

Behind the Kitchen Door:

PERVASIVE INEQUALITY IN NEW YORK CITY'S
THRIVING RESTAURANT INDUSTRY



By the **Restaurant Opportunities Center of New York (ROC-NY)**
and the **New York City Restaurant Industry Coalition**

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Executive Summary

B*ehind the Kitchen Door: Pervasive Inequality in New York City's Thriving Restaurant Industry* was conceived of and designed by the New York Restaurant Industry Coalition - a broad gathering of academics, community economic development organizations, policy analysts and policy makers, immigration advocates, worker organizers, unions, and restaurant industry employers. It represents one of the most comprehensive research analyses of the restaurant industry in New York City, and builds on our July 2003 report, *The New York City Restaurant Industry Analysis: Quantitative Report*.

The information summarized in the report is based on the results of 530 worker surveys, 45 one-hour interviews with restaurant workers, and 35 interviews with restaurant employers in New York City. The results of this primary research are supplemented by analysis of secondary industry and government data, as well as a review of existing academic literature.

Our study was inspired by the need for examination and analysis of the overall health of an industry so fundamental to New York City's economy and so critical to the lives of thousands of restaurant workers and employers. The restaurant industry is an important and growing source of locally based jobs, and provides considerable opportunity for development of successful businesses. It is therefore essential to make information about the industry from the perspectives of both workers and employers available to all stakeholders to ensure the industry's sustainable growth.

A Resilient and Growing Industry

New York City is home to a vibrant, resilient, and growing restaurant industry. Close to 15,000 food service and drinking places, including some of the nation's largest and most profitable, make significant contributions to the city's tourism, hospitality and entertainment sectors and to its economy as a whole. In 2000, the industry accounted for over \$8 billion of the city's revenue, a figure projected to increase to \$13 billion by 2010. Since 1995, employment growth in the food services sector has outpaced that of New York City overall. Moreover, despite being hardest hit by job losses in the period immediately following September 11, 2001, the industry had recovered all lost jobs by 2003 (see further Chapter II).

But perhaps the industry's most important contribution to the city's economy is the thousands of job opportunities and career options it provides. New York City Restaurant's employ more than 165,000 workers – a number that is projected to increase by 14.6% by 2010. Moreover, formal credentials are not a requirement for the majority of restaurant jobs. The industry therefore provides much needed employment opportunities to new immigrants, whose skills and prior experience outside the United States may not be recognized by other employers, as well as to workers who have no formal qualifications and to young people just starting out in the workforce.

Many Bad Jobs, A Few Good Ones

There are two roads to profitability in New York City's restaurant industry – the “high road” and the “low road.” Restaurant employers who take the “high road” are the source of the best jobs in the industry – those that enable restaurant workers to support themselves and their families, remain healthy, and advance in the industry. Taking the “low road” to profitability, on the other hand, creates low-wage jobs with long hours, few benefits and exposure to dangerous, unhealthy and often-unlawful workplace conditions. Many restaurant employers in New York City appear to be taking the “low road,” creating a predominantly low-wage industry in which violations of employment and health and safety laws are commonplace.

- While there are a few “good” restaurant jobs in the restaurant industry, the majority are “bad jobs,” characterized by very low wages, few benefits, and limited opportunities for upward mobility or increased income. According to the U.S. Bureau of Labor, the median wage for restaurant workers is only \$9.11, which means that half of all New York City restaurant workers actually earn less. In our own survey of restaurant workers the vast majority (90%) reported that they do not have health insurance through their employers (see further Chapter III).
- Earnings in the restaurant industry have also lagged behind that of the entire private sector. In terms of annual earnings, restaurant workers on average made only \$19,632 in 2000 compared to \$46,654 in the private sector – a gap which increased by 17% since 1990.
- A Number of workers in our study reported overtime and minimum wage violations, lack of health and safety training and failure to implement other health and safety measures in restaurant workplaces. Most workers surveyed in our study (59%) experienced overtime violations and 13% reported minimum wage violations.
- It is largely workers of color, and particularly immigrants of color, who are concentrated in the industry’s “bad jobs,” while white workers tend to disproportionately hold the few “good jobs.” Workers also reported discriminatory hiring, promotion and disciplinary practices, as well as verbal abuse motivated by race, national origin or English language facility – 33% of workers that we surveyed reported experiencing verbal abuse on the basis of race, immigration status or language. Similar numbers also reported that they or a co-worker had been passed over for a promotion based on race, immigration status and language (see further Chapter V).

The Social Costs of Low-Wage Jobs

Our research also reveals the “hidden costs” to customers and taxpayers of low-wage jobs and “low road” workplace practices.

- Violations of employment and health and safety laws place customers at risk and endanger the public. For example restaurant employers who violate labor laws are also more likely to violate health and safety standards in the workplace – such as failing to provide health and safety training, or forcing workers to cut corners that harm the health and safety of customers (see further Chapter VI).
- The pervasiveness of accidents coupled with the fact that so few restaurant workers have health insurance can lead to escalating uncompensated care costs incurred by public hospitals. For example, 30% of surveyed workers reported that they or a family member had visited the emergency room without being able to pay for their treatment.
- Finally, low wages and lack of job security among restaurant workers lead to increased reliance on unemployment insurance and social assistance programs resulting in an indirect subsidy to employers engaging in “low road” practices and fewer such public resources available to all those in need.

A key finding of our research is that whenever restaurant workers and “high road” employers are hurt by “low road” practices, so is the rest of society.

The High Road Is Possible

It is possible to create good jobs while maintaining a successful business in the restaurant industry. Our interviews with employers revealed that as long as there is an enduring commitment to do so, it is possible to run a successful restaurant business while paying living wages, providing standard workplace benefits, ensuring adequate levels of staffing, providing necessary training, and creating career advancement opportunities.

- In fact, 20% of the workers we surveyed reported earning a living wage, and similar numbers reported receiving benefits, thereby demonstrating both the existence of “good jobs” and the potential of the industry to serve as a positive force for job creation.
- Workers who earn better wages are also more likely to receive benefits, ongoing training and promotion and less likely to be exposed to poor and illegal workplace practices. For example, workers earning \$13.46 per hour were also much more likely to have health insurance than workers earning less than the minimum wage of \$5.15 per hour; they were also almost twice as likely to have received training to be promoted and over four times as likely to have been promoted in their current workplace.

Our Recommendations

The Restaurant Industry Coalition recommends the following steps to address the workplace problems documented in our study:

- Labor, employment and health and safety standards should be strictly enforced. Employers must also be educated about their legal responsibilities towards their employees and provided necessary support to observe their obligations to their workers and to the public. It is in the interest of both workers and the public at large that existing standards be observed and enforced.
- Initiatives and incentives should be considered to assist and encourage employers to provide living wages, basic workplace benefits and opportunities for advancement to restaurant workers. Such initiatives could include rent and property tax incentives for employers who implement exceptional workplace practices, and subsidies to employment-based health insurance or support of collective health insurance provision across the industry.
- Policy makers must explore initiatives that encourage internal promotion and discourage discrimination on the basis of race and immigration status in the restaurant industry.
- Model employer practices should be publicized to provide much-needed guidance to other employers in the industry. The vast majority of employers we interviewed agreed in theory that “high road” workplace practices were better. However, many appeared unable to implement them in practice.
- Barriers to organizing restaurant workers should be addressed and the public benefits of unionization in this and other industries should be publicized in light of the significant benefits to workers and employers alike which can arise as a result of the unionization of restaurant workers.
- Further study and dialogue should be undertaken with the full participation of restaurant workers, employers and decision-makers in order to ensure effective and sustainable solutions to the issues identified in our study – especially discrimination based on race and immigration status, and the impacts on health care and public program costs occasioned by industry practices.

The information gleaned from workers, employers, and industry experts and summarized here is critical to ensuring that New York City’s restaurant industry truly shines as not only an important contributor to the city’s job market and economy, but also to the well-being of its workers and communities.

Dedicatated to Floriberto Hernandez, restaurant worker and leader in the fight for social justice, to our 73 lost brothers and sisters at Windows on the World, immigrant restaurant workers all, and to all restaurant workers citywide.



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Design by Dan Dean

CHAPTER I

Introduction & Methodology

“The restaurant and bar industry makes up a critical component of our economy. Not only does it account for a significant part of our employment base, but the huge diversity of the City’s restaurants and bars are a major reason people want to live here and companies want to locate here.”

— Andrew Alper,
New York City Economic Development Corporation President¹

The New York City restaurant industry has enormous potential, both as an employer and as an engine of economic growth. Over the past twenty years, there has been tremendous expansion in the food and beverage service sector, and despite the recent economic downturn, it continues to grow faster than other industries. According to the Zagat Survey Guide to New York City’s restaurants,² 226 new eating establishments opened in New York City in 2004 – the largest annual increase since 2000.³

The city’s restaurants are an important source of jobs for New Yorkers – particularly for new immigrants whose credentials, skills, and prior experience outside the United States may not be recognized by other employers, for workers who have no formal qualifications and for young people just starting in the workforce. Restaurants are central to the appeal of a cosmopolitan city like New York, and therefore the jobs they bring are unlikely to move out of the city. A number of restaurant workers earn good wages and enjoy workplace benefits. The industry also offers opportunities for advancement, even for joining the ranks of the many entrepreneurs who have fulfilled their dream of opening their own restaurants. Most jobs in the industry, however, are characterized by low wages - sometimes below poverty level - few benefits such as health insurance, few sick and vacation days, few opportunities for advancement, and exposure to poor and illegal workplace conditions.

Our primary research, review of existing literature, and analysis of government and industry data reveal that there are two roads to profitability in New York City’s restaurant industry – the “high road” and the “low road.” Restaurant employers who take the “high road” are the source of the best jobs in the industry – those that enable restaurant workers to support themselves and their families, remain healthy, and advance in the industry. Taking the “low road” to profitability, on the other hand, creates low-wage jobs with long hours and few benefits. It ultimately harms workers, other restaurant employers, consumers, public health, and taxpayers.

Our research, as well as existing government and industry statistics, indicates that the majority of New York City’s restaurant industry, like many others, is employing “low road” workplace practices, contributing to the creation of a predominantly low-wage industry in which few workers enjoy basic workplace benefits and safe and healthy working conditions. Additionally, such practices often lead to the violations of workers’ basic rights, enshrined in federal and state wage and hour laws and health and safety regulations. As a result, as the restaurant industry creates jobs, it is contributing to the proliferation of “bad” jobs in the current economy – jobs that cannot sustain, and in some cases harm workers, their families, and our communities. Our worker

ABOUT THIS STUDY

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The information summarized in this report is based on the results of over five hundred worker surveys and 45 one-hour interviews with restaurant workers, and 35 interviews with restaurant industry employers in New York City, collected over a two-year period.⁴ The results of this primary research are supplemented by analysis of secondary industry data and a review of existing academic literature.

This project was inspired by the need for examination and analysis of the overall health of an industry fundamental to New York City’s economy and critical to the lives of thousands of restaurant workers and employers. The restaurant industry is an important and growing source of locally based jobs and provides considerable opportunity for development of successful businesses. It is therefore essential to make information about the industry from the perspectives of both workers and employers available to all stakeholders to ensure the industry’s sustainable growth.

