Bonding Beyond Biology: Maternity Leave Reconsidered for Adoptive Mothers in Light of *Hamsaanandini Nanduri v. Union of India*

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Abstract

This case commentary examines the Supreme Court of India's landmark judgment in *Hamsaanandini Nanduri v. Union of India* (2026), which struck down the age restriction in Section 60(4) of the Code on Social Security, 2020, that limited maternity benefits for adoptive mothers to cases where the adopted child was below three months of age. The Court declared this restriction unconstitutional under Articles 14 and 21 of the Constitution, holding that it bore no rational nexus with the legislative objective of maternity protection and denied adoptive mothers their right to live with dignity. Because the formal adoption process in India routinely spans three to four years, the impugned threshold rendered the statutory benefit practically illusory for the vast majority of adoptive parents. This commentary analyses the Court's constitutional reasoning under the twin test of reasonable classification and its expanding conception of decisional autonomy, evaluates the judgment's implications for adoptive families, and explores the emotional dimensions of adoptive parenthood that the law must accommodate. It further situates the decision within the broader discourse on inclusive families, substantive equality, and gender justice, and considers its alignment with India's international human rights commitments. The commentary concludes that, while the judgment marks a significant advance, graduated leave provisions and a binding statutory framework for paternity leave would further strengthen the protective regime for modern and diverse families.

Keywords: *Adoptive Motherhood, Maternity Benefits, Right to Equality, Inclusive Families, Code on Social Security.*

I. Introduction

Not flesh of my flesh, nor bone of my bone,
But still miraculously my own.
Never forget for a single minute,
You didn't grow under my heart, but in it.[1]

The Court's judgment opens by quoting the poet Fleur Conkling Heyliger. These lines capture a truth central to this petition: motherhood is not an instantaneous event achieved upon finalising legal paperwork, but a bond forged through love, patience, and sustained commitment to a child's growth and well-being.[2] For an adoptive mother, this bond is no less profound; it is a conscious and deliberate act of love, a decision to embrace a child not born of one's body but claimed irrevocably by one's heart. Yet Indian statutory frameworks governing maternity benefits have historically been anchored to a biological understanding of motherhood, conferring protection primarily upon women who experience the physical process of childbirth.[3]

The Constitution, through Articles 14 and 21, guarantees equality before the law and the right to life and personal liberty, encompassing the right to live with dignity,[4] while Article 42 directs the State to secure just and humane conditions of work and maternity relief.[5] Despite these imperatives, Section 60(4) of the Code on Social Security, 2020, restricted maternity benefits for adoptive mothers to cases where the adopted child was below three months of age.[6] Given that the formal adoption process in India, which is governed by the Central Adoption Resource Authority and the Juvenile Justice (Care and Protection of Children) Act, 2015,[7] routinely spans three to four years, this condition rendered the statutory benefit practically illusory for the overwhelming majority of adoptive parents.

It was in this context that Hamsaanandini Nanduri, a Delhi-based fintech lawyer and adoptive mother, invoked the Supreme Court's writ jurisdiction under Article 32 to challenge the constitutionality of this provision.[8] In its unanimous judgment delivered on 17 March 2026, the

[1] The verse is attributed to the American poet Fleur Conkling Heyliger; quoted by the Court in *Hamsaanandini Nanduri v. Union of India*, 2026 SCC OnLine SC 402 (India).
[2] *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, (2000) 3 SCC 224, 235 (India).
[3] The Maternity Benefit Act, 1961, § 5 (India).
[4] India Const. arts. 14, 21.
[5] India Const. art. 42.
[6] The Code on Social Security, 2020, § 60(4) (India).
[7] The Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, § 56 (India).
[8] *Hamsaanandini Nanduri v. Union of India*, 2026 SCC OnLine SC 402 (India).

Court struck down the impugned age restriction and declared that it violated Articles 14 and 21 of the Constitution.

II. Facts of the Case

The petitioner, Hamsaanandini Nanduri, legally adopted two siblings in September 2017, bringing them from institutional care into her home in Delhi.[9] The transition was emotionally complex. The children had spent their formative years in an orphanage and required patient, compassionate attention to adjust to an entirely new family and unfamiliar surroundings. At the time, Section 5(4) of the Maternity Benefit Act, 1961, as inserted by the 2017 Amendment, confined the twelve-week maternity benefit for adoptive mothers to cases where the adopted child was below three months of age.[10] Because the adoption processes governed by the Central Adoption Resource Authority and the child welfare committees under the Juvenile Justice Act invariably extend well beyond three months, the petitioner was effectively disqualified from claiming any benefit and was compelled to exhaust her earned and casual leave.

