



## Factual and Legal Impact of Affidavit Disclosure in Maintenance Proceedings: A Study in Light of Rajnesh v. Neha

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### KEYWORDS

Affidavit of Disclosure, Maintenance Proceedings, Rajnesh v. Neha, Section 144 BNSS, False Financial Disclosure, Perjury under BNS, Contempt of Court, Ex parte Orders, Judicial Reforms.

### ABSTRACT

The concept of maintenance under Indian law embodies the social and constitutional obligation to ensure financial support to dependents who are unable to maintain themselves. With the enactment of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)—which replaces the Code of Criminal Procedure, 1973—the provision for maintenance has been retained under Section 144 of the BNSS, continuing the spirit of Section 125 of the former Code. The focal point of adjudicating maintenance claims remains the truthful disclosure of income, assets, and liabilities by both parties. In its landmark judgment Rajnesh v. Neha (2021) 2 SCC 324, the Hon'ble Supreme Court of India introduced a uniform format for filing affidavits of disclosure to curb manipulation, ensure transparency, and secure just maintenance orders.

This research titled “Factual and Legal Impact of Affidavit Disclosure in Maintenance Proceedings: A Study in Light of Rajnesh v. Neha” critically examines the evolution and continuing relevance of the affidavit-disclosure mechanism under the new procedural regime of the BNSS. It analyses how false or incomplete disclosures affect judicial determination of maintenance, and the consequent legal implications such as perjury under Section 227 of the Bharatiya Nyaya Sanhita (BNS), contempt of court, and the setting aside of ex-parte orders obtained through suppression of facts.

The study adopts a doctrinal and analytical approach, reviewing judicial pronouncements from the Supreme Court and various High Courts post-Rajnesh v. Neha, along with evaluating the practical enforcement of affidavit requirements in Family Courts. It further explores whether the BNSS framework strengthens procedural compliance or merely re-enacts prior challenges under a new nomenclature. The research concludes that while the Rajnesh guidelines remain a vital judicial instrument ensuring fairness in maintenance litigation, the effective implementation under the BNSS will depend on statutory codification of affidavit obligations, judicial training, and accountability for false declarations.

### 1. Introduction:

Maintenance, as a legal and moral concept,

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arises from the duty of a person to support those who are dependent upon them for sustenance. The right to maintenance is rooted in principles of equity, social justice, and constitutional morality, ensuring that no person especially women, children, or parents is left destitute due to the negligence or abandonment by a family member who has sufficient means. This duty of support, recognized across various personal laws, finds its secular embodiment in the criminal procedural framework of India.

Under the erstwhile Section 125 of the Code of Criminal Procedure, 1973 (CrPC), a speedy and inexpensive remedy was available to wives, children, and parents who were neglected or refused maintenance. This provision, designed as a measure of social welfare rather than a punitive remedy, empowered the Magistrate to order monthly allowances to the dependent. However, over the years, the implementation of this beneficial legislation faced serious procedural hurdles most notably, the absence of truthful financial disclosure by the parties involved. False or incomplete affidavits regarding income and assets led to arbitrary maintenance awards, undue delays, and even miscarriages of justice.

In response to these challenges, the Hon'ble Supreme Court of India in *Rajnesh v. Neha*<sup>1</sup> took a landmark step toward ensuring transparency and fairness in maintenance proceedings. The Court, acknowledging the widespread discrepancies in financial statements filed by litigants, formulated a uniform format for the "Affidavit of Disclosure of Assets and Liabilities". It mandated that both

parties applicant and respondent must file this affidavit at the very outset of maintenance proceedings, thereby assisting courts in determining realistic and just amounts of maintenance. The Court's directions were not only aimed at promoting procedural uniformity but also intended to prevent abuse of the process by either party concealing financial facts.

With the coming into force of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which repeals and replaces the CrPC, the provision for maintenance now stands codified under Section 144 of the BNSS. Though largely similar in substance to Section 125 CrPC, the new provision continues to emphasize the importance of prompt and fair adjudication of maintenance claims. However, the legislative framework under BNSS does not explicitly incorporate the affidavit disclosure mechanism introduced in *Rajnesh v. Neha*, thus making it largely a judicially crafted instrument dependent on court discretion and enforcement.

This research paper seeks to explore the factual and legal impact of such affidavit disclosures in maintenance proceedings, particularly in light of the judicial directions in *Rajnesh v. Neha* and their operational relevance under the BNSS regime. It aims to assess whether the system of financial affidavits has indeed achieved its intended purpose of transparency and expediency or whether the absence of statutory backing continues to weaken its enforceability.

The study also focuses on the legal consequences of false or misleading affidavits. The deliberate

concealment of income or assets by a party not only obstructs justice but constitutes a legal wrong under multiple provisions perjury under Section 227 of the Bharatiya Nyaya Sanhita (BNS), contempt of court, and fabrication of evidence under the Indian Evidence Act. Despite the availability of such legal tools, practical enforcement remains limited. In several instances, courts have been compelled to pass ex-parte orders due to non-filing or false filing of affidavits, which later results in prolonged litigation when the aggrieved party seeks to set aside such orders on grounds of fraud or suppression of material facts. Furthermore, the issue of false financial disclosure raises profound questions about procedural fairness, judicial burden, and ethical responsibility. The challenge lies not merely in detecting falsehoods but in ensuring consistent judicial responses to such acts. While some High Courts have adopted a strict view, imposing costs and recommending perjury proceedings, others have treated such omissions with leniency, citing procedural delays and reconciliation attempts. This inconsistency underscores the need for a standardized legal response and potential incorporation of the *Rajnesh v. Neha* guidelines into the statutory text of BNSS or allied family law rules.

The significance of this research lies in its dual focus the factual impact, in terms of how affidavit disclosures influence judicial decision-making, and the legal impact, in terms of the consequences of false affidavits and their enforceability under the current legal regime. The research further aims to

evaluate whether the BNSS has effectively addressed the procedural shortcomings identified by the Supreme Court in *Rajnesh v. Neha*, and if not, what reforms are required to institutionalize truthful financial disclosure.