TERMS USED IN THIS REPORT

"Front of the House" and **"Back of the House"** refer to restaurant industry terms for the placement and function of workers in a restaurant setting with the former generally representing those interacting with customers in the front of the restaurant including wait staff, bussers and runners; and the latter referring generally to kitchen staff including chefs, cooks, food preparation staff, dishwashers and cleaners.

"High Road" and **"Low Road"** are industry terms referring to opposing business strategies for achieving productivity and profitability. In this report, the former is used to denote employer practices that involve investing in workers by paying living wages, providing comprehensive benefits, opportunities for career advancement, and safe workplace conditions as means to maximize productivity. The results are often reduced turnover as well as better quality food and service. The latter refers to strategies that involve chronic understaffing, cutting labor costs even lower, failing to provide benefits, pushing workers to cut corners, and violating labor, employment and health and safety standards.

surveys and interviews reveal the reality behind the numbers – the very real impacts such practices have on people's lives. Our interviews with employers highlight many of the factors that drive them to take the "low road" to profitability, often against the principles of good business practice they espouse, as well as strategies employed by some restaurant employers to overcome them. It is possible to achieve success in the restaurant business by pursuing the "high road," but pervasive use of "low road" workplace practices undercuts employers' ability to do so. Our research also demonstrates the importance to public health – and public coffers – of encouraging and supporting the majority of restaurant employers to change paths.

Another finding of our research is the degree of separation – and racial disparity - that exists between workers the average restaurant diner interacts with and those who remain hidden in the "back of the house." Restaurant staff working in the "front of the house" enjoy better wages, working conditions, training, and opportunities for advancement than those behind kitchen doors. Perhaps not surprisingly, the majority of whites working in the New York City restaurant

industry are employed at the front of the house. Conversely, there is considerable concentration of workers of color, and particularly Asian, Latino,⁵ and Afro Caribbean immigrants in the back of the house – in the lowest paid jobs requiring the longest hours, featuring the greatest health and safety hazards, and offering the fewest opportunities for advancement. In addition to these disparities, restaurant workers we spoke with reported verbal abuse, excessive discipline, and barriers to promotion they believed to be based on race, immigration status, and English language proficiency in disturbing proportions.

By bringing together in this report the perspectives of employers on both the "high road" and the "low road," the experiences of workers, academic research, and government and industry data, we have created a unique and rich source of information on the city's restaurant industry which can serve to guide efforts to shift the balance toward the "high road," away from discriminatory workplace practices, and toward fulfilling the restaurant industry's potential to serve as a positive engine of economic growth in New York City.



CHAPTER II
**Overview of the New York City
Restaurant Industry**

CHAPTER II

Overview of the New York City Restaurant Industry

New York City is home to a vibrant, resilient, and growing restaurant industry that contributes significantly to its economy, tax base, and appeal.

Many New Yorkers' experiences of the city's restaurants remain limited to sampling their fare as customers. The mechanics of how their meal reaches the table, as well as who is involved in getting it there, remain somewhat of a mystery to most New York diners. In this chapter, using government and industry data, we provide a brief introduction to the restaurant industry to serve as a backdrop to our research findings and provide a context for the experiences of restaurant workers and employers. Key points to be drawn from government and industry data are:

- The restaurant industry is growing – both in absolute number of jobs created, and in share of total city employment. It is also resilient. Despite dramatic job losses in recent years, the industry has rebounded more quickly than others tied to the city.
- The New York City restaurant industry provides over 165,000 jobs to the city's workforce and as the industry continues to grow, so will the number of jobs.
- The majority of restaurants and jobs are concentrated in Manhattan, and most restaurant workers are employed in full-service restaurants.
- On the whole, restaurant work is poorly paid. The majority of restaurant workers earn less than \$10.00 an hour. Earnings in the restaurant sector have stagnated in comparison to other private sector industries.
- The restaurant workforce has changed over the last twenty years. Today, restaurant workers are disproportionately Asian and Hispanic, and whites and Non-Hispanic Blacks are underrepresented in the restaurant workforce. The vast majority of restaurant employees were born abroad. Restaurant workers are also younger, on average, than the workforce as a whole. And, unlike that of other service sector industries, the restaurant workforce is predominantly male.

TABLE 1. Employment in the Food Services Sector and Other Select Industries, New York City, 2004

Industry	Employment (in 1000s)	Share of Total Employment
Total NYC Employment	3,551.5	100.0%
Food Services and Drinking Places	169.5	4.8%
Securities	163.4	4.6%
Hospitals	161.4	4.5%
Manufacturing	117.5	3.3%
Real Estate	117.4	3.3%
Construction	108.6	3.1%

Source: NYS Department of Labor Current Employment Statistics, July 2004.

A. A Significant and Growing Industry

New York City has been described, among other things, as the restaurant capital of the world. Nowhere are there more restaurants per square mile than in New York City. The city is home to almost 15,000 food service and drinking places,⁶ a number that grew substantially in the 1990s, fueled by especially rapid growth in Manhattan, and is expected to keep growing. New York City is also home to a number of the nation's largest and most profitable restaurants.⁷ An industry publication reports that 24 of the top 100 highest grossing restaurants in the United States in 2002 were located in New York City -- a significant number given that only approximately three percent of the U.S. population resides in the city's five boroughs.⁸

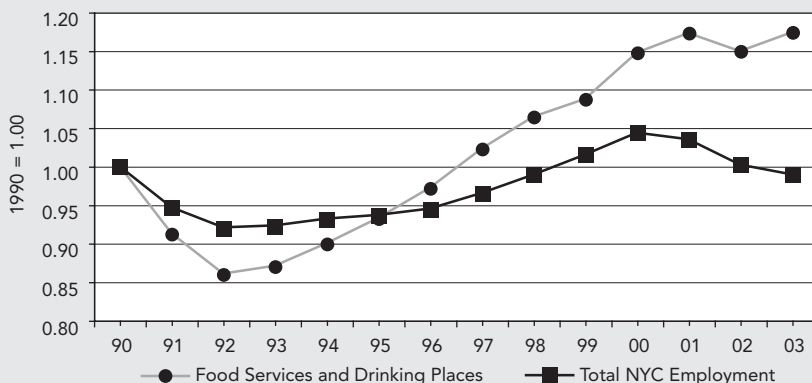
The restaurant industry makes a number of key contributions to the city's vibrant tourism and hospitality sectors, and to the economy as a whole. The industry accounted for over \$8 billion of the city's revenues in 2000, a figure projected to exceed \$13 billion by 2010.⁹ But perhaps the industry's most important contribution to the local economy is the thousands of employment opportunities it provides.

Although considerable skills are needed to work in the industry, no formal credentials are generally required, making restaurants a particularly important source of employment to workers who have not had the opportunity to pursue formal training and of entry level positions crucial to younger workers. Restaurant employment also serves as an important entry point into the job market for new immigrants to the United States, whose credentials and experience abroad, however substantial, are often not recognized by other employers.

B. How Many Jobs?

As indicated in Table 1, the "Food Services and Drinking Places" sector provides over 165,000 jobs per year in New York City (hereafter we use the shorthand "food services sector"). Although the sector contributes just 5% of total payroll employment in the city, and therefore may seem a minor player in the local economy when compared to the finance or healthcare sectors, it now employs more people than a wide variety of both old and new economy industries such as construction, manufacturing, securities, real

FIGURE 1. Job Growth in the Food Services Sector and in Total Employment, New York City, 1990-2003



Source: NYS Department of Labor, Current Employment Statistics.

estate, and hospitals. Although the city's food services sector was hardest hit by job losses in the period immediately following September 11, 2001 by losing over 12,000 jobs, it recovered 45% of lost jobs by June of 2002, and 100% by 2003.¹⁰ Additionally, the New York Department of Labor projects that food and beverage service occupations will grow by 14.6% between 2000 and 2010, expanding the number of jobs in the industry.¹¹

Figure 1 depicts employment growth in the food services sector from 1990 to 2003, compared to job growth citywide. Since 1995, employment growth in the food services sector has outpaced that of

New York City overall. Between 1990 and the 2000 business cycle peak, the sector's employment grew by 14.8% compared with a notably more modest rise of 4.4% in citywide job growth. The recession that began in early 2001 resulted in a sharp decline in overall payroll employment locally. Unlike other local and national industries, however, the food services sector quickly recovered from the downturn, regaining all the jobs it lost by 2003.

C. What Kind of Restaurant?

The food services sector is generally considered to be made up of four distinct industries: full-service restaurants, limited-service eating places, special food services and drinking places.¹² The restaurant industry is generally understood to include the first two of these – full-service restaurants and limited-service eating places. Table 2 details employment levels for each of these two types of restaurants between 1990 and 2003. Over this period, employment growth in full-service restaurants outpaced that in other parts of the industry, increasing its share of industry-wide employment.

TABLE 2. Restaurant Industry Employment, New York City, 1990 and 2003 (In thousands)

Year	Full-Service Restaurants	Limited-Service Eating Places
1990	68.2	45.7
2003	86.9	50.2
Change in Employment, 1990-2003	18.7	4.5
Percentage Increase in Employment, 1990-2003	27.4%	9.8%
Share of Food Services Sector in 1990	48.9%	32.7%
Share of Food Services Sector in 2003	53.0%	30.6%

N.A.: Not Available
Source: NYS Department of Labor, Current Employment Statistics.

D. Where are the Jobs?

The borough of Manhattan is central to the New York City restaurant industry. As indicated by the data contained in Table 3, the borough accounts for 78.9% of the city's employment in full-service restaurants, and half (49.6%) of the city's limited service eating places.

TABLE 3. Employment by Borough in the Restaurant Industry, New York City, 2001

	Total NYC	Bronx	Brooklyn	Manhattan	Queens	Staten Island
Full-Service Restaurants	100.0%	2.6%	7.2%	78.9%	8.7%	2.6%
Limited-Service Eating Places	100.0%	9.6%	16.6%	49.6%	19.3%	4.9%

Source: U.S. Bureau of the Census, County Business Patterns, 2001.

E. Who Gets the Jobs?

Most jobs in the restaurant industry do not require much formal education, and, with the exception of chefs and sommeliers, employers generally do not require workers to have educational degrees or vocational certification. This is not to say that restaurant workers do not have skills or that restaurant work is not demanding. Back of the house workers must cope with a pressure-filled environment, and be able to complete the tasks required to accurately fill orders in a timely and quality fashion – often in hot, cramped workspaces. Front of house staff and other employees who interact with customers need a well-developed knack for relating to people, time and task management skills, and a working knowledge of food preparation and presentation.

