

WOMANHOOD AND NO PREGNANCY CLAUSES

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Abstract

A non-pregnancy clause ("NPC"), or a clause prohibiting pregnancy, is usually found in labor contracts and states that a breach of the clause would lead to termination of the employment relationship. Although they are gender-neutral, these clauses obviously apply only to women. This article aims to identify whether such clauses in film contracts will withstand legal control in India.

One thing that significantly distinguishes women from men is that only women become pregnant; and if she subjected a woman to unfavorable treatment based on her pregnancy, she would be denied equal treatment under the law.

INTRODUCTION

An NPC in film contracts prohibits an actress from conceiving a pregnancy until the main photo of the film is completed and its non-compliance can lead to the dismissal of the actress and / or a claim for damages. The reason behind the inclusion of this clause is supported by the difficulty associated with filming complicated scenes with the pregnant actress due to health problems and the expansion of half of the actresses. If during pregnancy, which barely agrees with the script and the disturbance in the shooting schedule due to the actress's lack of availability on the agreed dates, which leads to financial losses for the producer.

These clauses have been used for some time in many other countries and have recently also been included in the Indian film industry, with a larger number of numerous foreign studios making films in India. Until now, producer SubhashGhai used an APN in the Indian film industry when he hired actress Madhuri Dixit for the movie "Khalnayak" when he had a serious relationship with actor Sanjay Dutt. Recently, actress KareenaKapoor denied the film "Ram Leela" due to her refusal to sign an NPC clause, while producer Sanjay Leela Bhansali remained firm in that clause after her relationship with actor Saif Ali Khan .

In support of this clause, when producers are anticipating the risks arising from the pregnancy of an actress, NPC will also become the norm in the Indian film industry. The impact will be on existing contracts and will be reworked. On the other hand, many stakeholders believe that the relationship between actors and producers in the sector in India is based on trust. Therefore, negotiations and mutual trust will probably not be replaced by such contracts.

However, it should be remembered that commitments through negotiations cannot occur when the parties have unequal negotiating powers. For example, in the case of behind-the-scenes artists in front of the producer, etc. This underlines the importance of avoiding dependence on contract law in this regard.

It is also important to keep in mind that even if an NPC is declared invalid with regard to films, an actress's concerns may not be addressed. This is because the producer has no corresponding obligation to suspend the film /

series for when the actress is able to shoot again. Therefore, when the shooting of the film has not yet begun, or when it is possible to release the particular role again despite the beginning of the film, even if the actress cannot be fired, the directors can certainly re-launch their role. Similarly, when there is a fixed-term contract, there is the possibility that the term of the contract expires when the actress returns to work.

NPC AND LABOUR LAW

The main labor legislation governing maternity benefits in India is the law on maternity benefits of 1961. It applies "to all establishments that are factories, mines or plantations, including any establishment belonging to the government and all establishments in those that are used for horse riding, acrobatics and other activities "and for" every shop or establishment "according to state law, in which 10 or more people are employed on any day of the previous twelve months (S. 2 (1)). The law provides for paid leave for an employee who has worked in an employer 's establishment requesting maternity leave, for no less than 80 days in the 12 months immediately prior to the scheduled delivery date, for a maximum period of 12 weeks If the 80 days of service are not yet complete, it is suggested that the scheme of the Law provides for free leave, with the right to return to work after delivery. It also provides other benefits such as breastfeeding breaks, etc. The woman is not obliged to report her pregnancy upon entering the service. Furthermore, the dismissal of a woman when she is on leave is illegal (§12). The law also establishes that any service agreement incompatible with the law (including an agreement that provides for the resolution of women in the event of pregnancy, which would imply a typical NPC), would be annulled by the law. It can be argued that the actresses are "employed for the display of other [...] representations", where "for" should be interpreted as a link with the exhibition, and not specifically for the display of representations. This is indeed a very broad reading and there is no judicial guide to determine whether the courts will follow this path.

