17 Dining Out

The True Cost of Poor Wages

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Introduction and Background

One of the greatest misunderstood “true costs” of meals in restaurants is labor. This is largely because the service sector is one of few industries in which the majority of the labor cost is not reflected in the meal, but instead paid in tips. For an industry that is disproportionately composed of low wage workers, workers of color and women, the coronavirus disease (COVID-19) crisis and national uprising for racial justice has exposed the untenability of this system of compensation and, in general, the deep structural inequities of the service sector. Although the COVID-19 pandemic has created an acute reality of economic peril for restaurant workers, the current situation is simply a heightened reflection of the precarities that perpetually underlie the restaurant industry. Although this chapter shines a light on the situation facing US restaurant workers during the pandemic of 2020, it also points toward how ill-prepared the industry is to provide for the basic necessities of its workers in times of economic crisis.

Prior to the pandemic, there were more than 13 million restaurant workers and nearly 6 million tipped workers across the USA, including restaurant (who account for over 80% of tipped workers), car wash, nail salon, tech platform delivery, and other workers, according to the Bureau of Labor Statistics in 2019. The National Restaurant Association had long argued that, given customer tips, businesses should be able to pay their tipped employees a subminimum wage, today just \$2.13 an hour federally. A legacy of slavery, the subminimum wage for tipped workers today is also a gender equity issue. 70% of tipped workers are women, disproportionately women of color, who work in nail and hair salons and casual restaurants like IHOP and Denny’s, live in poverty at three times the rate of the rest of the US workforce, and suffer from the worst sexual harassment of any industry because they are forced to tolerate inappropriate customer behavior in order to feed their families in tips (“Tipped Over the Edge”, 2012). On top of this, research shows that workers of color earn less in tips than their white counterparts due to pervasive racial bias (Lynn *et al.*, 2008). Indeed, the voluntary nature of tips means that the true cost of labor is neither reflected in worker’s wage nor in the cost of the meal, but rather is paid based on the whims and biases of customers.

Seven states—California, Oregon, Washington, Arkansas, Minnesota, Nevada, and Montana—have rejected this legacy of slavery and instead pay One Fair Wage: a full minimum wage with tips on top. According to a National Restaurant Association industry report, these states have comparable or higher restaurant sales per capita, job growth among tipped workers and the restaurant industry overall, and tipping averages than the 43 states with lower wages for tipped workers. They also claim half the rate of sexual harassment in the restaurant industry (“The Glass Floor”, 2014).

The pandemic-induced economic collapse has affected few other industries more deeply than restaurants and food service. As mayors and governors across the country ordered shutdowns, and customers ceased dining out, restaurant owners shuttered their doors, and workers scrambled to join digital unemployment lines. Emerging national surveys of the restaurant sector show that four out of ten restaurants have closed their business, and the industry is predicting over \$240 billion in financial losses (“Industry Research”, 2020). By May 2020 the Bureau of Labor’s State Occupational Employment and Wage Estimates reported nearly 6 million lost jobs across all food services and drinking places. According to the US Private Sector Jobs Quality Index, however, nearly 10 million low wage jobs in the restaurant and bar industries are at risk due to the COVID-19 fall-out (“Statement from JQI”, 2020). Furthermore, it is workers of color and women, who disproportionately comprise the sector, who have been most acutely affected. The national unemployment rate for Black workers had risen to 16.7% from the outbreak, compared with 14.2% for white workers, according to the Bureau of Labor Statistics Current Population Survey. When we consider the impact on Black women particularly, the unemployment rate rises to 16.9% compared with only 12.8% for white men. Latina women, however, experienced the highest rate of unemployment, as nearly one in five are out of work (Gould, 2020).

It is the subminimum wage for tipped workers that has exacerbated the sheer destitution facing the millions of tipped workers who have lost their jobs during the COVID-19 crisis. During this unprecedented economic cliff, with unemployment rates surpassing those during the Great Depression, analysis conducted by the civil society organization One Fair Wage (founded by the author) shows that, on average, states are rejecting 44% of unemployment claims (“Locked out by Low Wages,” 2020). However, surveys of tipped workers from this same research reveals that this statistic is closer to 60% for tipped service workers. This higher denial rate is in large part because workers are being told that their subminimum wage plus tips is too little to meet minimum income thresholds to qualify for benefits. In other words, these workers are being penalized because their employers paid them too little. Even among those who are eligible, unemployment insurance is being calculated based on the subminimum wage plus tips, and generally, this is an under-evaluation of their tips.

