

# **OPERATIONALISING LABOUR STANDARDS: A CASE OF IMPLEMENTING MINIMUM WAGES**

**Manali Chakrabarti<sup>1</sup>**

Institute of Development Studies  
Kolkata

([manalichakrabarti@yahoo.com](mailto:manalichakrabarti@yahoo.com))

**Rahul Varman**

Indian Institute of Technology  
Kanpur

([rahulv@iitk.ac.in](mailto:rahulv@iitk.ac.in))

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<sup>1</sup> The names of the two authors are only in an alphabetical order. The real authors of the story are all the volunteers of the minimum wage group, who over the years, have kept trying under difficult circumstances. Of course, the story is being written only because the contingent workers in the campus have continued to dissent and voice their concerns while working against tremendous odds. The purpose of this piece is to acknowledge their extra-ordinary efforts. Finally, we must clarify that the case does not, in our opinion, reflect negatively on the Institute in isolation. If anything, the case relates how at least a section of the campus residents have attempted at improving the matters as will be evident to the readers of this piece.

## **OPERATIONALISING LABOUR STANDARDS: A CASE OF IMPLEMENTING MINIMUM WAGES**

### **INTRODUCTION**

In a global context where workforce is predominantly constituted of contingent workers, ensuring fair wages is an issue of primary importance for policy makers and planners. In spite of several progressive labour related legislations already in place in most countries, because of the legacy of the global labour movement, at present these laws are largely ignored or blatantly flouted. Further, increasingly the state has also been forced to formally retract several of these laws under the onslaught of the globalisation of capital. This has resulted in a precipitous drop of wages for workers, especially in the so-called 'unorganised sector'- the section of the workforce in the lowest rung of skill and economic hierarchy. Several movements for 'living wages', 'fair wages', 'minimum wages' have emerged in the last couple of decades, in both the developing as well as the developed regions of the world.

In a country like India where the majority of the population do not have access to even the basic requirements of health, nutrition and education and have no effective state sponsored social security system either the effect of free market has been particularly devastating. The unorganised workforce, who constitutes over 92 percent of the total working population of the country, is very vulnerable in terms of their work and working conditions. In a labour surplus economy the contract workers are largely non-unionised and do not have access to any of the benefits available to the organised sector. They often have to settle for meagre wages, long hours of work and harsh work conditions. At present there is a statutorily prescribed minimum wage (MW) for a variety of work in the unorganised sector as per the Minimum Wages Act 1948. The government regularly (every six months) revises it according to the fluctuations of the price index. MW in the government gazette is based upon the nature of job - skilled, semi-skilled, and unskilled; the setting - rural, urban; or the type of job - agriculture, construction, factory, etc.

The present note is an attempt to capture the process of institutionalisation of payment of minimum wages in a public sector academic institute situated in Kanpur. In keeping with the ground reality of the whole country including that of Kanpur, almost no contractor in the Institute campus pay the stipulated Minimum Wages, at least for unskilled and semi-skilled work. In fact market conditions in and around the campus are such that men and women are ready to work even at almost half the existing rate of the minimum wages. The note<sup>2</sup> describes and

<sup>2</sup> The present note is based on our participant observation, as both of us stay in the campus and have been involved with the minimum wage issue almost since the beginning

analyses the role of a concerned group of middle-class individuals within the campus community, who with the support of the existing labour laws, have tried to use official means to make a dent in the contractor-administration nexus and work towards ensuring fair wages within the campus. The writing starts with a historical backdrop and then describes at length the chronological unfolding of events over the four years from December 2000 to March 2005. And finally the whole process has been summarised and then analysed to bring out its implications for any initiative on issues similar to the one dealt in this writing (the implementation of minimum wages).

## THE CONTEXT

Kanpur is an old industrial centre in North Central India which flourished in cotton textiles, leather and leather products, woollen textiles, engineering products, etc. In the recent times though, the city has been in the news only for its rapid industrial decline, fast deteriorating socio-economic order and very high unemployment and crime rate. Kanpur had a militant working class movement, but as the capital has moved out of the city and the mills have closed down, the trade unions are in shambles and the working class movement has virtually collapsed.

The present case is situated in a premiere technological institute of the country located in Kanpur, Indian Institute of Technology Kanpur (IITK). IITK was set up in the late 1950s in collaboration with the US as part of the Nehruvian post-colonial nation building project. It was situated in Kanpur, which at that time was one of the most important industrial centres in the country. The Institute<sup>3</sup> accords fair amount of autonomy to the faculty and functions on the principles of parliamentary democracy. In the early years, probably because of being part of the first generation in the phase of post-colonial nation building, some of the members of the faculty brought in notions of social concerns to this fully residential campus (mainly for teaching staff and students and partly for non-teaching staff as well). Some of them were able to find academic as well as practical expressions for their social concerns, given the liberal environment and a degree of academic freedom. The liberal culture of the campus was further enhanced by a vibrant employees' union which came up in the 1970s.

Employees at the lower levels were mostly from the nearby places, while faculty and students had fair representation from different parts of the country. Efforts at unionisation of the temporary workforce in the Institute

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of the story narrated here. Though both of us have been part of the group of volunteers, and one of us teaches in the Institute, yet neither of us have been involved either with the Institute or the minimum wage issue in any official capacity.

<sup>3</sup> Indian Institute of Technology, Kanpur is referred to as either IITK or the Institute.

began in the late 1960s with participation of the academic community. The general socio-political environment of the region, country and probably the whole world in the 1960s and 1970s affected and fuelled the movement in the Institute too. This resulted in a strong trade union and eventually a permanent work force within a few years. But by the 1990s, with the onset of the economic reforms, the industrial relations in the Institute, the city and probably across the country entered a new phase. Many of the labour and union rights have receded, as permanent work and workers are being rapidly replaced by contingent workforce.

