

TIPPED OVER THE EDGE

Gender Inequity in the Restaurant Industry

BY THE RESTAURANT OPPORTUNITIES
CENTERS UNITED

AND

FAMILY VALUES @ WORK

HERvotes COALITION

INSTITUTE FOR WOMEN'S POLICY RESEARCH

MOMSRISING

NATIONAL COALITION ON BLACK CIVIC PARTICIPATION'S
BLACK WOMEN'S ROUNDTABLE

NATIONAL COUNCIL FOR RESEARCH ON WOMEN

NATIONAL ORGANIZATION FOR WOMEN FOUNDATION

NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES

NATIONAL WOMEN'S LAW CENTER

WIDER OPPORTUNITIES FOR WOMEN

WOMEN OF COLOR POLICY NETWORK, NYU WAGNER

9TO5, NATIONAL ASSOCIATION OF WORKING WOMEN

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EXECUTIVE SUMMARY

INDUSTRY OVERVIEW: UNJUST CONDITIONS, UNMET POTENTIAL

The restaurant industry employs over 10 million workers¹ in one of the largest and fastest-growing sectors of the United States economy.² The majority of workers in this huge and growing sector are women.³ Despite the sector's growth and potential to offer opportunities to advance women's economic security, restaurant workers' wages have not kept pace with the industry's economic growth.

The restaurant industry offers some of the nation's lowest-wage jobs, with little access to benefits and career advancement. In 2010, seven of the ten lowest-paid occupations were all restaurant occupations.⁴ The restaurant industry has one of the highest concentrations of workers (39 percent) earning at or below the minimum wage.⁵ Moreover, low wages tell only part of the story; workers also lack access to benefits and career mobility. These challenges create a disproportional burden for women.”

GENDER COMPOSITION OF NON-TIPPED RESTAURANT WORKERS WITH \$7.25 FEDERAL MINIMUM WAGE

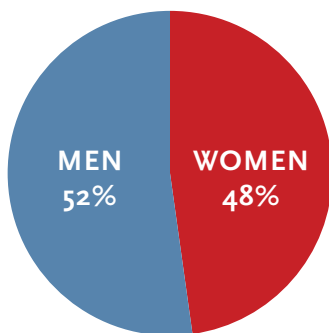
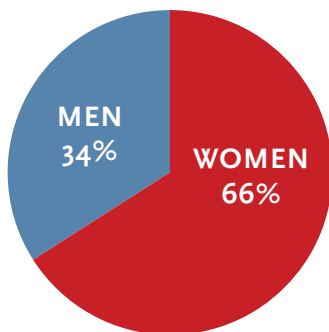


FIGURE A

The large majority of workers in tipped occupations impacted by the subminimum wage of \$2.13 are women.¹¹



GENDER COMPOSITION FOR TIPPED RESTAURANT WORKERS WITH \$2.13 FEDERAL SUBMINIMUM WAGE

THE SUBMINIMUM WAGE FOR TIPPED WORKERS: EXPLANATION AND IMPACT

The federal subminimum wage for tipped workers has been frozen at \$2.13 since 1991, losing 40 percent of its value in real terms.⁶ Employers are allowed by law to pay \$2.13 per hour to tipped employees as long as tips make up the difference between \$2.13 and \$7.25. However, survey and interview data gathered by the Restaurant Opportunities Centers United (ROC-United) indicate that employers frequently ignore this requirement.⁷

Servers, who are 71 percent female, comprise the largest group of all tipped workers,⁸ and experience almost three times the poverty rate of the workforce as a whole.⁹ Consequently, servers rely on food stamps at nearly double the rate of the general population.¹⁰ Essentially, many of the workers who serve America its food cannot afford to eat.

The restaurant industry is one of the only sectors in which predominately male positions have a different minimum wage than predominately female positions: non-tipped workers (52 percent male) have a federal minimum wage of \$7.25, while tipped workers (66 percent female) have a federal subminimum wage of \$2.13 (see Figure A). **In many sectors, lower wages for women are often a product of discriminatory employer practices but in the restaurant industry, lower wages for women are also set by law.**

¹ Restaurant Opportunities Centers-United (ROC-United) analysis of Bureau of Labor Statistics (BLS), Occupational Employment Statistics, 2010. 2010 OES for Food Prep and Serving (350000) NAICS 722 employees, plus 35-0000 occupations in industries such as amusement parks, spectator sports, and gambling. This method excludes Food Prep and Serving Related Occupations in institutions such as prisons and schools.