While her petition was pending before the Court, the Code on Social Security, 2020, came into force on 21 November 2025, and its Section 60(4) replicated the identical three-month age restriction *in pari materia* with the earlier provision.[11] The petitioner accordingly amended her petition to challenge the successor provision. Data from the Central Adoption Resource Authority revealed that prospective adoptive parents in India typically wait three to four years before an adoption is finalised,[12] underscoring the systemic impracticality of the impugned threshold and the illusory nature of the benefit it purported to confer.

III. Issues Before the Court

The following issues arose for determination before the Court:

1. Whether Section 60(4) of the Code on Social Security, 2020, which restricted maternity benefits for adoptive mothers to cases where the adopted child was below three months of age, violated Article 14 of the Constitution by imposing an arbitrary and unreasonable classification.

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[9] *Id.* at 406.

[10] The Maternity Benefit Act, 1961, § 5(4) (India).

[11] The Code on Social Security, 2020, § 60(4) (India).

[12] Central Adoption Resource Authority, *Adoption Statistics*, Ministry of Women & Child Development, Government of India, https://cara.wcd.gov.in (last visited July 19, 2026).

2. Whether the restriction infringed upon the right to life and dignity under Article 21, particularly the right to reproductive and decisional autonomy.
3. Whether the object of maternity benefit legislation is confined to biological childbirth or extends to the broader process of motherhood, including adoption.

IV. Arguments of the Petitioner

The petitioner mounted a multi-pronged constitutional challenge. Under Article 14, it was contended that the distinction between adoptive mothers of children below three months and those adopting older children was artificial, lacking an intelligible differentia and bearing no rational nexus to the object of the legislation. Maternal bonding, the petitioner argued, is a universal need, more acute where a child separated from biological parents has already endured institutional upbringing, and it calls for uninterrupted care, not less of it.

Under Article 21, the petitioner submitted that adoption is a valid exercise of a woman's reproductive and decisional autonomy, and that denying adequate leave to an adoptive mother impairs her right to dignity and personal liberty. Relying on *B. Shah v. Presiding Officer, Labour Court*,[13] she argued that maternity benefit legislation is beneficial in character and must be construed broadly to give effect to its protective purpose, and cited *Shabnam Hashmi v. Union of India*,[14] where the Court recognised the right to adopt as part of the right to life under Article 21. Invoking *Municipal Corporation of Delhi v. Female Workers*,[15] she submitted that maternity benefits form an integral part of a woman's dignity at the workplace, which the State is bound to secure without arbitrary restriction, and that the three-month condition rendered the benefit illusory in practice.

V. Arguments of the Respondent

The Union of India, represented by Additional Solicitor General K.M. Nataraj, defended the provision as a valid exercise of legislative discretion in social security policy. It submitted that the three-month threshold was a reasonable classification premised on the rationale that an infant below three months has an intensive dependency on a primary caregiver that diminishes as the child grows older. It further contended that adoptive mothers of older children could avail of

[13] *B. Shah v. Presiding Officer, Labour Court*, (1977) 4 SCC 384 (India).
[14] *Shabnam Hashmi v. Union of India*, (2014) 4 SCC 1 (India).
[15] *Municipal Corporation of Delhi*, (2000) 3 SCC at 235 (India).

crèche facilities mandated under Section 67 of the Code on Social Security, 2020,[16] thereby mitigating the need for extended maternity leave.

It was also argued that the adoption process could be expedited through empowered District Magistrates, and that the restriction reflected an unaddressed legislative gap rather than discriminatory intent. The respondent urged judicial restraint, submitting that the calibration of benefits and the allocation of finite public resources are matters best left to the legislature.

VI. Judgment and Analysis by the Court

The Supreme Court, in a unanimous verdict delivered by Justice J.B. Pardiwala with Justice R. Mahadevan concurring, struck down the impugned age restriction as unconstitutional.

On the Article 14 challenge, the Court applied the twin test of reasonable classification, examining whether the classification rested on an intelligible differentia bearing a rational nexus with the statutory object.[17] It found that distinguishing between adoptive mothers solely by the adopted child's age lacked any rational foundation. The object of maternity benefit legislation, the Court reasoned, is to support the process of motherhood, to facilitate bonding between parent and child, and to protect the welfare of both. This objective applies with equal, if not greater, force whether the child is three months or three years old. The classification was therefore held arbitrary and violative of Article 14.