Furthermore, although production companies are not covered in the sense of "factory as a factory, mine or plantation", as regards "warehouse or establishment" according to state laws, all the states of the country, except for Arunachal Pradesh, have Law of shops and establishments. The definition of shops in these laws is almost identical. The judicial precedents have defined the stores as a place where a systematic economic or commercial activity is carried out, in relation to the sale or purchase of goods or services, and include establishments that also facilitate the sale or purchase of goods or services. It is questionable if a production company facilitates the sale or purchase of goods or services, to the extent that it creates the film that is used in the sale of cinema tickets. However, there are no judicial precedents in this regard.

Furthermore, the model of shops and establishments of 2016 (employment regulations and service conditions) is currently pending in Parliament. While a production company may not be covered by the definition of shops pursuant to this Model Law, a clear reading of the definition of establishment under the law indicates a probability that the production company is covered by the Law.

Therefore, although there is no guide available from judicial background, there is a possibility that Production Company's fall within the scope of application of the companies covered by the 1961 law, in particular when states adopt model shops and establishments of regulation of employment and service conditions under bill of 2016.

The law on fair remuneration, 1976, is another legislation that could be relevant in this regard. Section 5 of the Equal Pay Act states that there should be no discrimination between men and women at the time of employment and, subsequently, in the terms and conditions relating to employment. Whether an APN is discriminatory or not discussed in the next section that discusses the validity of an NPA when tested in the context of fundamental rights.

NPC AND CONTRACT LAW

Section 23 of the Indian Contract Act of 1872 states that an agreement whose object or considerations are illegal is null. The object or consideration is illegal under the Section, among other things, if it is "prohibited by law" or if the Court considers it "contrary to public order". According to the discussion on labor law above, it can be argued that

the law prohibits the establishment of an APN clause. The discussion on fundamental rights below would also indicate that preventing a woman from becoming pregnant can be considered contrary to public policies, since it amounts to a renunciation of fundamental rights, which is inadmissible.

On the other hand, it can be argued that the actress makes a representation of being available for the film for the entire duration of the contract and assuming that in most cases, pregnancy is a planned activity, her pregnancy during this period is a false declaration and an abuse of trust. The doctrine of substantive infringement, which allows employers to dismiss the employee without notice, can also be used in cases where the pregnancy does not allow it to fulfill a substantial part of the contract.

NPC AND FUNDAMENTAL RIGHTS

The right to equality blocks (articles 14 and 15) and the right to life (article 21) comes into play by identifying the constitutionality of the NPCs. Before starting the analysis, it is necessary to remember that, although articles 14 and 15 are only available against the state, as defined in article 12 of the Constitution, article 21 is also available against individuals. Also with regard to the blocking of equality, the principle of indirect horizontality can be used to assert the fundamental right to equality against private individuals.

The validity of an NPC with respect to Article 14 can be demonstrated at two levels. In the first level of non-discrimination (which requires the satisfaction of the evidence of a reasonable connection of the classification with the object and the intelligible difference), the case of the Supreme Court in *Air India v. NergeshMeerza* remains the valid law. The tribunal of the place, without discussing whether the nature of the work actually carried out by the two positions in that case was different, affirmed that as long as the differentiation between two separate positions does not amount to discrimination, since the two positions are not equal in the first place.

In the second level, in the non-arbitrariness test, as developed in *EP Royappa v. State of Tamil Nadu*, the court held that the provision that entailed the cessation of the use of hostesses in the first pregnancy was arbitrary to the extent that it forced the flight attendant to have no children and therefore interfered with the normal course of nature, pregnancy being an immutable characteristic of married life'. However, the court itself has made a very arbitrary differentiation between the first two pregnancies and the third, therefore discriminating on the basis of the third pregnancy is in some way compliant with article 14, without explaining why only a woman and not a man should be fired if they are responsible for a woman's third pregnancy, even if the reasoning behind this differentiation according to the court is the explosion of the population and not the woman's inability to work during some months of pregnancy.

