



LABOUR

Motherhood Beyond Biology: Supreme Court Strikes Down Age Cap On Maternity Benefit For Adoptive Mothers

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Introduction: A Stanza And A Constitutional Question

The Supreme Court of India opened its judgment in *Hamsaanandini Nanduri v. Union of India* with the words of poet Fleur Conkling Heyliger. The stanza, ***“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.”***, was no mere rhetorical flourish. It captured, with elegant precision, the central constitutional question before the Court: does maternity protection under Indian law depend upon the biological act of giving birth, or does it attach to the condition of motherhood itself?

The petitioner, an adoptive mother of two children, challenged Section 5(4) of the Maternity Benefit Act, 1961 (as amended in 2017), and its successor provision, Section 60(4) of the Code on Social Security, 2020. The impugned provision entitled only those adoptive mothers who legally adopted a child below the age of three months to twelve weeks of maternity benefit. Women who adopted children aged three months or older received nothing.

By judgment dated 17 March 2026, a bench of Justices J.B. Pardiwala and R. Mahadevan unanimously allowed the petition, declared the age cap unconstitutional, and re-read the provision to extend maternity benefit to all adoptive mothers, regardless of the adopted child’s age. The judgment is a major contribution to four distinct areas of law: equality jurisprudence, reproductive rights, the best interests of the child doctrine, and the emerging discourse on paternity leave.

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Background And Legislative History

The petition was instituted under Article 32 of the Constitution by an adoptive mother challenging Section 5(4) of the Maternity Benefit Act, 1961, as introduced by the Amendment Act of 2017, and its successor provision under the 2020 Code. The impugned provision restricted maternity benefit of twelve weeks exclusively to women who legally adopt a child below the age of three months, categorically excluding women adopting older children regardless of the caregiving responsibilities they assumed.

The legislative journey of maternity protection in India traces back to the Bombay Maternity Benefit Act, 1929, followed by various State enactments. The Maternity Benefit Act, 1961 was thereafter enacted to bring uniformity and reduce disparity across the country. Following recommendations of the 44th, 45th, and 46th Indian Labour Conferences between 2012 and 2015, the Amendment Act of 2017 extended maternity benefit to adoptive and commissioning mothers albeit subject to the contested age cap of three months a restriction subsequently consolidated into the Code on Social Security, 2020.

Issues For Consideration

The Court framed two principal questions for adjudication: first, whether the age limit of three months under Section 60(4) violated Article 14 of the Constitution as being discriminatory against women who adopt a child aged three months or above; and second, whether the said age limit violated the right to reproductive autonomy of an adoptive mother and the right of the adopted child to holistic care and development under Article 21 of the Constitution.

Submissions Of The Parties

The petitioner contended that the provision created an arbitrary and artificial classification among adoptive mothers without any rational nexus to the legislative object. It was further argued that the provision was practically unworkable, given that the statutory adoption process under the Juvenile Justice Act, 2015, and the CARA Regulations, 2022, itself consumes a minimum of two to three months before a child can be legally placed with prospective adoptive parents. The provision was additionally assailed as violative of Article 21, insofar as it denied the adoptive mother her right to reproductive autonomy and the adopted child its right to holistic development and family integration.

The Union of India defended the provision on the grounds that a child above three months has comparatively lesser dependency on the caregiver and that crèche facilities under Section 67 of the 2020 Code adequately addressed the needs of such mothers. The Court emphatically rejected both contentions, holding that crèche facilities serve an entirely different purpose and cannot substitute for the irreplaceable presence of a mother during the critical period of family integration.

Court's Analysis

Article 14 And The Anatomy Of Unreasonable Classification

The Court's equality analysis was methodical and doctrinally sophisticated. Drawing upon the settled two-part test from *State of West Bengal v. Anwar Ali Sarkar*, that a classification must be founded on an intelligible differentia bearing a rational nexus to the statute's object, the Court identified three distinct constitutional defects in Section 60(4).

First, the provision failed to disclose any reasonable distinction between adoptive mothers of children below three months and those adopting children above that age. The emotional, psychological, and practical caregiving obligations of an adoptive mother do not materially change based on the child's age at adoption. The initial period following adoption, regardless of the child's age, demands sustained parental presence, bonding, and family integration. The three-month threshold was, as the Court put it, 'artificial.'

Second, the classification bore no rational nexus to the statute's beneficial purpose. The Court identified that purpose with clarity: maternity benefit exists to dignify motherhood, safeguard maternal well-being, ensure the child's welfare, and enable women's continued participation in the workforce. None of these goals are served by denying protection to mothers who adopt older children. The Government's own submission, that the restriction sought to mirror the period of intensive infant dependency, was internally inconsistent: an adoptive mother of a four-month-old child faces caregiving demands that are, if anything, more complex than those associated with a newborn.

