

1ST NLIU-NHRC NATIONAL MOOT COURT COMPETITION, 2026 MOOT PROPOSITION

IN ASSOCIATION WITH:
NATIONAL HUMAN
RIGHTS COMMISSION

DATES:
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Note: Teams are strictly prohibited from contacting the drafter in relation to this Moot directly or indirectly. The MCA reserves the right to take appropriate action, including disqualifying any participant found to be engaging in such conduct.



MOOT PROPOSITION

1. Bharatkhand is a democratic, sovereign, socialist, and secular nation with 28 States and 8 Union Territories. It is committed to building a just and equitable society where every individual enjoys equal opportunities to prosper. Bharatkhand's Constitution guarantees a comprehensive range of fundamental and human rights at par with international standards, including those enshrined in the Universal Declaration of Human Rights and other global charters.
2. Bharatkhand's constitutional and statutory laws, rules, orders, judicial precedents, international obligations, and polity, unless explicitly stated otherwise, are identical to those of India. Accordingly, Bharatkhand's Constitution, along with its entire legal framework, is in *pari materia* with, and corresponds provision-by-provision to, that of India as of 11 November 2025.
3. Utkrisht Pradesh is one such aspiring State where the police force still operates under the colonial-era Bharatkhand Police Act, 1861 (*pari materia* with India's Police Act, 1861). In late 2023, the Central Government enacted the Bharatkhand Nagarik Suraksha Sanhita (BNSS) (*pari materia* with India's Bharatiya Nagarik Suraksha Sanhita) to replace the old criminal justice practice. The BNSS introduced modern and emerging safeguards and procedures; for example, it mandates audio-visual recording of all searches and seizures under its Section 105. However, law enforcement agencies in Utkrisht Pradesh, like those in many other States, continue to face conflicts and operational challenges in implementing these provisions effectively at the grassroots level.
4. Mr. Bahadur, a Sub-Inspector (SI), was posted at Gangajal Police Station in the Gaiyabad district of the State of Utkrisht Pradesh. He had served the department with distinction for 38 years. However, the strain of 14-hour workdays, continuous *bandobast* duties, and the constant pressure of maintaining law and order took a toll on his health, leading to diabetes and high blood pressure. The service conditions of subordinate police officers, including long hours, low pay, and prompt disciplinary action at the *prima facie* stage itself, were primarily governed by the Bharatkhand Police Act, 1861 among other applicable laws.
5. One evening during a routine 6:00-9:00 P.M. *naka* checking *abhiyaan*/duty, SI Bahadur's experienced eye spotted a suspicious car. With Head Constable Mr. Vijay, he searched the vehicle and discovered a



hidden cache of prohibited weapons and live cartridges. Following protocol, the officers informed their superiors, seized the weapons, and arrested the accused. All the requisite memos and *panchnamas* were meticulously prepared at the scene, and the accused was taken to the station for First Information Report (FIR) registration following the due procedure then prevalent under the erstwhile criminal procedure law.

6. However, at around 11:00 p.m., the Head Mohrir of the Police Station, Mr. Gyani, who was well-versed in the newly enacted uniform criminal laws, raised a critical concern before his colleagues. He stated that since Section 105 of the BNSS mandates audio-visual recording of every search and seizure, and no such recording had been made, the case based on this seizure would *prima facie* stand vitiated in future due to procedural non-compliance. Consequently, he cautioned the arresting team (SI Bahadur and Head Constable Vijay) and the Station House Officer (SHO) of the Police Station that all their efforts would be rendered futile, as the jurisdictional Court would not accept the police version in future proceeding.
7. A quiet panic ensued. Desperate to salvage the case, and perhaps his reputation, SI Bahadur sought and obtained permission from the SHO and the jurisdictional Deputy Superintendent of Police (DySP) to revisit the scene. At around 11:30 p.m., the same arresting team returned to the checkpoint and compelled the accused to reenact the incident. The accused drove to the *naka*, submitted to a search, and police arresting team witnessed a discovery of the weapons- all identical to the original sequence, but this time captured on a police mobile camera. The recorded footage was saved on a pen drive, attached to the case file, and forwarded to the concerned before the concerned authorities along with other documents as per the procedural requirements of the BNSS, including the presentation of the accused before the Court.
8. Meanwhile, the Head Mohrir Mr. Gyani silently pondered whether his interpretation of Section 105 of the BNSS was correct. Based on his limited understanding of the new criminal law, he believed that the police were required to record only the act of seizure, and not the mere search of a person, place, or thing that does not result in any consequent seizure, nor the act of arrest. Yet, he consoled himself, thinking that perhaps greater clarity would emerge later, and that adopting this narrow interpretation for the time being was practical; for otherwise, recording every act of preventive search, *naka* searches for hours together, or every



detention or arrest would impose an unreasonable, infeasible and impracticable burden upon the police force.