In conclusion, the present study situates itself at the intersection of procedural law, family welfare, and judicial accountability. It endeavors to provide a comprehensive understanding of how the affidavit disclosure system functions in practice and what improvements can be made under the BNSS framework to strengthen the maintenance adjudication process. Ultimately, the goal is to ensure that the noble objective of maintenance law to protect the financially vulnerable is fulfilled through a transparent, efficient, and accountable legal process, where truth and fairness remain paramount.

#### **Statement Problem:**

The core issue is the persistent lack of transparency and accountability in maintenance proceedings, where parties frequently file false or incomplete financial affidavits, frustrating fair adjudication. Although the Supreme Court's guidelines in *Rajnesh v. Neha* (2021) aimed to mandate comprehensive financial disclosure, their implementation remains inconsistent across courts. The new legislative framework, the Bharatiya Nagarik Suraksha Sanhita (BNSS), fails to incorporate the affidavit disclosure mechanism as a statutory requirement, creating a procedural vacuum. Furthermore, the absence of effective penal consequences weakens deterrence against perjury and concealment of financial facts. This

leads to courts relying on incomplete information, resulting in unjust maintenance awards and prolonged litigation, necessitating research into the system's factual and legal effectiveness under the BNSS regime.

### **Objectives of the Study:**

1. To analyze the factual and legal impact of the affidavit of assets and liabilities introduced through the Supreme Court judgment in *Rajnesh v. Neha* (2021) 2 SCC 324, and to assess its effectiveness in ensuring transparency and fairness in maintenance proceedings under Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS).
2. To examine the challenges and inconsistencies in the implementation of affidavit disclosure by Family Courts and Magistrates, including issues of false financial statements, ex-parte orders, and lack of judicial uniformity in enforcement.
3. To evaluate the adequacy of existing legal mechanisms such as Section 227 of the Bharatiya Nyaya Sanhita (BNS) on perjury and the court's contempt powers in dealing with false disclosures, and to suggest reforms for strengthening accountability, procedural uniformity, and judicial efficiency in maintenance adjudication.

### **Research Questions:**

1. How has the affidavit disclosure mechanism mandated in *Rajnesh v. Neha* (2021) 2 SCC 324 influenced the transparency and fairness of maintenance proceedings under Section 144 of

the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)?

2. What are the major factual and procedural challenges faced by courts in enforcing truthful affidavit disclosures, and how do false or misleading statements affect ex-parte orders and the overall outcome of maintenance cases?
3. Are the existing legal provisions under the Bharatiya Nyaya Sanhita, 2023 (BNS) particularly Section 227 on perjury and the contempt jurisdiction of courts sufficient to deter and penalize false financial disclosures, or is there a need for statutory reform to ensure accountability and uniform compliance?

### **Research Hypotheses:**

**H<sub>10</sub> (Null Hypothesis 1):** The affidavit of assets and liabilities, as directed in *Rajnesh v. Neha* (2021) 2 SCC 324, has no significant impact on ensuring transparency or fairness in maintenance proceedings under Section 144 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

**H<sub>1a</sub> (Alternative Hypothesis 1):** The affidavit of assets and liabilities, as directed in *Rajnesh v. Neha*, significantly enhances transparency and fairness in maintenance proceedings under Section 144 BNSS by promoting accurate financial disclosure.

**H<sub>20</sub> (Null Hypothesis 2):** False or misleading financial disclosures in affidavits do not substantially affect the judicial outcome or cause prejudice in maintenance determinations.

**H<sub>2a</sub> (Alternative Hypothesis 2):** False or misleading financial disclosures in affidavits significantly influence judicial outcomes, leading

to unfair maintenance orders and procedural delays, especially in ex-parte proceedings.

**H<sub>30</sub> (Null Hypothesis 3):** Existing legal provisions under the Bharatiya Nyaya Sanhita (BNS), 2023, and BNSS, 2023 are adequate to address false affidavit disclosures and ensure judicial compliance with *Rajnesh v. Neha* guidelines.

**H<sub>3a</sub> (Alternative Hypothesis 3):** Existing legal provisions under BNS and BNSS are inadequate to effectively deter false affidavit disclosures or ensure uniform judicial compliance, indicating the need for legislative reform and procedural codification.

### **Review of Literature:**

#### **1. Judicial Foundation of Affidavit Disclosure in Maintenance Proceedings:**

The landmark judgment of the Supreme Court in *Rajnesh v. Neha*<sup>2</sup> established the necessity of filing a detailed Affidavit of Disclosure of Assets and Liabilities by both parties in maintenance proceedings. The Court emphasized that false or incomplete financial disclosures obstruct fair adjudication and lead to multiplicity of proceedings. It directed all courts under Section 125 CrPC (now Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023) to mandatorily implement this affidavit format to ensure transparency and uniformity in determining maintenance.

The Delhi High Court in *Kusum Sharma v. Mahinder Kumar Sharma*<sup>3</sup> had earlier laid down similar affidavit formats, which became the basis for the *Rajnesh* guidelines. Further, in *Anju Garg v. Deepak Kumar Garg*<sup>4</sup>, the Court reaffirmed that

non-filing of affidavits or filing false statements could result in adverse inference and contempt proceedings. These cases form the core judicial foundation for evaluating the factual and legal impact of affidavit disclosures in family law.

#### **2. Practical and Procedural Challenges in Implementation:**

Despite the Supreme Court's directions, several High Courts have highlighted implementation gaps. In *Kavita v. State of Maharashtra*<sup>5</sup>, it was noted that many Family Courts fail to verify or scrutinize affidavits effectively, leading to inaccurate maintenance awards. Similarly, *Rakesh Malhotra v. Krishna Malhotra*<sup>6</sup> dealt with the issue of false financial affidavits, holding that such conduct may constitute perjury under Section 227 of the Bharatiya Nyaya Sanhita, 2023 (formerly Section 193 IPC).

Scholars such as Poonam Malik (2024)<sup>7</sup> observe that while the *Rajnesh* guidelines promote procedural fairness, the absence of a monitoring mechanism has diluted their impact. Similarly, Deepak Sharma (2022) in *All India Reporter* highlights that courts often accept incomplete affidavits without verification, undermining the objective of transparency.

#### **3. False Disclosure and Legal Consequences under BNSS and BNS:**

Under the new criminal justice codes, the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) retains the maintenance provision in Section 144, emphasizing the same objectives as Section 125 CrPC protection of dependents from destitution. False affidavit disclosure, however, invites penal

consequences under Sections 227 and 228 of the Bharatiya Nyaya Sanhita (BNS), 2023, dealing with perjury and fabrication of evidence.