Turning now to the position of the law in relation to Article 15, up to *NergeshMeerza*, the upper courts in India were divided in their analysis of discrimination based on sex. Some courts have argued that sex discrimination, along with other factors, such as the ability of a certain sex to administer property, would not amount to discrimination based only on sex.²⁹ These sentences did not analyze whether the additional functionality (in the instant example, women's ability to maintain property) was also based on a differentiation based on sex and the associated stereotypes. On the other hand, some higher Courts in similar situations had indeed discussed the opposite. There was a third line of cases, in which if the actual differences between the two sexes, such as the amount of physical strength, were based on classification, it was considered valid. However, the court of *NergeshMeerza*, without considering any of these precedents, considered that, since the state had declared with notification pursuant to the 1976 remuneration law, the discrimination was based on different conditions of service and not on sex, article 15 not to be violated. This was done by the court without judicial review of the basis of the notification, bringing it to the letter.

However, the subsequent cases are advanced in this regard, both in front of the right to equality and in the vision of the right to motherhood in the article 21. In the *inspector (Mahila) Ravine v. Union of India*, CRPF denied promotion to an inspector because she was unable to attend a pre-promotion course due to her pregnancy. The Delhi High Court declared that the sanction of a woman for her pregnancy violated Article 21, as interpreted in the light of

Articles 42 and 45. Since the case concerned public employment, it was also considered discriminatory to pursuant to Article 16 of the Constitution (this reasoning also applies to articles 14 and 15).

In this context, it can be argued that an APN clause will violate articles 14, 15 and 21. However, not yet, the film industry has some peculiar characteristics indicated at the beginning of this document and which are detailed below. This could help the courts classify an NPC as a mere classification and non-discrimination.

IMPACT OF FILM INDUSTRY

The film industry is very different from other industries to the extent that other industries can continue their activity in the absence of a pregnant worker, film production is interrupted if an actress, in particular, the main actress remains pregnant. The pregnancy of the actress also disturbs the dates of the other actors involved, which leads to greater delays in the production of the film, placing the destination of large quantities of investments, including the seminars that led to the shooting and the appearance of the actress, In a limbo. This is underlined by the huge bills that actors and actresses charge for films. It is questionable whether the insurance could cover losses arising from a violation of the APN, in addition to the high insurance premium that may need to be paid if the insurance is purchased for such contingencies. In this context, the legal disability of the NPCs could result in producers not hiring married women for roles.

However, although the film industry depends largely on the appearance of the cast, there are mechanisms that can be used to hide the belly. These include the use of computer-generated images, the shooting of closer shots than the panoramic ones, the use of more stunts, etc. Hollywood filmmakers used these mechanisms, for example, to hide Scarlett Johansson's pregnancy during the movie "Avengers: Age of Ultron". Similarly, in the American comedy Seinfeld, Julia Louis-Dreyfus, who played Elaine, the female protagonist of the show was camouflaged with "hop counters, bulky clothes, bags and co-stars". A magazine describes it as "the leaks made to hide the blows resembled the naked scene of Austin Powers, where Mike Myers and Liz Hurley take advantage of them, their modesty is protected with two-way objects like melons and pitchers". It is doubtful that the employer should bear the burden of hosting the actress, in particular when this requires additional financial costs.

One can also distinguish between series and films. While the daily soap scripts are easier to edit, the films don't. The role of an actress is also easier to recast with regard to everyday soaps, since in the films the screenplay of the film generally constitutes a representation for other actors and actresses involved. Furthermore, the duration of daily soaps is considerably longer than that of a film. From the employer's point of view, it may be more reasonable to have such clauses in a film contract than in a daily soap opera contract.

These peculiar characteristics could make NPCs compliant with the laws of India, or at least the courts could make a distinction between films and soap operas, as well as between actresses who are essential for the continuation of the film / series and whose role it is not broadcast and other actresses / artists.

