
BEYOND BIOLOGY: ANALYSING THE IMPACT OF THE 2026 SUPREME COURT'S MANDATE ON ADOPTIVE MATERNITY LEAVE UNDER SECTION 60 OF THE SOCIAL SECURITY CODE, 2020

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ABSTRACT:

The landmark decision of **Hamsaanandini Nanduri v Union of India 2026 INSC 246**, issued by the Supreme Court in 2026, is likely to have a profound effect on the future of Indian maternal rights and motherhood jurisprudence. This analysis will focus on the recent verdict that declared the three-month age requirement for adopted children null and void with respect to maternity provisions in the Code on Social Security 2020, a new law that consolidates nine major labour laws and includes an initial cliff-edge restriction on the eligibility criteria for the grant of maternity benefit. The basis of the Court's decision is Article 14 and 21, which both regard the biological act of giving birth and the overall experience of motherhood, including emotional bonding and nurturing, as relevant issues under the legislation. The evidence presented at the trial showed that approximately 5% of adoptions are legally completed in India within the three-month period, making this requirement "illusory" and "lacking practical effect" under Indian law. In holding that reproductive autonomy is included in the adoption process, the Supreme Court endorsed the idea that the needs of adoptive children, regardless of their ages, are as important, if not more important, than the needs of any newborn infant. The analysis will also include the effects on corporate compliance, and what HR Departments should do to make changes to leave policies to ensure 12 weeks' leave on pay regardless of the child's age. Moreover, it assesses the wider social change resulting from the judgment, such as the judiciary's urgent appeal for statutory paternity leave to challenge traditional gendered parenting roles and achieve greater equality in the workplace. The aim is to align India with international human rights standards to protect economic security and dignity for all mothers, regardless of their child's biological origin.

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INTRODUCTION- THE EVOLUTION OF MATERNITY:

In its verdict on **March 17, 2026**, in **Hamsaanandini Nanduri v. Union of India**², the Indian Supreme Court made a milestone ruling on the definition of motherhood in India and changed the way courts interpret maternity benefits. The Supreme Court declared unconstitutional the requirement of having to adopt a child within three months before being eligible for maternity leave, which has caused the interpretation of maternity leave benefits to change from being (primarily) biological in nature to one that is based upon an emotional bond between a mother and her adopted child, as well as on the social responsibilities associated with being a primary caregiver. For an extended duration of time, the maternity leave benefit had only been considered a benefit for mothers through childbirth, but the Supreme Court concluded that the "purpose of the maternity benefit must not be solely connected with the actual delivery, but instead with the mother's connection to the child".

This mandate comes at a critical juncture as India is in the midst of enacting the **Code on Social Security, 2020**³ (SS Code), which consolidates nine significant labor laws⁴. This ruling seeks to address a significant "cliff-edge" situation where mothers of infants slightly above ninety days old are denied any leave benefits, thereby penalizing mothers for their choices in family formation. This ruling goes beyond technical compliance to reinforce the importance of maternity leave as a "basic human right" and as a means for social justice, where women are not forced to make a choice between professional survival and maternal responsibility. This ruling recognizes adoption as an aspect of **Reproductive Autonomy under Article 21**⁵ and has provided thousands of families with the dignity and economic security necessary for raising the next generation.

² 2026 INSC 246

³ ACT NO. 36 OF 2020

⁴ The Employees' Compensation Act, 1923, The Employees' State Insurance Act, 1948, The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, The Maternity Benefit Act, 1961, The Payment of Gratuity Act, 1972, The Cine Workers Welfare Fund Act, 1981, The Building and Other Construction Workers Welfare Cess Act, 1996 and the Unorganised Workers' Social Security Act 2008.