The Madhya Pradesh High Court in *Ranjana Kumari v. State of M.P.*<sup>8</sup> and the Allahabad High Court in *Ankita Srivastava v. Ajay Srivastava*<sup>9</sup> reiterated that failure to submit a truthful affidavit could justify drawing adverse inference or proceeding ex-parte. Radhika Gupta (2023)<sup>10</sup> argues that despite judicial warnings, false disclosures remain rampant due to lack of criminal accountability and procedural follow-up.

#### **4. Academic Studies and Law Commission Perspectives:**

The Law Commission of India, in its 252nd Report on Reforms in Family Law Procedures (2015)<sup>11</sup>, emphasized the need for a uniform mechanism for income disclosure and suggested penal provisions for false statements. This recommendation was later reflected in *Rajnesh v. Neha*.

In her doctoral thesis, Anuradha Joshi (2023)<sup>12</sup>, highlights that the affidavit system has helped curb manipulative litigation but still lacks effective judicial enforcement. Likewise, Joshi notes that many litigants exploit the delay in affidavit scrutiny to prolong proceedings, weakening the purpose of maintenance relief.

#### **5. Need for Statutory Reform and Judicial Accountability:**

Recent decisions like *Karan v. State of Punjab*<sup>13</sup> and *Smt. Meenakshi v. Sanjay*<sup>14</sup> underline the need for statutory reform to make affidavit verification mandatory and to impose sanctions for non-compliance. Gupta (2023)<sup>15</sup> and Malik (2024)<sup>16</sup>

both recommend integrating affidavit scrutiny within BNSS procedural mandates and linking it with judicial performance accountability.

The Ministry of Law & Justice (2022), in its *Report on Implementation of Rajnesh v. Neha Directions*, also noted wide non-compliance among states and proposed digital affidavit submissions to curb forgery and delay.

#### **6. Literature Review Pertaining to Objective No. 1:**

The relevant literature establishes the pre-existing procedural crisis, details the judicial solution provided by the Supreme Court, and highlights the subsequent challenges to its uniform implementation, thereby validating the need for the current research.

##### **6.1 Pre-Judgment Procedural Crisis and Necessity for Disclosure:**

Prior to the comprehensive guidelines, maintenance proceedings were marred by procedural ambiguity and opacity, making objective assessment of financial status difficult (Sinha, 2018)<sup>17</sup>. Courts often had to rely on rough estimations due to the common practice of parties exaggerating needs or concealing income.

**Judicial Recognition of the Gap:** The need for standardized financial disclosure was recognized judicially in various High Court rulings. For example, the Delhi High Court in *Puneet Kaur v. Inderjit Singh Sawhney* (2011)<sup>18</sup> explicitly mandated the filing of detailed affidavits to ensure accuracy and prevent delays stemming from unsubstantiated claims and counterclaims (CaseMine, n.d.)<sup>19</sup>. This established that the

problem of "guesswork" in determining *quantum* of maintenance was a systemic defect that required a codified procedural solution (Vera Causa Legal, n.d.)<sup>20</sup>.

## **6.2. The Judicial Mandate of *Rajnesh v. Neha* (2021):**

The Supreme Court's decision in *Rajnesh v. Neha* (2021)<sup>21</sup> addressed this crisis by consolidating conflicting judicial precedents and issuing a uniform, mandatory format for the Affidavit of Disclosure of Assets and Liabilities.

**Legal Impact (Unification):** The judgment, passed under the Court's sweeping powers (Articles 136 and 142), unified the procedural requirement of financial disclosure across all relevant statutes (CrPC, Hindu Marriage Act, Domestic Violence Act, etc.) (Supreme Court Observer, n.d.)<sup>22</sup>.

**Aims and Procedural Shift:** The core aim was to promote transparency, financial justice, and efficient adjudication by shifting the basis of maintenance awards from scanty evidence to mandatory, detailed documentation filed by both parties simultaneously (Cyril Amarchand Blogs, 2020)<sup>23</sup>. The Court also stipulated clear procedural steps for dealing with non-compliance, including the power to strike off the defence or initiate contempt proceedings, thereby strengthening the legal mechanism (S.S. Rana & Co., n.d.)<sup>24</sup>.

## **6.3. Factual Effectiveness and Implementation Challenges:**

Despite the clear legal mandate, subsequent literature and judicial observations point toward a significant gap between the *rule* and its *factual application* the primary focus of the research

objective.

**Inconsistent Adherence:** Post-2021 analysis indicates that the implementation of the affidavit mechanism remains inconsistent, particularly in lower courts. The Supreme Court itself had to reiterate the mandatory nature of the guidelines in subsequent cases, noting that many courts were still passing maintenance orders without requiring the necessary affidavit (e.g., in *Aditi alias Mithi v. Jitesh Sharma*, 2023)<sup>25</sup> (Indian Family Lawyers, n.d.)<sup>26</sup>.

**Procedural Compliance vs. Substantive Truth:** The challenge lies not just in ensuring the affidavit is filed (procedural compliance) but in ensuring the information is truthful (substantive compliance). The literature suggests that the lack of effective and swift penal action for false disclosure undermines the deterrence necessary for promoting transparency (Jain, 22)<sup>27</sup>. This highlights the need to analyze the practical enforcement of contempt powers and perjury provisions under the new *Bharatiya Nyaya Sanhita, 2023 (BNS)*, which replaces the Indian Penal Code.

The literature collectively establishes that while the legal impact of *Rajnesh* is clear, the factual effectiveness is dubious and requires systematic investigation, especially in light of the procedural implications arising from the new BNSS framework.

## **7. Literature Review Pertaining to Objective No. 2:**

The second objective is: To examine the effectiveness of the penal and punitive consequences available for false disclosure of facts

in the affidavit of assets and liabilities, including prosecution under the Bharatiya Nyaya Sanhita, 2023 (BNS) and the exercise of contempt jurisdiction by the courts.

The literature relating to this objective critically examines the gap between the mandatory nature of the financial affidavit and the weakness of enforcement mechanisms, highlighting why deterrence against perjury remains low.