NPC AND INTERNATIONAL LAW

The Universal Declaration of Human Rights recognizes the special attention and assistance requested by a pregnant woman. Similarly, the International Covenant on Economic, Social and Cultural Rights also requires states to take measures to protect motherhood. However, for the purpose of this essay, we will discuss the obligations that India has under the ILO Convention on Discrimination (Employment and Employment), 1958 (No. 111), which it ratified in June 1960. States through this Agreement, between the other things, they undertake to eliminate discrimination based on sex during work. However, "[a] the distinction, exclusion or preference with respect to a particular work based on the requirements inherent to it is not considered discrimination."

In the context of this convention, the ITF (International Federation of Transport Workers) and the ITUC (International Trade Union Confederation) filed an appeal against Qatar Airlines and the Qatari government; Qatar Airlines has NPC clauses in its contracts with Air Hostess. The ILO Director-General considered this to be a violation

of the Convention n. 111. He further argued that "distinctions in work and employment based on pregnancy or motherhood are discriminatory, since they can, by definition, only influence women". Therefore, they constitute direct discrimination based on sex; contrary to the Convention (footnotes are omitted). "Although Qatar, like India, was not bound by the ILO Maternity Protection Convention, 2000 (No. 183), it stated that" it can serve as a guide to improving laws, policies and practices related to protection of maternity ". In accordance with Convention No. 183, the General Manager recommended" the adaptation of the working conditions of the pregnant woman, a transfer to another position, without loss of salary, when such adaptation is not feasible or has no paid vacation, in accordance with the laws - national regulations or practices, when such transfer is not feasible. "The Qatari government was responsible for ensuring that the modifications recommended by the Director General were made effective.

Similarly, the ILO, at its 98th session in 2009, urged the Nigerian government to put its police regulations in accordance with the Convention. Among other things, the ILO has found that the section provides for discharge for a single policewoman who becomes pregnant, as direct discrimination under the Convention.

It is likely that if the concern about the NPC clauses in film contracts in India is brought to the ILO, the ILO will be against India. However, given that India is a dualist country and has not yet introduced a law implementing the Convention n. 111, there will be no consequences of jurisprudence under this Convention for national disputes, unless the Indian courts do not use India's obligations under this Agreement. As a tool for interpretation / implementation of fundamental rights.

CONCLUSION

This essay is an effort to analyze the legal validity of an NPC in film contracts. An NPC prohibits an actress from becoming pregnant until the main picture of the film is completed. Failure to comply with this clause leads to the dismissal of the actress. With regard to labor legislation, it is likely that an NPC is invalidated by the non-derogatory provisions of the Maternity Benefits Act of 1961. Under the Indian Contracts Act of 1872, I read the fundamental rights and the Maternity Benefits Act in the light of the jurisprudence. 1961, it can also be stated that these clauses are contrary to the public order of India and, therefore, are not valid pursuant to article 23 of the Law. It can be argued that the pregnancy would involve a substantial violation of the fixed-term film contract, which would allow the rejection of the contract by the counterparty, the producer, which would actually lead to the termination of the actress's employment relationship. It could be said that the clause violates the articles 14, 15, 16 and 21 of the Indian Constitution, unless the peculiar characteristics of the film industry, in which the activity of the producer depends on the continuation of the employment of the actress, can persuade all Indian courts have a NPC as a valid classification instead of discrimination based solely on sex. The ILO Convention on Discrimination (Employment and Employment), 1958 (No. 111), which India ratified in June 1960, would make India responsible for not introducing laws on non-discrimination on grounds of discrimination. Sex in all forms of work internationally. However, India has not yet introduced a law that implements this convention at the national level. It will also be useful for the Film Guild Association to take the lead in formulating guidelines in this regard. As regards the position in this regard in other parts of the world, while the jurisprudence in the United States indicates that a NPC would fall under the BFOQ exception under Title VII of the Civil Rights Act of 1964, it is likely that the Court of Justice of the European Communities interpret this clause as one that promotes discrimination based on sex. In general, there is no definitive answer to the legal validity of these clauses.