The industry is consequently an important source of jobs and income for large numbers of new workers who do not have formal training or are new to the workforce. The industry is also a source of employment to immigrants – particularly new immigrants, whose prior education and experience abroad is often not recognized by employers in the U.S. The Bureau of Labor Statistics reports that the restaurant industry

TABLE 4. A Demographic Profile of New York City's Restaurant Workers, 1980 and 2000
(column percentages)

		Restaurant Workers			2000 only	
		1980	2000	Difference* (2000-1980)	All New York City Workers	Difference* (Restaurant Workers- All Workers)
Sex	Male	69.7	67.6	-2.0	51.8	15.8
	Female	30.3	32.4	2.0	48.2	-15.8
Age group	16-24	25.7	26.5	0.9	12.2	14.3
	25-44	45.4	53.1	7.8	53.8	-0.6
	45-64	26.1	18.9	-7.2	30.8	-11.9
	65 and older	2.8	1.4	-1.4	3.2	-1.8
Race/Ethnicity	Non-Hispanic White	51.8	27.0	-24.8	41.2	-14.2
	Non-Hispanic Black	11.3	11.6	0.3	21.8	-10.2
	Asian and Other	16.3	26.6	10.3	14.9	11.7
	Hispanic, any race	20.5	34.9	14.4	22.1	12.8
Nativity	Citizen by Birth	52.5	35.6	-16.9	56.6	-21.0
	Foreign born	47.5	64.4	16.9	43.4	21.0
Place of Birth	Continental U.S.	46.4	33.3	-13.1	52.9	-19.6
	U.S. Territories	5.5	1.8	-3.7	3.0	-1.2
	Mexico & Central America	1.6	12.2	10.6	3.6	8.6
	Caribbean	6.9	11.1	4.2	12.7	-1.6
	South America	4.4	8.8	4.5	6.5	2.3
	Europe (including USSR)	16.3	7.8	-8.5	8.4	-0.5
	China, Hong Kong, Macau, Taiwan	11.7	13.1	1.4	4.2	8.9
	Other Asian	3.9	9.6	5.7	6.6	3.0
	Africa and All Other	3.3	2.2	-1.1	2.2	0.1
Years in U.S.	Born in the U.S.	52.5	33.3	-19.2	52.9	-19.6
	0-5	11.4	17.5	6.0	7.9	9.5
	6-10	12.7	16.3	3.6	9.3	7.0
	11-15	9.1	13.1	3.9	8.6	4.5
	16-20	4.8	9.0	4.2	6.9	2.1
	21 or more	9.4	10.9	1.5	14.4	-3.5
Ability to Speak English	Speaks only English	46.9	32.8	-14.2	54.9	-22.1
	Speaks very well	16.5	22.5	6.1	23.7	-1.2
	Speaks well	18.4	18.9	0.5	11.3	7.5
	Speaks, but not well	13.6	18.3	4.7	7.5	10.8
	Does not speak English	4.6	7.6	3.0	2.5	5.1
Educational Attainment	Less than High School	45.8	40.0	-5.9	17.7	22.3
	High School Degree	30.2	26.5	-3.7	21.7	4.8
	Some College	14.4	20.2	5.8	24.7	-4.5
	Bachelors Degree and Higher	9.5	13.4	3.8	35.9	-22.6

* Difference is percentage point difference
Source: U.S. Bureau of the Census, Public Use Micro Sample from 2000 and 1980 Census.

is the single largest employer of immigrants in the nation. Immigrants represent more than 1.4 million or 17.5% of the industry's 8 million employees nationwide.¹³ Immigrant restaurant workers represent an even greater proportion of restaurant employees in New York City, as demonstrated by Table 4.

F. What are the Characteristics of the Workforce?

The restaurant industry workforce has changed over the past twenty years (see Table 4). According to U.S. Census data, the average restaurant worker in New York City is becoming younger, and is now more likely than before to be Asian or Hispanic, to have been born outside the United States, and to have immigrated from Mexico or Central America. Middle aged and older workers are increasingly dropping out of the city's restaurant workforce. Since 1980, the number of Non-Hispanic white workers declined by 24.8%, as the proportion of Asian and Hispanic workers increased by 10.3% and 14.4%, respectively. And, while in 1980 less than half (47.5%) of New York City restaurant workers were born outside the U.S., by 2000 nearly two-thirds (64.4%) were. Workers born in Mexico and Central America increased their share of the industry workforce by 10.6% over the same period, while workers born in Europe declined by 8.5%.

G. What do the Jobs look like?

Jobs in the restaurant industry generally fall into one of three categories, each corresponding to different levels of compensation, potential for mobility, access to training, workplace conditions, and other important indicators of job quality:

1. Managers and supervisors, including chefs
2. Front of the house positions, including all staff who have direct contact with the customer
3. Back of the house positions, or those that do not regularly involve direct contact with customers, but are essential to a restaurant's functions

H. What do the Jobs Pay?

The data in Table 5 tells the tale of a predominantly low-wage industry. The median wage for all restaurant occupations in the New York City region is only \$9.11 an hour – in other words, half of restaurant workers in the region earn less while half earn more. Nearly six out of ten (58.5%) workers in the industry are employed in jobs for which the hourly median wage is below \$10.00. As will be discussed in greater detail in Chapters III and V, it is the newcomers to the restaurant industry – immigrants of color - who hold the majority of the lowest paid jobs.

While employment opportunity data may present a rosy picture of the restaurant industry, trends in restaurant wages over the past decade depict a more somber one. As Figure 2 illustrates, growth in average annual earnings in the industry has lagged behind that of the entire private sector in New York City, even when earnings in the city's highflying financial sector are discounted. In 2000 dollars, 1990 private sector annual earnings averaged \$40,933, but only \$17,847 in the restaurant industry. By 2000, private sector earnings had

TABLE 5. Employment and Median Wages for Food Preparation and Serving Related Occupations in New York City Region, 2003

Occupation	Employment Share	Median Wage
All Workers		\$9.11
Chef and head cooks	1.8%	\$17.21
Supervisors, front line/Managers of Food Preparation and Service	9.9%	\$13.70
Cooks, Restaurant	5.7%	\$13.45
Cooks, Cafeteria	2.6%	\$12.98
Food Servers, Nonrestaurant	2.4%	\$12.58
Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop	1.8%	\$10.65
Food Preparation Workers (other)	14.0%	\$10.12
Cooks, Short Order	1.3%	\$9.71
Waiters and Waitresses	22.0%	\$9.33
Bartenders	4.0%	\$9.14
Dining Room and Cafeteria Attendants and Bartender Helpers	3.5%	\$7.91
Dishwashers	5.5%	\$7.64
Counter Attendants, Cafeteria, Food Concession, and Coffee Shop	5.8%	\$7.21
Cooks, Fast Food	N.A.	\$6.99
Combined Food Preparation and Serving Workers, Including Fast Food	11.7%	\$6.89
Under \$10.00 per hour	58.5%	

N.A.: Not Available.

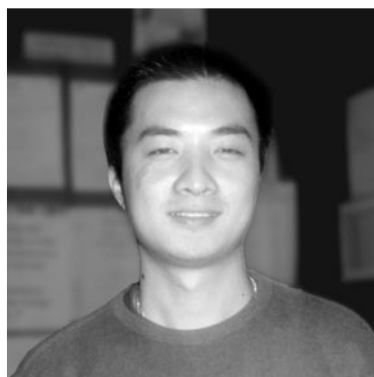
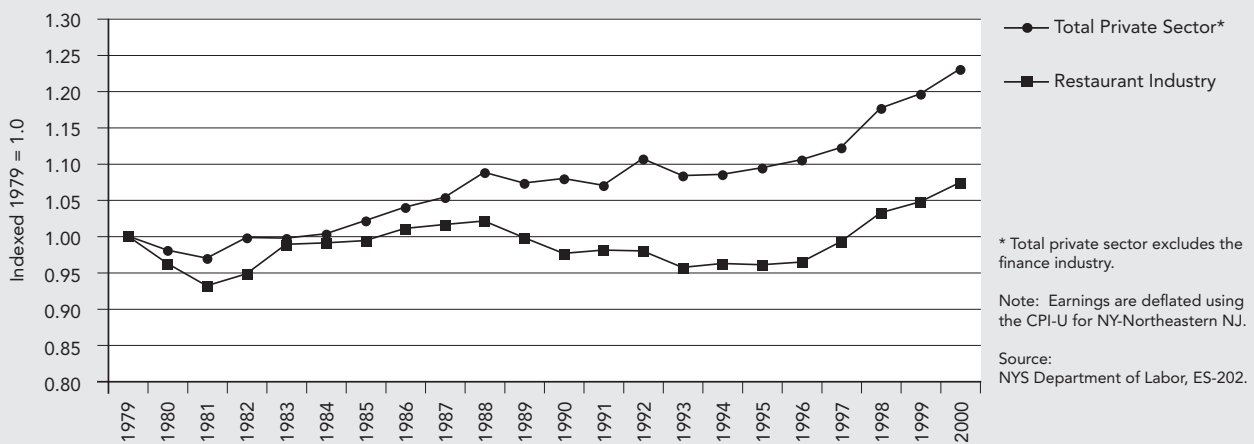
Employment is the estimate of total wage and salary employment in an occupation across the industries in which that occupation was reported. Wages for the OES survey include base rate, cost-of-living allowances, guaranteed pay, hazardous-duty pay, incentive pay including commissions and production bonuses, tips, and on-call pay.

Source: U.S. Bureau of Labor Statistics, Occupational Employment Statistics Survey for the New York PMSA, 2003

grown by 14% to \$46,654 a year, while wages in the restaurant industry increased by a mere 10% to only \$19,632 over the same period. Over the past decade, the gap between overall private sector earnings and average restaurant industry earnings grew from \$23,086 to \$27,022.

In sum, while the New York City restaurant industry is an important and growing source of income and employment, earnings lag far behind those of other private sector workers in the city, raising concerns about the proliferation of low-wage jobs. The restaurant industry contributes over 165,000 jobs to the New York City economy, but half of those jobs pay less than \$10 per hour. And, given the industry's increasing reliance on immigrants and people of color, it is already marginalized communities that are being forced into to these low-wage jobs.

FIGURE 2. Growth in Average Annual Earnings by Industry, New York City, 1979-2000



I came to the United States from Fujian province in China about six years ago. I have been working in restaurants since then in many capacities, including as a food preparation worker, waiter and as a chef.

I often work up to 12 hours per day and up to 80 hours per week and earn \$7.50 per hour. I don't have health insurance. In fact, I have never had it. Fortunately, I have never needed to see the doctor or visit the emergency room but I don't know what I would do if I had to. That is not to say that I haven't suffered many work related injuries. Kitchen work is dangerous and I have had a number of small cuts and burns because it's difficult to be careful all the time when there is pressure to perform and you are tired. Even if I hurt myself, I have to continue working. My job also involves handling heavy equipment, which can be dangerous when you are rushing around. The kitchen floor is always wet and slippery

because no one has time to clean it. It can be very dangerous when you're running around trying to fill orders so I bought my own waterproof shoes. Everyone I know who works in a restaurant kitchen buys boots. It's for our own protection because nobody would care if we injured ourselves.

I have never had any sick or vacation days - if I need to take a day off, I lose pay so I have never taken a break from work. I often have to work overtime, but at this restaurant, no one receives overtime pay. I've also never received a raise. I sometimes get a lunch break, but not every day - it depends how busy we are.

