakishan* (n 44)[5].

86 *Thakur Tanti* (n 26) [25].

87 *Shyam Lal Sharma and Ors v State of Madhya Pradesh* (1972) AIR SC 886 [7]-[8].

88 ibid [7].

89 BNSS 2023, s 185; K.N. Chandrasekharan Pillai (ed), *R.V. Kelkar's Criminal Procedure* (7th edn, Eastern Book Company 2021) ch 7.

90 *Thakur Tanti* (n 26) [25].

ascertain whether those present qualify as independent witnesses.[91] Similarly, in *Rehman* and *Mithukhan v State of Rajasthan*, the decisive defect was the officer's failure to record reasons under §165 CrPC.[92] However, such lapses come to light only later in judicial proceedings, well after any opportunity to lawfully resist.[93] Thus, this paradox leaves the 'right to resist' reduced to a hollow principle, which exists in theory but is practically incapable of guiding citizen conduct or ensuring police accountability.

C. PERVERSE INCENTIVES

It is argued that the cumulative effect of judicial tolerance toward procedural illegality and the absence of meaningful consequences produces a distorted incentive structure governing warrantless searches. This structure does not merely fail to deter non-compliance; it actively rewards it. Where neither exclusion of evidence nor effective contemporaneous resistance operates as a real constraint, legality ceases to function as a guiding consideration at the investigative stage.[94]

From the perspective of the investigating officer, compliance with §185 BNSS safeguards entails tangible costs. Recording reasons, securing independent witnesses, and preparing contemporaneous documentation require time, effort, and exposure to scrutiny. Non-compliance, by contrast, offers procedural convenience with little legal risk. Even when courts acknowledge procedural defects later, the dominant response of admitting evidence subject to scrutiny or a prejudice inquiry rarely disrupts prosecution outcomes.[95] Rational investigative choice, therefore, favours expediency over legality.[96]

This distortion is reinforced by the temporal gap between illegality and consequence. Safeguards under §185 BNSS are designed to discipline discretion at the moment of intrusion, yet judicial review operates almost entirely *ex post,* often years later. Such delayed and uncertain consequences are incapable of shaping on-the-ground police behaviour.[97] When legality is assessed retrospectively and

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91 ibid.

92 *Rehman* (n 22) [7]-[9]; *Mithukhan* (n 61) [4]-[6]; *Prem Chand and Ors v The State* (1965) Cri LJ 843 [7].

93 ibid.

94 As argued/demonstrated in Part IV-A.

95 As argued/demonstrated in Part III-B-3 and Part IV-A.

96 Aparna Chandra and Mrinal Satish (n 2) reinforcing 'Public- Order Perspective'.

97 As argued/demonstrated in Part IV-[A-B].

primarily for evidentiary sufficiency, it loses its capacity to regulate conduct prospectively.

As a result, safeguards function less as conditions precedent and more as post-hoc justifications.[98] Officers are incentivised not to ensure compliance *ex ante*, but to construct explanations capable of surviving later judicial scrutiny.[99] Standardised claims such as urgency, impracticability, or public reluctance thus become routine narrative devices rather than exceptional circumstances requiring proof.[100]

This incentive structure is systemic rather than episodic. It does not depend on individual bad faith but flows from a framework that disconnects power from consequence. When investigative success is measured by recovery and conviction rather than adherence to statutory discipline, procedural legality becomes secondary.[101] Over time, this recalibrates institutional norms, embedding a culture in which safeguards are treated as optional unless strategically useful.

In practice, §185 BNSS therefore operates less as a restraint on discretion and more as an enabling framework buffered by judicial indulgence. The absence of meaningful consequences ensures that procedural violations are absorbed into ordinary investigative practice rather than treated as exceptional failures. This normalisation explains the persistence of non-compliance despite repeated judicial recognition of defects.

Thus, the core failure, then, is not merely interpretive but structural. So long as illegality does not materially affect investigative outcomes, statutory safeguards cannot perform their constitutional function. This incentive misalignment becomes most acute in the absence of any effective sanctioning architecture, a deficit examined in the next Part.

