

PLANNING COMMISSION

ISSUES RELATING TO RIGHT TO WORK

(Note for the consideration of the National Development Council)

I. INTRODUCTION:

1.1 The proposal for the introduction of Right to Work has been made in pursuance of the Government's resolve to provide gainful work to everyone. Given the estimated backlog of about 28 million unemployed and the additions of 78 millions to the labour force during the decade of the nineties, an average of 10.6 million new employment opportunities would need to be created annually to achieve this goal substantially by 2000 A.D.. The Eighth Five Year Plan is being formulated keeping this objective clearly in mind.

1.2 The ultimate solution to this problem lies in an employment-oriented growth strategy. This will imply restructuring of the patterns of investment and output towards sectors, activities and technologies with higher employment potential. It is estimated that such reorientation, resulting in an annual growth of employment of three per cent per annum, will facilitate achievement of the goal of near full employment by the turn of the century. However, in the interim, it is considered necessary, both in terms of initiating this process of reorientation and of providing a safety net of work and income to the unemployed and under-employed that a Work Guarantee Programme be introduced to give immediate operational content to the concept of Right to Work.

1.3 Two documents providing the background to the issues relating to Right to Work are attached to this note. The first note (Appendix I) entitled "Employment : Past Trends and Prospects for 1990" provides an idea of the extent and nature of the problem and possible ways of reorienting the pattern of economic growth. The second note (Appendix II) gives an outline of the approach, the Constitutional and legislative aspects, and the financial considerations relating to Right to Work. Major issues relating to

operational, organisational, legal and financial aspects of plan of action for translating the concept of right to work into a concrete Work Guarantee Programme are listed below for consideration:

11. OPERATIONAL ASPECTS:

2.1 For operating a Work Guarantee Scheme, the following aspects need to be considered:

(i) Nature of Work: Given the financial and physical constraints it may not be possible on the part of Government to guarantee work to individuals commensurate with their qualifications, choices and preferences. In keeping with the guaranteed nature of the right, the eligibility to work may, however, not be restricted. But it can be provided that the nature of work to be provided under the Guarantee Programme would only be manual work. This does not imply that there would be no scope for non-manual work under this programme. Indeed, if the work is to be productive it will be necessary to deploy a variety of skills, as the underpinning for the manual work that will be covered by the guarantee. Part of the allocations under the programme will for this reason need to be set apart for skill development and for generating self-employment opportunities, particularly for the educated unemployed, pressing also into service credit from financing institutions;

(ii) Location of Work: Usually the work should be provided within a reasonable distance of the individual's residence;

(iii) Wages: Wages to be paid to those engaged in work under the Programme may have to be the statutorily fixed minimum wages for unskilled work in the region. (It may be mentioned in this context, however, that under the Maharashtra Employment Guarantee Scheme, wages actually paid were often lower than the notified minimum wages as the payment was related to specified norms for piece work. However, this practice was questioned in Courts of Law.) It should be recognised, however, that the higher the wage rate offered, the less will be the number benefited for a given outlay. One possibility to consider here would be to freeze the rate as on a given date and perhaps even consider a ceiling rate for the country as a whole, even if the notified rate in a State is higher. In the alternative, States with high notified minimum wages could be asked to share a higher percentage of the cost of the scheme than States with lower rates;

(iv) Compensation: In the event of failure to provide work, a compensation may need to be offered. This could be fixed, say, at 1/3rd of minimum wages or Rs. 5/- per day, whichever is higher.

(v) Procedural aspects: A system, broadly on the Maharashtra pattern, of registration of workers and providing work to them within a stipulated period will need to be developed.

(vi) Coverage of Scheme: The organisational and financial implications of introducing the programme in all areas of the country, at once, will be too onerous. It may, therefore, be necessary to start the programme in selected areas, but with a clear commitment that it would be extended to the entire country within a stipulated period.

III. ORGANISATIONAL ASPECTS :

3.1 The following aspects will merit attention:

(i) In keeping with the principles enunciated in the "Approach to the Eighth Five Year Plan" as endorsed by the N.D.C., the planning and execution of works under the scheme should be the responsibility of elected local bodies, which will carry them out as an integral part of a decentralised area planning. Hence institutional arrangements for revitalising local bodies should go hand in hand with, if not precede, implementation of the Work Guarantee Programme. More than one local body may have to join where the works to be undertaken cut across the jurisdiction of individual local authorities. A hierarchy of responsibilities and powers from the State to the village levels will need to be worked out for the successful implementation of this programme;

(ii) Responsibility for working out the rules for the scheme in keeping with broadly accepted national goals, as also for monitoring and audit will be that of the State Governments. A minimal monitoring from the Centre may also be desirable;

(iii) Similarly, the State and the Central Governments will also have to make suitable arrangements for provision of technical guidance besides finances to local bodies.

IV. LEGAL ASPECTS

(i) A Constitutional Amendment recognising a fundamental right to work for all adult citizens, subject to such terms and conditions as may, by law, be provided, may be introduced. The details can be spelt out in a separate legislation (Centre and/or State). Phased coverage and other aspects relating to nature of work can be built into this supplementary legislation, with reference also to the limitations referred to Article 41 of the Consitution;

(ii) The Central law, in the form of a Work Guarantee Act, may specify the essentials and the States could enact their own legislation and the Rules for the scheme.

V. FINANCIAL ASPECTS

(i) The financial requirements estimated for implementation of a Work Guarantee would mean a manifold increase in the current level of outlays for employment related programmes, to about Rs. 13,000 crores per year (Appendix II -- para 22).

(ii) It may be possible to supplement, to some extent, the outlays provided for this programme directly in the Plan, by funds given under other heads for programmes with high employment potential. The need for a major restructuring and consolidation of field programmes, with a view to enhancing employment content and avoiding overlap, has been brought out in the 'Approach Paper' to the Eighth Plan. But even with these re-allocations, mobilisation at all the levels - Central, State and local - of additional resources of a substantial magnitude specifically for this national initiative, as also effecting maximum economies in other public expenditure particularly of a non-developmental kind, would be necessary. The possibility of levying special cesses for this purpose and agreeing on targets for achieving economies may be necessary.

(iii) The existing pattern of funding of employment related programmes varies between 100 per cent State (e.g. Maharashtra Employment Guarantee Scheme), to 100 per cent Central (e.g. SEPUP) funding. In between, there are other programmes (e.g. Jawahar Rozgar Yojana is 80% Centre and 20% States; IRDP and micro-enterprises scheme in urban areas is 50% Centre and 50% State). A suitable arrangement for sharing of the funds for Work Guarantee Programme (Centre, States and Local Bodies) will need to be evolved.