⁵ <https://www.livelaw.in/top-stories/supreme-court-adoption-reproductive-autonomy-article21-526832>

THE JURISPRUDENTIAL LANDSCAPE OF MATERNITY PROTECTION:

The evolution of maternity protection in India has been a part of a larger global effort to strike a balance between the participation of women in labor and the value of caregiving in society and for a long time, the Maternity Benefit Act of 1961 laid the foundation for these protections, but it took more than fifty years before the act was amended in 2017 to include **adoptive and commissioning mothers with a leave of 12 weeks subject to a three months' cap on the age of the child**⁶, a clause retained in Section 60(4) of the Social Security Code, 2020, which came into full effect on November 21, 2025.

The 2026 challenge, brought by Hamsaanandini Nanduri, a lawyer and an adoptive mother like herself who had experienced the lack of a clear policy first-hand, exposed the illusory nature of these benefits, as the legal process of declaring a child “free for adoption” (by CARA in India) involved mandatory cooling-off periods and extensive verification, meaning that it was statistically unlikely for a child to be handed over before they were three months old, with data submitted to the Court demonstrating that less than five percent of children were handed to parents within this arbitrary window, rendering the statutory right illusory to most adoptive families.

Furthermore, the Court took up the “**Wollstonecraft Dilemma**”, which considers the systemic tension of mothers being the primary caregivers for children while concurrently competing on equal terms in a workforce built around masculine life cycles, with the bench citing ILO statistics on the disproportionate burden of unpaid care work and emphasizing that maternity leave is not an employer’s concession but rather an “expression of treatment grounded in equity.” This wide introduction thus lays the framework for a mandate which does not seek to merely remedy a legislative anomaly but rather to set a precedent that bonding, nurturing, and family integration are universal needs regardless of whether a child is biological, adopted or even born through surrogacy.

THE LEGISLATIVE GENESIS AND THE EVOLUTION OF MATERNITY PROTECTION:

One must first analyze the evolutionary history of maternity benefits in India, which goes way

⁶ Section 3(B)(4) of THE MATERNITY BENEFIT (AMENDMENT) ACT, 2017

back to the time of the **Maternity Benefit Act of 1961**⁷. As its name implies, the original Maternity Benefit Act provided protection to women employees from the moment they conceived until a certain number of days following their delivery, by giving them leave periods and breastfeeding intervals. What is significant about this law is that it did not extend any sort of protection to women whose families were formed through adoption or surrogacy.

One of the earliest changes came through the amendment of the Maternity Benefits (Amendment) Act, 2017, that brought in a more progressive period wherein paid leave for women giving birth to their biological babies was increased from **12 to 26 weeks for the first two children**. One of the important changes brought about through the Maternity Benefits (Amendment) Act, 2017 is that it added **Section 5(4), whereby for the first time, maternity benefits for 12 weeks were provided for adoptive mothers and surrogate mothers**. Nonetheless, there was a very important limitation in this context because this benefit could be provided only if the adopted baby was less than three months old. The same provision is now under Section 60(4) of the Social Security Code, 2020.

Statutory Framework	Biological Child	Adoptive Child	Commissioning Mother	Age Cap for Adopted Child
Maternity Benefit Act, 1961	12 weeks	None	None	Not Applicable
Maternity Benefit (Amendment) Act, 2017	26 weeks	12 weeks	12 weeks	Under 3 Months
Code on Social Security, 2020	26 weeks	12 weeks	12 weeks	Under 3 Months
Post Supreme Court's Mandate 2026	26 weeks	12 weeks	12 weeks	No Age Cap

Justification offered by the Union of India to maintain the three-month rule in the 2020 code is that smaller infants need more care, while women adopting older children can attend creches.

⁷ Act No.53 of 1961

But, according to the petitioner, the law failed to understand the true nature of adoption in India. She stated that the 2017 and 2020 laws were illusory because the amount of time taken to pronounce a child as available for adoption invariably exceeded the three-month period.