In the past decade, sub-contracting of work by the Institute has multiplied manifold, and therefore, the contingent workforce has also commensurately increased. There has been a tremendous rise in the infrastructural facilities within the Institute, primarily because of monetary contributions from the alumni (mostly from those who have been successful abroad) which have been pouring in, in the wake of liberalisation. Though we do not have the formal figures, yet by an informed estimate, at present the strength of the permanent work force is probably matched by the contract and temporary workers and would be around two thousand each. Many kinds of jobs have been completely taken over by the contingent workers – construction and civil maintenance, security, sanitation, horticulture, and even research assistance and office help; though the last category is not the focus in the present work. The discussion here is limited to the so-called ‘unskilled’/ ‘semi-skilled’ manual work, where minimum wage is an issue.

## DEMAND FOR MINIMUM WAGES

The issue of MWs took a dissenting turn in the campus in the early 1990s. An informal group called the *Vivekanand Samiti* (VS)<sup>4</sup> began a literacy drive amongst the migrant<sup>5</sup> *Chattisgarhi*<sup>6</sup> workers employed on some of the construction sites in the campus. Initially the effort concentrated in getting the children of the workers to attend a temporary school. These children do not often get any formal education partly because most sites do not offer any schooling facilities and also because of the temporary

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<sup>4</sup> Formed in the name of an important 19<sup>th</sup> century religious and social reformer by some of the campus residents - students, faculty members and their family members

<sup>5</sup> The migrant workers of India are some of the most exploited sections of the population. Most of them come from rural areas and constitute the large proportions of landless workers of the economy. During the four months of the monsoon they find some employment in the local context but the rest of the year the workers, sometimes the whole family, go to far flung areas in search of subsistence. The most destitute of the lot are often kept as bonded labour by the contractor. Some slightly better off are able to scrape some savings which goes primarily to repay a debt back ‘home’, or under extremely fortuitous circumstances, maybe even to buy a piece of land.

<sup>6</sup> An even less economically developed area of the neighbouring state of *Madhya Pradesh*, now a separate state of *Chattisgarh*.

nature of their parents' jobs where they have to keep moving from one construction site to another in quest of daily wages. After some interaction with the children the activists of VS got to know about the miserable wages being paid to the workers in the campus (which was less than even half of the stipulated minimum wages), they decided to take up the issue with the Institute authorities. Legally the primary responsibility for ensuring the payment of minimum wages lies squarely with the 'principal employer', the Institute in this case. In actual practice the contract workers have little job security and no employment rights. No formal rolls are maintained by the contractors and since these workers have no organisation to mediate with the employers, they literally work at the mercy of the employers' will and can be removed for the most trivial of issues. Hence all these organising efforts by the VS had to be done surreptitiously. In the process a few workers lost their jobs or were blacklisted by the whole set of contractors working for the Institute. Some of these workers formed the core of the later efforts at organising which led to the formation of a workers' cooperative in the campus.

The simplicity of the issue, the absolutely unambiguous position of the law of the land on the minimum wages, and the overall irony of the context of an elite Institution with no apparent dearth of funds and resources not paying the MWs to the lowest rung of workers, caught the imagination of many amongst the academic community, at least for a while in the beginning. Several faculty members and students supported the cause and the Institute found itself in an indefensible position as to the reasons for non-payment of minimum wages, but for some practical difficulties in implementing the same given the market forces, etc. Though the administration could not wish away the issue of MWs it could not implement it either as the body of contractors unitedly opposed it by either firing the protesting workers or threatening to stop work or both. Under these circumstances the Institute formed a committee of a few concerned faculty members to deal with the issue. But given the political economy of MWs, the committee could not make much headway and failed to ensure the payment of minimum wages as a norm within the campus. The Contract Labour Act requires that the wages be paid in presence of a representative of the principal employer to ensure fair practices, but in reality there seemed to be a nexus between the administration and the contractor. Therefore though records showed that fair wages were being paid, it was only on paper, but it was very hard to find formal evidence for the malpractice. Contractors would pay the full wages in front of the committee representatives, but take the 'surplus' back from the workers later, or worse, threaten to strike work when pushed further. Of course the Institute's priorities were quite clear – no 'trouble' was permitted which hampered work.

The core group of agitating workers and the initiated middle class supporters came up with an ingenuous solution to the problem. They decided to form a workers' cooperative that could bid on behalf of the workers and take up contracts so that the workers would have the freedom to pay themselves the MWs without the interference of the contractors. Thus a workers cooperative, Samiti, was formed in 1992, though in its early phase it faced significant resistance from the administration. The Institute administration even refused to give tender forms to Samiti, and even when Samiti did manage to bid, it would get rejected on some ground or another. But Samiti survived and over the years, has grown to a size of around 150 members, and has been able to maintain a consistent image of being the only contracting organisation on the campus which pays the MWs. But this is not the place to relate Samiti's tale. We have attempted to capture some of the organisational aspects of Samiti in another work<sup>7</sup>.

After its inception as an economic entity, Samiti and its members have largely abstained from militant activism and have been primarily focussing their energy to make their organisation an economically viable entity. Though Samiti's existence could not force other contractors to pay the MWs, it did affect them, and maybe for this reason, the wages paid within the campus were higher than those paid outside. Moreover, Samiti, including its members and sympathisers, have been taking up several cases of gross violation of MWs and bringing them to the attention of the larger community and the authorities. Thus the status-quo in some ways continued within the campus and market forces largely decided the norm for the wages irrespective of the stipulated MWs. The Samiti has been able to survive and flourish as an organisation in the last thirteen years and therefore could afford to remain partly insulated from the prevailing practices in contractual work. But as the economic crisis deepened in the post-liberalisation decade and has continued to this millennium, there has been a gradual realisation, at least among some of the friends of Samiti, that even the cooperative will not be able to survive the of market forces. It has gradually become clear that if Samiti had to continue as a MW paying employer they would have to struggle for establishing this practice as a norm, because if other contractors pay less then they would be able to outbid Samiti on the contracts<sup>8</sup>.