— Edgar, Chinese immigrant, Food Preparation Worker



CHAPTER III
Workers' Perspectives

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Workers' Perspectives

The information summarized in this chapter represents a compilation of the results of 530 surveys and 45 interviews with restaurant workers conducted between June and November 2003. By speaking directly with New York City restaurant workers we gathered valuable information enabling us to see beyond the statistics to a more complete picture of what it is really like to work in the city's eateries. We were also able to collect new data regarding the overall quality of their workplace experiences which is not reflected by existing statistics:

- Where earnings are concerned, our research results are consistent with existing data – the majority of restaurant workers we spoke with reported very low wages.
- Most restaurant workers do not receive important workplace benefits such as employer-provided health coverage, paid sick days or vacation days.
- Most restaurant workers we spoke with do not receive regular raises, promotions, or ongoing job training.
- A significant number of restaurant workers have unlawfully been paid less than the minimum wage.
- More than half the restaurant workers in our study are not paid overtime in contravention of governing laws. We also received reports from some workers that they were not being paid at all for any hours they worked beyond 40 despite routinely being required to do so.
- A substantial number of workers reported health and safety hazards at their workplace, compounded by a pervasive lack of health and safety training. Most said their workplaces were chronically understaffed, and that they are routinely required to perform several jobs at once. In addition, on the job injuries were reported by many of the workers we spoke with.
- Workers reported that assertions of their rights were met with verbal abuse and threats of retaliation.
- There are significant associations between low (and below minimum) wages – workers earning low wages are less likely to receive benefits, are more likely to be exposed to poor health and safety conditions, and less likely to be provided with job or health and safety training or to benefit from opportunities for advancement. Conversely, workers earning living wages are more likely to report provision of health insurance and benefits, as well as safer work environments.

A. Introduction and Methodology

The New York City restaurant industry is a growing source of employment for significant numbers of New Yorkers, and particularly for immigrants and people of color. Our findings reveal that these jobs are presently characterized by “low road” workplace practices, including low wages - often below the poverty line - long hours, few benefits, few opportunities for upward mobility, and poor and often unlawful workplace conditions. However, our research also reveals that such jobs are not a necessary feature of the restaurant industry. At least one fifth of the workers we surveyed reported earning living wages, and similar numbers reported enjoying comprehensive benefits, opportunities for career advancement, and better workplace conditions. While these workers are in the minority, their experiences reflect the reality that some restaurant employers in the industry are successfully pursuing the “high road” to profitability. The employer perspectives summarized in the next chapter offer important insight as to how the conditions described in this chapter can be addressed.

This study was motivated in part by the current dearth of qualitative data documenting the experiences of restaurant workers in the restaurant capital of the world. In an effort to pick up where official and industry statistics leave off, the New York Restaurant Industry Coalition conceived of a survey designed to capture detailed information regarding individual workers’ experiences beyond hour and wage data. The survey instrument explored the availability of benefits, working conditions, hiring and promotion practices, the existence of job-specific training opportunities, employer discrimination, and the nature of working conditions in the industry.

The survey was administered from June to November 2003 by staff, members, and volunteers from the Community Development Project of the Urban Justice Center (UJC) and the Restaurant Opportunities Center of New York (ROC-NY), Hotel Employees and Restaurant Employees’ (HERE) Local 100 and Andolan¹⁴ - all community-based organizations with significant contacts among restaurant workers and access to workplaces in the industry. A total of 530 surveys were conducted face-to-face with workers on subways, in neighborhoods, in the vicinity of restaurants during breaks or at the end of shifts, and inside restaurants. Employers were also asked to identify workers to participate in the study. We sought to effectively capture experiences in all types of restaurants, and surveyed workers in each of the three main segments of the industry.¹⁵

Additionally, in order to obtain a holistic picture of the daily lives of individual restaurant workers, Dr. Manny Ness of Brooklyn College, a prominent scholar with expertise in low-wage industries, conducted one-on-one interviews with 45 restaurant workers.

It is important to recognize that our survey was by no means administered to a random sample of restaurant workers. However, to the extent possible, we sought to replicate in our sample existing distributions of workers and employers within segments of the restaurant industry, the racial and ethnic makeup of New York City’s restaurant worker population, the proportion of workers employed in different types of positions, the proportion of the restaurant workforce which is organized into unions, and the geographic distribution of restaurants across the city as delineated in the Census. Participation in the study was solicited through existing contacts and outreach efforts of organizations involved. Although our survey sample was not intended to be exactly representative, the demographic make-up of our study sample was consistent with that of the city’s restaurant workers, suggesting that our findings are indicative of the experiences of workers across the New York City restaurant industry as a whole. [See appendix for demographic and employment characteristics of our survey sample].

METHODOLOGY FOR DEFINITION OF WAGE GROUPS FOR SURVEY DATA ANALYSIS:

Real wages were determined by either calculating workers' average weekly earnings including tips and dividing by the average number of hours worked per week (40) or, for un-tipped workers, using hourly wage. Wage groups were then created using the New York State 2003 minimum wage of \$5.15 an hour and the Department of Health and Human Services (HHS) 2004 federal poverty line earnings for a family of four of \$18,850 per year. Definitions of wage groups and distribution of the sample population across groups are as in Table 6.

TABLE 6

Wages Earned by Restaurant Workers	Percent of Workers
Less Than Minimum Wage (< \$5.15)	13%
Below Poverty Line (\$5.15 - \$8.97)	44%
Low Wage (\$8.98 - \$13.46)	23%
Livable Wage (\$13.47 and higher)	20%

Source: Restaurant Industry Coalition survey data

B. Earnings

"I am 24 and single and I have a two year-old daughter my mother looks after while I work. I came to the United States with my family in 1987 as a child. I would like to get an apartment of my own, but I just don't make enough money, so I still live with my family. I work 12 hours a day, sometimes longer if we're busy, three days a week. The two other waitresses and I don't earn a salary – we make all our money from tips. I only make about \$75 a shift, or sometimes, on Saturdays when we're really busy, I might make \$100. All my money goes to help pay rent and buy food and clothes for my daughter and myself. I would like to go to school to learn English better so I can advance in the industry but I can't afford to. I've been working in this job since 1999." — Anna, Albanian-American, Waitress

Our survey data are consistent with government and industry statistics demonstrating that restaurant work is primarily low-wage work.

Eighty percent of workers surveyed in our study reported earnings of less than \$13.46 an hour, more than one and a half times below the 2004 federal poverty line for a family of four. Thirteen percent of this group did not even make minimum wage – even when tips were accounted for. Only 20% of workers surveyed reported making a living wage. (See side box for wage group definitions).

The results of our worker surveys and interviews suggest lower actual earnings in the restaurant industry than official or industry data. This is likely because we interviewed a number of undocumented workers in the course of our research. The impact of the inclusion of the experiences of undocumented workers in the wage picture is substantial: the median wage of our entire survey population was \$8.00 an hour, substantially lower than the \$9.11 an hour median wage for New York City restaurant workers reported by the U.S. Bureau of Labor Statistics. However, when undocumented workers' earnings were taken out of our sample, the median wage rose to \$9.00 an hour, which is far more consistent with official reports.

The earnings picture is slightly different for restaurant workers when compared to other workers due to the fact that an exception to minimum wage laws is made for workers who regularly receive tips. As a result, restaurant employers in New York State are permitted to pay wages of \$3.30 an hour to tipped workers. As of January 1, 2005, this rate was increased to \$3.85 per hour. However, if tips do not bring the worker up to minimum wage, employers are responsible for making up the difference. Furthermore, it is unlawful for employers to take tips from restaurant workers. Interestingly, an overwhelming majority (over 90%) of restaurant workers we surveyed were not aware of the correct minimum hourly wage for tipped and non-tipped workers in the industry. Clearly more public education, for workers and employers alike, is needed with respect to governing wage laws in the restaurant industry.

Thirty six percent of all workers surveyed in our study reported that they did not have legal status to work in the country. Their actual proportion in the restaurant workforce is likely even higher given the understandable reluctance of workers to report their immigration status or "off the books" employment. In fact, many employers we spoke with told us that undocumented immigrants are widely employed in the industry. Census-based data is unlikely to capture the earnings of these workers.

WHAT DOES IT MEAN TO LIVE ON A RESTAURANT WORKER'S EARNINGS?

- A recent report by the Center for an Urban Future and the Schuyler Center for Analysis and Advocacy¹⁶ confirmed that the number of low-income families in New York City is on the rise. The study also noted that most analysts consider the federal poverty line to be an inadequate measure of real poverty. The authors concluded that a better measure of a basic standard of living would be 200% of the federal poverty line, below which families would be characterized as “low income;”
- According to the American Chamber of Commerce Researchers Association’s (ACCRA) Cost of Living Index, which is based on the composite price of groceries, housing, utilities, transportation, health care, clothing and entertainment, New York City is among the most expensive cities to live in the U.S., second only to Silicon Valley (Atherton), CA, making it even harder for low-income residents to make ends meet;¹⁷
- According to the National Low Income Housing Coalition (NLIHC), while the Fair Market Rent for a two-bedroom unit in New York is \$1,018, an extremely low-income household (earning \$16,448 or 30% of the Area Median Income of \$54,826) can afford monthly rent of no more than \$411.¹⁸ A minimum wage earner (earning \$6.00 per hour) can afford monthly rent of no more than \$312, and would have to work 131 hours per week in order to afford a two-bedroom unit at the area’s Fair Market rent. NLIHC determined that the Housing Wage - the amount a full time worker must earn per hour in order to afford a two-bedroom unit at the area’s Fair Market rent - in New York is \$19.58.

C. Hours

*“I worked at *restaurant name* where they paid me \$6.50 per hour working 60 hours per week. Then they reduced my hours and what I was earning was just enough to pay my rent. I asked for a salary increase. They said they would not increase my wages and instead offered me more hours to work. I realized then that the boss was taking advantage of us immigrants. I left that job and looked around for another one. I visited a few *restaurant names* asking for \$7 an hour but they only offered me \$5.50 or \$6 an hour. It took me a long time to find a place that would pay me \$7 an hour. I had to beg in some cases.” — Oscar, Mexican immigrant, Food Preparation Worker*

Given their earnings, many workers put in extremely long hours and workweeks in order to make ends meet. As shown in Table 7, over half (54%) of restaurant workers surveyed reported working over 40 hours a week and 48% work more than eight hours a day. Twelve percent reported working over 60 hours a week and 19% work more than 50 hours.

A few workers we spoke with reported that their requests for more hours in order to make enough money to cover basic expenses were denied by employers. Conversely, many workers we interviewed reported working in chronically understaffed restaurants, requiring that they work long hours even when they were unable or unwilling to.

TABLE 7

Overtime Hours Reported by Restaurant Workers	Percent of workers
Worked overtime hours (>40 hours/week)	54%
Worked more than eight hours a day	48%
Worked more than 50 hours per week	19%
Worked more than 60 hours per week	12%

Source: Restaurant Industry Coalition survey data

D. Benefits

“Neither my husband nor I have health insurance. In March 2004 I had a severe cold and it was getting worse. I had to take a day off without pay. I had no options to go to a doctor so I went to a clinic in Chinatown for recent immigrants and undocumented workers where I was diagnosed with influenza. It could have gotten worse. The doctor prescribed antibiotics for three weeks.” — Sumalee, Thai immigrant, Hostess

In addition to being paid low wages, sometimes below the poverty level, and working long hours, the majority of restaurant workers surveyed reported that they do not receive basic workplace benefits. The data in Table 8 reveals that the vast majority of workers surveyed do not have health insurance through their employers (90%), and almost three quarters (73%) reported not having any type of health insurance coverage at all. A substantial majority reported that they do not get paid sick days (84%) or paid vacation days (70%). Not surprisingly, more than half the workers surveyed (52%) reported that they had worked when sick.