² ROC-United analysis of BLS, *Quarterly Census of Employment and Wages Data* (QCEW), 2001 to 2010. NAICS 722 Food Services and Drinking Places.

³ BLS, *Employed persons by detailed industry, sex, race, and Hispanic or Latino ethnicity* (Table 11), 2010. Food preparation and serving related occupations, <http://bls.gov/cps/cpsaat11.pdf> (January 2012).

⁴ BLS, OES, 2010. National Cross-Industry Estimates sorted by median hourly wage for all Standard Occupational Classifications, <http://bls.gov/pub/special.requests/oes/oesm1onat.zip> (January 2012).

⁵ BLS, *Characteristics of Minimum Wage Workers*, 2010. Table 4, Employed wage and salary workers paid hourly rates with earnings at or below the prevailing Federal minimum wage by major occupation group, 2010 annual averages, Food preparation and serving related occupations, <http://www.bls.gov/cps/minwage2010tbls.htm#4> (January 2012).

⁶ The tipped minimum wage should be worth \$3.54 in 2011 dollars to equal \$2.13 in 1991 dollars. National Women's Law Center (NWLC) calculations from BLS CPI calculator, http://www.bls.gov/data/inflation_calculator.htm.

⁷ ROC-United, *Behind the Kitchen Door: A Multi-Site Study of the Nation's Restaurant Industry* (BKD), 2011.

⁸ Institute for Women's Policy Research (IWPR) analysis of Current Population Survey data provided by the Center for Economic and Policy Research. 2011. CPS ORG Uniform Extracts, Version 1.6. Washington, DC.

⁹ Allegretto, Sylvia, and Kay Filion, *Waiting for Change: The \$2.13 Federal Subminimum Wage*, 2011. Economic Policy Institute & Center on Wage and Employment Dynamics Briefing Paper #297, http://www.epi.org/publication/waiting_for_change_the_213_federal_subminimum_wage/ (January 2012).

¹⁰ ROC-United calculations of CPS, 2010. "Food stamps" refers to Supplemental Nutrition Assistance Program.

¹¹ ROC-United calculations based on BLS, *Employed persons by detailed industry, sex, race, and Hispanic or Latino ethnicity* (Table 11), 2010. Food preparation and serving related occupations, separated into tipped and non-tipped occupations.

CENTRAL CHALLENGES FOR WOMEN WORKERS

Many of the restaurant industry's central challenges—low and poverty-level wages, lack of benefits, discrimination, occupational segregation, sexual harassment, and lack of schedule control—fall disproportionately on women.

A. GENDER PAY INEQUITY

Gender pay inequity is present in many industries, but is particularly harmful in the restaurant industry where wages are so low that the gender wage gap can mean the difference between living below or above the poverty line for women and their families.

FEMALE RESTAURANT WORKERS ARE PAID LESS

The typical full-time, year round, female restaurant worker is paid 79 percent of what her male counterpart earns.¹² Within servers, the industry's largest occupational category, full time, year round, female servers are paid 68 percent of what their male counterparts are paid (\$17,000 vs. \$25,000 annually). Black female servers are paid only 60 percent of what male servers overall are paid, costing them a deficit of more than \$400,000 over a lifetime.¹³

WHY ARE FEMALE RESTAURANT WORKERS PAID LESS?