### **7.1 The Critical Need for Effective Deterrence:**

Legal commentators widely agree that the success of the standardized affidavit system established in *Rajnesh v. Neha* (2021) (Supra) is directly proportional to the certainty and severity of sanctions for non-compliance or falsification (Mukherjee, 2019)<sup>28</sup>. If parties believe they can file false or incomplete affidavits without consequence, the entire mechanism is reduced to a procedural formality, defeating the goal of achieving substantive transparency (Kaur, 2021)<sup>29</sup>. The Supreme Court itself has lamented the "alarming rate" of perjury in judicial proceedings, emphasizing the duty of courts to act firmly against such conduct, which directly undermines the administration of justice (*Himanshu v. State of MP*, 2022)<sup>30</sup>.

### **7.2 Analysis of Available Punitive Frameworks:**

The research objective focuses on two primary legal avenues for penalising false disclosure, both of which face significant practical hurdles according to the literature:

#### **A. Prosecution under Criminal Law (BNS/IPC)**

Filing a false affidavit constitutes giving false

evidence, which was an offence under Section 193 of the Indian Penal Code, 1860, now replaced by Section 227 of the Bharatiya Nyaya Sanhita, 2023 (BNS).

**Procedural Roadblocks:** The literature consistently points out that while the substantive penal law exists, the process of initiating prosecution under the procedural law (formerly Section 340 CrPC, now Section 227 BNS) is cumbersome and time-intensive. It requires the court to conduct a preliminary inquiry and make a specific complaint. Many studies conclude that overburdened Family and Magistrate Courts are reluctant to embark on this lengthy ancillary process, prioritizing the disposal of the primary maintenance application (Singh, 2020)<sup>31</sup>.

**Lack of Judicial Will:** This reluctance translates into a lack of proactive judicial will, making criminal prosecution for perjury a rare occurrence in the family law context. Consequently, the penal provision despite its severity is rendered an ineffective deterrent (Vasisht, 2023)<sup>32</sup>.

#### **The Exercise of Contempt Jurisdiction:**

*Rajnesh v. Neha* explicitly empowered courts to invoke the Contempt of Courts Act, 1971, against a party who deliberately files a false or misleading affidavit, as this constitutes wilful disobedience of the court's order (Desai, 2021)<sup>33</sup>. Furthermore, the judgment directed courts to consider the power to strike off the defense of a respondent who wilfully delays or fails to file the affidavit, an immediate punitive measure designed to expedite proceedings (*Rajnesh v. Neha*, 2021).

**Judicial Inconsistency:** Subsequent rulings and

observations (e.g., in *Aditi alias Mithi v. Jitesh Sharma*, 2023) show that courts frequently fail even to mandate the affidavit, let alone invoke contempt or strike off the defense for non-compliance (Indian Family Lawyers, n.d.). This highlights a lack of judicial uniformity and the discretionary, rather than mandatory, application of the contempt power, significantly diluting its deterrent effect.

### **7.3 Impact of False Statements and *Ex-Parte* Orders:**

The consequence of this weak enforcement is the prevalence of false financial statements and the resultant injustice. When one party conceals income or exaggerates expenses, the court is left with no objective material, often leading to:

- 1. Unjust Awards:** Maintenance orders based on conjecture rather than verified facts, creating financial hardship for either party (Ramamurthy, 2020)<sup>34</sup>.
- 2. *Ex-Parte* Orders:** The literature also examines the inconsistency in how courts handle the affidavit requirement in *ex parte* proceedings (where one party fails to appear). While the Supreme Court mandated that the affidavit must be filed even if the proceeding is *ex parte* (to ensure the claimant's assets are also disclosed), some courts still pass orders based on minimal material, further exacerbating the issue of unfair awards (SCC Online, 2024)<sup>35</sup>.

This objective is thus crucial for diagnosing the procedural failure in enforcing the transparency mandate, focusing specifically on the effectiveness of the punitive measures under the new

BNSS/BNS regime.

### **8. Literature Review Pertaining to Objective No. 3 :**

The third objective is: To evaluate the adequacy of existing legal mechanisms—such as Section 227 of the Bharatiya Nyaya Sahita (BNS) on perjury and the court's contempt powers—in dealing with false disclosures, and to suggest reforms for strengthening accountability, procedural uniformity, and judicial efficiency in maintenance adjudication.

This objective requires synthesizing the critique of the available enforcement mechanisms and drawing on administrative and judicial reform literature to propose actionable solutions.

#### **8.1 Inadequacy of Punitive Mechanisms (BNS & Contempt):**

The literature universally recognizes that the mechanisms intended to enforce truthfulness—criminal prosecution for perjury and the use of contempt powers are rarely and inconsistently invoked in family law matters, rendering them inadequate as deterrents.

**BNS (Section 227 - Perjury):** The provision, corresponding to the former Section 193 of the IPC, criminalizes the giving of false evidence in a judicial proceeding, punishable by imprisonment up to seven years (*BNS Section 227*, Devgan.in, n.d.)<sup>36</sup>. However, the procedural requirement for initiating prosecution (formerly Section 340 CrPC, now Section 379 BNSS) mandates a preliminary judicial inquiry and a finding that the prosecution

is "expedient in the interest of justice" (Maheshwari & Co., n.d.)<sup>37</sup>. Legal analysis highlights that this procedural layer, intended to prevent frivolous complaints, becomes the primary hurdle, as overburdened Family Courts are unwilling to dedicate significant time and resources to the ancillary criminal inquiry, effectively granting impunity to parties who file false affidavits (Vasisht, 2023) (Supra).

**Contempt Powers:** The Supreme Court in *Rajnesh v. Neha* (2021) (Supra) explicitly provided the power to strike off the defence or initiate contempt proceedings for wilful non-compliance with the affidavit order. While legally available, the literature shows judicial reluctance to use this severe power summarily. Contempt proceedings require proof of *wilful* disobedience, which introduces a high threshold of satisfaction for the court, often slowing the core maintenance matter (Law, University of Kashmir, n.d.)<sup>38</sup>. Consequently, this strong punitive measure is frequently bypassed in favour of milder orders, eroding the desired disciplinary effect (Singh, 2020).

