

## ICDS and Right to Food

GEORGE KENT

In its August 26, 2006 issue, *Economic and Political Weekly* gave a great deal of creative attention to the Integrated Child Development Services (ICDS) programme. The programme has done a lot of good for women and children but it could do even better. I would like to draw attention to one particular consideration that should be better recognised more fully, not only in ICDS but also in the entire right to food campaign in India.

Many social service programmes have problems in achieving the desired coverage and in achieving the appropriate quantity and quality of service. The most common approach to dealing with shortfalls in coverage is to put more money into the programme. That is needed, of course, but this approach fails to address other kinds of weaknesses in the system, such as the tendency to favour the better-off poor. What is to be done about shortfalls in the quantity or quality of service where there are anganwadi centres?

### Specifying Entitlements

On November 28, 2001, India's Supreme Court ordered that in every hamlet in the country, ICDS should provide services to every child up to six years of age, every pregnant or lactating woman, and every adolescent girl. This order and subsequent orders extending it mean that these women and children are entitled to services from ICDS. However, only about 22 per cent of India's young children are presently served by the programme [Sinha Shantha 2006: 3658]. Thus, the rights of at least 78 per cent of them are being violated. One obvious reason is that, "There are only six lakh anganwadis in the country, compared to an estimated 17 lakh required for universal coverage based on existing norms" [Sinha Dipa 2006: 3690].

There are huge variations in the services that are delivered, in terms of content, quantity, and quality. Vague promises need to be translated into concrete commitments. For example, although breastfeeding certainly needs to be encouraged and supported, we need to know what that means. Is the government to provide the services of a skilled child feeding support counsellor for every pregnant and lactating woman? For how many hours? Are these services to be provided during pregnancy, at the time of birth, and later as well? What training would be required of the counsellors? Instead of focusing only on breastfeeding, perhaps it should be that broader nutrition counselling is provided [Gupta 2006]. If so, what would be the particulars of this service? Beyond counselling, what else is to be provided? Is every pregnant woman to have assured access to a baby-friendly birthing facility within one mile of her home? Entitlements should be specified concretely, spelled out with the sort of detail one would expect in a commercial contract.

Moreover, those who are entitled, or their families, should be informed of precisely what it is that they are entitled to. The information must be sufficiently clear so that those who are supposed to benefit from the ICDS can make decisive judgments as to whether or not they are in fact getting what they are supposed to be getting.

Elsewhere I have used the Tamil Nadu Integrated Nutrition Programme (TINP) to illustrate how such programmes could be made into rights-based programmes [Kent 2005: 147-50]. The major change in its rules would require converting the statement of the goals of bureaucracy to formulations of entitlements of the individual participants in the programme. For example, with minor modifications, TINP's criteria for supplementary feeding could have been formulated as follows:

- Every child between 12 and 36 months of age who fails to gain at least 300 gm per month for four months is entitled to

supplementary feeding, and the child's parents are entitled to associated educational programmes.

- Every child assessed to be severely malnourished is entitled to a double ration.
- Once begun, feeding is to continue once a day for a minimum of three months.
- If a child gains 500 gm or more within three months, supplementary feeding is to cease. If not, the child is to be referred to the health subcentre, and feeding is to be continued until adequate weight gain is recorded.

Of course further specifications would have to be made to define the key terms and to establish the quality and character of the basic ration in feeding as well as where and how it is to be obtained. The point here is not to propose a particular service protocol but to suggest a form of language that could be used to provide assurances regarding the conditions under which services would be provided. People need to know what commitments have been made to them and they are entitled to.

### Assuring Delivery

While specifying the exact content of the entitlement is important, attention also should be given to the method of delivery. As things stand, many people probably feel they have no more control or knowledge of whether ICDS will be provided than they do about whether it will rain. It just happens or it doesn't happen.

One way to give the programme's clients more substantial power would be to issue tokens to mothers of eligible children and to pregnant and lactating women, and adolescent girls, i.e., one token for each unit of service that is to be delivered. When satisfactory service is obtained, a token would be turned over to the frontline anganwadi worker. These workers could be paid for their efforts in accordance with the numbers of tokens they provide to prove that the service has in fact been delivered. Other kinds of comparable devices could be deployed to assure satisfactory delivery of service, such as signed receipts.

The anganwadi worker could be paid according to how much she delivers, and perhaps be penalised for failure to deliver. Something similar should be done with regard to the higher-level bureaucrats. Perhaps the administrator whose programmes reach only a quarter of the targeted individuals should receive only a quarter of his pay. Whatever the formula, there should be some sort of performance contracting, meaning that rewards should be linked in some way to actual performance. Thus, in some respect, the government should work in a businesslike manner. If poor performance has no consequences, there will be no change, and the pattern will continue.