Interviews with workers across the country are exposing the unjust intersection of subminimum wages, tipping, and the unemployment system. Charles

Almanza, a New York bartender and son of Nicaraguan immigrants, exemplifies the cruelty of getting caught in the unjust cross hairs of failed public policy. After the sudden closures of restaurants and nightclubs in New York, Charles filed for unemployment, only to discover that his W2 form stated that he had made only \$5,000 over the seven months that he worked for his previous employer. Even though Charles knew his pay checks excluded any base wage, instead forcing him to live entirely off of tips (a common situation in states like New York where employer wages are negligible compared with tips) Charles did not know that his boss was also underreporting his tips. As a consequence, after six weeks of waiting for his unemployment check, it amounted to less than \$300 a week. Charles's story is but one in a sea of emerging workers whose experiences have mobilized them to demand a more fair and dignified wage system. Millions of workers find themselves now unable to pay for rent, food for their children, or other bills. In fact, findings from One Fair Wage's research shows that 89% of nationally surveyed tipped workers report that they are either unable or unsure whether they can afford to make their rent or mortgage payment during this time. On top of this, 79% of surveyed service workers report being able to afford groceries for only up to two weeks or less. And now at a time when their family is most at risk, hundreds of thousands of tipped workers are being asked to return to work for the tipped workers' subminimum wage at a time when tips have dramatically declined—according to some employers, by as much as 75%.

Years of research demonstrating that workers of color earn less in tips owing to customer bias has now become painfully clear on a larger structural level—workers of color are disproportionately being denied unemployment insurance because they are more likely than white workers to have worked in casual restaurants where they received their tips in cash, and state unemployment insurance systems are automatically denying these workers because their incomes appear to be too low to meet the minimum threshold to qualify.

With tips drying up, workers are demanding a labor model in which the value of their labor is reflected in their wage, which would require employers and consumers to consider food service workers' labor like those of those of other workers—as part of the cost of the product, not as a separate, voluntary donation made by consumers.

Prior Initiatives for Change

Prior to the pandemic, a set of leading employers had worked voluntarily to move to One Fair Wage despite the fact that their state did not require it. These employers transitioned to a One Fair Wage compensation model through one of three ways.

First, these employers instituted a full minimum wage with tips on top and then shared tips among all non-management employees in the restaurant, allowing for a more equitable balance between back of house and front of house employees. Paying employees the full state minimum allows restaurant

owners to redistribute tips both to kitchen and front of house staff even if the kitchen does not have direct contact with the customer. This model is contrary to one in which tipped workers receive a subminimum wage and thus legally must retain all tips in order to offset their low wages. In 2018 we worked with United States Congress Members to pass a rider to the Congressional budget bill that allowed employers who pay the full minimum wage to all workers the opportunity to permit tips to be shared among kitchen staff as well. Tip sharing with dining room staff has been customary in the seven One Fair Wage states for decades; the practice creates greater equity and unity between kitchen and dining staff and allows for cross-training between positions, allowing greater flexibility for the owner and mobility for workers.

A second initiative pursued by employers has been to move to a full minimum wage with additional income in the form of a service charge, which is also shared among all non-management employees. Finally, the third pathway involved employers moving to an entirely gratuity-free model, incorporating all tips and gratuities into workers' wages and thus into the cost of the meal.

Several employers who have implemented or contemplated these changes have found that, in many cases, by incorporating the true cost of food service labor into the cost of a meal, consumers have opted to dine at another restaurant that continues with the subminimum wage labor model. Especially for restaurants that chose a gratuity free model and thus the highest menu prices, they found that consumers could not understand that the labor cost typically paid out as a tip was now being incorporated into the actual menu and was thus costing the consumer the same overall amount. The fact that other restaurants were not incorporating the true cost of the labor into the cost of the meal meant unfair competition. This occurs, of course, in the context where consumers remain undereducated about the true cost of labor and tipping, as well as the negative externalities of a subminimum wage model that is a legacy of slavery and a source of discrimination and harassment for millions of workers of color and women nationwide.

One of the major challenges has been demonstrating to employers a change in consumer understanding and increased consumer support for employers willing to change their practices. It has thus been historically challenging to convince more employers to move away from the subminimum wage for tipped workers without being able to demonstrate a change in consumer understanding.

The Pandemic as a Portal for Change

Now with the COVID-19 pandemic and uprisings for racial justice, there is an opportunity for workers and employers to transform their industry so that labor costs are better incorporated into the cost of a meal, and so that consumers are informed and willing to pay the true cost of food service labor. The moment has provided opportunities to pilot new solutions which have shown that we

can simultaneously support workers and ensure that responsible restaurant owners who care about their workers survive the crisis—and thus reshape the service sector, going forward. Significant economic and cultural shifts have brought a new set of restaurant owners who previously opposed or were hesitant about One Fair Wage forward, who are now showing willingness to commit to One Fair Wage and increased equity. For some, their eyes have been opened to the unsustainability of the system; for others, the moment has allowed them to break free from the confines of an old business model. Some are even working with us to design model restaurants.