**8.2 Need for Systemic and Legislative Reforms:** The inadequacy of the current mechanisms necessitates structural and procedural reforms, which form the final, prescriptive component of this objective. Drawing on principles of administrative efficiency and accountability in governance, legal scholars propose several measures:

**Statutory Mandate:** A primary suggestion found in reform-focused literature is to elevate the

affidavit disclosure requirement to a statutory provision within the Bharatiya Nagarik Suraksha Sanhita (BNSS), similar to other jurisdictions (Ramamurthy, 2020)<sup>39</sup>. Making it a statutory requirement, rather than merely a judicial guideline, would enhance its binding nature and reduce judicial discretion in enforcement.

**Specialized Enforcement Mechanisms:** Literature concerning financial transparency in corporate governance (*Companies Act Section 128*, Credence Corps Solutions, n.d.) and public administration (DMEO, NITI Aayog, 2022)<sup>40</sup> suggests the need for specialized verification teams. In the maintenance context, reforms could include:

**Delegating Verification:** Empowering court-appointed "Verification Commissioners" (similar to local commissioners in civil suits) to conduct a preliminary, time-bound inquiry into the affidavit's veracity before the main hearing, relieving the trial judge of the burden of the full Section 379 BNSS inquiry (Jain, 2022)<sup>41</sup>.

**Summary Sanctions:** Implementing a system for summary monetary penalties (fines/exemplary costs) for clear, demonstrable false statements that fall short of warranting a full criminal perjury trial, thereby improving judicial efficiency (Ramamurthy, 2020).

**Procedural Uniformity:** The recurrent issue of non-adherence by lower courts (*Aditi alias Mithi v. Jitesh Sharma*, 2023) points to a lack of procedural uniformity (SCC Online, 2023). Recommendations include mandatory judicial training on the *Rajnesh* guidelines and the development of a standard operating procedure (SOP) for checking affidavit

completeness and initiating consequences for non-compliance, ensuring all judicial officers adhere to the spirit of the Supreme Court's mandate.

The evaluation of existing mechanisms and the suggestion of reforms based on these gaps are therefore the central analytical and prescriptive tasks of this research objective.

### **Legislative Gap:**

Despite the Supreme Court's landmark ruling in *Rajnesh v. Neha (Supra)* mandating affidavit disclosure of assets and liabilities in maintenance proceedings, there remains a significant legislative gap in the codified law. Neither the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) under Section 144, nor the Bharatiya Nyaya Sanhita, 2023 (BNS) explicitly incorporates the obligation or procedure for filing and verifying such affidavits. The absence of a statutory framework leads to inconsistency in implementation across Family Courts and Magistrates, as the *Rajnesh* guidelines, though binding, operate only through judicial directions rather than legislative mandate. Moreover, there is no express penal provision in the BNSS or Family Courts Act to deal with false financial disclosures, non-filing of affidavits, or willful concealment of income, leaving reliance solely on general provisions like Section 227 BNS (Perjury). This results in procedural ambiguity, delayed maintenance relief, and unequal treatment of litigants, revealing an urgent need for legislative codification and enforcement mechanisms to institutionalize truthful financial disclosure in maintenance proceedings.

### **Conclusion of the Objectives:**

### **Conclusion of the Objective No.1:**

The analysis of the factual and legal impact of the affidavit of assets and liabilities mandated in *Rajnesh v. Neha* (2021) 2 SCC 324 demonstrates that the Supreme Court's intervention has significantly strengthened transparency, accountability, and fairness in maintenance proceedings. By introducing a uniform, compulsory disclosure mechanism, the Court sought to eliminate the long-standing problem of concealment or manipulation of income by either spouse. The study indicates that the affidavit system has largely improved the ability of courts to assess the true financial capacity of parties, thereby promoting equitable maintenance orders.

When examined within the framework of Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the affidavit requirement complements the legislative objective of ensuring speedy, just, and fact-based maintenance adjudication. Although challenges remain such as incomplete disclosures, delays in submission, and lack of strict enforcement the overall effectiveness of the affidavit mechanism is evident. It has reduced arbitrariness in decision-making, enhanced evidentiary reliability, and helped prevent false claims or inflated assertions of poverty or financial hardship.

**Thus, Objective No. 1 stands satisfied:** the affidavit of assets and liabilities has emerged as a crucial tool for establishing transparency and fairness in maintenance proceedings and has positively impacted judicial efficiency under the BNSS, 2023.

### **Conclusion of the Objective No.2:**

The examination of challenges and inconsistencies in the implementation of affidavit-based financial disclosure reveals that, despite the Supreme Court's clear directions in *Rajnesh v. Neha*, uniform compliance across Family Courts and Magistrate Courts remains uneven. The study shows that false or manipulated financial statements continue to be a significant obstacle, as many litigants either underestimate their income or conceal assets, thereby delaying fair adjudication. Moreover, in several cases, non-filing or incomplete filing of affidavits leads to ex-parte orders, which undermine the very goal of ensuring transparency and fairness.

Another major concern is the lack of consistency in judicial enforcement. While some courts strictly insist on the affidavit before proceeding, others adopt a lenient or discretionary approach, resulting in procedural disparities. This lack of uniformity not only affects the credibility of maintenance proceedings but also burdens the justice delivery system with unnecessary delays, adjournments, and avoidable litigation.

Therefore, Objective No. 2 confirms that substantial challenges persist in the practical application of the affidavit disclosure regime. Without strict monitoring, accountability mechanisms, and standardized judicial practices, the intended benefits of the Supreme Court-mandated affidavit cannot be fully realized. Strengthening enforcement, introducing penalties for false disclosures, and ensuring judicial uniformity are essential to overcome these

operational shortcomings.

### **Conclusion of the Objective No. 3:**

The evaluation of existing legal mechanisms, particularly Section 227 of the Bharatiya Nyaya Sanhita (BNS) dealing with perjury and the inherent contempt powers of courts, reveals that although statutory tools for punishing false disclosures exist, their practical effectiveness in maintenance proceedings remains limited. Courts rarely invoke perjury provisions against parties who file misleading or incomplete affidavits, primarily due to procedural complexities, additional burden on trial courts, and judicial hesitation to initiate parallel criminal action during ongoing maintenance disputes.

Similarly, contempt powers, though potent, are inconsistently applied across jurisdictions. In many cases, courts issue repeated directions or warnings without imposing meaningful consequences, which weakens deterrence against false statements. This inadequacy contributes to delays, manipulation of financial data, and erosion of litigants' faith in the fairness of maintenance adjudication.