PROCESS AND INSTITUTIONS INVOLVED IN ADOPTING A CHILD IN INDIA:

Adoption process in India is a strict, multi-stage procedure regulated by the Central Adoption Resource Authority (CARA) pursuant to the Juvenile Justice (Care and Protection of Children) Act, 2015⁸ and the Adoption Regulations, 2022⁹.

The intricacies and mandatory timeframes associated with this procedure constituted one of the key reasons why the Supreme Court considered the earlier three-month age cap for maternity leave "illusory and not workable".

Multi-Stage Adoption Procedure in India:

- **Registration and Home Study:** The would-be parents need to register themselves on **CARINGS PORTAL**¹⁰ along with providing relevant documentation within 30 days . In the next step, the agency carries out Home Study Report (HSR)¹¹ to analyze the suitability of the parents. Just this stage alone usually requires 60 days (two months).
- **Declaration of Legally Free for Adoption (LFA):** Prior to matching the child, there is a need to declare him/her "legally free". It includes mandatory statutory delays:
 - Surrendered children: The biological parents receive a mandatory waiting period of two months to revoke their decision.
 - Abandoned/orphaned children: Authorities have to conduct investigations that take at least two months in order to trace the biological parents.
- **Refer and Match :** The child is referred to Prospective Adoptive Parents (PAPs) based

⁸ Act No. 2 of 2016

⁹ https://cara.wcd.gov.in/PDF/adoption%20regulations%202022%20english_27.pdf

¹⁰ <https://cara.wcd.gov.in/>

¹¹ a mandatory evaluation document conducted by a social worker to assess prospective adoptive parents' readiness, suitability, and background (social, financial, health, and home environment) and at the same time ensures a safe, nurturing home for a child and is legally required for adoption, remaining valid for three years in India.

on seniority once he/she becomes an LFA. Thereafter, the parents only get 48 hours for reserving the child after getting their profile. A match committee meeting must follow within 20 to 30 days of reserving the child.

- **Handover and Pre-Adoption Foster Care:** The child is transferred into the custody of parents via Pre-Adoption Foster Care agreement post matching. This is the starting point for calculation of the 12 weeks maternity benefit period.
- **Legal Finalization:** An application is made by SAA to the District Magistrate (DM) for legalizing the adoption within 10 days of matching. As per law, the district magistrate shall dispose of the matter and make an order of adoption within 60 days of filing the application.

The institutional hierarchy in adoption in India includes a series of authorities and bodies that have been set up to facilitate transparency and protect the best interests of the child. The following organizations and authorities are among those involved in adoption:

- **Central Adoption Resource Authority (CARA):** This is the coordinating body under MWCD which oversees in-country and inter-country adoptions. The CARINGS portal, a central portal maintained by CARA, is the platform for registering all prospective parents.
- **State Adoption Resource Agency (SARA):** The State-level organization which coordinates adoption activity within each state.
- **Specialized Adoption Agency (SAA):** Agencies which take care of orphaned, abandoned and surrendered children and prepare the CSR, MER and HSR¹² of the parents.
- **District Child Protection Unit (DCPU):** The district level body which assists in the registration of parents online and helps SAA with logistical assistance.
- **Child Welfare Committee (CWC):** The Bench of Magistrates at the district level which declares the child to be “Legally Free for Adoption” after mandatory tracing and

¹² Child Study Report (CSR), Medical Examination Report (MER), and Home Study Report (HSR)

reconsideration period.

- **District Magistrate (DM):** After the 2021 modifications¹³, the District Magistrate (or Additional District Magistrate) is the designated official tasked with making the decision regarding the final adoption order, which needs to be finalized within two months after its submission.
- **Identification Cell:** An exclusive department that was set up at CARA in July 2024 to make the identification process quicker for children housed in Child Care Institutions.
- **Medical Grievance Committee:** A committee that was formed in September 2025 to handle any grievances related to medical issues during the adoption procedure.

SECTION 60(4) OF THE CODE ON SOCIAL SECURITY, 2020:

“A woman who legally adopts a child below the age of three months 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.”

