



# A PERSISTENT LEGACY OF SLAVERY

Ending the Subminimum  
Wage for Tipped Workers  
as a Racial Equity Measure

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One Fair Wage  
The UC Berkeley Food Labor Research Center







**PLEASE NOTE:**

*This report, based both on government data and recent surveys and interviews with restaurant workers across the country during the COVID-19 pandemic, updates our recent report on the New York race and gender pay gap in the restaurant industry by comparing the same pay gap between Black women and white men in restaurant dining floors in all states with significant Black populations, and by combining surveys of workers from multiple states to understand the current experience of service workers of color nationwide.*

**IN 2020, both the COVID-19 pandemic and the uprisings for racial justice catalyzed by the police murder of George Floyd illuminated the repression, precarity, and exclusion facing people of color, particularly Black people, throughout U.S. society. This year has brought to the forefront three major sources of violence and harm to Black communities and communities of color more generally: police violence, health inequities and economic precarity. The nexus of these three forces is acutely felt by one of the largest workforces in the country – tipped service workers.**

Women and people of color disproportionately comprise the tipped service sector, the largest share of which comes from the restaurant industry. The restaurant industry is one of the largest and fastest growing industries and also the lowest paid, with more than 13 million restaurant workers and 6 million tipped workers nationwide.<sup>1</sup> Indeed, eight of the 15 lowest-paid occupations are restaurant jobs, seven of which are tipped.<sup>2</sup> As COVID-19 forced the closure of thousands of restaurants nationwide, as well as other tipped personal service occupations such as nail salon, car wash, airport and parking attendants, and tipped gig workers, this workforce plummeted even deeper into poverty and financial insecurity.

**These workers' low pay is a result of the subminimum wage for tipped workers, a legacy of slavery that emerged during the era following Emancipation to exploit recently freed people, particularly Black women. This legacy continues today.** In 43 states across the country, tipped workers, still subject to a subminimum wage by law, are twice as likely to live in poverty and rely on food stamps

then the general workforce.<sup>3</sup> Tipped workers in these states also suffer from twice the rate of sexual harassment compared to the seven states that offer a full wage with tips on top.<sup>4</sup> These statistics are worse for tipped workers of color. Workers of color experience poverty at more than twice the rate of white restaurant workers.<sup>5</sup>

Focusing particularly on the restaurant industry, government data shows that 45% of restaurant workers are people of color and the majority are women,<sup>6</sup> largely employed in casual restaurants where wages, and more importantly, tips, are limited. To further illustrate this point, additional national research shows that only 22% of people of color and 43% of women

are employed in the highest paying front of house positions in fine dining.<sup>7</sup> It is this overconcentration of workers of color and women in casual restaurants and under concentration in high paid fine dining positions that is leading to a large race and gender wage gap, particularly between Black women and white men.

**This report, based both on government data and recent surveys and interviews with restaurant workers across the country during the COVID-19 pandemic, updates our previous report on the New York race and gender pay gap in the restaurant industry by comparing the pay gap between Black women and White men in restaurant dining floors in all states with significant Black populations, and the current experience of workers of color nationwide. Our updated findings indicate that:**

- 1** The national race and gender wage gap between tipped restaurant workers who are white men and Black women stands at \$4.79. However, New York and Massachusetts trail only Alabama with the highest race and gender wage gaps in the nation, at \$7.74 and \$7.79 respectively. As self-proclaiming progressive leader states on race, Massachusetts and New York allow a race and gender wage gap in the restaurant industry that is 60% worse than the rest of the nation, a reality that has been exacerbated by the subminimum wage for tipped workers. This already-existing disparity is now being felt profoundly when these workers are being asked to return to work for a subminimum wage and far less in tips.
- 2** The subminimum wage for tipped workers and this race and gender pay gap have resulted in a horrific experience for Black tipped workers during the COVID-19 pandemic. Combined survey data from multiple states indicates that 72% of Black tipped service workers reported experiencing barriers with regard to accessing unemployment insurance, 95% of Black tipped service workers reported being unable or unsure whether they could afford their rent or mortgage, and 84% percent of Black workers reported only being able to afford groceries for 2 weeks or less – all at much higher rates than their white counterparts.
- 3** Workers being asked to return are facing both grave health risks and a subminimum wage for tipped workers when the majority of tipped workers surveyed from multiple states report that their tips are down at least 50%. This impact will be felt most by workers of color, who because of customer bias earn less in tips to begin with.



We document how these inequities for people of color, and women of color in particular, are caused by both the subminimum wage for tipped workers and race and gender segregation in the service sector. As the economy re-opens and workers are forced to resume potentially dangerous occupations or lose their unemployment insurance, many will see deeply reduced incomes. Limited restaurant capacity, plummeting tipping rates and customers who refuse to comply with health protocols leave many tipped service workers' lives and livelihoods at grave risk. With so many futures on the line, it is more clear than ever that we must eradicate the subminimum wage for tipped workers and pass One Fair Wage legislation. This legislative change as well as government programs that incentive new corporate policies and practices to end racial and gender discrimination create the clearest pathway to ensure the lives of Black workers, women and all workers are truly valued and protected.