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<sup>7</sup> Varman, R and Chakrabarti, M, 'Contradictions in Democracy in a Workers' Cooperative' *Organization Studies*, Vol. 25, No. 2, 183- 208 (2004)

<sup>8</sup> Earlier the Institute used to issue the approximate number of man-days required for each job put out on a contract. This ensured some kind of a baseline approximation of the cost of the project. In several instances Samiti had been able to ward off unfair competition by campaigning for disqualification of all bids whose value amounted to less than the value arrived at by simply MWs multiplied by the specified number of man- days. Samiti with lesser overheads could often bag contracts by bidding the lowest of all valid bids and still be able to pay the MWs. But later the Institute refused to specify estimated number of man- days even in labour intensive jobs like sanitation and cleaning. An example of the kind of absurd situation it led to is what happened in 1999 when a

The situation got worse over the 1990s probably because of the spurt in construction activity within the campus aided by huge sums of alumni money, where large numbers of workers were employed at wages which were only 50- 60% of the statutory minimum wages. Meanwhile, over all these years, concerned members of the Institute community have been regularly voicing their concerns at several formal and informal forums on the issue; some of the instances are as follows.

At least two reports on non- payment of minimum wages in the campus were brought out by students as part of their course work – one comparing the state of construction workers vis-à-vis the Minimum Wages Act, which made a grim reading on the conditions of the workers in the campus. The second report compared the state of other contract workers on cleaning work with those of Samiti and brought out how the latter was an exception in paying MWs. Both the reports reached the administration seeking their response through the *faculty forum*, the association of faculty members, being at that time headed by a person who was involved in the earlier effort on MWs. For instance, a set of faculty members in a letter to the Convener, Faculty Forum expressed their concern “about blatant flouting of minimum wage laws for contract jobs”.

Several individual workers risked their jobs to register grievances about non- payment of minimum- wages. Many of these grievances were channelled either through the concerned members of the academic community, Samiti or *Valmiki Samaj*, a local chapter of an all India organisation of the *Valmiki* caste, who are involved in most of the cleaning work in the campus.

Probably because of all these sustained efforts, in November 2000 the administration decided to constitute a Monitoring Committee - Wages (MCW). The following is the story of the MCW from its inception in December 2000 to March 2005. An important aspect of the Committee and its functioning has been the support it received from a large informal group consisting of members of the faculty, students, staff and other members of the IITK community. The MCW was treading uncertain and often extremely contestable territories, and had almost no previous experience or precedence to go by. In such a context the informal group acted as a sounding board both for new ideas as well as for tricky decisions. On situations of impasse with the authorities as well as with the contractors and the administration, the informal group has also formally

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contractor could outbid Samiti on the Institute Garbage Cleaning contract (the mainstay of Samiti at the time) by a bid which was practically half of the previous year's (Samiti had the contract at that time) while the specified work had actually doubled. When asked how such a contractor could pay MWs, the concerned authority retorted “who knows, he may pay from his pocket, let's give him a chance (!)”.

supported the MCW, including by being part of official delegation on behalf of the Committee. It is difficult to adequately capture the significance of this informal group within the scope of the present note; one can summarise by asserting that such a group has been continually an integral part of the Committee's efforts in various ways.

### **MCW's FIRST TERM (2001- 2002): Proceduralising Wage Disbursement**

The Committee's constitution appeared to be an interesting balancing act by the administration. A senior faculty member, who had been involved in the signature campaigns and meetings with administration on the issue of MWs, was asked to head the Committee, while three persons from the administration - one from finance, one from horticulture unit and one from the estate office constituted the other members of the Committee; the latter two especially had a reputation of not being sympathetic to the workers' cause. As the chairperson was going on a semester leave immediately after the appointment of the committee (there were no prior consultations regarding the constitution of the committee including even the availability of the members, it was unilaterally decided by the administration and as the sympathisers to the cause were keen to take it up, the chairperson accepted it in spite of her prior commitments), she asked for co-opting another faculty member in the Committee, and thus it became a five member committee. Even the appointment letter of the Committee was all of one line which indicated that probably no serious thought had been given to the functioning and role of the committee and it could at best be considered an official acknowledgement of all the criticism levelled on the issue of MWs. All that the office-order said was:

*The committee shall oversee the disbursement of wages to Daily Wage Workers engaged in various units of the Institute and deal with the related disputes.*

The Chairperson was abroad for the first 6 months and MCW took time to begin its formal activities. Of course the administration did not seek any progress report either; another indication that the administration would have been quite happy if this particular committee did little or no work! The Committee began its work in earnest in June 2001. Its first concern was to try to understand and appreciate the views of all the concerned parties on the issue and work in a 'non- confrontationist' style. It began by meeting the Superintending Engineer (SE), the head of the Works Department (WD). The Institute has an exclusive WD to oversee the construction and the civil maintenance work; off late, even sanitation, horticulture and estate offices have also begun to report to the SE. By all accounts and by the very nature of the activities of the WD, the lines of nexus between the contractors and administration definitely pass through the WD, and the SE, as the all-powerful boss of the WD, was one authority which had to be regularly contended with by the MCW. Through the SE the



Committee met a set of contractors as well. In a written note to the contractors, the MCW clarified that it had nothing against them as a group and were concerned for their profits too but the payment of MWs was non-negotiable.

In the meeting all the contractors accepted that none of them (but for Samiti) paid MWs, but they also voiced certain difficulties from their side in paying the MWs. Meanwhile the Committee received its first formal complaint by a set of workers (cleaners) for non-payment of MWs in July 2001. MCW began its work by seeking to monitor some of the contractors' actual wage payment. Members of the Committee soon realised that the system for payment of wages was not amenable to external monitoring, there were no proper record of workers on rolls, attendance records, advance payments, wage payment, etc. The first task of the committee therefore became to design a system amenable to monitoring and subsequently implementing them across the several contracting organisations. Only then was it possible for the committee to embark on monitoring proper at any scale. For the purpose the Committee sought the cooperation from those of its own members who also happened to be administrative heads and the preliminary monitoring was performed in their departments. On the basis of their initial understandings of the wage disbursement processes the MCW sent its first set of recommendations to the Director. The recommendations in brief were as follows:

1. The Committee emphasised the need for an appropriate and formal format for recording attendance, advance payment, and monthly wage payment; it also enclosed a format for implementation.
2. It stressed the need for regular monitoring of wages and payment in the presence of the Institute representative (this was in fact legally mandatory on the Institute as per the Contract Labour Act, 1970).
3. It envisaged a system for eliciting grievances in case of non-payment of MWs.
4. Finally the Committee recommended that notice inviting tenders, at least in those kind of work that had a large labour component, must mention the minimum person hours, so that a base bid can be set, below which the bid would be considered invalid.

