



Intentional Inequality

How the Subminimum Wage for Tipped Workers, Created to Deny Black Women a Wage, Exacerbates an Ongoing Race-Gender Pay Gap in the Restaurant Industry



FOOD LABOR
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Black Women's Equal Pay Day



Introduction & Key Findings

The restaurant industry is one of the fastest-growing but lowest-paying industries in the United States, due largely to the subminimum wage for tipped workers. A legacy of slavery, the subminimum wage for tipped workers has resulted in a persistent gender and racial wage gap. It has also forced a workforce that is overwhelmingly women and disproportionately women of color to tolerate inappropriate customer and supervisor behavior because their income is so dependent on customer tips.¹



In December 2020, One Fair Wage released survey data in which restaurant workers reported that their conditions worsened during the pandemic, with tips dramatically decreasing and sexual harassment both increasing in quantity and severity — becoming life-threatening.² In 2021, Bureau of Labor Statistics data revealed that nearly one million workers left the industry, and further One Fair Wage surveys revealed that a majority of workers who remain working in restaurants are leaving, citing low wages, decreased tips, and increased hostility and harassment as the primary reasons for their departure.³

Taking these findings further, in 2022, One Fair Wage surveyed over 1,000 workers who remained in the industry on their wages and tips, experiences of harassment from both customers and supervisors, and factors driving them to leave the industry. Further analysis shows that all of these conditions were much worse for Black women, exacerbating a wage gap created intentionally at Emancipation to deny Black women a wage.

Three key findings emerged from this analysis:

1) Black women in the industry continue to earn less than white men.

The restaurant industry has always had notoriously high gender and racial wage gaps. This has persisted through the pandemic and through record high inflation in 2022. Black women in the restaurant industry in front of house positions make \$2.57 an hour less than their white male counterparts, which can also be understood as \$5,345 of income lost every year.⁴ Among front of house restaurant workers this increases to \$6.19 an hour, or \$12,875 annually.⁵

2) Black women are more likely to not earn enough tips to bring them to the minimum wage, and more likely to experience customer harassment.

Of those surveyed by One Fair Wage,

- a) More than half (53 percent) of Black women surveyed reported their tips did not bring them to the full minimum wage at least once over the last month, compared to 38 percent of white men. Nearly one quarter of Black women (22 percent) reported that this occurred daily, compared to 10 percent of all white men surveyed.

b) Black women were more than 3 times as likely to report that they experienced higher levels of customer hostility during the pandemic compared to white men (20 percent v. 6 percent).

3) Due to these challenges, Black women are leaving the industry, but are more resilient than others.

Given the decline in tips and ongoing violations of their rights, over one third (36 percent) of Black women report that they are considering leaving the industry. However, other groups have expressed even higher rates of desire to leave; 41 percent of white men surveyed reported that they are considering leaving. Given this comparative resilience of Black women restaurant workers and commitment to their profession, the restaurant industry should invest in ensuring Black women stay in the industry.

BACKGROUND:

The Subminimum Wage for Tipped Workers – an Original Equal Pay issue

**Black Women's
Equal Pay Day
in 2022 is
September 21**



Black Women's Equal Pay Day represents the amount of time it takes for a Black woman to earn the amount that a white non-Hispanic man earns in one year. Based on ACS Census data, the 2021 wage gap for Black women compared to non-Hispanic white men is 58 cents.⁶ In other words, in 2021, Black women, on average made 58 cents for every dollar a white man made, and it thus takes more than one year and nine months for a Black woman to earn what a white man earns in one year.

The race and gender wage gap is a large and complex issue with many causes and antecedents, despite what some in the media might explain away as the results of individual choices.⁷ From the outset women and women of color experience occupational segregation that concentrates them in lower paying industries which women have traditionally occupied, rather than the more lucrative industries which men occupy.⁸ Since the 1970's women have increasingly been moving into more male dominated fields, such as finance, sales, or engineering, yet the overall share of women in traditionally female industries remains largely unchanged.