DECONSTRUCTING THE JUDGMENT OF HANSAANANDINI NANDURI v. UNION OF INDIA:

Justice J.B. Pardiwala and Justice R. Mahadevan, who form the Supreme Court bench, have anchored their judgment on the broad definition of fundamental rights as per the Constitution of India. At the very beginning of their judgment, the judges quoted the famous poet Fleur Conkling Heyliger, who has highlighted the point that the love of a mother for her child is not necessarily dependent upon any physical connection. This sets the tone for a detailed examination of the “artificial” classification made by the legislature.

The Three Pillars of Maternity Leave:

In analyzing the issue, the Court found out that maternity leave is not one uniform function, but is made up of three different functions, each with its own purpose for the general welfare.

First, there is the period needed for post-natal recuperation after giving birth, which is

¹³ [https://cara.wcd.gov.in/PDF/JJ%20Model%20Amendment%20Rules%202022%20\(english\)_27.pdf](https://cara.wcd.gov.in/PDF/JJ%20Model%20Amendment%20Rules%202022%20(english)_27.pdf)

exclusively enjoyed by biological mothers.

Second, there is the period for nurturing the relationship between the mother and the child, which the Court emphasized must be consciously "nurtured through time, presence, and consistent caring" in adoption cases.

Third, there is the period for attending to the physical and emotional needs of the child in addition to integrating him/her into the new family setting.

It was the conclusion of the Court that while the first function is not applicable in adoption cases, the latter two functions are still "applicable and material" regardless of whether the adopted child is a baby or a toddler. In effect, the denial of maternity leave to adoptive mothers of toddlers amounts to considering the relationship building and integration functions as insignificant, which is a definite departure from the essence of social welfare legislation.

Article 14 and Reasonable Classification:

Reasonable classification was the key focus during judicial intervention through the "test of reasonable classification" contained in Article 14. To make any classification, it is essential that there must be an "intelligible differentia" which makes the persons belonging to the class distinguishable from others, while such differentia has to be reasonably connected with the object sought to be achieved through the statute. The court noted that Section 60(4) could not satisfy this test.

Firstly, there was nothing to support the differentiation between adoption of a child below three months of age by a woman and that of adoption of another child who is more than three months old, because both of them have similar responsibilities of childcare. Secondly, it is immaterial for the objective of protection of women against adverse consequences of maternity whether the child is brought into her life by birth or adoption or by some other way, and also it does not matter what the age of the child is. Thirdly, a woman who adopted a baby just a day older than three months would gain no advantage, illustrating the "palpably unreasonable" nature of the age limit.

Decisional Autonomy and Article 21:

Furthermore, the directive raised the importance of adoption as a right relating to reproductive

and decisional autonomy provided in Article 21, Right to Life and Dignity. It explained that reproductive autonomy is not restricted to the mere biological process of bearing children but involves making the deliberate decision of creating a family by adopting a child. Refusing leave to adoptive mothers would have been considered an invasion of this reproductive autonomy as it would punish mothers for their decision-making and prevent them from forming dignified ties with their adopted children.

THE PRACTICAL IMPOSSIBILITY OF THREE MONTHS CAP:

One of the key factors that played a significant role in the case was the proof of how adoption procedures work in India in view of the Juvenile Justice (Care and Protection of Children) Act, 2015¹⁴, and CARA Regulations of 2022¹⁵. In particular, evidence presented by the petitioners shows that in the latest adoption process, only less than 5% of the total number of adopted babies had an age of three months or younger.

In fact, the process of declaring an abandoned baby "legally free for adoption" is accompanied by a necessary 60-day period during which the parents have time to think about their decision. In addition, a variety of verification and the issuance of orders by the District Magistrate usually prolong the procedure considerably.