REFERENCES

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2. For a sample contract, see, *We Have Obtained a Copy of MTV's Standard Real World Cast-Member Contract, August 1, 2011, available at*, <http://www.villagevoice.com/news/we-have-obtained-a-copy-of-mtvs-standard-real-world-cast-member-contract-6724278> (last visited on August 30, 2016).
3. See, *Stork contrast*, The Straits Times (Singapore), August 5, 2007 (reporting the removal of an NPC by a Chinese production house); see generally, *Equality, Labour and Social Protection for Women and Men in the Formal and Informal Economy in Viet Nam*, International Labour Organisation (2002); Nelien Haspels & Eva Majurin, *Work, Income and Gender Equality in East Asia: Action Guide*, International Labour Organisation 39 (2008):
“In China, a recent study by the ACWF shows that discrimination due to pregnancy and family status is common: according to the study, 21% of rural women in cities were fired after becoming pregnant or having a child (“China Improves Women Employment”, Xinhua, 7 May 2007). In the Republic of Korea, a poll by the job portal Incruit reveals that one-third of pregnant female workers decided not to take maternity leave for fear of discrimination, and 7% were told to resign after using maternity benefits (Tony Chang (2007), “Employers’ support for female workers key to higher birthrate”, Yonhap News, 10 May). Similar trends of voluntary or involuntary non-use of benefits and cases of termination of employment due to pregnancy are also reported from Singapore, where the Ministry of Manpower received 72 maternity and termination-related cases in 2007, occurring mostly in the small and medium enterprise (SME) sector (NurDianah Suhaimi (2008), “Expecting a baby? Expect to be fired”, The Straits Times, 5 August”) *Independent Evaluation Of The ILO’s Strategies On Fundamental Principles And Rights At Work*, International Labour Organisation 73 (Vol.2, 2015), available at, http://www.ilo.org/wcmsp5/groups/public/---ed_mas/eval/documents/publication/wcms_374259.pdf (last visited on August 30, 2016) (describing criticism of ILO for dismissal of women on the basis of pregnancy in Guatemala).
4. *Kareena lost film due to no pregnancy clause?*, The Times of India, September 26, 2012 (other clauses which specify do’s and don’ts for the cast include keeping long hair, a particular style of beard, non-disclosure agreements, non-response to queries concerning the film and the cast’s role, except through the production house’s PR department, etc.).
5. *Does Bollywood need a no-pregnancy clause?*, The Times of India, June 30 2011
6. *Kareena lost film due to no pregnancy clause?*, The Times of India, September 26, 2012.
7. *Kareena lost film due to no pregnancy clause?*, The Times of India, September 26, 2012.
8. *Pregnant pause?*, The Times of India, July 7, 2011.
9. *The pregnancy clause dilemma*, Kashmir Monitor (India), July 3, 2011.
10. Delhi is presently debating the introduction of the Delhi Charter of Women’s Rights Bill, 2015, which provides for non-discrimination on the basis of pregnancy in private employment as well. For a copy of the bill,
11. The Maternity Benefit (Amendment) Bill, 2016 pending in the Lok Sabha (passed by Rajya Sabha), makes significant changes to the Act, not entirely relevant for our discussion. For a summary of these changes, see, The Maternity Benefit (Amendment) Bill, 2016, PRS The Employees’ State Insurance Act, 1948 also provides for maternity benefits (§50), however the Act applies to factories, other than seasonal factories (S1(4)), with the appropriate government having the power to extend the application of the Act to any other establishment (S1(5)). Production houses are not covered within the definition of factories as under the act. In addition, to my knowledge, there hasn’t been any notification in this regard concerning production houses.