This set the stage for the actual monitoring of wage payments by the MCW. Probably the first confrontation that the Committee faced was triggered by a complaint filed by 9 workers employed by a contractor handling horticulture work in the Institute. The workers complained that they were getting only about 2/3<sup>rd</sup> of the MWs as they were not aware of the stipulated MWs. Interestingly the administrative head of this unit was part of the MCW! There was pressure on him from the Committee members to initiate monitoring in his unit. While this process was going on the contractor dismissed two workers immediately after he saw them talking to the Chairperson of the MCW. In spite of the persistent efforts of the

Committee they could not get those workers back in the job. Actually when the contractor was pressurised, he did take them back, but gave them impossible targets and then threw them out on the pretext of bad work – it was the same old story of identified ‘trouble makers’ turning overnight into ‘bad workers’! Finally, 3 months after the complaint was lodged with the MCW, 3 of the nine workers including the two who were seen talking, were laid off. During the monitoring, the Committee found that all the workers were being paid the MWs; but the sums when added up left no profit margin for the contractor. See Appendix for a variety of contracts and issues around contract workers and minimum wages.

In September 2001 the Committee submitted an interim report to the Director. The report began by emphasising the significance of MWs followed by a background of the work done till then. The report asserted: ‘It is apparent from conversations with all the three groups (administrators, contractors, workers) that minimum wages are not paid as a rule but there is no formal procedure to ascertain it’. The Committee also emphasised on the significance of its consultative approach and attempts to build ‘consensus’ to which the Director noted, “this is a very positive approach”. The MCW had the following recommendations to make:

1. To make it mandatory for all wage and attendance records to be kept in prescribed format issued by the Institute. (As a follow up, the SE issued a circular to all executive officers to ensure that the contractors under them start maintaining attendance on the format provided by the Committee.)
2. On the contradiction between the practice of awarding the contracts to the lowest bid, which often did not even add up to the minimum wages of the labour employed, making it practically impossible to pay MWs, the Committee sought more time to resolve the issue.
3. Since the Committee’s term was about to end, it also made suggestions regarding constitution of future committees and recommended a two year term for it given the complexities of issues involved. (The Director in principle appeared to be in agreement and he extended the term of the then Committee to two years).

### **The Earthline<sup>9</sup> Cases**

Meanwhile, in October 2001, the first of the two incidents involving Earthline occurred, where a set of 53 workers from Central Bihar lodged a complaint with the MCW to settle their claim of Rs. 2,28,170/, which according to them was due as outstanding wages for the months of July to October for the work done on the construction site of a new hostel. All

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<sup>9</sup> Names of some of the actors have been disguised to maintain anonymity and the cases are used merely as illustrations of general practice.

these workers belonged to one subcontractor<sup>10</sup> of Earthline, the main contractor for the project.

The workers lodged the complaint to the MCW through a labour lawyer, who was earlier associated with Samiti. But, once the complaint was made by the workers, the contractor dismissed all of them from work summarily. Since these workers live in temporary shelters on space provided by the contractor at the construction site, the contractor also threatened them of eviction. Faced with the prospect of losing everything including their due outstanding wages, jobs, as well as the shelter, the workers would come daily to the WD office, and petition to the officials, but to no avail. They were repeatedly told that the company's *sahib* would come from Delhi and do their *hisaab* (clear their dues). Finally the chairperson of the MCW had to seek intervention of the newly appointed Director and some settlement was arrived at. But again the main difficulty was that there were practically no verifiable and credible records, and what workers finally got was through lengthy negotiations including acrimonious claims and counter claims. Obviously in any such situation, migrant workers, with no local social moorings to sustain a prolong stay without work, settle for any compensation, usually much less than their dues.

Soon after this incident it was decided by the Committee to make a presentation to the new Director and apprise him of the developments. Some concerned members from the academic community including a few faculty members and students were also invited to participate in the discussions. The presentation emphasised that as a norm the minimum wages were not being paid in the Institute, and reiterated the need to develop a system that could be monitored. It also stressed on the need for decreeing some punishments for the defaulters and developing a 'confidential grievance cell' for all the concerned parties, especially the workers. It described at length the six cases of monitoring that the Committee had done till then and made the following observations:

1. Only two contractors were found to be 'satisfactory'.

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<sup>10</sup> Generally the practice for such large contract like this building is that the Institute awards the contract to one 'big' contractor. But what actually happens is that the main contractor in turn carves out 'petty' contracts for small- local contractors who bring their own set of labour, at times there may be multiple layers in the process. This process streamlines the dealings of the Institute but exploits the workers at various levels. Each layer of subcontractor has to share a sizeable sum of the contract money with the higher layer and after withholding their own profits pass on the contract to the lower layer. In the process the workers forming the last layer get much more squeezed than what would have been the case if there were no layers or at least lesser number of them. The Institute actually has to shell out a much larger sum of money for the same work as the charges of the big contractors like the Earthline are much higher than smaller operators while only fractions of the stipulated wages reach the workers. The blame of non-payment of minimum wages get pinned down to the last layer of sub-contractor above the workers who most of the times are very small operators with resources barely above the workers themselves.

2. One of the other four contractors did not provide information regarding the date of payment, while another gave the incorrect information, so the payment could not be monitored.
3. The Committee brought out the 'special problems' in monitoring two other contractors. One of them made only part payment in front of the Committee representatives, and made the remaining payment later; this information was surreptitiously provided to the MCW by some of the workers themselves. The second was relating to the incident of dismissal of three workers by a contractor in the wake of the intervention of the Committee (MCW).