Procedural Step	Statutory Timeline	Impact on Age Cap
Abandonment/ Surrender	60 days statutory waiting period	Child is already at least 2 months old
Inquiry and Verification	30-60 days for CWC and CWP clearance	The age of the child crosses 3 months age cap
Matching and Referrals	Varies from one case to another maybe weeks or months or sometimes years	Cumulative age increases

¹⁴ Act No. 2 of 2016
https://cara.wcd.gov.in/PDF/JJ%20Amendment%20Act%20-2021_.PDF

¹⁵ https://cara.wcd.gov.in/PDF/adoption%20regulations%202022%20english_27.pdf

Placement and Handover	Following DM/ADM adoption order	Statutory age is already exhausted
Total Process	Typically 120+ days	Benefit is “Illusory” for 95% of cases

In this case, the Court stated that the beneficial effect of a law which is not expressed in a manner that would ensure that the beneficiary is actually benefited will make such a law otiose as far as its utility in society is concerned. The Court held that in light of the above definition, the provision in question was "devoid of practical application" as the child in most cases will be older than three months when he joins his adoptive parents.

IMPACT ON CORPORATE COMPLIANCE AND HUMAN RESOURCES:

The mandate issued by the court in 2026 comes with both immediate and long-term implications for the entire business community in India. Due to the interpretation given by the highest judicial body regarding Section 60(4) of the SS Code, there are no more restrictions in terms of age limits. Thus, it should be considered a matter of mandatory compliance, and not an option.

Mandatory Compliance Reforms Required

Human resource departments should urgently carry out an analysis of their current maternity and adoption leave policy and update it according to the new regulations. Under the current legislation, every legal female employee who adopted a child, whether infant or older, will have the right to maternity leave for a period of 12 weeks from the date of handing over the child. In addition, employers should think about how to implement such a regulation from the operational point of view. The organization should take into consideration that maternity leave in India is "a basic human right" that cannot be ignored by companies.

Action Team	Description	Rationale
Policy Audit	Remove all mentions of age limits for adopted child in	Immediate Legal Compliance

	benefit eligibility	
Circular Issuance	Inform all employees of the expanded rights and the commitments of the company	Builds trust and internal awareness
System Update	Configure HRIS to process 12 week adoption leave for all ages	Prevents administrative Delay
Managerial Training	Sensitize leadership to the needs of the adoptive parents of older children	Ensures supportive work culture

Moreover, the decision highlighted the economic importance of care, referring to the "Wollstonecraft Dilemma" – the dilemma that women face trying to reconcile their function of providing care at home and participating in paid employment. In its ruling, the Supreme Court tried to decrease structural inequality against women who had to make a choice between a successful career or child rearing.

THE “EMPLOYER-PAYS-ALL” MODEL:

One recurring issue within Indian labor laws pertains to the “employer pays everything” concept relating to maternity benefits. While most European countries rely on social insurance schemes to cover their maternity leaves, in India, it is the establishment itself that pays the entire salary for 26 or 12 weeks of absence. The main criticism of this system relates to the existence of adverse incentives: smaller and medium-sized firms may refrain from hiring women of reproductive age due to potential costs involved.

While the 2026 mandate broadens the group of employees entitled to adoption leave, it does not resolve the funding problem outlined above. This is particularly relevant in relation to gig workers, who will now be able to claim these benefits but only if the Social Security Fund gets introduced into operation. According to the SS Code, gig workers are “beneficiaries” who should receive assistance from a fund financed by aggregators (1-2% of yearly turnover).

SOCIAL SECURITY FUNDS FOR GIG WORKERS AS UNDER THE SOCIAL SECURITY CODE, 2020

Funding Source	Contribution Rate	Current Status
Aggregator Contribution	1-2% of Total Annual Turnover	Mandated through law, but the implementation is uneven and strict compliance is not regulated
Government Grants	As notified by the Government	Enabling Provisions exists
CSR Funds	On Voluntary Basis	Serves as an emerging source of social protection

These benefits were considered crucial for women who engaged in casual work. The problem with their implementation was that these benefits would only serve their intended purpose once they were properly funded. Many gig workers still find themselves in a vulnerable position with “Safety Nets on Paper, but not on Practice”.