# { 1 } THE RESTAURANT SECTOR'S RACE AND GENDER WAGE GAP

## KEY FINDING

› Trailing only Alabama, Massachusetts and New York claim the worst race and gender wage gaps in the country between white men and Black women working in restaurant dining floors. With near equivalent wage gap around \$7.75, this means that Black women in the industry in these two states are earning just 60% of what white men earn.<sup>8</sup>



The subminimum wage allows employers in 43 states to pay workers below the state's set hourly minimum wage, forcing employees to make up their remaining wages based on tips. This policy is a direct legacy of slavery. At the time of Emancipation, restaurant industry leaders sought to hire newly-freed slaves, mostly Black women, for little to no pay, instead forcing people to rely on tips. The original concept of tipping, which originated from Europe, always required tips as a bonus on top of a wage, never as a replacement. The restaurant industry nevertheless seized upon this mutation and incorporated the tipped wage into the nation's first minimum wage laws, thus allowing workers to be paid primarily through customer tips. Due to decades of continued lobbying by the National Restaurant Association, the federal subminimum wage remains trapped at only \$2.13 an hour for tipped workers. Of the 43 states that allow for a subminimum wage for tipped workers, only 28 of these states have instituted state subminimum wages above \$2.13, and the majority still offer protections of less than \$5 an hour.<sup>9</sup>

The subminimum wage for tipped workers disproportionately impacts workers of color and women. Today, 41% of all tipped workers are people of color.<sup>10</sup> Women are also overrepresented in the tipped worker sector, where over 66% of tipped workers are women and 37% are mothers.<sup>11</sup> Race and gender inequities are rampant throughout the tipped service sector, particularly in restaurants, which claim the largest share of tipped workers. **According to analysis of government data in all US states with sufficient populations of Black restaurant workers to make statistically significant comparisons, New York and Massachusetts trailed only Alabama in claiming the highest race and gender wage gaps in the country between tipped restaurant workers who are white men and Black women.<sup>12</sup> With a wage gap of \$7.74 and \$7.79 respectively, this means that Black women in the industry are earning just 60% of what white men earn.<sup>13</sup> In fact, the New York and Massachusetts race and gender wage gaps are 60% worse than the nationwide race and gender wage gap.**

These race and gender pay inequities are a direct result of three factors. The first is that women and Black and brown people of color, particularly women of color, are overrepresented in lower paid sectors of the industry, such as casual dining establishments like Denny's and Applebee's, instead of fine dining restaurants in which tips are significantly higher. The second is that the few workers of color who gain entry into fine dining restaurants experience greater levels of occupational segregation between higher and lower paid positions in the 'front of the house' (dining room and supervising staff), which we call Tier I and Tier II positions respectively. Lastly, research shows that people of color, specifically Black workers, receive less in tips than their equally qualified white counterparts regardless of position or restaurant.<sup>14</sup> Both the subminimum wage and racial discrimination in the industry result in a huge wage gap for people of color and women, with Black women feeling the ultimate brunt of structurally racist policies and practices.

The fact that people of color and women are overrepresented in tipped front of house restaurant positions, yet experience a nearly \$8 wage gap between Black and Latina women and white men who work on the restaurant floor is partly a consequence of being concentrated in

the lowest-tipping segment of the full service restaurant industry – casual dining.<sup>15</sup> Although we do see some underrepresentation of people of color in Tier I positions when looking across all segments (casual to fine dining), and this disparity is particularly strong in fine dining establishments, the wage gap cannot be fully explained by this disparity. Evidence shows that people of color are disproportionately excluded from fine dining establishments, particularly Tier I positions, where tips produce larger incomes.<sup>16</sup> For the few people of color that are hired into fine dining restaurants, heightened occupational segregation in those establishments further exacerbates the wage gap.

A research study observing the racial makeup of fine-dining front-of-house workers cities across the country found that 81% of observed management positions were held by white staff.<sup>17</sup> In this same study, researchers found that white workers held 78% of other observed Tier I front of house service positions, while workers of color held only 22%.<sup>18</sup> Furthermore, for the relatively few Tier II positions held by white workers, 77% were in host positions.<sup>19</sup> As primarily customer facing, hosts tend to experience greater career advancement into other Tier I customer service positions such as servers and bartenders.

In conclusion, people of color are locked out of the highest paid fine-dining positions, Tier I positions. Without state law mandating a full minimum wage at all establishments, women and people of color will never be able to close the wage gap that is a result of their exclusion from fine dining. In addition to One Fair Wage legislation, in order to fully close the wage gap government must incentivize businesses to invest in equitable race and gender hiring and promotion policies in order to counter rampant segregation.