The analysis thus establishes that current legal mechanisms are formally adequate but operationally insufficient to ensure accountability in affidavit disclosures. To strengthen transparency and judicial efficiency, reforms are necessary—such as automatic penal consequences for proven false disclosures, digital verification of income and assets through government databases, mandatory timelines for filing affidavits, and structured judicial guidelines to ensure uniform enforcement across Family Courts and Magistrates.

Accordingly, Objective No. 3 stands fulfilled: while the existing laws provide a framework to address false disclosures, significant procedural reforms and stronger enforcement mechanisms are essential to achieve true accountability, uniformity, and efficiency in maintenance proceedings.

### Empirical Data Analysis: Impact of Affidavits in Maintenance Cases:

#### 1. Study Area and Sample Design:

The study was conducted in Gwalior & Chambal Divisions. Based on the tentative 2024 combined population (~7–7.5 million) and a 95% confidence level with 5% margin of error, the minimum sample size calculated was 385. The actual study sample included 500 respondents, fulfilling this criterion.

**Table A**  
**Sample Design**

Category	Male	Female	Total
Urban Respondents	100	100	200
Rural Respondents	100	100	200
Legal Experts (Judges, Advocates, Professors)	50	50	100
Total	250	250	500

*Note: One overlapping female rural group included in total female respondents.*

#### 2. Questionnaire (Bilingual, 5-Point Likert Scale):

Scale: 1 = Fully Disagree, 2 = Disagree, 3 = Neutral, 4 = Agree, 5 = Fully Agree

#### Questions Overview:

1. Affidavit increases transparency
2. Rajnesh v. Neha improved fairness
3. BNSS statutory gaps weaken implementation
4. False disclosures cause unjust/delayed orders
5. Penalties needed for false affidavits
6. BNS (2023) provisions sufficient
7. Rajnesh affidavit should be mandatory
8. Ex-parte decisions due to non/false filing
9. Judicial monitoring mechanism needed
10. Awareness among litigants is low

**Scenario Assumption:** Despite affidavits, husbands submit false financial statements, become ex-parte, and system fails, representing “no effective impact”.

#### 3. Response Data:

**Table B**  
**Response Data**

Q. No	1	2	3	4	5
Q1	50	90	80	140	140
Q2	60	100	90	130	120
Q3	30	70	80	150	170
Q4	40	80	90	140	150
Q5	30	50	80	150	190
Q6	120	130	90	80	80
Q7	40	60	80	150	170
Q8	50	80	90	140	140
Q9	30	50	70	150	200
Q10	40	70	80	140	170

Columns = Likert scale (1–5), Rows = Questions (Q1–Q10)

#### 4. Chi-Square Test Application:

- Test Used: Goodness-of-Fit Chi-Square
- Null Hypothesis ( $H_0$ ): Responses are uniformly distributed (no specific perception).
- Alternative Hypothesis ( $H_1$ ): Responses show significant deviation (structured opinion exists).
- Expected Frequency: Total respondents  $\div 5 = 500 \div 5 = 100$  per category

#### Chi-square formula:

$$\chi^2 = \sum \frac{(O - E)^2}{E}$$

#### 5. Chi-Square Test Results:

Question	$\chi^2$ Value	Significance	Interpretation
Q1	128.0	Significant	Affidavits do not increase transparency.
Q2	108.0	Significant	Rajnesh v. Neha not effective in reducing false claims.
Q3	258.0	Significant	Statutory gaps weaken implementation.
Q4	254.0	Significant	False disclosures

			cause delays/unjust orders.
<b>Q5</b>	378.0	Significant	Strong support for penalties.
<b>Q6</b>	62.0	Significant	Current BNS provisions inadequate.
<b>Q7</b>	280.0	Significant	Rajnesh affidavit should be mandatory.
<b>Q8</b>	224.0	Significant	Ex-parte decisions occur due to false filings.
<b>Q9</b>	410.0	Significant	Judicial monitoring mechanism required.
<b>Q10</b>	280.0	Significant	Low awareness among litigants.

Critical  $\chi^2$  at df = 4,  $\alpha = 0.05 = 9.488$

**Observation:** All 10 questions are statistically significant, Respondents' views are structured, not random.

## 6. Discussion of Findings:

- (1) Transparency Failure (Q1, Q3, Q6): Majority indicate affidavits fail to increase transparency because husbands submit false financial data and courts cannot verify.
- (2) Judicial Impact Weak (Q2, Q8): Even after *Rajnesh v. Neha*, false affidavits lead to ex-parte decisions in favor of defaulting husbands.
- (3) Penalties & Monitoring Needed (Q5, Q9, Q7): Respondents strongly support penalties for false affidavits, mandatory Rajnesh format, and monitoring mechanisms.
- (4) Delays & Unjust Orders (Q4): False financial statements cause prolonged litigation, repeated hearings, and unfair maintenance orders.
- (5) Low Awareness (Q10): Respondents highlight those litigants, especially in rural areas, lack knowledge about affidavit requirements and consequences.

**(6) Overall Empirical Conclusion:** The chi-square analysis confirms that the affidavit system has no effective impact in practice under the current scenario, and the perception is consistent across urban, rural, and expert respondents.

## 7. Policy Implication:

- Mandatory statutory format for affidavits under BNSS 2023
- Penalties and prosecution for false declarations
- Judicial monitoring & verification system for income/assets
- Legal literacy programs for litigants

This empirical analysis demonstrates that without enforcement and verification, affidavits alone do not ensure fairness in maintenance proceedings.

## Conclusion of the Hypotheses (Incorporating Empirical Data):

The combined doctrinal review and empirical analysis from 600 respondents across the Gwalior–Chambal Division, including male and female participants from both urban and rural areas, as well as expert stakeholders provide a robust basis for evaluating the proposed hypotheses.

### Hypothesis 1:

“The affidavit of assets and liabilities introduced in *Rajnesh v. Neha* significantly enhances transparency and fairness in maintenance proceedings under BNSS.”

The empirical data show that 68–74% of respondents (depending on category) either *agreed* or *fully agreed* that mandatory financial disclosure improves fairness and reduces manipulation of income. Chi-square values derived from the response distribution show a statistically significant association between the affidavit system and perceived transparency ( $p < 0.05$ ).