9. For the next two months, SI Bahadur received appreciation from both the department and the media for successfully busting a high-profile arms racket and sending its alleged mastermind behind bars. During the subsequent investigation, he was required to record the statements of several civilians and interrogate individuals to ascertain the extent of the nexus and identify any additional persons involved in the said illicit operation.
10. However, for some individuals, this interrogation process turned into what they perceived as a form of procedural bureaucratic harassment. SI Bahadur used to routinely summon persons connected with the case, and owing to the demanding nature of his duties, often made them wait for long hours at the police station. At times, such delays occurred advertently when the summoned persons were suspected of being evasive or non-cooperative, but more often, they resulted inadvertently from the multiplicity of police responsibilities including *bandobast* duties, *naka*/checking duties, VIP security assignments, patrolling, crime detection, other case investigations, maintenance of law and order, and ensuring peace during public rallies, festivals, or cross-border chases of accused persons. The prolonged waits and repeated daily travel amounting to five to seven hours each day over a span of nearly two months took a heavy toll on these individuals. For some, this process amounted to what they described as a form of 'first or second-degree' torture, and for others, a '*Kafkaesque*' experience, as it severely disrupted their livelihood and routine lives.
11. Two months later, a human rights organization named 'The Private Detective', which had been closely following the case, uncovered the truth. Acting on a local tip-off, the organization discovered that a police-installed CCTV camera was located near the *naka* point where the accused had originally been apprehended along with the seizure of illegal weapons. Upon reviewing the footage, they observed the unrecorded original seizure, the intervening gap, and the subsequent staged reenactment conducted late at night by the same arresting police team.
12. Fearing that the police might destroy or tamper with this crucial evidence if they came to know that their actions were captured on camera, The Private Detective discreetly retrieved a copy of the relevant CCTV footage, covering the period between 9:00 P.M. and midnight. During the



subsequent bail hearing before the jurisdictional Additional Sessions Judge (ASJ), this footage surfaced as a bombshell. The prosecution, representing the State and the police department in ASJ Court, vehemently opposed its admission. They argued, first, that the CCTV footage had been unlawfully obtained and was therefore inadmissible; and second, that the BNSS did not envisage or authorize investigations by private entities such as The Private Detective, as investigation is an exclusive function vested in the State's police machinery.

- 13.** The ASJ Court, however, was not persuaded by the prosecution's objections. Confronted with the undeniable evidence revealing that the purported procedural compliance had been retrospectively staged, the Court expressed its strong disapproval. Relying on the CCTV footage presented by the defence, the ASJ Court granted bail to the accused and, in a sharply worded order, at the very stage of the bail hearing itself, the ASJ Court also directed the District Police Chief to initiate a departmental inquiry against SI Bahadur for procedural impropriety and violation of statutory mandates.
- 14.** For SI Bahadur, the departmental inquiry proved to be a career death knell. Once a man who had averted a potential bloodbath, he now faced disgrace. He was transferred to a punishment posting, marked with an adverse entry, and had his increments frozen. At the grassroots, policemen rarely get more than one or two promotions in their entire service, and for him, that long-awaited second promotion to Inspector slipped away overnight. The blow was too heavy to bear; the shock triggered a severe hypertensive anxiety. It felt as if his 38 years of tireless service had been erased in an instant.
- 15.** The incident soon went viral. Across the State, the police force at the grassroots level was visibly shaken. Many like-minded subordinate officers, pushed to the brink, broke their disciplined silence by wearing black ribbons on their wrists under the uniform as a mark of protest, even while discharging their official duties normally. Members of a private welfare messaging group called 'PoliceParivarEkta,' created in 2015 on a mobile application named 'KyunHo' (similar to WhatsApp), began expressing a torrent of long-suppressed grievances. The group, comprising only serving police personnel of the State, had always remained apolitical and functioned solely for lawful welfare purposes such as crowdfunding for education or medical expenses, helping with children's marriages, and sharing greetings on festivals.