### Remedies for the Rights Holders

In response to a question raised in the Lok Sabha in 1993 regarding the status of children's nutrition rights, the department of women and child development answered by listing the country's numerous programmes for childcare and feeding. The department apparently failed to grasp the distinction between having feeding programmes and having the right to food. What is that right, and where is it elaborated in the law? Whose right is it? To what extent is this right realised? And what are the mechanisms of accountability for assuring that the right is realised?

In any rights system there are three major elements: the rights holders and their rights, the duty bearers and their obligations, and the agents of accountability. The task of the agents of accountability is to make sure that those who have the duty carry out their obligations to those who have the rights.

Duty bearers must be held to account. As Dipa Sinha said, "for any public institution to function, it is necessary to ensure accountability through public action" [Sinha 2006: 3690]. However, this emphasis on public action neglects the most important agents of accountability, the rights holders themselves. Shantha Sinha makes a crucial point:

There is no legal process by which the poor woman in labour can complain about the non-availability of the doctor or even a trained midwife. There is no law that mandates the state to provide for all the services and procedures any woman can demand in a primary healthcare centre or

a general hospital. There is no law that would take punitive action because children in a village have not been immunised for months together... [Sinha, Shantha 2006: 3659].

As Jean Drèze observes, "Because children have no 'voice' in the system, there is no self-correction mechanism whereby implementation failures lead to outspoken protest and timely redressal" [Drèze 2006: 3711-12]. In discussing accountability in the ICDS programme, it is important to consider what family members can do if they are not getting what they are supposed to get. What recourse do they have to remedy the situation?

The rights holders or their representatives should have a procedure available to them to complain and have the situation remedied in case they do not get that to which they are entitled. In other words, rights are not only about establishing norms or standards, they are also about establishing institutional arrangements to assure that those norms are met.

Human rights in the law rest on the principle 'ubi jus ibi remedium' – where there is a right there must be a remedy. Article 8 of the *Universal Declaration of Human Rights* asserts, "everyone has the right to an effective remedy by competent national tribunals for acts violating the fundamental rights granted to him by the constitution or by law". The human right to adequate food along with all other rights should be articulated in the law, together with a description of the remedies that are available if an individual's rights are violated. If there are no such remedies, there is no real right.

There are many ways in which remedies for the rights holders could be designed into the ICDS programme. For example, every hamlet could have a designated person or committee whose function is to receive complaints and pass them to the authorities, and perhaps also to publicise them in some form. Families should be informed that there are specific services they have a right to claim. They should also be informed about where and how they could complain if they do not receive quality services. The complaint procedure should be safe to use, and it should give its users reason to expect that the situation would then be corrected. There might be a requirement that people whose complaints are well founded

would be compensated in some way. These arrangements and procedures should be stated in the project's rules and implemented through mechanisms described in those rules.

Intervention by the Supreme Court is a mechanism of accountability but it is not normally available to ordinary people at a local level. The right to food case went to the Supreme Court in India partly because there were no effective mechanisms of accountability available to ordinary people at the local level. Until local people know their rights and know that they have effective means through which to exercise them, there really is no effective system for assuring the realisation of the right to adequate food and other rights in India.

Rights holders themselves must have effective remedies through which they can complain and have the government's behaviour corrected. This is the missing piece in ICDS and more generally in India's system for addressing the right to food.

The law should establish institutional arrangements to assure that the intended beneficiaries of ICDS and other schemes do in fact get that to which they are entitled. Effective remedies for rights holders provide a means for correcting the trajectory of the ship of the state. These mechanisms are a means for empowering the powerless, one of the core purposes of all human rights. Effective remedies for rights holders help assure that individuals will not be treated simply as passive objects. They must be recognised as active participants in helping to shape the circumstances in which they live, having specific powers to make claims on the world in which they live. **EW**

Email: kent@hawaii.edu

### References

- Drèze, Jean (2006): 'Universalisation with Quality: ICDS in a Rights Perspective', *Economic and Political Weekly*, August 26, pp 3706-15.
- Gupta, Arun (2006): 'Infant and Young Child Feeding: An 'Optimal' Approach', *Economic and Political Weekly*, August 26, pp 3666-71.
- Kent, George (2005): *Freedoms from Want: The Human Right to Adequate Food*, Georgetown University Press, Washington DC.
- Sinha, Dipa (2006): 'Rethinking ICDS: A Rights Based Perspective', *Economic and Political Weekly*, August 26, pp 3689-94.
- Sinha, Shantha (2006): 'Infant Survival: A Political Challenge', *Economic and Political Weekly*, August 26, pp 3657-60.