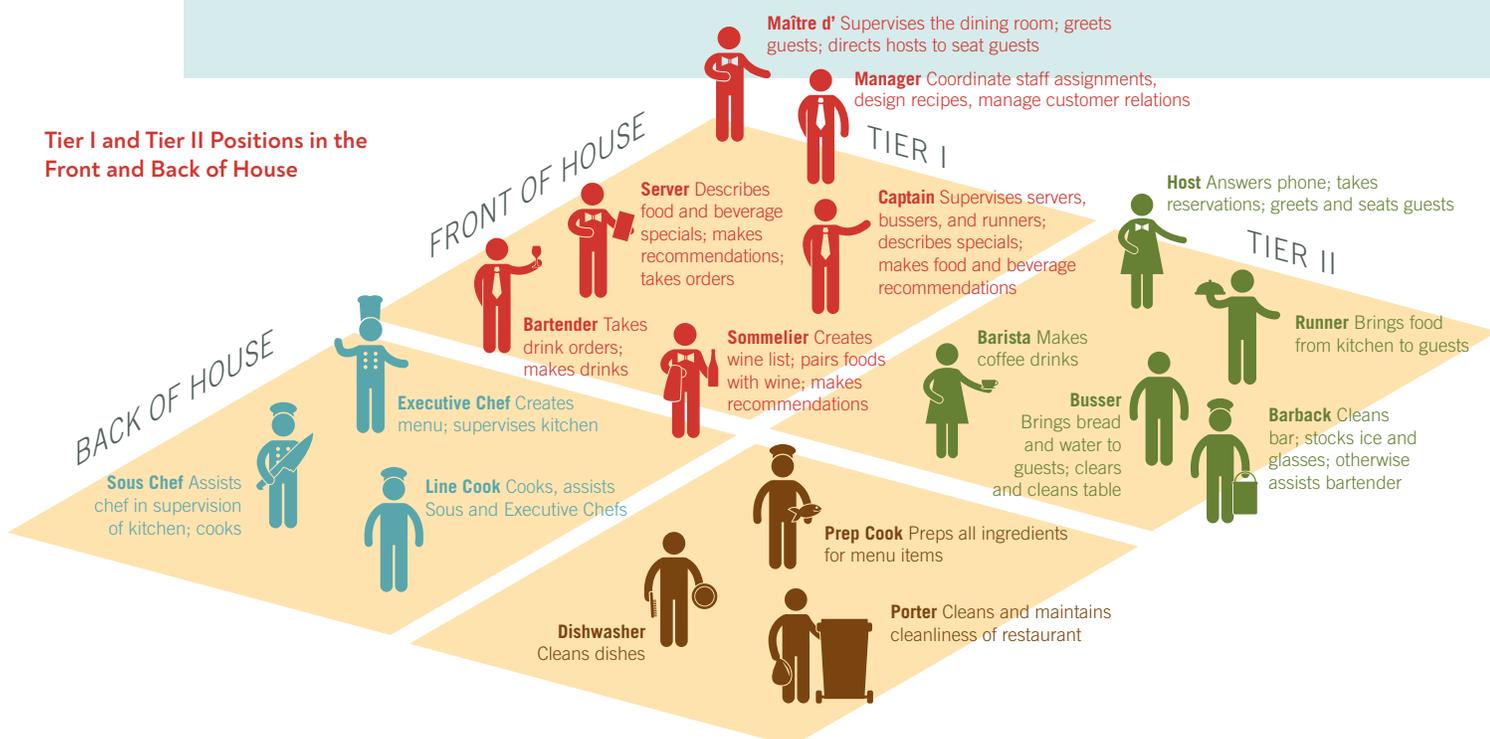
# RACIAL SEGREGATION IN THE RESTAURANT INDUSTRY

## Our research focuses on front-of-house tipped service positions within the restaurant industry.

One of the most influential factors in a worker's wage within the restaurant industry is the segment of the industry in which they work – fast food/quick service, casual dining, or fine dining restaurants. Fast food or quick service provides only limited table service and make up some of the lowest paying jobs in the industry. These establishments often operate without tips or very low tips. Casual dining offers more family style and informal environments for full service dining with tips. This includes both corporate chains like Denny's, Olive Garden and Applebee's as well as independently-operated casual dining establishments. These two types of casual restaurants account for the majority of jobs held by people of color. Finally, fine dining is characterized by upwards of a \$40.00 per guest price point. This type of restaurant allows for the greatest income, especially through tips.<sup>20</sup>

Although there is serious wage inequity and segregation by race and gender between the "Back of House" (kitchen) and the "Front of the House" (dining floor), this report focuses on disparities even within the front of house. Front-of-house positions include Managers and Supervisors, Hosts, Maitre D's, Bussers, Food Runners, Servers, Captains, Bartenders and Barbacks.

We additionally distinguish higher paid "Tier I" positions and lower paid "Tier II" positions within the tipped restaurant section. Tier I positions include the Managers and Supervisors, Maitre D, Servers, Captains and Bartenders, while Tier II positions include Food Runners, Hosts, Barbacks, and Bussers.