V. ABSENCE OF SANCTIONING MECHANISMS

A final and perhaps the most fundamental weakness of the §185 BNSS framework lies in the absence of effective mechanisms to sanction police misconduct in the context of warrantless searches. While the statute prescribes

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98 As argued/demonstrated in Part III-B.

99 As argued/demonstrated in Part III-B-3.

100 ibid.

101 As argued/demonstrated in Part III-C.

procedural safeguards, it remains silent on the consequences of their breach.[102] In theory, irregularities may attract departmental or criminal liability under general provisions: service rules under Police Acts and Conduct Rules classify misconduct such as unauthorized searches as punishable by penalties ranging from censure to dismissal.[103] §198 of the BNS criminalises disobedience of legal directions by a public servant;[104] and the SC in *Prakash Singh v Union of India* mandated the creation of Police Complaints Authorities (PCAs) to hear citizen complaints.[105]

Yet, these mechanisms operate more as formalities than as functional checks.[106] Departmental inquiries into unlawful searches are exceedingly rare, and when initiated, they are conducted internally with little independence.[107] Criminal prosecution under §198 of BNS requires prior government sanction under §218 BNSS, a barrier that ensures near-complete immunity.[108] However, the problem is not solely due to their poor implementation but also because of their inherent design.

For instance, PCAs, envisioned as independent oversight bodies, have been implemented only patchily across states, are often underfunded, staffed by retired officials, and limited to cases of custodial death or torture.[109] The executive controls their financing, staffing, and appointments, which makes PCAs dependent on the executive, therefore, compromising their independence and credibility as watchdogs.[110] They can only give recommendations on a non-binding basis, and such recommendations pertain only to very serious offences; thus, routine

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102 BNSS 2023, s 185.

103 The Police Act 1861, s 7; All India Services (Conduct) Rules 1968, r 3(1).

104 The Bharatiya Nyaya Sanhita (BNS) 2023, s 198.

105 *Prakash Singh v Union of India* (2006) 8 SCC 1 [31].

106 Sudhir Krishnaswamy, 'Legal Accountability of the Police in India' (*Centre for Law & Policy Research,* 4 June 2014) <https://clpr.org.in/wp-content/uploads/2018/09/Police-Accountability-CLPR.pdf> accessed 25 January 2026.

107 'Broken System: Dysfunction, Abuse, and Impunity in the Indian Police' (*Human Rights Watch*, 4 August 2009) <https://www.hrw.org/report/2009/08/04/broken-system/dysfunction-abuse-and-impunity-indian-police> accessed 25 January 2026.

108 BNSS 2023, s 218; Justice Narayana Pisharadi, 'Sanction for Prosecution of Public Servants – The Shift in the BNSS' (*LiveLaw,* 27 February 2025) <https://www.livelaw.in/articles/sanction-to-prosecute-public-servants-section-197-crpc-vs-section-218-bnss-285065> accessed 25 January 2026.

109 *Sanyam Lodha v State of Rajasthan and Others* (High Court of Judicature for Rajasthan at Jodhpur, D.B. Civil Writ Petition (PIL) No 14447/2022, pending).

110 Devika Prasad, 'Police Complaints Authorities in India: A Rapid Study' (Navaz Kotwal ed, Commonwealth Human Rights Initiative 2012) <https://humanrightsinitiative.org/publications/police/police-complaints-authorities-in-india-a-rapid-study> accessed 25 January 2026.

procedural violations, for instance, illegal searches, are left unmonitored and unchecked.[111]

Hence, the structural reason why misconduct persists is that there is a deadlock of accountability in police oversight that is managed by the same hierarchy that is supposed to be disciplined. In addition, there exists the backing of bureaucratic solidarity and lack of external audit. The deep-rootedness of the control of the executive over the police works against resistance and prosecution by ensuring that no sanctions are imposed either on the department or the institution of the police when misconduct is discovered.