A few of the workers we interviewed reported that they were unable to get even unpaid time off when they needed it. For example, one worker told us she was fired for taking a day off for jury duty, despite the fact that she had informed the manager two weeks in advance that she would need the time off and he had agreed. Another told us he was fired for taking time off to take his son to the hospital when he was sick.

E. Dead end jobs

"I work from 10am to 8pm - which is when we close - seven days a week. I am not happy here. The pay is lousy. I make \$5.75 an hour despite being an experienced restaurant worker. The owner promised that I would make more money but he has never increased my pay. I have a wife and daughter to support and we can't keep living with my in-laws! How can he treat an experienced worker like this? Everybody who works here hates it and wants to find a different job. I have been working here for about three months and will quit when I get something better."

— Daniel, Dominican-American, Cook

In addition to poor wages and benefits, restaurant workers by and large have few opportunities to move up in the industry (see Table 9). Regardless of occupation, restaurant type, or length of service at a restaurant, workers reported that opportunities to increase their earnings through seniority or by working their way up the industry ladder are few and far between - sixty percent of survey respondents reported that they do not receive regular raises, and over seventy percent responded that they had not been promoted since starting at their current place of employment. These trends held whether a worker remained in the same place of employment or sought other opportunities - 71% of workers surveyed said they had not moved up from their last job when they took their current one. Moreover, two thirds (67%) of workers reported that they do not receive on-the-job training needed to be promoted.

The majority of restaurant workers are essentially trapped in low-wage jobs with long hours, few benefits, and few opportunities for advancement. Workers we spoke with reported having no choice but to leave their current employment in search of better jobs at other restaurants - a reality that denies them the stability of a job with prospects and economic security for themselves and their families. This reality eventually also ends up costing employers in turnover-related costs, as discussed in greater detail in the following chapter.

I came to the United States about two and a half years ago. I have sixteen years of kitchen experience from Mexico, which includes supervisory experience. When I first arrived in the U.S., I worked at a restaurant in Maine for about six months before leaving for Boston. When work dried up in Boston shortly after the tourist season, I came to New York City.

I arrived in New York about one year ago and the only work I could get was working as a porter and doing maintenance cleaning at a restaurant during the graveyard shift. I did this for three months before moving on to do prep work. My employers claimed they were paying me \$9.25 an hour but I would receive a check at the end of the week for \$280 for 40 hours, which is about \$7 an hour. On the check they would claim they were paying me \$9.25 an hour. Sometimes I had to do eight shifts per week, which is about 64 hours, but they only paid me for 7 shifts. They never paid overtime.

At one point, after not having been paid for five days I told my boss I needed my wages. He got upset and said that if I didn't like it I could leave. He said that they were doing me a favor and that I shouldn't be asking him for money he owes me. There were repercussions after this. They would only give me two or three days of work per week - just because I had complained to him. This happened for about a month and a half. After this, he made me a dishwasher and reduced my pay by about \$80 a week. He would move me around from day to night shifts then from night to day shifts. I said that I was taking classes and they put me on one shift on a regular basis. Then, just like that, they changed it. Without a regular schedule, one cannot go to school. I was not able to study. With all the changes to routine, you can't rest either. I had to find another job.

— Carlos, Mexican, Food Preparation Worker

TABLE 8

Job Benefits and Health Reported by Restaurant Workers	Percent of workers
Employer does not provide health insurance coverage	90%
Do not have any health insurance coverage	73%
Do not get paid sick days	84%
Do not get paid vacation days	70%
Have worked when sick	52%

Source: Restaurant Industry Coalition survey data

TABLE 9

Raises and Promotions Reported by Restaurant Workers	Percent of Workers
Do not receive regular raises	60%
Have never been promoted in current job	71%
Did not move up in position from last job to the current job	71%
Did not receive on-going job training needed to be promoted from employer	67%

Source: Restaurant Industry Coalition survey data

New York State Labor Law sets out standards for minimum wage and overtime. The minimum wage in New York in 2004 was \$5.15 per hour and was increased to \$6 on January 1, 2005. Food service workers --waiters and waitresses -- who earn at least \$1.85 per hour in tips may be paid at a minimum wage rate of \$3.30 per hour. As of January 1, 2005, the minimum wage for food service workers was increased to \$3.85 per hour. Employers are, however, obliged to pay the difference if tips are insufficient. The law further provides that any worker who works more than 10 hours per day is to be paid an additional hour at the minimum wage. Furthermore, employees who work a shift of more than six hours starting before 11am and continuing until 2pm must have an uninterrupted lunch period of at least half an hour between 11am and 2pm.

The federal *Fair Labor Standards Act* requires overtime to be paid at the rate of 1.5 times the employee's regular rate for hours worked in excess of 40 hours during one workweek. It further provides that workers are entitled to a receipt with payment of their wages - even if such wages are paid in cash - noting all deductions. It also prohibits employers from taking tips from workers to pay any non-tipped workers or for themselves.

TABLE 10

Wage and Hour Violations Reported by Restaurant Workers	Percent of Workers
Experienced overtime wage violations	59%
Have worked more than 4 hours straight without a paid break (excluding lunch)	57%
Experienced minimum wage violations	13%
Management takes a share of tips	19%

Source: Restaurant Industry Coalition survey data

F. Employment and Labor violations

“I work six nights a week from 4pm until closing. I get \$6 an hour based on an eight-hour day – even though I often work 10 hours or more because my boss usually does not let me leave until about 2 am. I make just about enough to pay my rent and send some money home to my mother in Mexico.”

– Ricardo, Mexican immigrant, Dishwasher

As demonstrated by the data contained in Table 10, workers reported being paid less than minimum wage and receiving no

overtime pay when they worked more than 40 hours per week, in violation of both federal and state wage and hour laws. More than half (59%) of workers surveyed told us they were not paid overtime for hours worked beyond the standard 40-hour workweek. As one worker working in a casual dining establishment put it, “when we talked to the owner about overtime, he said he could replace us for \$6 an hour.”

Some workers we interviewed reported being paid for fewer hours than they worked on a regular basis, or being paid per shift instead of hourly. One worker told researchers that when he was employed as a porter and maintenance worker in one restaurant, he would work up to sixty four hours a week, but would only ever be paid for 40. Another told us that he was paid a fixed rate on a bi-weekly basis, regardless how many hours he worked, and as a result, his average earnings were always less than minimum wage. Experiences such as these illustrate the importance of qualitative studies in industries such as the restaurant industry, which are not closely regulated and rely heavily on informal employment arrangements, as many such workplace practices are not reported to government agencies or industry associations.

“They said they would pay me \$8.50 an hour for washing dishes and that I would get a one hour lunch break but they would never give a lunch break. I used to work seven days a week, eight hours a day. They would tell me they could not pay me more than 40 hours and they would never give me an explanation. Instead, they paid me \$60 per shift and they claimed that it included all my hours – even when I worked more than 40 hours per week.” — Adrian, Mexican American, Dishwasher

Thirteen percent of workers reported being paid less than minimum wage, in violation of the law. In New York State, employers are obliged to pay restaurant workers who earn at least \$1.85 per hour in tips a minimum wage rate of \$3.30 per hour (these rates were increased on January 1, 2005, see side box on labor standards). Employers are, however, obliged to pay the difference if tips are insufficient. Nevertheless, of the workers we interviewed, several reported being paid no hourly wage at all and subsisting on tips alone, often averaging out to little more than a few dollars per hour – far below the legal minimum.

More than half of the workers we surveyed reported working more than four hours without a break (57%). One worker we interviewed reported that he was regularly denied a full one-hour lunch break despite the

fact that his supervisor reports that he receives one on his time sheet. Other workers reported receiving no break at all, despite working more than 10 hours per day.

Finally nineteen percent of tipped workers reported that management are unlawfully taking a share of their daily tips – a severe burden to workers who are already being paid very low wages and look to tips to supplement their income.

G. Health and Safety Violations

“The dishwashing area is located in the basement of the restaurant. The space is small and I usually have to keep the door open because of the heat - even during the winter. The water temperature fluctuates a lot and we often only have cold water to wash with. I still have to make sure everything is clean.”

— Ricardo, Mexican immigrant, Dishwasher

I am 18 years old, just finished high school and I’m working as a delivery person at an Indian restaurant in Brooklyn.

I don’t receive any wages - the only money I make is through tips. Usually the customers tip very well. Sometimes they don’t. I start working at around 10am and work until 4pm and make about twenty deliveries. I work 5 days a week and make \$150 to \$250 a week -- it really depends on the time of year. Summer months are very slow, so I make even less. I don’t get any benefits but I have health insurance through my parents.

The most dangerous thing about this job is accidents. I make all my deliveries by bike and I have been hit by cars and twice knocked off my bike. I didn’t get hurt but I had to go back and get a fresh order since the food was all over the street. The owner said that if it happened again, he would make me pay for the food. The last time it happened he didn’t charge me for the food but I have to be very careful.

— Iqbal, Bangladeshi-American, Delivery person

Our survey data also revealed that restaurant workplaces commonly do not employ or enforce regulations designed to ensure the health and safety of workers, in violation of the federal Occupational Safety and Health Act (OSHA).

As shown in Table 11, nearly half (45%) of workers surveyed reported that it gets unsafely hot in the kitchen where they work. Significant numbers of workers reported fire hazards such as blocked doors or non-functioning fire extinguishers in the restaurant where they worked (36%), as well as absence of guards on the cutting machines (22%) and mats on the floor to prevent slippage (21%). Twenty-nine percent reported having done something at work that put their own safety at risk. Despite the prevalence of health and safety hazards in restaurant workplaces, over half of workers (52%) told us they did not receive health and safety training from their employers.

“Nobody ever provided me with health and safety training. I learned everything by watching how other people do things and from their and my own mistakes. I have to depend on myself for such things.” — Jeff, Chinese immigrant, Waiter

Table 12 demonstrates that on-the-job injuries are pervasive in New York City’s restaurants. Almost half of workers surveyed had suffered work-related cuts on at least one occasion (46%), 38% had been burned on the job, and 23% had come into contact with toxic chemicals. Nineteen percent reported that they had slipped and injured themselves while at work. Additionally, 16% reported chronic pain that was caused or worsened by their job.

TABLE 11

Health and Safety Violations Reported by Restaurant Workers	Percent of Workers
Unsafely hot in the kitchen	45%
Fire hazards in the restaurant	36%
Missing mats on the floor to prevent slipping	21%
Missing required guards on cutting machines	22%
Done something that put own safety at risk	29%
Did not receive instruction or training about workplace safety	52%

Source: Restaurant Industry Coalition survey data

TABLE 12

Workplaces Injuries Reported by Restaurant Workers	Percent of Workers
Burned while on the job	38%
Cut while on the job	46%
Slipped and injured while on the job	19%
Came into contact with toxic chemicals while on the job	23%
Have chronic pain caused or worsened by the job	16%

Source: Restaurant Industry Coalition survey data

The federal *Occupational Safety and Health Act (OSHA)* imposes standards for health and safety in the workplace, requiring employers to provide protection for workers in hazardous environments and to keep records of all workplace injuries and accidents. OSHA covers toxic chemical use - the statute requires gloves, for example, for dishwashers and kitchen cleaners who use very heavy toxic chemicals - and temperature of work environments, including excessively hot kitchens. While there is no mandatory requirement that employees be provided with specific health and safety training, such training is effectively necessary to ensure compliance with OSHA and workers' compensation law.