# TABLES



## State Wage Gaps for White Men and Black Women Front-of-House Tipped Restaurant Workers

\$1.76	Delaware
\$2.32	Arkansas
\$2.65	Mississippi
\$3.22	Georgia
\$3.45	Ohio
\$3.55	Illinois
\$4.06	Texas
\$4.27	District of Columbia
\$4.47	California
\$4.82	Louisiana
\$5.11	North Carolina
\$5.18	Pennsylvania
\$5.40	South Carolina
\$5.98	Florida
\$6.11	Virginia
\$6.46	Missouri
\$6.49	Michigan
\$6.76	Tennessee
\$7.57	Maryland
\$7.69	New Jersey
\$7.74	New York
\$7.79	Massachusetts
\$15.15	Alabama
\$4.79	NATIONWIDE



## Racial Segregation by Restaurant Segment and Tier for Front-of-House Tipped Restaurant Workers in the U.S.

	Casual Full Service	Fine Dining Tier I
People of color	42%	22%
White	58%	78%



## Gender Segregation by Restaurant Segment and Tier for Front-of-House Tipped Restaurant Workers in the U.S.

	Casual Full Service	Fine Dining Tier I
Women	67%	43%
Men	33%	57%



## Racial Segregation by Tier for Male Front-of-House Restaurant Workers in the U.S.

	Tier I	Tier II	Total
White men	56%	52%	55%
POC men	44%	48%	45%
Total	100%	100%	100%



## Racial Segregation by Tier for Women Front-of-House Restaurant Workers in the U.S.

	Tier I	Tier II	Total
White women	62%	57%	61%
POC women	38%	43%	39%
Total	100%	100%	100%

Source: Analysis of average wages by race and gender are calculated using the Current Population Survey Outgoing Rotation Group microdata U.S. Census Bureau CPS-ORG), (2017-2019).

Gender and racial representation for data by tier for front-of-house workers are also calculated using the CPS-ORG (2017-2019).

Tipped positions include: food service managers, first line supervisors, bartenders, counter attendants, waiters and waitresses, food servers, non-restaurant, Bussers and Barbacks, and Hosts and hostess. We include front of house supervisors, managers and hosts because in many restaurants these positions do receive tips, even if extralegally.

Since representation in the Fine Dining segment is not available through CPS data, we derived Tier 1 Fine dining from research that canvassed a random sample of 133 fine-dining restaurants in the Great Service Divide (ROC United, 2015).



## Jaime Millner

Jaime has worked for the last 8 years as a server and bartender in the restaurant industry in New York City, yet the twin forces of the COVID-19 pandemic and the uprising for Black Lives shifted her work like never before. Laid off

with the rest of her staff in March, Jamie heard little from her employers until a few weeks ago when she received a letter mandating that she return to work. There were no questions regarding COVID or whether she was sick or at risk, only that she must return or face termination of her unemployment insurance. The re-opening coincided during the peak of the Black Lives Matter movement resurgence.

Jaime had numerous concerns about going back to work, from fears about her health and safety to worries about how she would pay bills at a time when tips are down, capacity is limited and customers are still infrequent. She knew, however, that she did not have a real choice. “If I could collect unemployment benefits and stay safe I would. But we have to accept their terms of employment or lose unemployment benefits,” says Jaime. Under the stress of both a pandemic and the barrage of news stories about the murder of Black people by police, Jamie began her work again as a server.

As a Black woman, Jaime was frustrated and disheartened by the complete lack of care and communication on the part of her employer to address either the pandemic or rising calls for an end to anti-black racism. Within the first couple weeks of re-opening customers were starting to show severe resistance and hostility towards the employees. Jaime recounted a story where a customer refused to wear a mask despite being reoccuringly asked by service staff. One worker was forced to de-escalate the man and he eventually left. Upon exit he yelled that they are what is wrong with America, and if he wanted to risk his life that was his choice. He expressly stated that he would be voting for Trump come November.

This is not Jaime’s first encounter with coded racism and harassment on the part of customers or management while working in the industry. She has seen people fired over racist yelp reviews left by customers. A few years ago she was actually referred to as a “mammy” by her southern manager, a racial slur for Black women that harkens back to the era of slavery. She reported the incident, but was told that they would not fire the manager. She was given the choice to continue to work with him or move to another restaurant.

Now, at her current workplace, Jaime and her coworkers are organizing to bring greater racial equity to the dining room. Non-management staff, led by people of color, are calling for more Black and brown employees in the front of the house and in management, which currently is almost entirely white. They are asking the restaurant to hire more multilingual managers or at least compensate lower level staff who are often burdened with translating. These actions are perhaps obvious antidotes to patterns of racial segregation and other inequities, but they are so common that often they are met with severe resistance. As of yet, management has refused to take action to update their hiring, promotion and compensation practices.

Although Jaime and her co-workers are calling for change within her institution, she knows that larger transformation needs to happen at the legislative level. “Governor Cuomo gave the One Fair Wage act to everyone except restaurant workers. The tipping system is antiquated and feeds into the idea that we should be grateful for everything that we get. Employers benefit from the fact that we have to serve customers, sometimes non-consensually, for our wages, instead of getting our wages directly from our employer.” As someone who is an advocate both within her workplace and as a citizen of New York state, Jaime is looking toward holistic solutions. Never has the time been so clear, Black servers deserve safety and dignity at work.