As the monitoring picked up momentum, in the early months of 2002 an interesting development was observed during disbursement of the wages. It was realised by the Committee and the observers that though the correct wages seem to be given on paper, the actual money disbursed was significantly lower as there were large amounts of advance payment registered against every worker, often in proportion to their wages. It was surmised by the consistency of this practice across several contractors that it was most likely a tactics devised for not paying the minimum wages and yet maintaining proper records. There were no proper records maintained for the advance payments claimed to be made; but, in spite of the observers' questioning and repeated reassurances, none of the workers were willing to own up that advances were not paid to him/her. The committee at a later point tried to get around this tactics of the contractors by pressurising them to pay wages at a greater frequency, may be fortnightly or even weekly so that the workers would not need advances. But, this measure could not be enforced because of the opposition of the contractors and the indifference of the authorities. Unofficially observers were told that generally the contractors organised a meeting with the workers before every payment and threatened them of dire consequences if they spoke up against the contractors. In September the Committee in a curt letter, communicated its frustration regarding lack of proper records by contractors regarding workers and the indifference of the administration on the issue, to the concerned authorities.

#### *The Second Earthline Case*

In November 2002 there was another showdown of the Committee with the Institute authorities on the issue of non- payment of due wages to a set of 36 construction workers of a subcontractor on one of the hostel construction sites in the campus. A big contractor, again M/s Earthline, had bagged the contract, and as has been mentioned earlier according to the general practice on such work, had in turn divided the work into smaller pieces and given it to various subcontractors, especially for labour related aspects of the work (see footnote 10). These 36 workers belonged to a subcontractor, who was also a migrant from the same locality as them (they belonged to Madhya Pradesh). The workers complained that they had

not been paid their dues for the previous four months. The usual practice followed by petty contractors is to give some advance to the workers every month and settle the dues of the workers only once they get the payment from the 'company', the original contractor (M/s Earthline in this case). But the difficulty is that the subcontractor would bid for specific work for certain amount of money (and usually they operate in very low margins given the extremely competitive market for the supply of unskilled labour) and there is always a chance of such estimates going wrong because of miscalculations or mismanagement or a combination of both. Now in this case, the petty contractor claimed that '*humko ghata hua hai*' (he had suffered losses) and hence he could not pay his workers. The issue went through several claims and counter claims amongst the three parties – M/s Earthline, sub-contractor and the workers. The 'Company' claimed that they had cleared all the dues, while the petty contractor claimed otherwise – and there probably was truth on both sides as the initial claims of the sub-contractor was so low that it was impossible to do the work in that amount and therefore even if Earthline had cleared the agreed-for dues, it was grossly inadequate and the fact remained that the workers were not paid their due wages. The Institute felt the issue was beyond their purview since it had cleared the main contractor's wages, Earthline after pocketing a huge profit was still 'legally' correct for having settled the petty contractor's due, and the petty contractor would have also cleared himself of any liability towards the workers if the workers had let him go. But the workers held on to their claims and since the petty contractor belonged to the same locality and his economic means was marginally above the workers themselves, he was stuck with them. To further complicate matters it was very difficult to determine how much was due to the workers, as there were no attendance records with anybody, so it was reduced to an issue of whose claims one was ready to trust and to what extent.

But the matters took a different turn from here. These workers did not get any dues for weeks and in the process other actors like Samiti got involved on behalf of the workers. In spite of repeated reminders to the Institute to take some action when nothing happened, the Chairperson of MCW decided to talk personally to the SE. The SE went on an offensive on the phone. Though the general body of faculty had been generally uninvolved on the issue of minimum wages, this 'misbehaviour' of the SE with a colleague invoked a collective outrage. In a signed letter to the Faculty Forum 16 faculty members asked for a GBM to discuss the issues of relationship between the administration and a committee duly appointed by the Institute, participatory governance system and the role of the community. The GBM was attended by 49 members including the Director. The meeting began with a presentation by the MCW where they emphasised that the WD had not shown any commitment in implementing the formal system of wage monitoring on the construction sites and that

has led to the present deadlock. The house recommended that the MCW should be a standing committee with a two year term and that the administration should extend all help to the Committee. An interesting observation made by one of the members present succinctly summed up the mood of the house:

*Though monitoring contractors is WD's job, it often appears that WD and contractors are on the same side and they are in contradiction with the Committee.*

## **THE SECOND TERM OF THE COMMITTEE: Monitoring Wages**

In January 2003 the MCW was reconstituted for another two years. The three members, including two faculty members and an official from the accounts department, who were relatively more active and more sympathetic to the workers' cause remained in the Committee, while the other two officials representing the administration were replaced by higher level officials; the Chairperson remained the same. The term of reference of the Committee remained as loosely defined as the previous one.

Right in the beginning of its second term the Committee decided to direct its energy first in implementing a 'monitorable' formal system across various sites of contract workers. In this regard, MCW designed and printed sheets for formal record keeping (attendance, etc.) and distributed it to a number of units with instructions to the officer in charge to oversee the implementation. This was accompanied by a detailed instruction sheet as to how to fill up the forms and maintain appropriate records based on the Committee's earlier experience. The Committee also decided to focus on construction sites (which employed the majority of the contract workers) and asked the administrators to facilitate monitoring of wage payment by scheduling them conveniently.

Gradually through the persistent efforts of the Chairperson, individual group members as well as the informal group, the Committee was able to gain some authority. In July 2003 the sanitary inspector on his own initiative sent a report to the Committee about the payment record of the three contractors within his charge and specifically made a note on one of them who refused to make the payments in his presence. In a related development the executive engineer of works department (who was also a member of the MCW) sent a schedule of wage payments of four contractors so that the Committee could monitor. Though at the same time, there was no response from the electrical unit on a similar request. Further, in order to start understanding the specific complexities of a construction site, especially the nature of subcontracting and its implications for payment of minimum wages, the Committee members visited a building site in August; of course everybody including the supervisor and the workers maintained

that they were being paid the statutory wages and provided the details accordingly. But their very physical presence on the site probably signified the seriousness of the intentions of the MCW. The Committee also made posters for the information of workers in the campus on minimum wages and got them pasted on all public spaces across the Institute. Around this time the Committee also sent a report on a contractor Krishna Housekeeping, (the Appendix carries a note on this contractor as an example for understanding the issues regarding MW in perennial contracts for cleaning), who had been a regular defaulter for payment of minimum wages, to the higher authorities and recommended that punitive action be taken against him to deter such practices.