INTERNATIONAL STANDARDS AND COMPARATIVE ANALYSIS:

With regard to India’s maternity provisions in relation to global standards, the latter include requirements from the International Labour Organization (ILO), whose **Convention No. 183**¹⁶ states that the minimum number of weeks of leave should be 14, while its **Recommendation No. 191**¹⁷ urges the provision of parental leave to adoptive parents.

¹⁶ Convention 183, the leading international labor standard on maternity protection, mandating at least 14 weeks of paid maternity leave, health protection, employment security against dismissal, and breastfeeding breaks for all employed women, including those in atypical work. It promotes equality by ensuring women can combine work with family responsibilities.

<https://www.ilo.org/resource/c183-maternity-protection-convention-2000>

¹⁷ Recommendation 191 supplements Convention No. 183 to strengthen maternity protection. It recommends extending paid maternity leave to at least 18 weeks, ensuring 100% income replacement, enhancing health protections for pregnant/nursing workers, and providing paid, hygienic breastfeeding breaks, supporting both mother and child well-being

<https://www.ilo.org/resource/r191-maternity-protection-recommendation-2000>

Article 25(2) of the UDHR¹⁸ states that motherhood and childhood are entitled to special care and assistance. According to this Article, all children have equal social protection. Similarly, **Article 10(2) of the ICESCR**¹⁹ indicates that the mothers are entitled to special care during reasonable periods prior to and following childbirth, which could be provided either in the form of paid or unpaid leave. Furthermore, **Article 12 of ICESCR** requires the state parties to take all necessary measures for the development of children.

Although the fact that 26 weeks of leave can be taken by women giving birth is a global top performer, the fact that only 12 weeks are allowed to adoptive mothers remains lower than the global standard of at least 14 weeks. In addition, many countries of the Organisation for Economic Co-operation and Development (OECD) now allow for “parental leave” that is gender-neutral and can be taken by both parents²⁰.

By abolishing the age limit for adoption leave, the Supreme Court has taken the route that aligns with the requirements practiced by other nations such as Canada²¹ and Australia²². It has been made apparent that “the nurturing and adjustment process is a necessity in every case involving a child being brought into a family environment.”

ADOPTION LEAVE COMPARISON

Jurisdiction	Leave Period for Adoption	Pay Rate	Funding Source
Estoria	Upto 86 weeks	100% for first 20	Public Health Fund

¹⁸ <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

¹⁹ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

²⁰ OECD countries generally offer extensive paid parental leave, averaging just under 19 weeks of paid maternity leave <https://www.oecd.org/en/blogs/2023/01/Paid-parental-leave--Big-differences-for-mothers-and-fathers.html>

²¹ The Canadian government offers a variety of leave options for parents adopting a child. These include standard parental benefits and extended parental benefits. Standard parental leave offers up to 40 weeks (max. 35 weeks per parent), and extended parental leave offers up to 69 weeks (max. 61 weeks per parent). Both standard and extended parental leave offer capped payments. Public servants may take up to 37 weeks of unpaid leave in the first 52-weeks of the adoption process. If their employer agrees, they can take this time in two separate blocks. <https://vacationtracker.io/blog/adoption-leave-around-the-world/#:~:text=of%20paid%20leave.-,Canada,rates%20and%20eligibility%20for%20employees.>

²² Australians who are eligible receive up to 18 weeks of paid leave at the national minimum wage. As of July 2020, employees can claim this benefit over one set period of 12 weeks, followed by a second flexible period. Employees can take their leave in chunks during the flexible period within the first 24 months of adopting the child. <https://vacationtracker.io/blog/adoption-leave-around-the-world/#:~:text=of%20paid%20leave.-,Canada,rates%20and%20eligibility%20for%20employees.>