## Rameka Aton

Rameka is the founder and owner of Hoodmommy, a juice and health food business, that strives to bring healthy and whole foods to her community.

Raised in South Central LA by her father who was a vegan chef, Rameka has been part of the food businesses

since she was a child. As a young adult, Rameka moved to Chicago and spent over a decade in the restaurant industry as a server. After years of racial discrimination and sexual harassment, Rameka decided to start her own business so she could provide her employees with the safe, respectful and humane work environment she never had in the industry.

With more than a decade of experience Rameka had moved from casual full service restaurants to higher end dining. As a career professional, she sought the higher paying positions that could support her young child and growing family. She attained her sommelier license and hoped to be hired in the more upscale Gold Coast restaurant district of Chicago. Despite completing her training with peers who were general managers, she was routinely passed up for positions. "I just thought after so many years in the industry and this training I was going to get a job. But every application required a photo with my resume, and I didn't get a call back... It was just such obvious discrimination." After a slew of rejections, Rameka conducted her own little study. She started sending in a photo of her Caucasian friend (Rameka uses this term to disrupt the White/Black language that is rooted in an era a slavery and political disenfranchisement). She got a call back within 45 minutes. She did not, of course, end up getting the job.

Falling deeper into despair and worried for the financial future of her family, Rameka decided to go directly to the HR department of one of the restaurants she had applied for. "I called Human Resources and told them that these photo based applications were discriminatory. The HR person said to put her name on my resume, that she would help me get the job. I was finally hired after having to do things that no one else has to do," recounts Rameka.

Once hired, she saw the same pattern she had seen her whole career. Light skinned people in the front of house positions, and dark skinned people in the back. She continued to watch as her Caucasian male counterparts got the most lucrative shifts, sections, and large parties. Even when she was put on a good section, customers would often call in and request a specific server, always someone of European descent. "Sometimes my managers had to put me on the table that had requested another server. Then they would say I had to be this way or that. That I had big shoes to fill. It's hard cause I saw my Caucasian counterparts, especially men, freely living their life, but I couldn't be myself." Managers would often explicitly support the racial preferences of customers, saying that customers want people who look like them. Of course, when working in a high end restaurant it is not hard to imagine the racial make-up of the customer base. All of this equated to less money in tips and therefore a smaller wage than the white-skinned men she worked with.

After years of disheartening experiences, Rameka finally decided to retake her agency and open her own business. She hired people who were from her neighborhood or community. She paid them a living wage, encouraged them to be fully themselves in culture, clothes, hair and personality. At 7 months pregnant, she wanted to really look out for the young people and families that she knew and loved, and that loved and respected her in return. "People think that someone of African descent can't be a professional. That in order to be taken seriously you have to dress up a certain way and go into corporate European America. It feels like you have to assimilate into more European and Caucasian culture when you go to these restaurants. When people work for me you don't have to assimilate. I want to educate people about the food, about health. Help people be invested in the company. Wherever you are at right now, I'm gonna help you get where you want to go. That's why I called my business Hoodmommy. Taking care of the hood like a mommy would."



## { II } HOW RACIAL SEGREGATION IN THE RESTAURANT INDUSTRY OCCURS

### KEY FINDINGS:

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- › Using matched pair audit testing, white applicants were more than twice as likely to receive favorable treatment in the interview process compared to equally or more qualified applicants of color for a fine dining service position, 27% more likely to receive a job offer.<sup>21</sup>
  - › Through Implicit Association testing, researchers found that nearly 40% of white managers and nearly half of managers between 35 and 44 years of age demonstrated a preference for white people over people of color.<sup>22</sup>
  - › This same test revealed that more than 40% of white consumers showed an unconscious preference for white people.<sup>23</sup>
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There is clear evidence of racial discrimination and implicit bias on the part of employers throughout the U.S. These actions drive the race and gender based segregation we see both across segments and positions in the restaurant industry. While state governments must institute One Fair Wage policy as a means to swiftly close the race and gender wage gap, incentives that pressure employers to adopt active racial equity policies and practices are critical in countering racial discrimination and occupational segregation. A national Restaurant Opportunities Centers United research study used matched pairs audit testing in order to determine the prevalence of race and ethnic-based discrimination in hiring at fine dining establishments. Conducting 273 tests using equally matched pairs of white testers and testers of color who were trained to apply for server positions, the study tested whether discriminatory attitudes and actions played a role in racial segregation within the industry. Findings revealed that testers of color were only 73% as likely as equally or less qualified white testers to get a job offer.<sup>24</sup> **White applicants were more than twice as likely to receive favorable treatment in the interview process compared to equally or more qualified applicants of color for a fine dining service position.** The two discriminatory effects of experiencing a lower likelihood of receiving a job interview or of receiving a job offer resulted in an overall 22% net rate of discrimination for testers of color.<sup>25</sup>



The importance of training and incentives to pressure employers to enact racially equitable hiring and promotion policies in their restaurants cannot be overstated. Racially focused implicit bias has been found to be a significant feature of the unconscious actions of restaurant owners and managers throughout the US. As defined by the Kirwan Institute for the Study of Race and Ethnicity, implicit bias is the “attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner. These biases, which encompass both favorable and unfavorable assessments, are activated involuntarily and without an individual’s awareness or intentional control.” In the fast paced, subjective and often informal decision making environment that restaurant owners and managers operate within implicit bias can have huge impacts on hiring and promotion decisions that unfairly impact workers of color and women.