In the months of August, September and October 2003 the Committee attempted to do as many monitoring as possible and did more than 20 of them across various kinds of contracts – sanitation, horticulture, civil maintenance, electrical, etc. Based on the continuing monitoring the Committee decided to meet the Deputy Director to apprise him of its work and make specific recommendations. One of the important recommendations made was to seek a specific location to be assigned for the disbursement of wages and for the authorities to ensure that all the wage payments be conducted there. This was to tackle the high incidence of ‘advance’ payment in the civil maintenance contracts (mentioned earlier). The Committee had observed that the proportion of advance had a high correlation with the difference between the statutory minimum wages and the actual wages paid. As the contractors claimed that they had to give advance because the workers could not meet their requirements through monthly payments, the Committee suggested that wages be paid at a shorter interval, fortnightly or even weekly. The idea behind a specific location for wage payment was that this location would be open for a few pre-specified hours daily, and would have some volunteers representing the Committee present during that period, so that the contractors have the flexibility to make payments (of all kinds) on any day of the month, but in the presence of a monitoring authority. After pursuing for months the proposal was formally approved by the higher authorities in February 2004. The Committee, with the help of the informal group, gradually started the implementation of the proposal by the end of March 2004.

Since monitoring began in the wage office in February 2004, volunteers have opened the wage office for two hours or more every single working day and all the Saturdays, sometimes even on a holiday. Approximately 15-20 faculty members, some of the senior institute functionaries, a few students and other residents of the campus have volunteered to take up various roles and though some older members have dropped out but new ones have also been added over the year. At the beginning of every month a duty schedule is prepared, though volunteers may adjust and replace each other sometimes depending upon the contingencies. There have been

differences of opinion amongst the volunteers as well as differences in their commitment for the issue, yet the wage office has been opened every single working day for more than a year now. Volunteers meet every month to take up emerging issues. Based on one year of monitoring in the wage office, in a terminal report to the administration the second committee identified the following major problems in February 2005:

1. The attendance records are usually manipulated to avoid paying workers for all the days that they have worked.
2. Workers are paid in the wage office, but later they are compelled to return a part of the money.
3. Some individuals, shown as supervisors/managers etc., are paid substantially higher than the minimum wages and are usually identifiable as part of the contractor's management. In the absence of any records regarding the contract, which have not been provided to Committee in spite of repeated requests, it is impossible to determine whether these payments are as per the contract or not.
4. Contractors work with lesser number of workers than what is stipulated in the contract. To get around this discrepancy, sometimes the same worker is paid multiple times under different names (and even for different contracts under the same contractor), who then returns the excess amount to the contractor. This is hard for the volunteers to identify since workers do not carry any identity card.
5. Workers who complain are either threatened or removed from the employment rolls.
6. Functionaries of the Institute, whose cooperation is necessary for the committee, have been consistently uncooperative. In spite of multiple requests, copies of the contracts have not been provided to the committee.
7. The most important impediment for the effectiveness of the Committee has been that no real action has been taken even when the committee has pointed out irregularities. Contractors, against whom complaints are outstanding, have their contracts renewed – the feedback of the Committee is obviously being ignored.

For the past few months the volunteers have attempted to deepen their work by focusing on the following:

1. Target a few but persistently erring contractors against whom complaints have been registered regularly.
2. Insist on receiving a copy of all contracts that contain a labour component so that the wage record of every contractor can be cross checked.
3. Gradually pass on the responsibility of maintaining attendance records to the user sections/departments, and then sent to the Committee, so that a more effective check can be kept on the contractor's records.



4. Ensure that payments are made to the contractors only when a receipt is produced from the wage office.
5. Insist that recommendations or complaints of the Committee regarding malpractices be taken into account when awarding/renewing contract and in cases of repeated infringements the contractor(s) should be blacklisted.
6. Set up a tripartite standing committee to handle all disputes and grievances and also to ensure that while any dispute is pending, the concerned worker(s) are protected from victimisation.
7. On issuance of identity cards to the workers to facilitate the wage payment to the right person.

Recently the Committee voluntarily expanded its role by expressing its apprehensions of the reappointment of a top ranking official of the Institute administration and recommended against his reappointment. The Committee based its opinion on the attitude of the official regarding MW and the functioning of the “he acted as a hindrance to the activities of the Committee”. Though no formal acknowledgement was made of the recommendation, as a matter of fact, the official did not get another term.

As the Committee’s and the voluntary group’s understanding of the complexity of minimum wages have deepened over these four years there has been a general consensus for focussing the limited energy of the group on contracts which are most amenable to monitoring. The idea was to set examples and send the correct signal to the contractor-administration nexus. Therefore in the recent past, the Committee has attempted to focus more on the contracts pertaining to hostels where student volunteers can also exercise their rights as users in judging the contractors, protecting the workers as well as mobilising them and even monitoring the contractors and cross checking their attendance, etc. This phase has just begun and hence, this story has to be told later. In the Appendix, we have provided short accounts of the Committee’s interactions with three different kinds of contractors. The description provides a flavour of the variety of issues that are involved in ensuring minimum wages in the campus.