	(Parental)	weeks	
Sweden	69 weeks (shared)	80%for the first 390 days	Social Insurance
United Kingdom	52 weeks	90% for first 6 weeks	Statutory/ Government Reimbursed
Canada	50-76 weeks (Parental)	55% or 33%	Employment Insurance
India	12 weeks	100%	Individual Employer

IMPORTANCE OF THE FIRST 1000 DAYS AND DEVELOPMENTAL PSYCHOLOGY:

One of the distinctive features of Hamsaanandini Nanduri is the use of developmental evidence in highlighting the significance of bonding at an early age. As pointed out by the Court, children raised within institutions tend to be exposed to higher levels of stress hormones and have their bonding processes hindered when compared to children who are brought up in families.

It is well-established that having access to an initial caregiver in the course of the first weeks of adaptation is one of the cheapest procedures to enable optimal psychological development and avoid any brain damage in children. This adaptation period may be even more significant for the case of adopted children who may have already faced numerous hardships before being placed in their new homes. Bonding, according to the Court, cannot stop suddenly at the three-month mark.

Impact on Vulnerable Groups:

This case decision is particularly important for the adoption of disabled children. Disabled children take longer to be placed in adoptive homes since they stay for a long time in institutions before being adopted, implying that they are rarely less than three months old upon placement. Additionally, these children need more intensive care when adjusting to their new environment. With the lifting of the age restriction, the Court guaranteed that women who adopt disabled children receive sufficient income to afford the care they require.

THE URGE OF PATERNITY LEAVE AND THE FUTURE OF SHARED PARENTING:

Most significant among all the recommendations made by the 2026 Bench has been the emphasis on statutory paternity leave. It has been stated by the Court that parenthood should be seen as a shared experience, but the present law makes it entirely dependent on the mother's responsibility and thus supports gender-based stereotypes.

"Proximity cannot be equated with presence," as the Bench points out that the father loses valuable formative moments when forced to return to work following the arrival of a new member into his life. The lack of paternity leave leads to two important repercussions:

- The notion is strengthened that childcare is a female activity only. It widens the existing disparity between men and women in terms of gender roles at home as well as employment opportunities and remuneration levels.
- Prevents the child's father from bonding with their child during crucial early months.
- It was observed by the Court that currently, under Section 43-A of CCS (Leave) Rules²³ and Section 43-AA of CCS (Leave) Rules²⁴, a government employee gets 15 days paternity leave either at the time of birth of the child or during adoption. The above clearly suggests that the idea of paternity leave is not an uncommon one, but a less

²³ 43-A. Paternity leave:

(1) A male Government servant (including an apprentice) with less than two surviving children, may be granted Paternity Leave by an authority competent to grant leave for a period of 15 days, during the confinement of his wife for childbirth, i.e., up to 15 days before, or up to six months from the date of delivery of the child.

(2) During such period of 15 days, he shall be paid leave salary equal to the pay drawn immediately before proceeding on leave.

(3) The paternity leave may be combined with leave of any other kind.

(4) The paternity leave shall not be debited against the leave account.

(5) If Paternity Leave is not availed of within the period specified in sub-rule (1), such leave shall be treated as lapsed.

²⁴ 43-AA. Paternity Leave for Child Adoption. -

(1) A male Government servant (including an apprentice) with less than two surviving children, on valid adoption of a child below the age of one year, may be granted Paternity Leave for a period of 15 days within a period of six months from the date of valid adoption.

(2) During such period of 15 days, he shall be paid leave salary equal to the pay drawn immediately before proceeding on leave.

(3) The paternity leave may be combined with leave of any other kind.

(4) The Paternity Leave shall not be debited against the leave account.

(5) If Paternity leave is not availed of within the period specified in sub-rule (1) such leave shall be treated as lapsed.

recognized one.