12. Establishment as per the Act **inter alia** includes, “(i) a factory; (ii) a mine; (iii) a plantation; (iv) an establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances; [(iva) a shop or establishment” (S3(e)).
13. Rupa S. v. Special Commissioner of Projects, 2015 SCC Online Kar 6552.
14. ESIC v. Hyderabad Race Club, (2004) 6 SCC 191 (in the context of Andhra Pradesh Shops and Establishments Act, 1988).
15. Bangalore Turf Club v. Regional Director, AIR 2009 SC 2965 682.
16. The last available draft in public as of January 27, 2016, available at, [http://www.rai.net.in/E-Mailers/Central Model S&E Act Proposal.pdf](http://www.rai.net.in/E-Mailers/Central_Model_S&E_Act_Proposal.pdf).
17. S2(f) defines shops as “any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store-room, go-down, warehouse or workhouse or Work place for distribution or packaging or repackaging or finished goods is carried on; but does not include a establishment or a shop attached to a factory where persons employed in such establishment are allowed the benefits provided under the Factories Act, 1948.”
18. S2(e) defines establishment as “any premises, not being the premises of a factory, or a shop, wherein any trade, business, manufacture, or any work in connection with, or incidental or ancillary thereto and includes a premises wherein journalistic or printing work, or business of banking, insurance, stocks and shares, brokerage or produce exchange is carried on, or which is used as theatre, cinema, or for any other public amusement or entertainment or where the clerical and other establishment of a factory, to whom the provisions of the Factories Act, 1948, do not apply, work.”
19. Daryao v State of Uttar Pradesh, AIR 1961 SC 1457; Olga Tellis v. Bombay Municipal Corporation, [1985] 2 Supp SCR 51; Ashish Chugh, *Fundamental Rights – Vertical or Horizontal?* (2005) 7 SCC (J) 9.
20. However certain religions like some Christian sects, prohibit the usage of contraceptives, thereby restricting pregnancy planning.
21. S36 of the Contract Act provides that when a party disables herself from performing a contract in its entirety, the counter party gets a right to terminate the contract. *See also*, Gordon Youngman, *Negotiation of Personal Service Contracts*, 42(1) California Law Review 11-12 (March 1954).
22. 22. Analysis concerning Article 16 will not be made, because of the substantial overlap between the jurisprudence concerning Article 15 and Article 16 in this regard.
23. See generally, Kalpana Kannabiran, *Judicial Meanderings in Patriarchal Thickets: Litigating Sex Discrimination in India*, 44(44) Economic and Political Weekly 88-98 (October 31-November 6, 2009)
24. Consumer Education and Research Centre v. Union of India, (1995) 3 SCC 42.
25. For the most recent elucidation of this concept, see, Dr. Noorjehan Safia Niaz v. State of Maharashtra and the Haji Ali Dargah Trust, 2016 SCC Online Bom 5394 (popularly known as the Haji Ali Dargah case). Using this concept, the courts cast a positive obligation on the state in overseeing that the fundamental rights of an individual are not violated whether by the state or by another private individual. When applying this concept in practice, the state is made a party to the petition filed against the private person and the court directs the state to stop the violation of fundamental rights being committed by the private individual by way of passing a legislation (as in the case of Vishakha v. State of Rajasthan, (1997) 6 SCC 241) or by other means. It can be argued that since there exists an explicit provision in the Constitution concerning employment, which only obligates the state to respect right to equality in the case of public employment, there is no such duty upon the state in the case of private employment. Yet, it can equally be argued that the said Article 16 is only applicable so far as affirmative action is concerned and since it is the state and not the private employer which is being made liable using indirect horizontality under the Constitution in accordance Article 14 read with Article 15, the same should be permissible. In fact, in Vishakha as well, the rights in question concerned both private and public workplace (employment).
26. See, State of West Bengal v. Anwar Ali Sarkar, [1952] SCR 284.