Researchers found that since 1972, the share of male nurses increased by 400 percent, but nine-in-ten nurses are still women.⁹

Although women are increasingly moving into higher paying industries, they still are burdened by a persistent wage gap. In fact, even within the same industry, whether male dominated or not, there remains a pay differential where men consistently earn more than women.¹⁰ This is also true within occupations. According to data compiled by the American Association of University Women, of 114 occupations held by at least 50,000 men and women each, 107 had a statistically significant pay gap favoring men and six. Only in one of the 114 occupations did women make more than men.¹¹ As One Fair Wage has shown in



the past, within occupations in a given industry, the gender gap affects women of color significantly as they are concentrated in less lucrative positions. Among jobs in the restaurant industry for example, women of color are more likely to work in more casual family restaurants where tips tend to be lower, than in fine dining establishments where tips tend to be higher.¹² While these observable gaps account for much of the gap between men and women's wages, they are not complete. Factoring in industry, occupation, age, education, region, and unionization, as much as 38 percent of the wage gap is unaccounted for and likely comes from direct discrimination and bias.¹³



Compared to other industries in which the race-gender pay gap is a result of at least partially unintentional industry and occupational segregation, the subminimum wage for tipped workers is an original, completely intentional pay structure created purposefully to deny Black women any wage at all. In 1853, after waiters, who were mostly white men, went on strike in major cities across America, the restaurant industry sought to first replace them with women, in order to pay them less.¹⁴ At Emancipation, they found an even cheaper source of labor.



Restaurant owners began to hire newly freed slaves — Black women in particular — forcing them to live on tips exclusively, rather than earning any wage at all.¹⁵ This notion of tips as wage replacement, the source of the subminimum wage for tipped workers, persists until this day. In this way, the two-tiered system for tipped and non-tipped workers is, in effect, a two-tiered system for women in general and women of color in particular — created intentionally to be able to pay Black women nothing at all.

Key Findings

1) Black women in the industry continue to earn less than white men.

The restaurant industry has always had notoriously high gender and racial wage gaps. This is the outcome of years of lobbying by the National Restaurant Association starting from the time of emancipation to to hire newly freed people, especially women at zero dollar wages. The racial and gender wage gap has persisted over decades and across states, inviting customer bias to determine people's livelihoods. The past few years, with the pandemic and record high inflation rates has only exacerbated this divide.

As noted earlier, based on 2021 aggregated data, Black women in the restaurant industry make \$2.57 an hour less than their white male counterparts, which can also be understood as \$5,345 of income lost every year.¹⁶ Among front of house restaurant workers this increases to \$6.19 an hour, or \$12,875 annually.¹⁷ Research shows that the pay gap in the restaurant industry is due to both implicit bias in customer tipping and segregation of Black women into more casual restaurants, where tips are less.¹⁸

The subminimum wage for tipped workers thus exacerbates the pay gap by forcing workers

to rely on tips, which are less for Black women because they are more likely to be segregated into restaurants where tips are less, and because evidence now shows that even when they work in fine dining establishments, they earn less than their white male counterparts due to customer implicit bias in tipping.^{19,20} These inequities have persisted and grown as the sub-minimum wage has stagnated for three decades at \$2.13 an hour at the federal level, even as the cost of living continued to rise — subjecting all workers to greater dependence on these racial inequities of tipping.

The race-gender pay gap in the restaurant industry is further compounded by differences in benefits received by groups based on their race and gender. White men in the industry receive health care from their employers at a higher rate than Black women: 15 percent of white men in the industry surveyed stated their employer pays a portion of their health insurance compared to only 8 percent of Black women.

2) Black women are more likely to not earn enough tips to bring them to the minimum wage, and more likely to experience customer harassment.