Third, the Court held that the classification was under-inclusive in the sense explained by the Constitution Bench in *State of Gujarat v. Shri Ambica Mills Ltd.*, it excluded persons who were 'similarly situated with respect to the purpose of the law.' Women adopting children above three months were similarly situated to those adopting younger children insofar as the law's object of supporting motherhood was concerned. Their active exclusion from benefit, without justification, was constitutionally impermissible.

The Court also firmly dismissed the crèche alternative argument. The crèche obligation under Section 67 arises only in establishments with fifty or more employees, leaving large numbers of working women unprotected. More fundamentally, a crèche provides a space for the child; maternity leave provides time for the mother. These are categorically distinct benefits serving different purposes and one cannot substitute for the other.

A particularly striking dimension of the Article 14 analysis concerns children with disabilities. The Court noted that such children typically wait considerably longer to be placed for adoption. An age cap thus operates with particular harshness against this already vulnerable group, actively discouraging adoption of disabled children, an outcome antithetical to any plausible social welfare objective.

Article 21: Reproductive Autonomy And The Dignity Of Adoptive Parenthood

The Court's analysis under Article 21 broke significant new ground by extending the concept of reproductive autonomy beyond its traditional biological confines. Drawing upon *Suchita Srivastava v. Chandigarh Administration*, *K.S. Puttaswamy v. Union of India*, and *X v. State (NCT of Delhi)*, the Court held that reproductive autonomy encompasses decisional autonomy in matters of intimate personal choices, and that the choice to adopt a child is as much an exercise of that autonomy as the choice to bear one.

“Adoption, too, represents a conscious and meaningful exercise of the choice to create and nurture a family, and must be viewed as falling within the broader spectrum of reproductive decision-making.” — Pardiwala J.

This is a doctrinal advance of lasting significance. While Indian courts have consistently held that the right to life includes the right to motherhood, the Court in *Hamsaanandini Nanduri* extended this principle affirmatively to non-biological modes of family formation, aligning Indian constitutional law with growing global recognition that parenthood is defined by care and responsibility rather than biology alone.

The Court also articulated a three-component framework for maternity leave that illuminates why adoptive mothers are constitutionally entitled to the same protection as biological mothers. Maternity leave serves: (a) physical recovery from childbirth; (b) emotional bonding between mother and child; and (c) facilitation of the child's integration into the family. While the first component is absent in adoption, the second and third apply equally and fully to adoptive mothers. The legislative recognition of maternity benefit for adoptive mothers already implicitly acknowledged this, the age cap then contradicted that very acknowledgment.

The Best Interests Of The Child: A Continuing Constitutional Obligation

The Court's treatment of the 'best interests of the child' principle, drawn from Section 2(9) and Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015, Regulation 3 of the CARA Regulations, 2022, Article 3 of the UN Convention on the Rights of the Child, and *Lakshmi Kant Pandey v. Union of India*, brought a child-centric dimension to what might otherwise have been purely a workers' rights dispute.

The Court held that the best interests of the child do not conclude with the completion of adoption formalities. They constitute a continuing obligation that persists throughout the child's integration into the adoptive family. The period immediately following adoption, the Court observed, is often 'the most critical phase in this process, as the child must acclimatise to unfamiliar surroundings and develop a sense of belonging within the new family.' An age cap that denies the adoptive mother precisely this time directly undermines the child's welfare.

The Court reinforced this reasoning with psychological research, notably the finding that stress hormone levels in institutionally raised children are significantly higher than in family-raised children, and that early maternal deprivation produces lasting neurological effects. This scientific grounding gave the best-interests analysis empirical depth beyond the usual normative invocation of the principle.

Statutory Unworkability: When The Law Cannot Meet Reality

Perhaps the most practically compelling aspect of the judgment is the Court's analysis of the provision's sheer unworkability. Mapping the statutory timeline for declaring a child 'legally free for adoption' under the JJ Act and CARA Regulations, the Court demonstrated that even in the most expedited cases, involving children below two years old, the process takes a minimum of sixty-one days, and considerably longer for orphaned or abandoned children, where the Child Welfare Committee must first undertake efforts to trace biological parents.

The Court's conclusion was stark: by the time a child is legally available for adoption and placed with prospective adoptive parents, the child is, in virtually all cases, already older than three months. The three-month threshold is therefore self-defeating. It purports to confer a benefit that is structurally inaccessible to the persons it nominally serves. Citing *State of Kerala v. Unni*, that a provision incapable of practical application may be struck down for unworkability, the Court held that this structural deficiency was itself a constitutional infirmity.