27. (1981) 4 SCC 335; C.f., Union of India v. Atul Shukla, (2014) 10 SCC 432 (the court held that where the nature of the work performed by the two classes are the same, there is no reasonable basis of such a classifications).
28. (1974) 4 SCC 3.
29. 29. Mahadebjiew v. B.B. Sen, AIR 1951 Cal 563; Yusuf Abdul Aziz v. State of Bombay, AIR 1951 Bom 470.
30. Rani Raj Rajeshwari Devi v. State of UP, AIR 1954 All 608; RadhaCharanPatnaik v. State of Orissa, AIR 1969 Orissa 237.
31. R.S. Singh v. State of Punjab. AIR 1972 Punjab and Haryana 117; Theorists such as Cass Sunstein, Alan Norrie and Catherine MacKinnon have described this as a situation where the baseline norms in our world are designed keeping in mind the perspective of a man. For instance so far as labour laws are concerned, the ideal worker is a man, and the laws are designed from the male perspective, therefore there exist mandates like working a certain number of days a year, etc.
32. "Provision for just and humane conditions of work and maternity relief- The State shall provide conditions for securing just and humane conditions of work and for maternity relief.
33. Provision for early childhood care and education to children below the age of six years- The State shall endeavour to provide for early childhood care... ". See also, Article 51A(e) which enjoins the state to 'renounce practices derogatory to the dignity of women' and Article 41, which provides for right to work in cases of undeserved want.
34. *Why Bollywood's investment model is not working?* Livemint, October 1, 2016 (estimating that Hindi film stars take almost 50-60% of the film's budget).
35. *A pregnant pause*, Sunday Times (London), May 12, 2002.
36. *Joanna L. Grossman, Pregnancy, Work, and the Promise of Equal Citizenship, Georgetown Law Journal*, 98 Geo. L.J. 567, 628 (March, 2010) (Lisa Kudrow, who played Phoebe Buffay in Friends, was characterized as a compulsive eater during her pregnancy, off to a diet spa in time for her maternity break. Of course, this flexibility will not be open for every plot. The serials can also send the star on a pregnancy-friendly leave, also known as the 'sprog sabbatical', again not a viable option for every plot).
37. Article 25.
38. Article 10(2); see also, UN 4th World Conference (Beijing, China, September 1995) Platform for Action Strategic Objective; Programme of Action of the UN International Conference on Population and Development ¶4.4(f), 4.4(g) (Cairo, Egypt, September 1994); Convention on the Elimination of all Forms of Discrimination Against Women, Article 11.2.
39. Another convention within the framework of ILO in this regard is the Maternity Protection Convention No. 183 (2000). However, this has been ratified by only 32 states and India is not a party to it.
40. Article 1(1) read with Article 2.
41. Article 1(2).
42. First edition 2009, Report III (Part 1A) General Report and observations concerning particular countries, Report of the Committee of Experts on the Application of Conventions and Recommendations (articles 19, 22 and 35 of the Constitution) Third item on the agenda: Information and reports on the application of Conventions and Recommendations, International Labour Conference, 98th Session, 2009.
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45. CHARLES A. SULLIVAN, MICHAEL J. ZIMMER, AND RICHARD F. RICHARDS, FEDERAL STATUTORY LAW OF EMPLOYMENT DISCRIMINATION 140-41, 148-49 (1980).
46. 517 F. Supp. 292 (N.D. Tex. 1981).

47. Marafino v. St. Louis County Circuit Court, 707 F.2d 1005 (8th Cir. 1983), Troupe v. May Department Stores Co., 20 F.3d 734 (7th Cir. 1994).
48. CHARLES A. SULLIVAN & LAUREN M. WALTER, EMPLOYMENT DISCRIMINATION LAW AND PRACTICE 395 (4th Ed., Vol.2 2009).
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51. C-177/88 Dekker v Stichting Vormingscentrum voor Jonge Volwassenen, Plus [1990] ECR I-3941; C-207/98 Mahlburg v Land Mecklenburg-Vorpommern, [2000] ECR I-549; C-207/98 Mahlburg v Land Mecklenburg-Vorpommern [2000] ECR I-549.
52. C-32/93 Webb v EMO Air Cargo, [1994] ECR I-3567.
53. C-109/00 Tele Danmark A/S v Handels- og Kontorfunktionærernes Forbund i Danmark (HK), acting on behalf of Marianne Brandt-Nielsen, [2001] ECR I-2785; C-438/99 Maria Luisa Jiménez Melgar v Ayuntamiento de Los Barrios, [2001] ECR I-6915.