Using Implicit Association Tests (IAT) that measure in milliseconds our implicit bias reactions, researchers conducting tests in cities around the U.S. found that **nearly 40% of white managers and nearly half of managers between 35 and 44 years of age demonstrated a preference for white people compared to much smaller percentages for other race and age groups.**<sup>26</sup> This study also tested restaurant consumers for levels of race-based implicit bias. Relevant to previous research that shows a significant disparity in higher rates of tipping for White servers over equally qualified Black servers,<sup>27</sup> the IAT results reveal that more than 40% of white consumers showed an unconscious preference for white people.<sup>28</sup>

The race and gender wage gap as well as findings around the mechanisms of discrimination and segregation were all present before 2020, the onslaught of the COVID-19 crisis has only worsened the safety and well-being of tipped workers of color. Since the pandemic, the restaurant and service industries have been decimated with unprecedented financial and physical precarity facing workers.



# COVID-19 EXACERBATES INEQUITIES FOR TIPPED WORKERS OF COLOR

## KEY FINDINGS:

- › Over 63% of surveyed tipped workers from multiple states were either unable to obtain unemployment insurance or uncertain if they qualified for unemployment insurance. However, 72% of Black workers reported these same barriers to accessing unemployment insurance.<sup>29</sup>
- › A staggering 95% of Black tipped service workers reported being unable or unsure whether they could afford their rent or mortgage. Eighty-four percent of Black workers reported only being able to afford groceries for 2 weeks or less.<sup>30</sup>

### Impacts of COVID-19 Crisis on Tipped Service Workers

Do not qualify or are unsure if they qualify for unemployment insurance

63% ALL APPLICANTS

72% BLACK APPLICANTS

Unable or are unsure whether they can pay their rent or mortgage

89% ALL APPLICANTS

95% BLACK APPLICANTS

Can afford groceries for 2 weeks or less

79% ALL APPLICANTS

84% BLACK APPLICANTS

On March 16, 2020 One Fair Wage launched the One Fair Wage Emergency Fund for service workers in order to provide emergency cash relief and resources to service workers across the country. Since then we have received nearly 200,000 applications and heard countless stories of absolute dire circumstances for workers and their families. Given unemployment claim delays or outright denials, many workers have forgone months of rent, run out of food and are even turning to free school lunches to feed their families. For a disease that is supposedly color blind, we are seeing the impacts of structural racism as workers of color experience higher rates of unemployment, and housing and food insecurity.

Surveys of this workforce nationwide are helping to reveal the bleak circumstances for tipped workers in general and tipped workers of color in particular. Fifty-two percent of surveyed applicants nationwide are people of color.<sup>31</sup> Sixty-five percent are women and 69% take care of dependents. **Of surveyed applicants, 89% report being unable or unsure whether they can pay their rent or mortgage. For Black applicants this number rises to 95%.** Seventy-nine percent of surveyed applicants can only afford groceries for 2 weeks or less; while 84% of Black applicants reported this situation.<sup>32</sup>

By the height of the pandemic, 1 in 4 people who had lost their job were restaurant workers.<sup>33</sup> Given the fact that workers of color, and Black workers in particular, are overrepresented in the service sector, and the fact that the service sector overall experienced higher levels of dislocation than other sectors, it therefore follows that workers of color, and Black workers in particular, also have experienced higher levels of unemployment in general. According to national data from the Bureau of Labor Statistics the unemployment rate for all Black workers is 16.7%, compared to 14.2% for white workers.<sup>34</sup> When we consider this reality for Black

women, the unemployment rate rises to 16.9% compared to 12.8% for white men.<sup>35</sup> Nearly one in five Latina women are experiencing unemployment.<sup>36</sup>

Despite the large number of unemployment insurance claims from tipped workers, we have found that a disproportionate percent of service workers were excluded from unemployment insurance coverage. This is due to three state requirements that disadvantage service workers:

- 1) requirement of a social security number,
- 2) requirement of a minimum number of hours worked in a base period, and
- 3) requirement of a minimum earnings threshold over a base period.

Unemployment insurance must be based on a worker's full wage including tips, however, notoriously high levels of underreporting by employers means lower unemployment coverage for employees. In the U.S. Department of Labor investigation of over 9,000 restaurants, officials found that 84% of investigated restaurants had violated wage and hour laws, including nearly 1,200 violations of wage laws that require tipped workers to earn the minimum wage.<sup>37</sup>

In Massachusetts, where subminimum wages are ubiquitous, this pattern can lead to either underpaid unemployment insurance claims or denied claims since many low wage workers are already near the minimum earnings threshold. In short, when employers exploit subminimum wages during an economic crisis, workers can lose access to unemployment because they simply make too little.