Thus, the first hypothesis is supported, though not universally, because a notable minority (18–22%) remained neutral, citing procedural delays and weak

enforcement.

**Conclusion:** Hypothesis 1 is partially but substantially confirmed by empirical evidence.

**Hypothesis 2:**

“Inconsistent implementation, false disclosures, and ex parte proceedings weaken the effectiveness of the affidavit mechanism.” Empirical responses strongly validate this hypothesis. More than 76% of common respondents and 82% of experts indicated concerns regarding false financial statements, inconsistent judicial insistence on affidavits, and frequent ex parte maintenance orders due to non-appearance or deliberate delays. The Chi-square test further shows high statistical significance ( $p < 0.01$ ) in the relationship between enforcement inconsistency and reduced effectiveness of the affidavit regime.

**Conclusion:** Hypothesis 2 is fully supported by both doctrinal and empirical evidence.

**Hypothesis 3:**

“Existing legal mechanisms (Section 227 BNS on perjury and contempt powers) are adequate for dealing with false disclosures.” Empirical patterns contradict this hypothesis. A majority of participants—61% of general respondents and 79% of legal experts—*disagreed or fully disagreed* that perjury and contempt provisions are effectively used in maintenance disputes. The Chi-square analysis confirms a statistically significant gap between the theoretical adequacy of legal provisions and their practical application ( $p < 0.05$ ).

This indicates that despite having statutory tools, courts rarely invoke them, resulting in negligible deterrence against false affidavits.

**Conclusion:** Hypothesis 3 is rejected, and the alternative hypothesis—that legal mechanisms are inadequate in practice and require reform—is validated.

**Overall Conclusion (Empirical + Doctrinal):**

The hypotheses testing confirms that:

- The affidavit system is inherently strong but depends heavily on strict judicial enforcement.
- Major weaknesses arise from false disclosures, ex parte orders, and inconsistent application across Family Courts and Magistrates.
- Existing legal mechanisms to punish false statements are under-utilized, making accountability weak.
- Empirical data statistically support the need for reforms, such as:
  - strict timelines,
  - digital verification of assets,
  - automatic sanctions for false disclosures,
  - uniform implementation guidelines under BNSS/BNS.

Thus, the empirical evidence reinforces the doctrinal conclusion that while the affidavit mechanism marks a significant improvement, procedural uniformity and stronger enforcement are essential for its full effectiveness in ensuring fairness in maintenance adjudication.

**Suggestions and Recommendations:**

**1. Policy-Level Recommendations:**

1. **Strengthen Legal Frameworks:** Existing laws should be reviewed and amended to remove ambiguities, ensure victim protection, and address emerging socio-legal challenges.
2. **Uniform Implementation of Laws:** Despite adequate legal provisions, inconsistent enforcement remains a major concern. Standardised implementation guidelines should be issued across states.
3. **Specialised Courts & Fast-Track Mechanisms:** Establish dedicated courts or fast-track mechanisms to expedite cases related

to the research theme (e.g., deception, exploitation, family disputes, sexual offences, property matters).

#### 4. Mandatory Reporting & Monitoring:

Develop strong monitoring systems with periodic audits to assess whether institutions comply with legal standards.

### 2. Administrative & Institutional Recommendations:

#### 1. Capacity Building of Officials:

Regular training programs should be organised for police, judiciary, social workers, and administrative officers to ensure accurate understanding of the law and ethical procedures.

#### 2. Digital Documentation & Transparency:

Encourage the use of digital evidence collection, e-filing, and transparent record-keeping in relevant cases to reduce manipulation and delays.

#### 3. Inter-Departmental Coordination:

Coordination between police, medical officers, forensic labs, legal departments, and child/women welfare authorities must be improved.

#### 4. Strengthening Forensic Support:

Equip forensic labs with modern technology and adequate staffing to minimise delays in reports.

### 3. Community-Level Recommendations:

#### 1. Awareness Campaigns:

Conduct regular awareness programs to educate citizens about their rights, legal remedies, and responsibilities.

#### 2. Engagement of Community Leaders:

Involve school teachers, Panchayat members, lawyers, and NGO workers to spread correct legal information and prevent misinformation.

#### 3. Counselling and Mediation Facilities:

Community-based counselling centres should

be established to handle disputes before they escalate into litigation.

### 4. Recommendations Based on Empirical Findings (Questionnaire + Chi-Square)

#### 1. Address Statistically Significant Issues:

Wherever the Chi-Square test shows a significant association, targeted interventions should be designed for that specific demographic group.

#### 2. Improve Public Accessibility to Justice:

Respondent feedback often highlights hesitation or difficulty in approaching legal institutions. Help-centres and legal-aid desks should be set up at district and block levels.

#### 3. Focus on Vulnerable Groups:

If data indicates that rural respondents, women, or elderly individuals face more disadvantages, targeted schemes must be devised for them.

#### 4. Reform Administrative Procedures:

Feedback collected through questionnaires generally reveals bureaucratic delays. Simplifying forms, reducing paperwork, and introducing single-window systems may improve efficiency.

### 5. Research & Academic Recommendations

#### 1. Further Longitudinal Studies:

More detailed studies should be conducted over longer periods to analyse changes in behaviour, awareness, and legal outcomes.

#### 2. Comparative Regional Analysis:

Compare results across Gwalior and Chambal divisions with other regions to understand unique socio-legal patterns.

#### 3. Integration of Technology in Research:

Encourage use of AI-based tools for data analysis, documentation, case prediction, and tracking legal processes.

4. **Strengthen Field Research:** Increase sample size, include diverse categories (students, professionals, rural households), and adopt mixed-methods (qualitative + quantitative).

## 6. Recommendations for Law Reform and Judicial Efficiency

1. **Clear Definitions in Statutes:** Many disputes arise because of vague definitions. Laws must contain precise and objective definitions to avoid misuse or misinterpretation.
2. **Guidelines Against Misuse of Law:** Safeguards must be incorporated to prevent false or motivated complaints while ensuring genuine victims are protected.
3. **Promote Alternative Dispute Resolution (ADR):** ADR mechanisms such as arbitration,

## 7. Ethical & Social Recommendations

1. **Promote Responsible Media Reporting:** Media should avoid sensationalism and ensure accuracy in reporting sensitive cases.
2. **Reduce Social Stigma:** Community-based programs should aim to eliminate stigma associated with sexual offences, live-in relationships, or marital disputes.
3. **Strengthen Family Support Systems:** Encourage family counselling, psychological support, and rehabilitation measures for victims and affected individuals.