Female restaurant workers are paid less than their male counterparts for two primary reasons. First, they are concentrated in lower-paying segments such as quick-serve and family style,¹⁴ and second, they are not able to access the highest-paying positions in the industry. Women fill only 19 percent of chef positions,¹⁵ one of the highest paying restaurant positions with a median wage of \$19.23.¹⁶ And at the lowest end of the pay scale, women are highly concentrated in four of the ten lowest paid occupations of any industry: host, counter attendant, combined food prep and serving worker, and server.¹⁷

THE LOWER TIPPED MINIMUM WAGE EXACERBATES HARDSHIP FOR WOMEN

The low federal subminimum wage contributes to disproportionate hardship for women in the overall workforce. **Despite having the**

same poverty rate for the overall workforce of 6.7 percent, states that follow the federal tipped subminimum wage have a much higher poverty rate for servers than states without a subminimum wage (19.4 percent vs. 13.6 percent).¹⁸ Because servers are 71 percent female,¹⁹ this poverty burden falls disproportionately on women.

Raising the tipped minimum wage is a simple step to address both the inadequacy and the inequity of pay for women working in the restaurant industry. Indexing the federal subminimum wage for tipped workers at 70 percent of the normal minimum wage of \$7.25 would set the tipped minimum wage's ratio to the overall minimum wage at 10 percentage points higher than it was during the 1980s, yet far less than the 100 percent ratio set by states as varied as Alaska, California, Minnesota, and Montana. These states have eliminated the subminimum wage for tipped workers all together. **An increase in the subminimum wage to \$5.08 would give immediate relief to nearly 837,200 workers and their families (630,000 of whom are female tipped workers and many of whom live below the poverty line) while also raising the wage floor for over 10 million restaurant workers.**²⁰

Raising the subminimum wage to \$5.08 would also decrease the gender pay equity gap within the occupation by a fifth. When taking into consideration that full-time year-round female servers are paid \$17,000 annually and that their male counterparts are paid \$25,000,²¹ raising the minimum wage for tipped workers earning \$2.13 would reduce the gender wage equity gap from 68 percent to 74 percent.²² Because women are paid so much less and because they represent a larger share of the workers, the increase would benefit women much more than men, and help to close the gender wage gap.

B. LACK OF HEALTH CARE AND PAID SICK LEAVE

These wage inequities are exacerbated by lack of benefits that prevent restaurant workers from properly caring for their health and their families. Of the more than 4,300 restaurant workers ROC surveyed across the country, 90 percent lack paid sick days and 90 percent do not receive health insurance through their employers.²³ One third of all female restaurant workers (33.4 percent) lack any kind of health care, whether provided by their employer or other-

¹² NWLC calculations of CPS, 2011.

¹³ Ibid. Assumes the same wage gap for a 40-year career.

¹⁴ ROC-United analysis of *National BKD Database*.

¹⁵ BLS, Table 11, 2010.

¹⁶ BLS, *Occupational Employment Statistics, National Cross-Industry Estimates*, 2010.

¹⁷ Ibid.

¹⁸ Allegretto and Fillion, *Waiting for Change: The \$2.13 Federal Subminimum Wage*, 2011. Table 6: Poverty rates of all workers, tipped workers, and waiters by level of tipped minimum wage, p.9.

¹⁹ BLS, Table 11, 2010.

²⁰ Institute for Women's Policy Research (IWPR) analysis of Center for Economic and Policy Research, CPS ORG Uniform Extracts, Version 1.6, 2011.

²¹ NWLC calculations of CPS, 2011.

²² ROC-United calculation based on a 40-hour workweek, 52 weeks per year.

²³ ROC-United, BKD, 2011.

²⁴ NWLC calculations of CPS, 2011. This only includes mothers who have children at home.

wise.²⁴ More than a quarter (26.8 percent) of all female restaurant workers are mothers, and more than one in ten are single mothers,²⁵ so the lack of paid sick leave and workplace flexibility creates an additional burden for women in the industry.

Workers report that they have gone to work sick because they couldn't risk income or job loss.²⁶ Female restaurant workers report going to work and cooking, preparing, or serving food while sick at a higher rate than male workers: 70 percent versus 66.6 percent.²⁷ When workers are forced to come to work sick, they risk aggravating their own sickness and infecting those around them, including customers and coworkers.

