

Background Note on Review of Child Care Leave

The Constitution of India guarantees gender equality. These are contemplated in specific articles of the constitution. Article 14 of the Constitution says that the government shall not deny to any person equality before law or the equal protection of the laws. Article 15 declares that the government shall not discriminate against any citizen on the ground of sex/ gender. **Article 15 (3) enables the making of special provisions for affirmative action** and Article 16 guarantees that no citizen shall be discriminated against in matters of public employment on the grounds of sex. Under the Article 42 of the Constitution of India directs the State to make provisions for maternity relief besides securing just and humane conditions of work for women. The Maternity Benefit Act, 1961 is the prime legislative enactment in this regard. The Hon'ble Supreme Court in the *Municipal Corporation versus Female Workers (Muster Roll)*, 2000 LLR 449 examined the case and the provisions of the Maternity Benefit Act in the context of the Preamble, Fundamental Rights and Directive Principles of the Constitution, as well as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). The Court observed that the Preamble promises social and economic justice. It noted that Article 14 provides that the state shall not deny any person equality before law or the equal protection of laws within the territory of India. Article 15, while prohibiting discrimination on grounds of religion, race, caste and sex, permits the state to make special provisions for women and children.

The declining sex ratio, social stereotyping and violence against women in domestic and societal level are some of the manifestations of gender disparity, which are obstacles in attaining full development of women. The underlying causes of gender inequality are related to social

and economic structures that are based on the social norms and practices.