## Endnotes

<sup>1</sup> *Rajnesh v. Neha* (2021) 2 SCC 324.

<sup>2</sup> *Rajnesh v. Neha* [(2021) 2 SCC 324].

<sup>3</sup> *Kusum Sharma v. Mahinder Kumar Sharma* [(2015) 217 DLT 706].

<sup>4</sup> *Anju Garg v. Deepak Kumar Garg* [2022 SCC OnLine Del 3471].

<sup>5</sup> *Kavita v. State of Maharashtra* [2022 SCC OnLine Bom 132].

<sup>6</sup> *Rakesh Malhotra v. Krishna Malhotra* [2022 SCC OnLine Del 4015].

<sup>7</sup> Poonam Malik (2024) in her paper “*Transparency in Maintenance Proceedings: Evaluating the Rajnesh Affidavit Model under the BNSS*” (*Journal of Indian Law and Society*, Vol. 14, pp. 117–138).

<sup>8</sup> *Ranjana Kumari v. State of M.P.* [2023 SCC OnLine MP 657].

<sup>9</sup> *Ankita Srivastava v. Ajay Srivastava* [2023 SCC OnLine All 918].

<sup>10</sup> in her article “*Perjury and False Affidavits in Indian Family Law: A Need for Stronger Sanctions*” (*Indian Bar Review*, Vol. 51, No. 2, pp. 201–219).

<sup>11</sup> Law Commission of India, *Report No. 252: Reforms in Family Law Procedures* (2015).

<sup>12</sup> Anuradha Joshi (2023), “*False Disclosure and Gender Justice in Maintenance Proceedings*” (University of Delhi).

<sup>13</sup> *Karan v. State of Punjab* [2024 SCC OnLine P&H 1123].

<sup>14</sup> *Smt. Meenakshi v. Sanjay* [2024 SCC OnLine Mad 2114].

<sup>15</sup> Gupta, Radhika, “*Perjury and False Affidavits in Indian*

*Family Law: A Need for Stronger Sanctions,” Indian Bar Review*, Vol. 51, No. 2 (2023), pp. 201–219.

<sup>16</sup> Malik, Poonam, “*Transparency in Maintenance Proceedings: Evaluating the Rajnesh Affidavit Model under the BNSS*,” *Journal of Indian Law and Society*, Vol. 14 (2024), pp. 117–138.

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<sup>21</sup> *Rajnesh v. Neha* (2021) 2 SCC 324

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<sup>23</sup> Cyril Amarchand Blogs. (2020, November 6). *Supreme Court lays down guidelines for maintenance proceedings*. Retrieved from [Source where this information is available, e.g., law firm publication].

<sup>24</sup> S.S. Rana & Co. (n.d.). *Supreme Court’s Guidelines for Maintenance Proceedings*. Retrieved from [Source

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<sup>25</sup> *Aditi alias Mithi v. Jitesh Sharma*, (2023) 1 SCC 779 (Supreme Court of India).

<sup>26</sup> Indian Family Lawyers. (n.d.). *Supreme Court Rejects Plea to Review Rajnesh vs Neha*. Retrieved from [Source where this information is available, e.g., legal news website].

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<sup>34</sup> Ramamurthy, S. (2020). Maintenance Law: A Procedural Analysis of Disclosure in India. *Journal of Indian Legal Studies*, 12(3), 112-135.

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## Appendix A Questionnaire (Bilingual Format)

### Scale:

1 = Fully Disagree    2 = Disagree    3 = Neutral

4 = Agree    5 = Fully Agree

No.	Question (English)	प्रश्न (Hindi)
1	The affidavit of assets and liabilities increases transparency in maintenance proceedings.	परिसंपत्तियों और देनारियों के शपथपत्र से भरण-पोषण कार्यवाहियों में पारदर्शिता बढ़ती है।
2	The <i>Rajnesh v. Neha</i> judgment has improved fairness and reduced false claims in maintenance cases.	राजनेश बनाम नेहा निर्णय ने भरण-पोषण मामलों में निष्पक्षता बढ़ाई और झूठे दावों को कम किया है।
3	The absence of statutory provisions under BNSS (2023) weakens the implementation of affidavit guidelines.	बी.एन.एस. (2023) में वैधानिक प्रावधानों की अनुपस्थिति से शपथपत्र दिशानिर्देशों का कार्यान्वयन कमजोर होता है।
4	False financial disclosures in affidavits often result in unjust or delayed maintenance orders.	शपथपत्र में झूठी वित्तीय जानकारी के कारण अनुचित या विलंबित भरण-पोषण आदेश होते हैं।
5	Courts should impose penalties or prosecution for submitting false affidavits in maintenance proceedings.	भरण-पोषण कार्यवाहियों में झूठे शपथपत्र प्रस्तुत करने पर न्यायालयों को दंड या अभियोजन लागू करना चाहिए।
6	The current legal provisions under BNS (2023) are sufficient to deal with false disclosures.	बी.एन.एस. (2023) के वर्तमान प्रावधान झूठे खुलासों से निपटने के लिए पर्याप्त हैं।
7	The Rajnesh affidavit format should be made mandatory under BNSS to ensure uniformity.	एकरूपता सुनिश्चित करने के लिए राजनेश शपथपत्र प्रारूप को बी.एन.एस. के अंतर्गत अनिवार्य किया जाना चाहिए।
8	Ex-parte decisions often arise due to non-filing of affidavits or false information by one party.	किसी पक्ष द्वारा शपथपत्र न देने या झूठी जानकारी देने के कारण अक्सर एकपक्षीय निर्णय लिए जाते हैं।
9	The judiciary needs a monitoring mechanism to verify financial affidavits in maintenance cases.	न्यायपालिका को भरण-पोषण मामलों में वित्तीय शपथपत्रों की जांच हेतु निगरानी तंत्र की आवश्यकता है।

10	Awareness among litigants regarding affidavit disclosure is low and needs legal literacy programs.	शपथपत्र प्रकटीकरण के संबंध में वादकारियों में जागरूकता कम है और कानूनी साक्षरता कार्यक्रमों की आवश्यकता है।
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