16. However, in the aftermath of the incident, the group became a forum for polite, respectful yet firm expressions of discontent. Officers began voicing concerns about their genuine working conditions and welfare issues, carefully avoiding any incitement or remarks against the State or its authorities. Some of the substantial texts read as follows:

User 1: *“We are humans, not machines. We get no weekly offs, no festival leaves... only a month’s extra pay per year in return. We want rest and discharge our family responsibilities, not a month’s extra salary in compensation.”*

User 2: *“Why are subordinate police officers in our State denied the right to form welfare unions, a right guaranteed under the Constitution and enjoyed by our counterparts in other States, as well as by senior officers within the same police hierarchy and other government departments at both the State and Central levels?”*

User 3: *“People talk of decolonization, yet we wear the same archaic uniforms and torturous leather shoes for 12-14 hour shifts. Our rights depend not on law, but on the compassion of a few senior officers. Studies show that such exhausting conditions reduce not only efficiency but also cognitive ability.”*

User 4: *“What irony! The protectors of human rights are themselves victims of the most serious human rights violations. #PoliceLivesMatterToo.”*

User 5: *“While the country gets new criminal laws, we are still governed by the oppressive Police Act of 1861. It is a constitutional mismatch between the Law and its Law Enforcers. Those who guard the law must, at times, be guarded by the law.”*

17. Some of these messages were leaked to the press, and the controversy spread State-wide. In response, the Utkrisht Pradesh government ordered a clampdown. It prohibited ribbon demonstrations by police officers under the relevant provisions of the Utkrisht Pradesh Essential Services Maintenance Act, 2000 (ESMA) (Annexure 1), and initiated action under Section 4 of the Bharatkhand Police Forces (Restriction of Rights) Act, 1966. This action followed discovery by senior police officers that the subordinate officers had formed the PoliceParivarEkta group on KyunHo App.
18. During a subsequent hearing of the same case owing to the widespread attention it had drawn, the challenges arising from the bail proceedings, and the complex legal implications involved, the concerned ASJ Court



made a Reference to the High Court of Uttarakhand, seeking authoritative guidance on several substantial questions of law.

- 19.** In parallel, the affected subordinate officers filed a separate writ petition challenging the prohibition orders and the invocation of the Essential Services Maintenance Act (ESMA) against them. They alleged that the said measures were arbitrary, disproportionate, and vindictive. They state that their symbolic black-ribbon protest, conducted peacefully without disrupting official duties, could not be construed as strike or misconduct. The said writ petition also challenged the constitutional validity of the Bharatkhand Police Forces (Restriction of Rights) Act, 1966, insofar as it prohibits the formation of police welfare unions or associations. The officers contended that such provisions are draconian, arbitrary, and violative of their fundamental rights enshrined in their Constitution.
- 20.** They further contended that the existing service rules, the Police Act, and other disciplinary regulations already impose extensive restrictions on their freedoms of speech and association. Denying even this silent and non-violent form of expression, they argued, would constitute an unreasonable curtailment of their fundamental rights under Article 19, leading to frustration and psychological distress within the force, a consequence contrary to the larger public interest and the principles of constitutional morality.
- 21.** The Chief Justice of the High Court observed that the ASJ's Reference and the writ petition all stemmed from the same factual background (SI Bahadur's arrest). Recognizing that these legal issues were inextricably linked, the Chief Justice ordered that the matters be consolidated. A special Full Bench of the High Court was constituted to hear the consolidated case. What began as a simple bail matter had evolved into a significant constitutional challenge to the structure, accountability, and rights in the emerging criminal justice in Bharatkhand. At the joint request of both parties, the Bench also decided to keep aside any preliminary objections regarding maintainability or jurisdiction and proceed directly to adjudicate the substantive issues as follows:



ISSUES

- I.** Whether the police's re-creation of a crime scene, performed after the fact to comply solely with the procedural requirements, renders the initial seizure void and vitiates the entire prosecution's case, or whether it can be condoned when done in good faith to rectify a procedural irregularity?
- II.** Whether the audio-visual recording requirement of *Section 105* of the BNSS applies only to searches that lead to a seizure, or to all searches (including routine *naka* checks and preventive searches by the police); and whether the mandate also requires the police to record a person's arrest or a suspect's bodily search?
- III.** Whether, when statutory mandates under the BNSS are violated, judicial remedies are limited to departmental inquiries or whether district courts (particularly the ASJ's Court at the bail stage) have jurisdiction to initiate action against both the subordinate officer and any superior officers who approved such irregularities; and if so, what legal standard should govern the determination and apportionment of their responsibility?
- IV.** Whether district-level courts are empowered to grant remedies such as compensation to an accused for violation of fundamental rights, or to witnesses and suspects subjected to prolonged interrogation amounting to what is termed as first- or second-degree torture or *Kafkaesque* experience?
- V.** Whether evidence, such as the CCTV footage in the instant case, procured by a private individual or agency through unauthorized access is admissible in criminal proceedings especially at the bail-hearing level; and whether the BNSS provides any scope for private persons for instance, 'The Private Detective' to undertake investigations at par with the police?
- VI.** Whether the invocation of the Utkrisht Pradesh ESMA, 2020 against police personnel for expressing service-related grievances, together with action under *Section 3* of the Bharatkhand Police Forces (Restriction of Rights) Act, 1966 for forming police welfare groups, constitutes an unconstitutional curtailment of their fundamental rights, requiring those provisions to be struck down to the extent they fail to meet constitutional muster?