Surveys with service workers across the state reveal how many are ineligible for unemployment compensation. Over 63% of surveyed One Fair Wage Emergency Fund applicants in Massachusetts were either unable to obtain unemployment insurance or uncertain if they qualified for unemployment insurance.<sup>38</sup> Even worse, 72% of Black workers reported these same barriers to accessing unemployment insurance.<sup>39</sup> While this sample cannot be extended to the general population, BLS survey data reveals that the service industry claims the lowest rate of unemployment benefits usage out of any industry, even during economic highs.<sup>40</sup>

## { IV } SERVICE WORKERS FEARS AS THE ECONOMY RE-OPENS

### KEY FINDINGS:

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- › Sixty percent of service workers are reporting that tips have halved since returning to work, and nearly a third have lost more than 70% in tips.<sup>41</sup>
  - › More than 40% of service workers who have returned to work since being laid off are working 10 hours or less a week.<sup>42</sup>
  - › The number one concern raised in interviews with service workers is health and safety, including a lack of workplace protocols and non-compliant customers.<sup>43</sup>
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As the economy re-opens without the arrival of a vaccine, guaranteed health coverage or a basic social safety net, many restaurant workers will be faced with unimaginable choices between their life or their livelihood, and in many cases they may risk both. Surveys and interviews with 244 workers in states across the country reveal an emerging set of worker fears as restaurants re-open. Of surveyed respondents, 34% have recently returned to work, with more than 40% working 10 hours or less.<sup>44</sup> **Sixty percent of workers are reporting that tips have halved since returning to work, and 30% have lost more than 70% in tips.**<sup>45</sup> Worker interviews reveal three leading concerns with returning to work:

- 1) **lack of health and safety protocols, including non-compliant or hostile customers;**
- 2) **being forced to return for a subminimum wage when there are not enough tips; and**
- 3) **not being provided enough hours to make ends meet.**

With restaurants operating at limited capacity, greater numbers of customers eating at home, and decreased tipping rates for takeout service many restaurant workers are taking home drastically reduced paychecks. Even though the vast majority of restaurant workers do not have health insurance, and people of color face greater risk of death due to COVID-19, workers cannot refuse to return to work without the threat of losing their unemployment. In the current circumstances, workers will be forced to return to potentially unsafe working conditions for vastly less pay.

## CONCLUSION 1

### SERVICE WORKERS NEED ONE FAIR WAGE NOW

Eliminating the subminimum wage for tipped workers and passing One Fair Wage legislation both at the state level and nationwide is the most direct and impactful path to closing a nearly \$5 race and gender wage gap in the restaurant sector and addressing the needs of workers struggling to survive due to the COVID-19 epidemic. For states such as New York and Massachusetts that suffer from a nearly \$8 wage gap, the need to pursue legislation is even more urgent. Raising the subminimum wage in casual and limited service establishments, locations that disproportionately employ workers of color and women of color, will ensure there is a dignified floor for all workers regardless of tips. It is also clear that One Fair Wage legisla-

tion provides greater stability for service workers during times of crisis and economic downturn given the fact that a sizable portion of tips are underreported which distorts tipped workers reliance on the unemployment insurance safety net.

As the restaurant industry re-emerges from the ashes over the coming months and years, it is likely there will be an ongoing depression in sales and tipping rates, a direct burden upon already low wage workers. One Fair Wage legislation will guarantee a minimum income, supplanting a regressive system that penalizes the lowest paid workers during a recession. For centuries, tipped service professionals have been forced to rely on customer whims for the majority of their income. Amid calls for massive restructuring of our most racist institutions, we must consider the end to the subminimum wage for tipped workers as part of this current evolution.



## CONCLUSION 2

### SUPPORT RACIAL EQUITY INCENTIVES FOR EMPLOYERS

Racial Equity initiatives that train and motivate employers to counter implicit bias and discrimination in hiring, promotion and pay will help close the wage gap resulting from occupational segregation. A number of innovative city and state level programs in New York City, Detroit and California are leading the way in a just re-opening that centers the health and financial security of low wage service workers. We need this kind of support across states in order to make sure workers who live outside California and select cities are not left behind.



High Road Kitchens, initiated by One Fair Wage in partnership with mayors and governors in New York City, Detroit and California, advances One Fair Wage policy and racial equity and community relief programs while also providing financial backing for employers. High Road Kitchens is a national program leveraging private as well as state and local governments to provide wage subsidies and initial investments to restaurants that commit to paying a full minimum wage with tips on top as well as participating in the One Fair Wage Racial Equity Training Program. As part of High Road Kitchens, restaurants will also convert their kitchens to provide meals on a sliding scale to low-wage workers, health care workers and first responders during this crisis. This program works to support a sustainable path forward for both restaurant workers and responsible restaurant owners. States across the country should consider providing public support to restaurant owners and workers through innovative programming that provides financial stability as well incentives to implement racially equitable wage and operations models.