The Bench directed the Union of India to provide paternity leave as a social security benefit and even referred to the **Paternity and Parental Benefit Bill, 2025**²⁵. The implication seems to be that the judiciary is in favor of shifting towards the gender-neutral concept of parenthood in order to attain workplace equality.

ADDRESSING THE 12 WEEKS v. 26 WEEKS DISPARITY IN TERMS OF MATERNITY LEAVE FOR ADOPTED CHILD:

While the decision in the case of 2026 is truly groundbreaking, it also pointed out one lingering issue: why should adoptive mothers have a shorter period of time off work than biological mothers?. While the Court's remedial order was focused on eliminating the unlawful discrimination based on the age of a mother, it left untouched the gap in duration of parental leave.

While the argument that the need for physical recuperation after giving birth justified the disparity is valid, the duties of being a parent – bonding, nurturing and integrating children into the family unit – remain unchanged. Indeed, from the perspective of emotional strain, being a foster mother to an older kid can involve much greater effort than rearing an infant.

The Court seemed to be acting very deliberately when it was choosing a remedy – it was focused on removing unconstitutional language, leaving the remainder of the legislative framework intact and avoiding venturing too far into policymaking. Yet at the same time, it paved the way for future lawsuits challenging the "12 vs. 26-weeks divide" under the banner of equality – motherhood is equal regardless of biology.

SUMMARY OF LEGAL AND CORPORATE RAMIFICATIONS:

Aspect	Pre 2026 Mandate	Post 2026 Mandate	Implications
Eligibility	Only for adoption < 3 months old child	For all legal adoptions	Universal coverage for adoptive mothers

²⁵<https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/82%20of%202025%20As125202592342PM.pdf?source=legislation>

Constitutional Status	Age limit held constitutional	Age limit was struck down under Article 14 and 21	Affirmation of Reproductive Autonomy
Employer Duty	Deny leave of child id more than 3 months old	Mandatory 12 weeks leave irrespective of the age of the child adopted	HR policy revision mandated
Parental Roles	Feminized childcare model	Urge towards shared parenting	Paternity Leave becomes a legislative priority
Adoption Practices	Discouraged older children adoption	Promoted adoption as a legitimate family path	Encourages the adoption of toddlers/ children's with special needs

CONCLUSION:

Firstly, the 2026 Supreme Court ruling in Hamsaanandini Nanduri goes much further than simply rectifying an erroneous piece of law. This decision is a paradigm shift in how Indian society sees the notion of family. Removing the three-month rule means removing a biological bar that treated women adopting children like second-rate mothers, thus ensuring that motherhood is about care and responsibilities regardless of biological ties. The decision demonstrates Constitutional Morality since effective laws are those that can be used in practice. Therefore, this decision proves the fact that beneficial legislation should be feasible.

Secondly, the importance of this ruling lies in its compliance with international human rights principles enshrined in UNCRC and ILO Recommendation 191. Protecting the best interest of the child is a continuing duty, which does not end when legal procedures expire. It is necessary to note that the corporate sector should follow this principle too. Therefore, the HR specialists and business leaders should focus not only on complying with regulations but also protecting employees from any forms of harassment. Non-compliance can cost organizations millions of

dollars and destroy their reputation in the ESG era.

Nevertheless, the 2026 mandate does make provision for the future rounds of labor reforms to follow. The "intentionally restrained" solution solved the issue concerning the age limit, yet the discussion surrounding the fourteen-week difference in the lengths of biological and adoptive leave periods remains for another day. The legal scholars have expressed their confidence that this gradual system would be further contested under the scope of Article 14 due to the constancy of emotional and social stress in the role of a mother in all groups. In addition to that, the pressing demand by the court for the statutory provision of paternity leave is a significant step towards the creation of a gender-neutral parenting approach. With its support of the Paternity and Parental Benefit Bill, 2025, the Indian judiciary attempted to tackle the problem of the "Invisible Injustice," addressing the issue of the increasing pay gap following the birth of a child at the family's expense.

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