### **Summarising the MCW Experience over Four Years**

In summarising the experience of the struggle for minimum wages in IITK over the last four years in which the MCW has been in existence, one may simply say that even today minimum wages are not paid as a norm in almost all the contract jobs in the campus. The workers usually work longer hours than the legal limit of eight hours, and are paid lower than their due wages. There has yet to be any official punitive measures taken against any of the erring contractors even in cases where there have been repeated written complaints. And yet the existence of the Committee has

definitely pushed the cause for implementation of minimum wages a long way:

1. The wages paid within the campus have been rising and are significantly higher than those paid outside the campus in several kinds of work where wages are being monitored regularly.
2. The Committee has gradually gained strength – some officially proffered and some just taken voluntarily by pushing the ambiguous boundaries of its role, and now has risen in significance vis-à-vis the Institute authorities.
3. A small but committed group of faculty members have veered around the issue which has made monitoring on a daily basis possible. The group has been able to successfully involve members of other sections of the campus community including student, staff, the larger community and even some officials of the administration.
4. There appears to be an increasing awareness amongst contract workers regarding their rights of minimum wages and working hours which also seems to be leading to situations of conflicts and disagreements between workers and contractors as well as complaints regarding wages.
5. The formation of the Committee for minimum wages and its efforts (with the help of the informal group) in the four years of its existence have elevated ‘minimum wages’ to the status of a ‘right’ for workers at least among the official circles. All the involved parties to the issue in the campus – the administration, the contractors, the authorities, the involved users (students, faculty and staff) as well as the workers have to formally acknowledge that minimum wages are not paid in the campus. Further, even if for the sake of mere ‘lip service’, in all formal forums the involved parties have to assert that this situation ought to be corrected.

## IMPLICATIONS

From the above micro but long drawn and evolving experience over the years, one can generalise one’s understanding at three levels.

### 1. Policy with Regard to Minimum Wages and Contract Labour

The debate regarding minimum wages and contract labour has been rife in the policy circles. Neo-liberals have been insisting that market forces must reign and the Contract Labour Act has been a target of our chambers of commerce for some time now. Our experience suggests that if the market forces were given a free hand, wages would go for a free fall. Without the accountability of the principal employer along with legal provisions for minimum wages, no check on the wages could have been forced. The existence of Samiti, the workers’ cooperative, provided the initial impetus in pulling the wages up in the campus and later the pressure from the

wage monitoring committee appears to have bolstered the upward pull. The change from the status quo was brought about initially by Samiti's refusal to play in to the contractor- administrator nexus and subsequently, the Committee's efforts have forced the contractors to adhere to some minimum rules or at least acknowledge them. If anything, it has made a difference to the distribution of the surplus by making some dent in the profits of the contractors, or probably stopped some of the impossible L1<sup>11</sup> biddings of the earlier years. But none of these actors, Samiti or the concerned group of individuals, would have been able to make any headway in the absence of the existing unequivocal laws on minimum wages. Thus the point that comes out clearly from our experience is that a legal framework is imperative for mediating worker – management relations, more so as we move to the lower end of the market, where workers are at a greater disadvantage due to lack of access to the establishment as well as absence of their own organisations.

Another important understanding which emerges from the above experience is regarding the vital role which public sector can still play in institutionalising norms for minimum wage payment. The whole effort, especially the official sanction it has been able to garner, however reluctantly, would have been largely impossible in the private sector. And yet, an example set in the public sector is likely to influence the general practice on the issue including in the private sector. Thus in spite of their receding presence public sector organisations still act as a deterrence to the downward pull on wages as dictated by the free market.

## **2. Role of the Middle Classes**

The case also brings out the significance as well as the limitations of the role of the middle classes. It is obvious that whatever has been achieved above has indeed been because of the initiative of the middle classes, barring the role of Samiti, the workers' cooperative. Laws regarding minimum wages have been in place for several decades, in spite of them, actual wages paid even in this public Institute ranged from 1/3<sup>rd</sup> to half of the legally stipulated due. Only because of the persistent efforts of the pressure group could these laws be upheld to some extent. Yet the case also starkly brings out the limitations of the middle class action as, after all, from another vantage point, one can argue that the volunteers have little to show for their efforts of several years. Moreover, one can see three kinds of tendencies here:

- i. As is evident from the above narrative, a continuous attempt to bring in more and more procedures and standards through which the contractors can be monitored.

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<sup>11</sup> The policy of awarding the contract to the lowest quote irrespective of the feasibility of such a quote, if minimum wages and other labour laws were enforced.

- ii. The mode of voicing by petitioning and looking up to the higher authorities and reasoning it out with them. The most intense debate within the group has been essentially limited to whether to involve students, the alumni, the judiciary, the press, etc., again very much within the middle class domain. Though it is acknowledged to some extent by the members of the group, that all their efforts are likely to be circumvented by the contractors, unless the workers themselves are able to hold them to adhere to minimum wages laws, middle-class participants find it very difficult to establish any kind of working relationship with the working classes.
- iii. And lastly, but not surprisingly given the context, there has been much discussion to use more of technology to check the contractors and deploy surveillance measures, like smart cards, devices for marking attendance, automating the records, etc.

Thus in the absence of a groundswell among the working class to ensure their rights, middle class participation has got confined to increasing methods of policing.

### **3. Working Class Collective Action**

The most conspicuous in this whole account is the absence of the working class actors and their voices, especially collective voices, with the significant exception of Samiti. The whole initiative has failed to catch the imagination of the collective of contract workers in the campus all through these years. Many workers have voiced dissent under heroic circumstances, and yet no organising attempt has reached anywhere under the combined onslaught of market forces and complete absence of any institutional support. Without a minimum of job security, it is almost impossible for migrant and contract workers to organise over a sustained basis; probably it is more likely to happen only if a fresh institutional framework can be put in place, which is one of the most optimistic of the possible fallouts of the present initiative.

But if one does not treat the working class (in the Institute) as an undifferentiated entity and analyses at some depth the peculiarities of the several sections which constitute it, one gets a better understanding of the situation. Workers with social moorings in the immediate vicinity of the Institute generally get higher wages than the migrant workers. Taking the case of cleaning workers as an example, most of whom belong to the *Valmiki* caste and stay in an adjoining area to the campus; they are paid higher wages than almost all other categories of workers. The fact that most of the workers of Samiti also belong to this category further substantiates the understanding, that any kind of organising initiative is more likely to be successful among workers with local linkages. In the case of Samiti, besides a strong organisational initiative (through the workers'

cooperative) the other important factor for its success has been the presence of a dynamic social organisation at their living place – the *Valmiki Samaj*. This caste based organisation helped in fostering a strong sense of identification among the members and also acted as a social arbitrator on several contentious issues. Thus a combination of factors like organisation at the work place as well as at the living place buttressed by a strong middle class support and a relatively liberal corporate environment of the public sector Institute have helped in pushing up the wages for these workers and have also facilitated in sustaining an effort like Samiti.