Dan Simons, co-owner of the Farmers Restaurant Group, has seized upon the unimaginable shifts in the restaurant industry to work with One Fair Wage and its network of restaurants who lead in ethical labor practices.

Box 17.1

Before COVID-19, tipped employees at all nine full-service Founding Farmers' restaurant locations (based in Washington DC, Maryland, Virginia, and Pennsylvania) had been paid the subminimum wage for tipped workers in their state. However, the pandemic forced Simons to close dine-in service at all locations, resulting in the layoff of nearly 1,100 workers. The closures spurred Simons to build out a new market and grocery business model in addition to the restaurant take-out business. To operate his new business, Simons decided to rehire employees at the full minimum in each state.

As employees' positions changed from server to curbside deliverer, busser to grocery bagger, everyone became unified into a single team, all paid the same base wage. Simons is using a contribution from consumers that is similar to a gratuity charge and sharing it among all non-management employees on top of a full minimum wage. As he moves toward a full re-opening, Simons is testing a model that would include the previous menu price and a detailed break-down of the how the service charge will be used to cover employees costs such as for personal protective equipment (PPE), health insurance premiums, and additional employee benefits and safety supplies to address pandemic safety protocols. As Simons explains, "It's about building new compensation structures and new business models for the world we are in. For example, of course we need to provide employees PPE while certainly not making it a cost to the employee. Perhaps we can include both a fixed service charge and fixed COVID charge, which allows you to use that money as the business needs to protect our employees." Simons knows that it is critical to educate customers about what portion of the additional charge is going to pay a full living wage, to provide PPE or going to pay employee health insurance. He wants his customers to know the true cost of a meal and support the societal benefits that it brings to the essential service workers who are feeding us in times of crisis.

In this time of political opening, One Fair Wage has also partnered with state and local legislators to innovate new solutions towards simultaneously meeting the needs of workers, employers, and consumers. Based on conversations with restaurant leaders like Simons and others, we have developed a partnership with New York City and California governments to launch High Road Kitchens—a program in which restaurants provide meals on a sliding scale to low-wage workers, health care workers, and first responders, while also receiving financial support towards restaurant workers and responsible restaurant owners. Participating restaurants voluntarily commit to move to One Fair Wage and institute greater race and gender equity policies and practices by next year. In exchange for joining High Road Kitchens, restaurants will receive public and private dollars to re-hire their workers and re-purpose themselves as community kitchens to provide free meals to those who need them. The program is now likely to be replicated in Massachusetts and Michigan. Such a program seeks to provide both relief to struggling independent restaurant owners, free meals to workers and others in need, and most importantly, re-shaping the sector toward equity.

In this time of reflection of the impact of the pandemic and its impact on restaurant workers, it may be possible to leverage moments in which the greater public is gaining awareness of the true value of the workers who feed us in order to push forward more sustainable and equitable business practices. There is a new understanding among consumers about the “essential” nature of these workers and the ways in which these workers’ health and well-being is directly connected to consumer health and well-being. Indeed, networks of restaurants around the country are beginning to coalesce to educate consumers about the dual benefits of consumer and worker health. Good Works Austin (GWA) provides one such example as a collaborative of around 30 restaurants in Austin, Texas that has collectively designed and committed to a series of protocols for how to safely and ethically reopen after COVID-19. Dedicated to worker and consumer health and safety, all restaurants that abide by these guidelines will receive promotional materials, as well as be a certified member of the GWA network. This project works both to provide consumers with a safe dining alternative while also educating them about the real need for worker health and safety.

As a result of the national uprisings for racial equity, there is also a new appreciation of the need to end historical legacies of slavery and address structural racism in every facet of American society, including in the ways in which workers are paid and treated. Restaurants around the country are newly reaching out to One Fair Wage’s Restaurants Advancing Industry Standards in Employment (RAISE) network to receive coaching on how to transition to more racially equitable models around wage compensation models, as well as recruitment, hiring and promotions. It is incumbent upon consumers to support this shift as restaurants restructure their menu pricing to reflect the real cost of producing a meal. There is thus a moment of opportunity to build upon that new consumer awareness to educate consumers and engage them in supporting restaurants that are committed to change.

The pandemic and the global reckoning with race is both the gravest crisis in the service sector's history in the U.S. and also the greatest moment for transformation – for building power among workers and change among employers toward a sustainable future of equity and collective prosperity in which everyone understands and appreciates that the true cost of dining out must include the value of the skilled labor that produces and serves our meals.

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