Turning to Article 21, the Court recognised adoption as a valid facet of a woman's reproductive and decisional autonomy, protected under the right to life and personal liberty.[18] Maternity, it observed, is not limited to the biological event of childbirth but encompasses the broader and more enduring state of being a mother. The Court cited empirical studies showing that children raised in institutional settings experience significantly elevated stress hormone levels compared to those in familial environments,[19] reinforcing the importance of the initial bonding period. Drawing on *Deepika Singh v. Central Administrative Tribunal*,[20] it affirmed the constitutional concept of inclusive families, holding that the law must recognise and adapt to the diversity of modern family structures.

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[16] The Code on Social Security, 2020, § 67 (India).
[17] *Hamsaanandini Nanduri*, 2026 SCC OnLine SC 402, 410 (India).
[18] *Id.* at 412.
[19] Katie A. McLaughlin et al., *Causal Effects of the Early Caregiving Environment on Development of Stress Response Systems in Children*, 112 PNAS 5637 (2015).
[20] *Deepika Singh v. Central Administrative Tribunal*, (2023) 13 SCC 681 (India).

In a significant passage, the Court held that the object of maternity benefit is associated not with childbirth alone but with the broader process of motherhood, and that a commissioning or adoptive mother cannot be refused paid maternity leave on the ground that she did not undergo childbirth.[21] Accordingly, the Court struck down the three-month age restriction in Section 60(4), holding that every woman who legally adopts a child is entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to her, irrespective of the child's age.[22] It further urged the Union Government to consider introducing statutory paternity leave, recognising the importance of shared caregiving.

VII. Critical Analysis

The judgment marks a significant and welcome evolution in the Indian understanding of maternity, dismantling the artificial distinction between biological and adoptive motherhood and aligning statutory law with contemporary social realities.

A particularly commendable dimension is its recognition of the emotional intricacies of adoption. Section 12 of the Hindu Adoptions and Maintenance Act, 1956, provides that upon adoption a child is deemed the child of the adoptive parents for all purposes from the date of adoption.[23] If the law treats the adopted child as equal in status to a biological child, equity demands the same treatment for the adoptive mother's entitlements. Children raised in institutional care often carry invisible scars of abandonment and loss. For these children, the first months in a new family are not an administrative formality but a delicate process of learning to trust, to feel safe, and to belong. Denying an adoptive mother adequate leave during this window harms her dignity as a parent and undermines the child's chance at secure attachment.

The judgment also strengthens India's alignment with international human rights norms. Article 25(2) of the Universal Declaration of Human Rights recognises that motherhood and childhood are entitled to special care and assistance,[24] while the ILO Maternity Protection Convention, 2000, advocates comprehensive maternity protection without discrimination.[25] By extending benefits to all adoptive mothers regardless of the child's age, the Court advanced India's

[21] *Hamsaanandini Nanduri*, 2026 SCC OnLine SC 402, 415 (India).
[22] *Id.* at 416.
[23] The Hindu Adoptions and Maintenance Act, 1956, § 12 (India).
[24] Universal Declaration of Human Rights art. 25(2), Dec. 10, 1948.
[25] Maternity Protection Convention art. 4, June 15, 2000, ILO No. 183.

compliance with these commitments, reinforcing the child-focused approach that Indian jurisprudence has consistently championed.[26]

Certain limitations nonetheless merit attention. While twelve weeks of leave is a welcome and necessary entitlement, it may prove insufficient for older adopted children who require a longer period of adjustment, therapy, and emotional integration. Graduated or extended leave calibrated to the needs of adoptive families would strengthen the framework. Additionally, the Court's recommendation on paternity leave, though progressive, remains non-binding; a mandatory statutory provision would more effectively advance shared caregiving and gender-equitable parenting.

VIII. Conclusion

The decision in *Hamsaanandini Nanduri v. Union of India* fundamentally recalibrates the relationship between maternity benefits and adoptive parenthood in India. By striking down the arbitrary three-month age restriction in Section 60(4) of the Code on Social Security, 2020, the Supreme Court has ensured that the constitutional promise of equality and dignity extends to every mother who chooses to build a family through adoption, recognising that families are forged not merely through the biology of birth but through the enduring bonds of love, trust, and commitment.[27]

At its heart, this case affirms one of the most fundamental of human experiences: the bond between parent and child. The judgment will serve as a guiding precedent, a powerful reminder that true parenthood is measured not by the circumstance of a child's birth but by the warmth of a mother's presence and the constancy of a family's love.

[26] *Lakshmi Kant Pandey v. Union of India*, (1984) 2 SCC 244 (India).
[27] *Hamsaanandini Nanduri*, 2026 SCC OnLine SC 402, 418 (India).