C. SEXUAL HARASSMENT

More than one in ten of the more than 4,300 restaurant workers ROC surveyed nationwide reported that they or a co-worker had experienced sexual harassment in their restaurant.²⁸ This is very likely an undercount. A recent MSNBC review of Equal Employment Opportunity Commission (EEOC) data revealed that from January to November 2011, almost 37 percent of all EEOC charges by women regarding sexual harassment came from the restaurant industry,²⁹ even though less than 7 percent of employed women work in the restaurant industry.³⁰ In fact, the EEOC has targeted the restaurant industry as the “single largest” source of sexual harassment claims.³¹ Focus groups with female restaurant workers in New York³² and a review of EEOC verdicts,³³ paint a picture of pervasive and inappropriate verbal and sexual harassment and assault, with unenforced or absent sexual harassment policies and training.

D. LACK OF SCHEDULE CONTROL

Scheduling and the lack of schedule control in the restaurant industry are a significant challenge, especially for women who support family members. The restaurant industry often demands workers work evenings, nights, and weekends. Restaurant workers also routinely experience volatile workplace scheduling, meaning that a worker may have to work different hours and different days each week with no consistent days off.³⁴ If restaurant workers must work late, they must find someone to care for their children—a scenario that is extremely challenging as childcare centers are rarely open at these hours.³⁵ Further, the low tipped subminimum wage sometimes encourages managers to keep servers staffing a restaurant when customer traffic slows, sending home “more expensive” hosts or cooks, who are paid the normal minimum wage or higher. Servers are left to oversee a sparse restaurant with few or no tips and just \$2.13 per hour.³⁶

- ²⁵ Ibid.
- ²⁶ ROC-United analysis of National BKD Database. These findings are consistent with findings from the IWPR and the National Partnership for Women & Families.
- ²⁷ ROC-United, *BKD*, 2011.
- ²⁸ ROC-United, *BKD*, 2011.
- ²⁹ Tahmircioglu, Eve, “Sexual Claims Common in Pressure Cooker Restaurant World,” *The Bottom Line Blog on msnbc.com*, November 1, 2011, http://bottomline.msnbc.com/_news/2011/11/01/8565198-sexual-claims-common-in-pressure-cooker-restaurant-world (January 2012). Review of data from Equal Employment Opportunity Commission.
- ³⁰ BLS, Table 11, 2010.
- ³¹ Stumer, Mark, “Restaurants Served with Sexual Harassment Lawsuits,” *New York Restaurant Lawyer Blog*, May 10, 2009.
- ³² ROC-United, *Waiting on Equality: The Role and Impact of Gender in the New York City Restaurant Industry*, 2010. Focus groups with female restaurant workers.
- ³³ National Partnership for Women & Families and ROC-United non-exhaustive review of EEOC sexual harassment verdicts and complaints gathered by the Bureau of National Affairs, 2008-2011.
- ³⁴ Gatta, Mary, *Literature Summary on Restaurant Work and Schedule*, WOW, 2011.
- ³⁵ See, e.g., California Child Care Resource & Referral Network, 2011 Child Care Portfolio, 2011, <http://www.rrnetwork.org/rr-research-in-action/2011-portfolio/2011-statewide-portfolio-page.pdf> (January 2012).
- ³⁶ Gatta, Mary, “Balancing Trays and Smiles: What Restaurant Servers Teach Us About Hard Work in the New Economy,” in *Work Matters: Critical Reflections on Contemporary Work*, ed. Bolton, S.C. and Houlihan, M. (London, 2009).

METHODOLOGY

This report draws upon government data from the Current Population Survey (CPS), American Community Survey (ACS), and the Occupational Employment Statistics (OES), as well as from numerous secondary sources. In addition, the report includes information from Wider Opportunities for Women's Basic Economic Security Tables™ (BEST) Index to measure the basic needs and assets that workers require for economic security throughout a lifetime and across generations (see appendix for details). The data were gathered and analyzed by the thirteen organizations who co-authored this report: Restaurant Opportunities Centers United (ROC-United), Family Values @ Work, HERvotes Coalition, Institute For Women's Policy Research, MomsRising, National Coalition on Black Civic Participation's Black Women's Roundtable, National Council for Research On Women, National Organization for Women Foundation, National Partnership For Women & Families, National Women's Law Center, Wider Opportunities For Women, Women Of Color Policy Network, NYU Wagner, and gto5, National Association of Working Women. Interspersed throughout the report are profiles of restaurant workers drawn from members of ROC-United and MomsRising. There is also one profile of an employer with exemplary practices drawn from one of the ROC Restaurant Industry Roundtables