Employers in New York State must secure workers' compensation insurance for every employee. NY State Workers' Compensation law also stipulates that, provided the employer is informed of any workplace accident within 30 days, workers' related medical expenses will be fully covered. Workers are also entitled two thirds of their salary for any period they are unable to work due to a workplace injury, and fixed compensation for any permanent disability.

Finally, Table 13 reveals that understaffing, which places inordinate pressure on workers, is a common industry practice. More than two thirds of respondents reported working when their restaurant was understaffed (69%), and a similar number said they have performed several jobs at once (66%). One third of workers responded that they have been required to perform jobs for which they had not been trained (33%), and almost the same proportion of workers reported doing something that put their own safety at risk (30%). And, as previously discussed, over half of workers we spoke with reported working while sick. Such "low road" workplace practices not only affect workers, but can also have serious consequences for consumers. Nearly a third of workers, or 31%, reported having done something as a result of time pressure that might have put the health and safety of the customer at risk.

"The boss is very verbally abusive to all of us – she screams and threatens to fire us when for example, food is sent back. She fires people all the time for the slightest thing."

— Zani, Albanian immigrant, Cook

In addition to widespread violations of labor laws, over one third of workers surveyed reported experiencing verbal abuse by supervisors (34%). As discussed in Chapter V, such abuse is often based on workers' race, immigration, status, or language.

Workers interviewed also reported being threatened or subjected to retaliatory action, taking the form of demotions or sudden layoffs, following claims for overdue or outstanding wages or complaints regarding hours or conditions of work. The vast majority of workers we spoke with were not aware that their employer could not legally terminate them for complaining about working conditions.



I have about five years of restaurant experience in the United States, working as a cook although I am the only kitchen worker at my present place of work so I do everything. I also worked in a restaurant in China before I came to the United States.

I earn about \$550 for a 72-hour week. I do not have health insurance but I have injured myself a number of times – mostly cuts and burns which are common in my work. When I cut or burn myself, I usually treat it myself. Sometimes, I have to buy my own medication. I do not receive sick or vacation days. The restaurant where I work now does not give sick days to any workers and the boss usually doesn't like for people to take a day off – in fact, he fires people who take time off. If I really need time off, I know that I can usually take a day off during the week but never during the weekend. Should I ever need a few days off, I will quit this job before risking being fired by the boss, which is most likely what would happen.

I don't get a regular lunch break and so I eat my lunch whenever I have time. Sometimes I'll be eating my lunch but will have to stop to prepare an order. Many restaurant workers have indigestion because of this! I always work overtime but I

never receive overtime pay – none of the workers here do. We also never receive raises – we earn the same today as what we were offered when we first started working here.

Even though kitchen work is dangerous, I have never received health and safety training. Also, it gets too hot in the kitchen. Sometimes I turn on the fan but a couple of times my boss has asked me not to because I am the only worker in the kitchen and he feels it's a waste of energy.

My boss often bullies and threatens me but I can't do or say anything about it because he says he can report me to the police or to the immigration authorities. This happens to all of us immigrant workers.

— Dan, Chinese immigrant, Cook

H. Many “bad jobs,” a few “good jobs”

“A friend of mine told me to work here and I was hired right away because the owner had just fired all the workers and needed new staff. I don’t like the hours. I work ten-hour days without any salary - everything I make is in tips and it averages out to less than minimum wage! My boss never pays overtime. I also don’t receive health insurance from my employer or any other benefits. The managers say that we could make more money if we work harder but how can we possibly work any harder?”

— Sharif, Bangladeshi immigrant, Waiter

TABLE 13

Workplace Practices Reported by Restaurant Workers	Percent of Workers
Worked when the restaurant was understaffed	69%
Performed several jobs at once	66%
Experienced verbal abuse from supervisors	34%
Performed a job not trained for	33%
Done something due to time pressure that has put own health and safety at risk	30%
Done something due to time pressure that might have harmed the health and safety of customers	31%

Source: Restaurant Industry Coalition survey data

Analysis of our data not only revealed the existence of the “low road” practices described above, but also of significant associations between workers’ earnings, benefits and workplace conditions. It appears from our research that when workers experience one of these conditions, they often have to contend with an entire constellation of poor workplace practices, creating an industry of many “bad jobs” and few “good jobs.”

Specifically, our data demonstrates that workers in lower wage positions are:

- Less likely to receive regular raises, promotions and job training needed to move up in the industry. Conversely, workers in living wage jobs are more likely than workers earning incomes below the poverty line, and much more likely than workers earning less than minimum wage, to be promoted within their workplace or when they move from one job to another.
- Less likely to receive important workplace benefits such as employer provided health insurance, or paid sick and vacation days. For example, workers in living wage jobs were almost twice as likely as workers making less than minimum wage to have health insurance.
- More vulnerable to violations of employment laws, more likely to be exposed to unhealthy and unsafe workplaces, and more likely to have to work longer hours in order to make a sustainable living in the industry. This is particularly true for workers experiencing minimum wage violations. For example, more than three quarters of workers earning less than minimum wage reported overtime pay violations, compared to almost half of workers in living wage jobs.
- Less likely to receive training, such as health and safety training, to perform job duties. Workers making less than minimum wage are particularly likely to be required to perform jobs without receiving the necessary training.
- More likely to have been forced to do something that has put their own safety at risk. Workers in living wage jobs were less likely to be subjected to working conditions that put them or the consumer at risk than workers earning lower wages.

Despite being home to a significant number of the nation’s most profitable restaurants, our survey data and interviews with workers demonstrate that the industry is clearly plagued by a number of serious problems. Presently, most of the jobs being generated by the industry are “bad jobs” - characterized by low wages, few benefits, few options for upward mobility and illegal workplace conditions. Conversely, “good jobs,” those with higher wages, benefits and somewhat less onerous working conditions, are few and far between. Such jobs do nonetheless exist, thereby demonstrating that they are possible. As will be further outlined in Chapter V, it is largely immigrants and other workers of color who are exposed to these “bad jobs” whereas white Americans disproportionately benefit from the few good ones. Our interviews with employers, discussed in the following chapter, shed important light on some of the factors impacting upon workplace conditions and practices, and provide some guidance for addressing these impediments to the industry realizing its full potential as a provider of good jobs to our city’s workforce.

TABLE 14. Conditions Reported by Restaurant Workers, by Wage Group

	Wage Earned by Worker			
	Less than Minimum Wage	Under Poverty Line	Low Wage	Livable Wage
Do not get regular raises	82%	58%	56%	44%
Do not receive paid vacation days	83%	75%	71%	51%
Do not receive paid sick days	92%	88%	83%	65%
Do not have health insurance	86%	81%	76%	44%
Have not been promoted in current place of employment	92%	72%	68%	63%
Have not moved up in position from last place of employment to current	95%	74%	61%	60%
Do not receive on-going job training from employer needed to be promoted	77%	68%	64%	56%
Worked overtime hours (>40 hours/week)	82%	58%	44%	23%
Experienced overtime violations	78%	57%	51%	47%
Worked more than 4 hours without a paid break	66%	56%	53%	48%
Worked off the clock without being paid hourly wage	47%	34%	42%	27%
Did not receive health and safety instruction or training from employer	80%	57%	47%	28%
Have done a job not trained for	41%	28%	34%	28%
Have done something that put own safety at risk	30%	30%	28%	21%
Have done something due to time pressure that might have harmed the health and safety of the customer	38%	31%	34%	18%

Source: Restaurant Industry Coalition survey data



I have been working in the New York City restaurant industry for about three years and have been at my current place of work for 2 years. I started as a dishwasher and I am still a dishwasher. I am single but because my parents are no longer living, I support my three sisters with my earnings.

I don't have health insurance and I don't get sick days. If I get sick, I take painkillers and continue working. I can't afford medical bills nor can I afford to miss work so I never go to the doctor. I've been injured at work before but I had to just keep working. Once, I was washing dishes when I cut myself on a piece of broken glass. Because the water was hot, the bleeding just wouldn't stop. It was so busy that day and I didn't want to be sent home without pay so I kept on working. Sometimes I work in the storeroom. I am sent to the freezer without proper clothing or equipment for extended periods of time. Keeping the freezer door open can spoil food but staying inside is unhealthy and because I often have to stay inside, I always have a bad cold but do I have a choice? I really can't afford to miss work – my sisters at home depend on me. None of us immigrants can afford to – there are so many others who also need jobs who would be hired to replace us.

We often also don't get a break. I am expected to finish the dishes before taking a break but the restaurant is always busy. I also don't receive pay for overtime hours – I am paid a fixed salary regardless of how much time I actually work although I often work more than what they pay me for.

Some of the other workers and I are not native English speakers so we don't always understand what the American workers are saying. They make us feel stupid.

— George, African Immigrant (Ivory Coast), Dishwasher



CHAPTER IV
Employers' Perspectives

CHAPTER IV

Employers' Perspectives

The research summarized by this report is unique in many respects, not least of all because the perspectives of both workers and employers were sought, analyzed, and compared. Our interviews with employers in New York City's restaurant industry proved to be a rich source of information regarding the constraints under which they operate, thus leading them to engage in the practices described by workers in Chapter III - often despite their best intentions and their expressed belief that restaurant workers are critical to their success. Our interviews with employers highlighted the principles and approaches adopted by employers pursuing the "high road" - those who manage to maintain successful businesses while ensuring that their workers earn a living wage and are guaranteed workplace benefits and safe work environments. As such, the perspectives summarized in this chapter can serve to guide further study of the industry, and, perhaps most importantly, lay the groundwork for initiatives developed in partnership by restaurant workers and employers.

Our interviews with employers revealed that:

- High fixed costs such as rent, licensing fees, and insurance premiums, as well as intense competition, high failure rates, and significant start up capital requirements put significant pressure on employers - many of whom turn to labor costs to meet their bottom lines.
- Market volatility brought about by factors beyond employers' control such as weather, economic downturns, and changing tastes require significant flexibility on the part of restaurant employers.
- Worker productivity and low employee turnover are both important to profitability. However, workplace practices implemented to increase productivity, which involve the utilization of "low road" practices resulting in understaffing and longer, more unpredictable hours can have the effect of increasing employee turnover, creating a tension many employers struggle to navigate in their day to day practices.
- The majority of New York City restaurant employers elect to take the "low road" to profitability, setting targets for labor costs well below national averages. While employers recognized workers' dependence on wages and overtime to earn enough to meet basic needs, they also reported a policy of keeping wages low and overtime pay to a minimum.
- Many employers stated that they would like to offer their workers benefits - particularly health insurance - but maintain that it is almost impossible to do so due to prohibitive costs.
- Many employers expressed a commitment to training restaurant staff, but only provide such training, if at all, to front of house workers.
- It is possible to achieve profitability by taking the "high road" and paying living wages, providing necessary workplace benefits, and maintaining a safe working environment when there is a non-negotiable commitment to doing so. However, restaurants following this approach are undermined by those who are not.