Data from *Temple of Healing v. Union of India* was also cited, revealing that prospective adoptive parents wait between three and four years for a young child, and that CWCs frequently delay declarations of children being legally free for adoption. These ground realities, the Court held, cannot be ignored when assessing the validity of a provision whose operation depends upon conditions that rarely, if ever, obtain in practice.

Comparative Dimensions: South Africa, Croatia, And The United Kingdom

The judgment drew substantially from comparative constitutional jurisprudence, lending its conclusions a universality that transcends the Indian statutory context. Three decisions deserve particular attention.

The South African Constitutional Court's decision in *Werner Van Wyk v. Minister of Employment and Labour* [2025] ZACC 20 involved an analogous challenge to a two-year age cap under the Basic Conditions of Employment Act. The Constitutional Court struck it down, holding that the focus in adoption leave cannot be solely on the parent's needs but must account for the child's need for integration and adjustment. Its observation that adoptive leave 'addresses a broader spectrum of challenges' than leave for newborns, and therefore requires a tailored framework, resonates throughout the Indian judgment.

The European Court of Human Rights' decision in *Topçiu-Rosenberg v. Croatia*, Application no. 1939/11, found a violation of Article 14 read with Article 8 of the European Convention in the denial of maternity leave to an adoptive mother. The Court's reasoning, that the purpose of leave for an adoptive mother is care-giving, nurturing, and family integration, placing her in a 'similar situation' to a biological parent, was directly adopted by the Indian Supreme Court.

The House of Lords' decision in *In re P & Ors.*, [2008] UKHL 38, concerning the exclusion of unmarried couples from adoption proceedings, was cited for the proposition that bright-line rules in adoption law which foreclose individual assessment of a child's best interests are constitutionally suspect. Lord Hoffmann's observation that such rules contradict 'one of the fundamental principles' of adoption law has direct application to any age cap operating without regard to specific family circumstances.

Doctrinal Significance And Practical Implications

The judgment's immediate practical effect is significant. Section 60(4) of the Code on Social Security, 2020 must now be read, as the Court directed, as follows:

“A woman who legally adopts a child or a commissioning mother shall be entitled to maternity benefit for a period of twelve weeks from the date the child is handed over to the adopting mother or the commissioning mother, as the case may be.”

All adoptive mothers covered by the 2020 Code are now entitled to twelve weeks of maternity benefit, regardless of the adopted child's age.

Beyond its immediate holding, the judgment makes four doctrinal contributions of lasting significance. First, it establishes that reproductive autonomy under Article 21 extends to the choice to adopt, placing non-biological family formation on constitutional par with biological reproduction. Second, it applies the principle of statutory unworkability with unusual rigour to social welfare legislation, reinforcing that beneficial enactments must be capable of practical realisation. Third, it gives constitutional substance to the best interests of the child principle in the context of post-adoption parental leave. Fourth, it signals through carefully crafted obiter that the absence of meaningful paternity leave is both a gender equality issue and a child welfare issue.

This judgment constitutes a significant milestone in India's social security jurisprudence. It reaffirms that beneficial legislation must be capable of meaningful implementation and must not remain illusory for the very class it seeks to protect. Legal practitioners and policy architects would do well to treat this ruling as a definitive articulation of the constitutional dimensions of maternity protection, reproductive autonomy, and the rights of the adopted child in contemporary India. Employers in both the organised and unorganised sectors must now update their HR policies and payroll practices accordingly. Any provision that denies maternity benefit to an adoptive mother on the basis of the adopted child's age is, with immediate effect, unconstitutional and unenforceable.

Conclusion

Hamsaanandini Nanduri v. Union of India is more than a labour law decision. It is a statement about the nature of motherhood, the limits of legislative pigeonholing, and the relationship between constitutional rights and social reality. By insisting that the law look beyond biology to the lived experience of adoptive parenthood, and by deploying equality, dignity, and child welfare as mutually reinforcing constitutional guarantors, the Court has enriched India's human rights jurisprudence in ways that will reverberate well beyond the facts of this case.

The poet's words with which the Court opened its judgment turn out to be the most precise constitutional formulation of all. Maternity, the Court has held, is a condition of the heart. And conditions of the heart do not vary with the age of the child.

For more details, write to us at: contact@indialaw.in

Reference:

[\[2026 INSC 246\] HAMSAANANDINI NANDURI Vs. UOI & Ors.](#)

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