In addition, while examining accountability in cases such as *Saudan* and *Selvan v State*, where illegal searches prejudiced the accused, there appears to be no publicly available record for any police officer facing disciplinary action.[112] Notably, there are no reported instances of sanctions imposed solely for unlawful or irregular searches.[113] This accountability gap has profound implications. Courts largely confine consequences of illegality to evidentiary treatment, leaving the officer untouched.[114] In effect, both the judiciary and the administrative mechanisms converge in communicating that procedural safeguards are aspirational rather than enforceable, reflecting a 'public-order perspective'.[115] Without credible sanctions, whether administrative, criminal, or institutional, the statutory protections of §185

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111 Commonwealth Human Rights Initiative, 'Police Complaints Authorities in India: Status, Gaps & Challenges' (Commonwealth Human Rights Initiative, 10 December 2023) <https://www.humanrightsinitiative.org/press-releases/police-complaints-authorities-in-india-status-gaps-challenges> accessed 25 January 2026.

112 *Saudan* (n 20) [24]; *Selvan and Ors v The State* (1991) Cri LJ 1942 [8]-[9].

113 This conclusion is based on the author's review of the reported decisions in *Saudan* (n 20) and *Selvan* (n 114) neither of which records any departmental or disciplinary action against the officers involved. The methodology employed for the same was as follows: the author searched for named officers and disciplinary references across legal databases and news archives. Finally, no such records were found across legal databases, NCRB reports, and news archives; See further 'Common Cause and Lokniti–Centre for the Study of Developing Societies (CSDS), *Status of Policing in India Report 2019: Police Adequacy and Working Conditions* (Common Cause 2019) ch 7 fig 7.15; ch 4 table 4.9. (noting 37% personnel favour on-spot punishments over formal probes for minor offences and 28% report political pressure hampering investigations, evidencing low rates of internal disciplinary action for procedural misconduct).

114 As argued/demonstrated in Part IV.

115 Aparna Chandra and Mrinal Satish (n 2).

BNSS remain largely symbolic, incapable of deterring abuse or providing redress to those subjected to unlawful intrusion.[116]

VI. CONCLUSION

This paper has shown that the promise of safeguards under §185 BNSS is far weaker than it appears on paper. While the law sets out conditions to prevent arbitrary action, both the way it is written and the way it has been applied in practice allow those conditions to be bypassed with ease. Safeguards that should have been firm guarantees, like recording reasons, calling witnesses, or preparing a seizure memo, have become flexible options. Courts have fortified this by focusing more on whether the evidence is useful than on whether the search itself was fair. At the same time, people whose rights are breached have little chance of knowing it in the moment, and almost no way of holding officers accountable afterwards.

Reform is therefore urgent. The first step is to rebalance responsibility: instead of placing the burden on the accused to show prejudice, the police must be required to prove that any irregularity did not harm the individual's rights. Second, transparency must be ensured by giving the person searched a copy of the recorded reasons at the time of intrusion; without this, safeguards remain hollow. Third, the law must draw a firm line by declaring certain protections for key safeguards inviolable and evidence obtained in their breach restricted, creating real disincentives for shortcuts. Finally, independent oversight bodies must be strengthened to sanction misconduct. These reforms are modest but essential. Safeguards will matter only when the system accepts that some prosecutions may fail so that liberty and privacy are meaningfully preserved, keeping warrantless searches the rare exception rather than the comfortable norm.

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[116] Second Administrative Reforms Commission, '5th Report: Public Order' [Ministry of Personnel, Public Grievances and Pensions Government of India 2007] ch 6 <https://xn--m1br4br1c9azheb.xn--11b7cb3a6a.xn--h2brj9c/en/arc-reports> accessed 25 January 2026. National Police Commission, 'Eighth Report' [Ministry of Home Affairs, Government of India 1981] 7 <https://archive.org/details/dli.csl.676/page/n9/mode/1up> accessed 25 January 2026.