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EDITORIAL ANALYSIS

SC Strikes Down Age Restriction on Adoptive Mothers' Leave — The Case for Paternity Leave

INDIAN EXPRESS

21 March 2026

SUBJECTS COVERED

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GS1

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GS1

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MAINS RELEVANCE:

GS Paper 1

GS Paper 2



INTERVIEW ANGLE

"Should paternity leave be made a fundamental right under Article 21, or is it best left to legislative discretion?"

WHY IN NEWS

The Supreme Court on March 17, 2026, in *Hamsaanandini Nanduri v. Union of India*, struck down Section 60(4) of the Code on Social Security, 2020, ruling that restricting maternity leave for adoptive mothers based on the child's age violated Articles 14 and 21. On March 18, the Court further urged the Centre to frame a law on paternity leave.

THE SUPREME COURT JUDGMENT

Hamsaanandini Nanduri v. Union of India (March 17, 2026)

The petitioner challenged **Section 60(4) of the Code on Social Security, 2020**, which entitled adoptive mothers to **12 weeks of maternity leave** only if the adopted child was **below three months of age**. The Court held:

Article 14 violation — The age restriction created an arbitrary classification between biological and adoptive mothers, and between adoptive mothers of younger and older children, with no rational nexus to the legislative objective

Article 21 violation — The bonding period between parent and child is essential for the child's well-being and the mother's dignity, regardless of the child's age at adoption

Adoptive mothers are now entitled to 12 weeks of paid leave irrespective of the child's age

Paternity Leave Directive (March 18, 2026)

The Court went further on March 18, **urging the Centre to frame legislation on paternity leave** as a social security measure, observing that:

Caregiving is a **shared parental responsibility**, not exclusively a maternal one

The absence of statutory paternity leave perpetuates gender stereotypes

Several countries (Sweden, Norway, Iceland, Canada) have mandatory paternity/parental leave

CURRENT LEGAL FRAMEWORK IN INDIA

Maternity Leave

Law	Coverage	Duration
Maternity Benefit Act, 1961 (amended 2017)	All women employees in establishments with 10+ workers	26 weeks (first 2 children); 12 weeks (3rd child onwards)
Code on Social Security, 2020	Consolidates above	Same entitlements; Section 60 covers maternity benefit
Central Civil Services (Leave) Rules	Government employees	180 days (6 months); Child Care Leave for 730 days over career

Paternity Leave

Sector	Provision
Central Government employees	15 days paternity leave (CCS Leave Rules)
Private sector	No statutory provision — entirely at employer's discretion
Judiciary	Supreme Court recommended (2024) that all courts grant paternity leave

THE EDITORIAL'S CORE ARGUMENT

The Indian Express editorial argues:

Paternity leave is a gender equality issue — without it, the full burden of early childcare falls on mothers, reinforcing the breadwinner-caregiver binary

Economic argument — studies show fathers who take paternity leave are more involved in long-term caregiving, leading to higher female labour force participation

India’s female LFPR is already low (~37% in PLFS 2023-24) – paternity leave could help by redistributing care work

Constitutional basis – Article 21 (right to life and dignity) and Article 15(3) (special provisions for women and children) support gender-neutral parental leave

International comparison – India lags behind even developing countries on paternity leave legislation

GLOBAL COMPARISON — PARENTAL LEAVE

Country	Maternity Leave	Paternity Leave	Parental Leave
Sweden	480 days shared (90 days reserved for each parent)	Included above	Yes – gender-neutral
Norway	49 weeks at 100% pay or 59 weeks at 80%	15 weeks reserved	Yes
Iceland	6 months each parent + 6 months shared	6 months	Yes
Japan	14 weeks	Up to 1 year	Yes
India	26 weeks	15 days (govt only)	No statutory provision
USA	0 (unpaid FMLA: 12 weeks)	0 (unpaid FMLA)	No

CODE ON SOCIAL SECURITY, 2020

The **Code on Social Security, 2020** is one of the **four Labour Codes** that consolidate 29 central labour laws:

Code	Replaces
Code on Wages, 2019	Payment of Wages Act, Minimum Wages Act, Payment of Bonus Act, Equal Remuneration Act
Industrial Relations Code, 2020	Industrial Disputes Act, Trade Unions Act, Industrial Employment (Standing Orders) Act
Code on Social Security, 2020	EPF Act, ESI Act, Maternity Benefit Act, Gratuity Act, and others (9 Acts)
Occupational Safety, Health and Working Conditions Code, 2020	Factories Act, Mines Act, and others (13 Acts)

Status: All four codes passed by Parliament but **rules not yet notified** by most states — implementation remains pending.

UPSC RELEVANCE

Code on Social Security 2020, Maternity Benefit Act 1961 (26 weeks), four Labour Codes, CCS Leave Rules (15 days paternity leave for central govt), Article 14 and 21.

MAINS GS1:

Women and caregiving; gender stereotypes in labour; impact of parental leave on female LFPR.

MAINS GS2:

SC judgment on fundamental rights; legislative gaps in social security; Centre-State implementation of Labour Codes.

★ FACTS CORNER — KNOWLEDGEPEDIA
SC JUDGMENT (MARCH 17, 2026):

Case: Hamsaanandini Nanduri v. Union of India

Struck down: Section 60(4), Code on Social Security, 2020

Violated: Articles 14 and 21

Result: adoptive mothers get 12 weeks leave regardless of child's age

March 18: Court urged Centre to frame paternity leave law

MATERNITY LEAVE IN INDIA:

Maternity Benefit Act, 1961 (amended 2017): 26 weeks (first 2 children)

Code on Social Security, 2020: consolidates maternity benefit provisions

CCS Leave Rules: 180 days maternity + 730 days Child Care Leave (central govt)

PATERNITY LEAVE:

Central govt: 15 days (CCS Leave Rules)

Private sector: no statutory provision

India's female LFPR: ~37% (PLFS 2023-24)

FOUR LABOUR CODES:

Wages (2019), IR (2020), Social Security (2020), OSH (2020)

Replace 29 central labour laws

Status: passed by Parliament; rules not notified by most states

GLOBAL:

Sweden: 480 days shared parental leave (90 reserved per parent)

USA: no paid maternity or paternity leave (only unpaid FMLA)

Sources: [Indian Express](#), [The Hindu](#)

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