A. Introduction and Methodology

In order to obtain a better understanding of factors that drive workplace practices, the Restaurant Industry Coalition interviewed restaurant employers in New York City. Staff of the Community Development Project of the Urban Justice Center, with the assistance of the Brennan Center for Justice, conducted in-depth interviews with 35 restaurant employers, including owners and managers, from November 2003 to May 2004. Employers were selected for interviews in a manner designed to gather data reflective of the distribution of the different segments - fine dining, casual/family style, fast food/quick serve – and sizes of New York City restaurants. Interviews included questions regarding trends in the industry over time, factors affecting business practices, strategies for running a profitable business, workplace practices, and the role of the informal economy in the city's restaurant industry.

Overwhelmingly, restaurant employers we interviewed recognized the important role that workers play in the vitality of the industry and the success of their businesses. The vast majority of employers described their workplace policies as supportive of workers and their development. However, when employer and worker responses to our surveys are juxtaposed, a more complex picture emerges.

Both worker surveys and employer interviews confirm that some employers are paying living wages, providing comprehensive benefits, and ensuring healthy work conditions while successfully running a profitable business. Indeed, 20% of workers we spoke with reported being paid a living wage by their employers, and a similar number reported receiving workplace benefits. These employers, however, are the exception, rather than the rule.

Employers also recognized that the “low road” to profitability - paying low wages, engaging in wage and hour violations, cutting corners on health and safety, pushing workers to do more, and failing to make an investment in workers - is the path more often followed in the New York City restaurant industry. While there are surely some “bad” employers who operate only for their own profit, without a thought to and at the expense of their workers, what appears to be more common is that employers espouse supportive workplace policies in theory, but do not implement them in practice. This disconnect can be largely attributed to lack of good management, absence of industry incentives and supports rewarding good employment practices in the industry, and ineffective employment law enforcement mechanisms. Additionally, employers would clearly benefit from better guidance from the industry as a whole, including more education regarding their legal obligations, and enforcement of these laws. Although the workers are the ones who lose out in the short term as a result of “low road” workplace practices, interviews with employers suggest that the industry as a whole loses out in the long run.

B. External Factors Affecting Workplace Practices

In order to better understand the tensions and contradictions in the restaurant industry affecting employers and workers alike, it is important to consider some of the most salient external pressures on restaurant businesses in the local context. Employers referred to a number of factors which impact their business and workplace practices, and therefore their workers. These include the high cost of real estate in New York City, the economic impact of the events of September 11, 2001, the recent recession, a shift to a more casual dining model, and the volatility of the industry, which has a very high rate of failure.

Within full-service restaurants and limited-service eating places, we have identified three general sub-segments of the restaurant industry which are presently untracked by government data, but which were important in guiding our study and understanding the varying practices and strategies used by individual businesses.

1. Fine dining, or what is commonly termed as “table cloth” restaurants;
2. Family-style restaurants, also described as “casual dining,” including both franchise or chain restaurants, such as Olive Garden or Applebee’s, and smaller establishments, frequently neighborhood-based and/or ethnic restaurants;
3. Fast food or quick serve restaurants.

We also found through interviews with employers that workplace practices are driven by factors such as whether a restaurant is part of a hotel, a larger corporation, chain or group and whether the owner also has other restaurants, and, if so, how many. We found that the majority of the fine dining restaurants are part of restaurant groups or are one of multiple (three or more) restaurants under the same owner. Non-franchise, family-style restaurants are overwhelmingly singly owned or one of two restaurants owned by the same party. These trends had profound impacts in terms of employers’ power, or lack thereof, to define standards and policies that affect their business and buying power, and therefore their competitiveness and profitability in the industry.

RENT

“There’s no commercial rent control. The landlord can raise your rent to whatever he wants.”
— Fine Dining; Family Owned

Rent is a particularly burdensome fixed cost in the New York City restaurant industry, as real estate values in the area are among the highest in the country. Reports suggest that retail space costs upwards of \$100 per square foot in New York City, compared to between \$20 and \$40 in other major U.S. cities.¹⁹ Given that the majority of the city’s restaurants are located in Manhattan, where real estate costs are the highest, this is a burden keenly felt by the majority of the city’s restaurants.

Employers stressed that the lack of adequate commercial rent controls leave business owners, particularly those with smaller businesses, vulnerable to unexpected and unsustainable rent increases. One employer reported rent of \$30,000 per month for a space in Midtown Manhattan. While some employers reported efforts to obtain more favorable leases, specifically by negotiating long-term contracts, such approaches may not always be available to smaller, start-up businesses.

Employers repeatedly emphasized that rent is a fixed cost that cannot be cut when profits dry up or the economy goes south. By contrast, labor, food and beverage costs are variable and can therefore be manipulated by employers to ensure profit.

“Fixed rent, insurance, telephone bills, repairs, refrigeration, air conditioning. All of those things take the lump sum of your money. So if you are running a restaurant and, because of weather you have no business, like this week, because of the snow, your profits take a hit. You have to start with a fixed payroll, [but] if you cannot do enough business to keep all these those people busy? Then you have to start cutting.” — Fine dining; Part of a group

SLOW ECONOMIC RECOVERY AND “DOWNGRADING” IN THE INDUSTRY

Although restaurant jobs lost as a result of economic recession and the events of September 11th, 2001 were largely recovered by 2003, employers told us that their businesses were still suffering the impacts of these events. Employers cited cuts to corporate expense accounts, increased consumer demand for affordable prices and “family-friendly” atmospheres, and changing neighborhood demographics as contributing factors.

Employers also described a general trend of “downgrading” in the industry, evidenced by the increased predominance of casual dining establishments. Interestingly, employers from all segments of New York City’s restaurant industry reported studying and incorporating business practices of franchises and chains, which rely on systematization and standardization in order to push costs increasingly lower, rationalize and increase productivity of labor, and increase profit margins. Adoption of such business practices has both positive and negative repercussions for workers, as discussed below.

VOLATILITY AND COMPETITION

“Major costs are the loan paybacks. I have a very favorable rent and I typically try to break it down to 30% labor, 25% food, 8-9% tax but my loans exceed that right now – my loan plan is still eating up a big chunk of my outlays.”
— Casual dining; Family Style

Opening a restaurant requires a significant amount of start-up capital. As a result, many employers take out hefty loans, forcing them to juggle the additional burden of debt

I think now it is more of the middle of the industry that is the major driving force in the industry. At one time, I think it was more fine dining and before that, the fast food area. I think people are now more conscious of what they spend and, for them, going out and spending the amount of money that fine dining would cost, they are more likely to “downgrade.” So I think what now drives the industry is mostly the middle of the industry. They have the marketing power and the resources; you see it all the time. Restaurants that offer fine dining start offering lunch specials, offering options to try to build guest count. New York struggled for a while because of September 11th and the economy. It’s starting to turn around now, but there were a tough couple of years. So I think what is driving the industry now and those that made out were the companies that were larger, were better known and tended to maintain more of a base than maybe some of the smaller fine dining places.”

— Casual Dining Establishment; National Chain.

repayment while trying to build their businesses. A number of employers spoke about the difficulty of competing in a marketplace where wealthy entrepreneurs could go years without turning a profit, and where big names and brands could drum up capital more easily than independent, small business owners.

"My worse hits over these last months have been just incredible increases in insurance. All the insurance has just gone through the roof. Workers' compensation is very high and it keeps going up and up and up. The unemployment insurance division is broke, so we're assessed with an annual surcharge, even though our account is in the plus. Because the fund is broke, we're constantly being hit with new rates annually and it's really hard."

— Casual Dining; Family Owned

"I think the chefs and the chef backed celebrity thing is very successful right now. Those people run the industry and if you try to compete with them you are going to lose. They are the brand. They can reach metro New York and international clients." — Casual Dining; Family Owned (Single)

"Before it wasn't like that, but now you have to have a strong brand to compete in the restaurant market and on the strength of being a Windows on the World, or a big name like that."
— Casual Dining; Family Owned (Single)

The restaurant industry also suffers from very high failure rates. Reports suggest that up to 26% of restaurant start-ups fail in the first year, and up to 59% (cumulatively) do so after three years.²⁰ This high level of risk places an additional burden on smaller and newer restaurants that do not benefit from a large corporate base or other means of access to the kinds of resources some larger establishments can rely on.

Finally, unpredictable factors impacting revenues or expenses such as early winters and late springs, rising insurance costs, unemployment and workers' compensation rates, higher licensing fees, and the increasing costs of health violation fines all add to the burdens of running a successful business.



One If By Land Two If By Sea

Noury Goujjane, owner
and Rosanne Manetta, Operating Manager

Owning a successful restaurant while providing good working conditions

In 1969, the original owners of One If By Land, Two If By Sea purchased the historic building which has housed this successful restaurant for the past 35 years. This decision was monumental in allowing the restaurant to invest money that would otherwise have gone towards the fixed cost of rent into their employees and into enhancing food and materials. "I think the number one thing the owner did when he started this business here is he bought the building. I think that a lot of the money that gets sucked out of a restaurant is going to rent," says Rosanne.

One If By Land, considered a top restaurant in New York City, believes its success is due in large part to its loyal employees. "To help people out helps you out in return. And then they say, 'hey, I saw something broken here, I fixed it for you'. I just think no matter how big you get, you can keep that kind of mentality if you have people who are really paying attention to people," says Roseanne. This understanding underpins the decision to pay employees a living wage - "paying higher percentages on labor is something we are not willing to sacrifice," she emphasizes.

The current owner of 12 years, Noury Goujjane, and Rosanne Manetta, who has been the restaurant's operating manager for 11 years, have lived up to that commitment. Workers at One If By Land receive higher than industry wages - and after 30 days of employment they get a 50% match in healthcare/dental coverage, 401K plans, pre-tax metro cards, free ESL and other training classes. A large majority of employees at One If By Land have made a career as restaurant workers, and tenures of 10 years are not uncommon. One West African delivery worker shared that being paid a good wage and overtime, and being respected by management, are critical factors that have led him to view the restaurant as his home. "The owner has a strong sense of doing what is right. If he has the option of getting away with something or doing what is right, he always says, it will come back to bite you later so do what is right," says Rosanne. Savvy business practice, good management, and unfaltering commitment to workers have produced a prosperous and productive restaurant for all involved.

C. Strategies for Profit

In the face of the external pressures outlined above, employers utilize a number of strategies for profitability, many of which have specific implications – positive or negative - for workers.

COST CONTROL

According to the employers we spoke with, the primary costs of running a restaurant are labor, food and beverage, and rent. Some also mentioned loan payments, equipment repair and overhead. Regardless of what they saw as the factor most affecting their bottom line, employers repeatedly emphasized the importance of keeping material costs and labor costs low as key strategies for increasing profitability.

“The respect I have for the franchise is that everything is monitored - no matter which location you go to. Not only is it the logo, cups, the signature, but the consistency, the support you get from the franchise and the access to raw materials at a lower price because you are a part of the franchise.”
— Quick serve; National Chain

Where materials are concerned, employers at chains and restaurants that are part of a larger restaurant group - which was the case for the majority of fine dining employers we interviewed - have highly effective purchasing systems which help foster efficiency and maintain consistency. Chains have significant advantages as a result of collective buying and negotiation power, improving their ability to keep their food, beverage and other costs low. Consequently, chains are able to keep labor and food costs low, with labor costs ranging from 10-19%, although 14% was more common. Although not all establishments in the industry enjoy these advantages, corporate restaurant chains were perceived to be driving industry standards for material and labor cost breakdowns, leading independent restaurants to try to follow suit.