To conclude, the case signifies that progressive labour policies are imperative to ensure fair wages to the contingent work force. And yet only having a formal policy is not going to be enough under the offensive of present neo-liberal order given the political reality at the ground level. The civil society must also intervene at the grassroots and be committed for a long haul. And even then, any tangible change will come only if middle class action is combined with a vibrant working class movement. Only if economic struggles are combined with political movements will they reach anywhere, and only then can they potentially give any meaning to even a progressive policy framework. The point that has to be noted here is that the policy framework (like the present Minimum Wages Act and Contract Labour Act) is a relic of another era and the challenge is to find innovative ways to make it practical for the present context instead of working only for progressive policies on paper. Discerning reader will realise that we have not even raised the most fundamental issue, that of cultural aspects, like democratic relations between the working and the middle classes and nature of collective consciousness, etc. Given the complexities involved it has to be another piece of writing based on another order of emancipatory practice.

## APPENDIX

### Nature of Contracts and Contractors and Variety of Issues Involved in Monitoring Minimum Wages

The Institute has several types of contract work in the campus and they can be broadly classified as: cleaning, messing, security civil maintenance and painting, horticulture (gardening), and construction. Of these the first three are perennial contracts and the rest except for construction are partly perennial and partly need based and each of them present different sets of complications with respect to monitoring of wages. Wage monitoring is the most difficult in construction as these workers are confined to their site or their living quarters which are usually outside the campus (see the description below). The perennial contracts are relatively easier to keep track of as the work is well defined and there is constant user interface and contacts are for at least one year. To start with the Committee has been concentrating on ensuring minimum wages in these contracts. A brief description of the complexities of some of the contracts is brought out through specific examples below.

#### **Krishna Housekeeping**

This contractor has many cleaning related contracts in the campus, like garbage disposal and hostel cleaning, etc. He got the first contract with regard to garbage disposal and in fact he bagged this contract from the Samiti in 1999, who were earlier doing it since 1992. All the workers employed by him belong to the *Valmiki* caste, who live in the neighbouring locality of *Nankari*. Also, many of them were related to the workers of Samiti, who are one of the three cleaning contractors in the campus at the moment. Because these workers had connections with the earlier agitating workers as well as they had some job security because of the caste dynamics (as no other caste will take up the ‘dirty’ work of cleaning!), they have been persistent with their complaints. The very first monitoring happened with this contractor and, in spite of his alleged close ties with some of the top officials, over the four years since the Committee was formed, the Committee has filed countless complaints against him. First he showed the ‘extra’ amount as advance paid. Later when he had to pay even advance in the wage office, he started taking money back by threatening them. But the workers also persisted with their complaints, including there have been incidents of dismissal when workers have refused to pay back. The Committee has accumulated a massive record of complaints against him and has been demanding of strict action against the contractor. Though fresh contracts have been given to him, yet in some way he symbolises the distance that the committee has travelled. When we began monitoring, our informal reports suggested that he used to deduct Rs. 20-

30/ from a wage rate of Rs. 70/ per day; today when the minimum wage for the cleaning work is Rs. 84/ he is not able to take back more than Rs. 10- 12/. From all accounts workers face less repression at work also, as they keep threatening him with complaints to the committee. But all this 'progress' remains tenuous given the deterioration in local labour markets – it is simple to find cleaning workers for Rs. 40/ a day. The last we heard is that he is attempting to reduce the local workers and bring workers from 'outside'.

### **Food Supply Co.**

As the messes in the hostels are being privatised one after another, this contractor has bagged many contracts for messing and also has been another persistent target of the Committee due to never ending complaints against him. This contractor operates at multiple locations in the country and has got his workers from far off towns. He has taken an accommodation in *Nankari* and keeps all his workers over there. The workers are supposed to report at 7.00 am for work and practically stay there for the whole day and are let off only after dinner around 11.00 pm (there are short breaks in between two meals). This is the routine for all the days of the week and they get a vacation (unpaid) to go home only during the lean period when hostel strength is less due to vacations, etc. The contract specifies number of workers for every kind of work and he is supposed to maintain the strength all through the year, though his payments are made on the basis of number of students dining. He also provides them with food in the mess itself. In spite of having such tight control over his workers, there have been persistent complaints by his workers. The first dispute happened over the procedural matters as soon as he came to the wage office. The volunteers objected to the policy of deducting almost 1/3<sup>rd</sup> of the wages for the food provided pointing out that it was against the law. Then there were complaints that though he showed full amount, actually he showed less attendance and/ or took money back later. But when he showed less attendance the volunteers added up his man- days compared them with the numbers mentioned in the contract, and when found the days to be less by a significant amount (approx. 1000 against 1400), his payments were deducted proportionately for the month. There was also a case against him that when a worker refused to give the money back, he beat him badly and the committee asked the Institute to setup an inquiry committee. In spite of an unfavourable report, he got another mess contract, but the workers have kept complaining and the Committee has tried to find ways of checking the malpractices. In the latest move the wardens have agreed that the volunteers can talk to his workers on minimum wages, make surprise checks of attendance and users can even keep parallel attendance records. He is supposed to give ID cards to all his workers, and provided a duty roster of his workers to the Committee.

## Construction Work

As mentioned in the Earthline case above there are layers of contractors in such work for the workers and most of the time these are migrant workers. Here is a part description of workers of a subcontractor on a hostel construction site in 2004:

*Most of the contractors belong to the same place from where they get the workers. For instance we were told about the petty contractor from Malda. He takes charge of his workers right from the moment they step out of their village – traveling, food, etc. He gets them for 50 days and pays them from Rs. 3000 to 4000. He even gets a maharaj for cooking. But the people it seems have to work for 14 hours everyday for 50 days to get their money. Even their food is served at the work site. The 50 days are nonnegotiable; even if somebody is unwell he is expected to go for work. Somebody mentioned that one old man died recently because he had to keep working in spite of being unwell.*