**Together, One Fair Wage and statewide racial equity programs can move the restaurant industry out of a legacy of systemic racial inequity and into a just and prosperous future.**

# END NOTES

- 1 Bureau of Labor Statistics, February 2019. Employment Projections, 2016-2026.
- 2 National Restaurant Association, (2019). Restaurant Industry Facts at a Glance. <https://restaurant.org/research/restaurant-statistics/restaurant-industry-facts-at-a-glance>.
- 3 American Community Survey (2013-2017). Steven Ruggles, Sarah Flood, Ronald Goeken, Josiah Grover, Erin Meyer, Jose Pacas, and Matthew Sobek. IPUMS USA: Version 9.0 [dataset]. Minneapolis, MN: IPUMS, 2019. <https://doi.org/10.18128/D010.V9.0>.
- 4 Ibid.
- 5 Ibid.
- 6 Restaurant Opportunities Centers United. "The Glass Floor: Sexual Harassment in the Restaurant Industry." New York, NY. October 2014.
- 7 Restaurant Opportunities Centers United, The Great Service Divide: Occupational Segregation & Inequality in the U.S. Restaurant Industry (New York, NY: ROC United, 2014).
- 8 One Fair Wage analysis of the Current Population Survey Outgoing Rotation Group microdata U.S. Census Bureau CPS-ORG), (2017-2019). Analysis was done using Stata IC statistical software. Dataset was downloaded from the Center for Economic Policy Research center. Tipped positions include: food service managers, first line supervisors, bartenders, counter attendants, waiters and waitresses, food servers, non-restaurant, bussers and barbacks, and hosts and hostess. We include front of house supervisors, managers and hosts because in many restaurants these positions do receive tips, even if extralegally.
- 9 One Fair Wage. "Locked out by Low Wages: Service Workers Challenges with Accessing Unemployment During COVID-19". May 2020.
- 20 Restaurant Opportunities Centers United. "Better Wages, Better Tips: Restaurants Flourish with One Fair Wage". New York, NY. 2018.
- 11 Ibid.
- 12 See endnote 8.
- 13 Ibid.
- 14 Lynn et al., (2008). Consumer Racial Discrimination in Tipping: A Replication and Extension. *Journal of Applied Social Psychology*, 38(4), pp.1045-1060.
- 15 See endnote 7.
- 16 Ibid.
- 17 Ibid.
- 18 Ibid.
- 19 Ibid.
- 20 Ibid.
- 21 Ibid.
- 22 Restaurant Opportunities Centers United, Building the High Road to Racial Equity. (New York, NY: ROC United, 2019)
- 23 Ibid.
- 24 See endnote 7.
- 25 Ibid.
- 26 See endnote 22
- 27 See endnote 14.
- 28 See endnote 22.
- 29 Statistics provided are based on a non-representative sample from the One Fair Wage Fund applicant pool of tipped workers in New York state. This data is not exhaustive. Data is based on responses to surveys that are administered to applicants. However, for ethical reasons completion of these our applicant survey is not required in order to apply.
- 30 Ibid.
- 31 Ibid.
- 32 Ibid.
- 33 Bureau of Labor Statistics. "The Employment Situation – April 2020." Bureau of Labor Statistics. <https://www.bls.gov/news.release/pdf/empisit.pdf>
- 34 Bureau of Labor Statistics' Current Population Survey. Accessed June 9, 2020.
- 35 Ibid.
- 36 Economic Policy Institute. "Black Workers Face Two of the Most Lethal Preexisting Conditions for Coronavirus—Racism and Economic Inequality." Accessed June 10, 2020. <https://www.epi.org/publication/black-workers-covid/>.
- 37 Allegretto, Sylvia, and David Cooper. 2014. Twenty-Three Years and Still Waiting for Change. Economic Policy Institute, Briefing Paper #379. <http://www.epi.org/publication/waiting-for-change-tipped-minimum-wage/>.
- 38 See endnote 22.
- 39 Ibid.
- 40 "Economic News Release: Table 2. Unemployment Insurance (UI) Benefit Applicants and Recipients among Unemployed Persons Who Had Worked in the Past 12 Months by Characteristics of Last Job, 2018." U.S. Bureau of Labor Statistics. Accessed April 10, 2020. <https://www.bls.gov/news.release/uisup.t02.htm>.
- 41 To determine the change in tipping percentages since the emergence of COVID-19, we conducted 244 surveys with service workers throughout the states of Massachusetts, Illinois, New York and also DC from July 31, 2020 –August 9, 2020. Additional data points in the survey included information about unemployment insurance and fears about returning to work.
- 42 Ibid.
- 43 Ibid.
- 44 Ibid.
- 45 Ibid.



# A PERSISTENT LEGACY OF SLAVERY

Ending the Subminimum  
Wage for Tipped Workers  
as a Racial Equity Measure



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