POLICY RECOMMENDATIONS

1. **Raise and index the federal minimum wage for tipped workers** to 70 percent of the regular minimum wage, and raise and index the federal minimum wage for all workers as well.
2. **Establish a national standard** that allows workers to earn seven to nine job-protected paid sick days each year to be used to recover from routine illness, access preventive care or provide care for a sick family member.
3. **Adopt legislation** that would provide incentives or mandate employers to provide regular, on-going sexual harassment training to all their employees, including managers.
4. **Support job-training programs** that provide accessible, quality training to help women gain special skills and advance within the industry.
5. **Protect workers** from violations of federal, state and local equal employment opportunity laws.
6. **Enact legislation** that would ease the burden on workers regarding their lack of schedule control.
7. **Publicly support collective organizing among restaurant workers.**
8. **Initiate and support further study and dialogue on discrimination.** More detailed information is needed regarding the public cost of discrimination and the true economic profitability of responsible business practices in the restaurant industry.

ABOUT THE REPORT

COAUTHORS

Restaurant Opportunities Centers (ROC) United is a national nonprofit restaurant worker organization with over 9000 members in 19 states. ROC has published 15 reports on issues that confront restaurant workers and has passed local legislation and championed federal legislation to better working conditions in the restaurant industry.

Family Values @ Work is a national network of 16 state and local coalitions helping spur the growing movement for family-friendly workplace policies such as paid sick days and family leave insurance.

HERvotes is a coalition of women's organizations, representing millions of women, countering the attacks on women's economic and health security through a new multi-organization effort. The goal is to mobilize women voters in 2012 around preserving women's Health and Economic Rights (HER rights.)

The Institute for Women's Policy Research (IWPR) conducts rigorous research and disseminates its findings to address the needs of women and their families, promote public dialogue, and strengthen communities and societies. IWPR is a 501(c)(3) tax-exempt organization that also works in affiliation with the women's studies and public policy programs at George Washington University.

MomsRising is a multicultural, non-partisan, online and on-the-ground grassroots organization of more than a million people working to achieve economic security for all families. We focus our advocacy on paid family leave, flexible work options, affordable childcare, and an end to wage and hiring discrimination, that penalizes women and mothers.

National Coalition on Black Civic Participation's Black Women's Roundtable comprises a diverse group of Black women civic leaders of international, national, regional and state-based organizations and institutions. Together, the BWR membership represents the issues and concerns of millions of Americans and families.

The National Council for Research on Women is a network of U.S.-based research, policy, and advocacy centers working to advance rights and opportunities for women and girls, nationally and globally. The Council is

a major source of knowledge, analysis, and best practices for transformative change.

The National Organization for Women Foundation is devoted to achieving full equality for women through education and litigation. The Foundation addresses economic justice, pay equity, racial discrimination, women's health and body image, women with disabilities, reproductive rights, family law, rights of same-sex couples, media representation of women, and global feminist issues.

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care, and policies that help women and men meet the dual demands of work and family.

The National Women's Law Center, www.nwlc.org, is a non-profit organization that has been working since 1972 to advance and protect women's equality and opportunity. It focuses on major policy areas of importance to women and their families including economic security, education, employment, and health, with special attention given to the concerns of low-income women.

Wider Opportunities for Women (WOW) works nationally and in its home community of Washington, DC to build pathways to economic independence for America's families, women, and girls. WOW has a distinctive history in changing the landscape of women and work.

Women of Color Policy Network at NYU Wagner is the nation's only research and policy institute focused on women of color, their families and communities at a top ranked school of public affairs. The Network conducts research and policy analysis at the intersections of race, class, and gender to inform public policy at all levels.

9to5, National Association of Working Women is a national membership-based organization of low-wage women building a movement to achieve economic justice by improving policies on workplace and safety net issues that directly affect them.

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