Federal law requires employers of tipped workers to ensure that tips bring them to the full minimum wage; if they do not, employers are required to pay workers the difference.²¹ The restaurant industry has a long history of non-compliance with these legal requirements; in 2018, the Obama administration conducted a thorough investigation of restaurants on the issue and found an 84% non-compliance rate with regard to the legal requirements surrounding the two-tiered wage system.²² However, in earlier surveys, generally no more than one quarter of restaurant workers reported that they had not received enough tips to bring them to the full minimum wage.²³

During the pandemic, however, thousands of workers reported that their tips dramatically decreased — with much higher rates of decline for Black women.²⁴ Shockingly, this has now resulted in more than half (53 percent) of Black women in our most recent 2022 survey reporting that their tips did not bring them to the full minimum wage at least once over the last month, compared to 38 percent of white men. Nearly one quarter of Black women (22 percent) reported that this occurred daily, compared to 10 percent of all white men surveyed. These statistics show a dramatic increase — in fact, a doubling — of the percentage of Black women reporting that they are consistently experiencing illegal wage theft.

Employers are also obligated by law to ensure that restaurant workers do not experience a hostile work environment due to their race and gender. However, Black women restaurant workers in our survey were more than 3 times as likely to report that customer hostility increased during the pandemic compared to white men (20 percent of Black women compared to 6 percent of white men). During the pandemic, hundreds of women reported that they were regularly asked to remove their masks so that male customers could judge their looks and their tips on that basis, and many Black



workers reported experiencing racial epithets and discrimination from customers.^{25,26} For Black women, the combination of race and gender discrimination and harassment has created a consistently hostile work environment that constitutes an ongoing violation of their rights.



3) Due to these challenges, Black women are leaving the industry, but are more resilient than others.

Given the decline in tips and ongoing violations of their rights, over one third (36 percent) of Black women report that they are considering leaving the industry. However, other groups have expressed even higher rates of desire to leave; 41 percent of white men surveyed reported that they are considering leaving. Given this comparative resilience of Black women restaurant workers and commitment to their profession, the restaurant industry should invest in ensuring Black women stay in the industry. Of Black women surveyed who reported that they are considering leaving, 51 percent report that “a full, stable, livable wage” would make them consider staying in the industry.



CONCLUSION:

The Pay Gap Cannot Be Closed Without One Fair Wage

Unique among pay inequities, the subminimum wage for tipped workers was an original pay gap created intentionally to deny Black women any wage at all, forcing them to live on tips. This original and intentional pay inequity has been compounded over the last 160 years since Emancipation by ongoing inequities in hiring by employers and tipping and harassment by customers — resulting in an unlivable situation for Black women. The fact that Black women persist in the restaurant industry is a testament to many of these workers’ pride in their work as hospitality professionals who deserve to be remunerated as such.

While customer biases cannot be changed quickly, the law can and should be. This legally sanctioned pay inequity, continuing to allow employers to pay a subminimum wage, must end. Legislation that removes this carve out for tipped workers is needed in the 43 states that do not yet have it. Passing One Fair Wage legislation is a critical step to removing an original and intentional pay gap on the long road to Black women’s fully equal pay in the United States.



APPENDIX: Methodology

For this report related to the experiences of Black women in the restaurant industry, data about worker experiences comes from a survey of over 1,000 respondents who reported that they are current or former tipped workers, conducted from June 06 to September 15. The survey asked them primarily about working conditions in the restaurant industry through the pandemic. An online version of the survey was sent to a pool of tipped service workers across the country, and an in-person version was utilized by surveyors in Colorado, Michigan, Illinois, Louisiana, Ohio, New York and Puerto Rico. This data is not exhaustive.

To estimate the average wages of restaurant workers, and front of house restaurant workers in particular, along demographic lines, One Fair Wage based their analysis on Economic Policy Institute microdata samples of CPS Outgoing Rotation Group data from 2021. The wage data is adjusted for top-coding and imputations, and trimmed of extreme values. The reported wage data is also inclusive of workers' base wages plus any overtime pay, tips and commissions.

ENDNOTES

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