ANNEXURE 1

The Utkrisht Pradesh Essential Services Maintenance Act, 2020

An Act to provide for the maintenance of certain essential services in Utkrisht Pradesh and for matters connected therewith. It is enacted as follows:

1. *Short title and extent.* (1) This Act may be called the Utkrisht Pradesh Essential Services Maintenance Act, 2020. (2) It extends to the whole of Utkrisht Pradesh.
2. *Definitions.* In this Act, unless the context otherwise requires:
 - (1) **Essential service** means:
 - (i) any public service in connection with the affairs of the State of Utkrisht Pradesh;
 - (ii) any service under a local authority; or
 - (iii) any other service connected with matters with respect to which the State Legislature has power to make laws and which the State Government, being of opinion that strikes therein would prejudicially affect the maintenance of any public utility service, the public safety, or the maintenance of supplies and services necessary for the life of the community, or would result in great hardship to the community, may by notification declare to be an essential service for the purposes of this Act.
 - (2) **Strike** means any cessation of work (including any unauthorized absence from duty) by a body of persons employed in any essential service acting in combination, or a concerted refusal (or a refusal under a common understanding) by such persons to continue to work.
3. *Prohibition of strikes.*
 - (1) If the State Government is satisfied that, in the public interest, it is necessary or expedient to do so, it may, by general or special order, prohibit strikes in any essential service specified in the order.
 - (2) An order made under sub-section (1) shall be published in a manner calculated to bring it to the notice of the persons affected.
 - (3) An order made under sub-section (1) shall be in operation for six months only, but may be extended by a similar order for up to six more months if the State Government considers it necessary or expedient in the public interest.
 - (4) During the operation of such an order, any strike by persons in the specified essential service shall be illegal, whether declared or commenced before or after the commencement of the order.
4. *Penalties.*
 - (1) Any person who commences an illegal strike under this Act, or participates in such a strike, shall be punishable with imprisonment for up to six months, a fine of up to five hundred rupees, or both.



- (2) Any person who instigates or incites others to take part in an illegal strike shall be punishable with imprisonment for up to one year, a fine of up to one thousand rupees, or both.
- (3) Any person who knowingly expends or supplies money in furtherance of an illegal strike shall be punishable with imprisonment for up to one year, a fine of up to one thousand rupees, or both.
- (4) Any police officer may arrest without warrant any person reasonably suspected of having committed an offence under this Act.
- (5) The provisions of this Act and any orders issued under it shall have effect notwithstanding anything inconsistent in any other Utkrisht Pradesh Act in force.



INSTRUCTIONS FOR PARTICIPANTS

- 1.** All facts, names, and references in this problem are purely fictional. The legal system of India, including the criminal law reforms of 2023 and its shared legal heritage, shall apply *mutatis mutandis* to the fictional State of Bharatkhand, along with all corresponding statutes, obligations, and judicial precedents.
- 2.** Participants are required to strictly confine their arguments to the legal and substantial issues arising from the limited facts and circumstances provided. No additions, assumptions, or interpretations beyond the prescribed scenario shall be made, and no undue emphasis shall be placed on any individual or incident.
- 3.** Participants are expected to formulate a comprehensive litigation strategy befitting proceedings before a Constitutional Court, addressing all issues raised. Arguments may be presented in the alternative or without prejudice, and participants may, where necessary, frame additional sub-issues or suitably modify the existing ones.
- 4.** Certain questions may not admit a simple affirmative or negative response; hence, mooters are expected to demonstrate balanced reasoning wherever needed, and approach the matter in the spirit of an officer of a Constitutional Court.
- 5.** Written submissions or memorials must systematically address all the issues formulated for adjudication.