As a result, labor costs represent a key pressure point for employers – in many cases leading them to take the “low road” to profitability by lowering targets for labor costs and sacrificing labor expenses to other less negotiable costs such as rent.

MINIMIZING TURNOVER

“People come in here because they know they’re going to get individual attention. And then in turn they’re going to keep coming and they’re going to keep giving us free advertising, through word of mouth. If people keep coming back, you make money.” — Casual Dining; Family Owned

Establishment of a loyal customer base was cited by employers as critical to promoting businesses and ensuring consistency in profit. Employers cited to strategic location, affordable prices - particularly for casual dining establishments - quality and consistency of food, and good, personable service as key strategies for success. It is therefore not surprising that consistency and quality of staffing is of great importance to the employers we spoke with, who told us that keeping staff turnover to a minimum was critical to the success of their business.

“It is hard to establish the consistency you need in a relationship day to day, year to year, to have a good restaurant when your staff is consistently changing.” — Fine dining; Part of a group

“The people that work here are what make the restaurant profitable. They are nice and friendly and always looking out for the customer, they treat everybody with the same respect that they want to be treated. The customer will come back over and over because they want the service at that particular restaurant, because they take care of them and they say hello to them. They then tell their friends, and so on.” — Fast Food; Franchise

Turnover rates in the restaurant industry often exceed 90% per year. Such high levels of turnover impose both direct and indirect costs on businesses. Direct costs include the time and money required to find, hire and train replacement workers. Indirect costs include decreases in productivity and quality of service caused by understaffing during the time it takes to find replacement workers, and by the inexperience of new workers. Previous research suggests that dissatisfaction with compensation is a major cause of restaurant employee turnover.²¹

Employers recognized the importance of making and keeping employees happy in order to decrease employee turnover, thereby fostering a satisfied and loyal customer base. Some of the strategies mentioned by employers as important to promoting good working conditions for workers included training, promoting mobility from within, paying sustainable wages and providing other “perks” ranging from workplace benefits to staff outings. In addition, many employers cited to the overall importance of creating a good work environment and a sense of family.

“It comes down to letting [staff] know what benefits you have to offer, making sure the compensation package and salary adequately suits the job that they are doing and ensuring that we treat them as part of the staff. All of this is to make sure you keep the tension and turnover down. I think sometimes salary is not all. They also need a sense of belonging, that they are treated fairly, that they have job security. Then, most of the time, they will stick around.” — Quick Serve, National Chain.

WORKER PRODUCTIVITY

“Productivity is the key...you get more production out of your employees, which means they’re doing more, and you’re doing more with less employees. The key is to make the employee work harder and be more productive.”
— Fine dining, National Chain

Employers reported that worker productivity is critical to running an effective and profitable business. There are differing theories regarding how best to maximize productivity – training and investing in workers is one approach and organizing your workforce such that you have just enough workers, or perhaps more importantly, not too many workers, to perform the tasks necessary for a restaurant to run, is another. A number of employers we spoke with discussed strategies that involve doing more work with fewer employees in order to make their workforce keep costs down. However, such practices can actually become counter-productive. For workers, they can easily cross the line into exploitation through payment of low wages, long hours without overtime pay, and increased health and safety risks. These strategies can also ultimately increase costs to employers, through increased turnover and associated costs; and to the public, occasioned by workplace accidents and health risks to consumers.

D. Contradictions in Theory and Practice

“One serious concern...is that some operators and managers seem to have set up their operating systems to accept the reality of low skills, high turnover, and low motivation.”
— Dr. Cathy A Enz, Ph.D., Executive Director, Center for Hospitality Research, Cornell University²²

There is a tension between implementing strategies for profit related to worker productivity and keeping turnover low – many restaurants walk a fine line between practices that invest in workers and those that exploit workers to enhance profit. While there are some employers who are committed to pursuing the “high road” to profitability – providing workers with decent wages, benefits and training - the industry as a whole is impacted by those who choose to take the “low road”. In some cases, this approach is related to management and business skills; in others, it comes down to a lack of enforcement, support, and rewards promoting good workplace practices. What becomes clear, however, is that “low road” practices can be counter-productive, ultimately impacting negatively upon worker productivity, employee turnover, and therefore profitability.

WAGES AND OVERTIME

Where I worked before, the pay was awful. This didn’t do the house any good. It is better to pay more and keep good employees, rather than having high turnover. There has to be a balance between profitability and paying well.
— Fine Dining; Part of a group

Despite some employers' expressed understanding of the importance of paying good wages to keep staff happy, the majority of employers interviewed, regardless of segment, had low targets for labor costs. Employers in chain establishments reported a range of between 10 and 19% for labor costs, although 14% was most common, and many non-chain restaurants said that they aim to keep labor to between 20 and 25% of total costs. These figures are significantly lower than the national median reported by industry sources of 30.5%.²³ On the other hand, the employers we spoke with who expressed a commitment to providing comprehensive compensation packages, including benefits, reported labor targets within the national range - between 30 and 33% of their costs - targets, they felt, engendered loyalty and longevity among their workers.

The low targets for labor costs reported by New York City restaurant employers represent a disturbing trend given the importance of New York City in setting standards for the industry as a whole, the high cost of living in the city, and the impact further reductions in labor costs have on an already low-wage workforce.

"Sometimes the boss is late in paying. She says that the rent and utilities have to be paid. The most I waited was two weeks, but I need to get paid too because of my rent. I am very angry and want to find a new job."

— Alex, Albanian immigrant, Cook

Moreover, many employers reported that labor costs are the first to be cut when business and profits are low, particularly given that other costs, such as rent, may be non-negotiable. Such a practice robs employers, and of course workers, of the security and longevity that is gained through consistent investment in labor. Some employers, on the other hand, discussed various management strategies to avoid labor cuts, including establishing payment plans for distributors and tax payments, lowering costs that are less visible to customers, such as flowers, or cutting back on hours rather than laying workers off completely, demonstrating that cutting costs need not involve cutting labor costs.

While the employers we spoke with recognized that the wages they pay are barely enough to live on, they saw increased hours, not wage increases, as the most constructive solution for both themselves and their workers.

I try to keep overtime to a minimum but these guys can't make a living if they don't work ten hours of overtime. It's a fact of life. I pay 40 hours regular time and 10 hours overtime. Although the \$5.41 an hour I pay is at the low end, they're getting 10 hours of overtime so it comes up way above that in the end. — Fine Dining, Part of a Group

While there was an overall recognition of the dependence among lower-wage workers on overtime wages to earn enough to get by, many employers reported a policy of keeping overtime to a minimum, and some discussed creative strategies to avoid paying overtime altogether, such as paying slightly higher hourly wages overall, but not time and a half on the overtime hours, or paying by the shift or week.

Although many employers reported that they aspire to replicate the systematization and standardization characterizing chains and fast food restaurants - who report structured employee review policies and regular raises - the majority of non-chain employers said that they gave workers occasional raises based on perceived merit rather than conducting regular salary reviews. One notable exception was a fine dining employer who has been in business for 15 years and reported that he commits up to 35% of costs towards labor and still manages to provide yearly raises to his staff. Without the validation provided by regular reviews and raises, workers will invariably leave in search of jobs with better opportunities.

"I left after about one year because they would not pay me well enough for all the work I was doing. There was a lot of work but I only got \$6 an hour, working 10 to 11 hours per day, six days a week. My boss never paid overtime and when I asked for an increase, he said he did not want to give me one."

— Juan, Mexican immigrant, Food Preparation Worker

When asked if it was possible to pay a living wage and still make a profit, many employers felt it was extremely difficult, but not impossible. Commitment to doing so and an acknowledgement that it was a non-negotiable overhead were determinative of whether or not better wages would be paid. As one employer put it, "I think it's hard but I don't think it's impossible. It is definitely possible to pay appropriate wages and to provide benefits while also making a profit. It's not easy. I think you have to decide it's non-negotiable." Many employers at four-star, fine dining restaurants - those whom others perceived to be successful enough to be able to have higher standards for worker compensation - were simply reluctant to believe that a commitment

to paying their workers a living wage was viable. However, the examples of successful employers who have stood by such a commitment, demonstrate that when labor costs are built into operating costs from the outset, and providing living wages and benefits to workers becomes non-negotiable, such approaches can be consistent with success in the restaurant industry.

“You provide an environment where they enjoy coming to work. One, they have to make money, and two, you have to treat them well, make them feel that they are part of specific goals, part of an environment, part of the whole picture, not just a worker. I have very little turnover and people like coming in here.” — Fine dining; National Chain

BENEFITS

“Providing benefits is extremely hard. It could be the difference between your staying in business and going out of business, let’s put it that way.” — Casual Dining; Family Owned (Single)

While acknowledging the importance of providing employee benefits to keep workers happy, reduce turnover, and thereby promote a healthy clientele, with the exception of chain/franchise establishments, restaurant employers overwhelmingly reported that it was impossible for them to provide health insurance benefits to their employees. This was of profound concern to most employers, who cited prohibitive costs and administrative burdens as the most significant obstacles to offering benefit packages. When asked if they would be interested in a plan specifically geared to restaurant businesses covering multiple employers, and particularly smaller businesses, a large majority of employers we interviewed indicated that they would be.

“We are able to provide benefits because we are a corporate store. We are a bigger restaurant with a company that is able to provide these things. Insurance is extraordinarily expensive, and if you’re a single owner, providing health insurance for your employees involves massive outlays.”

— Fine dining; National Chain

Multiple-restaurant owners and restaurant chains are able to provide worker health benefits because they are able to negotiate good rates based on volume, while small, single-location businesses simply do not have the institutional size and strength necessary to absorb the costs associated with providing benefits to a small number of employees. Chains and franchises had the most standardized policies and practices with regards to benefits, including sick and vacation days. Few other employers reported offering these benefits.

“As a small company, we don’t want to get involved in benefits and all that. I’d rather pay a little more money and let them buy their own insurance.” — Fine dining; Part of a group

While some smaller restaurants do make a group health plan available, employees have to pay all or most of the cost such that few employees are able to participate. Some employers indicated that they pay their workers extra or covered medical and medicine costs instead of offering insurance, citing to the prohibitive cost of insurance premiums compared to the cost of informal arrangements. However, unless employers are paying an additional \$3 per hour over the prevailing rate, with individual policies running upwards of \$300 per month, “a little more money” will not buy a worker health insurance. Moreover, such arrangements leave workers in a vulnerable position, given that they have even less power to negotiate affordable health insurance for themselves and their families than business owners. Additionally, they leave workers who need health care at the mercy of the employers’ beneficence, which, in the absence of any formal agreement, can be withdrawn on a whim. They also leave workers unable to access primary, preventative care for themselves and their families, no doubt contributing to the number of workers who feel compelled to work when sick.

“If they are injured, I pay for the hospital bill. So that is their benefit. Instead of paying an insurance company premium that may never be used, if they get injured, I take them to the doctor or buy them medicine. Even though they come in with a cold, I get them Theraflu at night, Dayquil during the day. So I provide them health benefits like that.”

— Casual Dining; Family owned (Single)

There were some employers in our interview sample, albeit few and far between, who made a conscious decision to provide benefits to their employees and find the means to do so.

“When we were talking about what might be great benefits for our employees we didn’t want to look at what are great benefits for the restaurant industry, but what are great benefits for employees in any industry. We are able to afford it because we decide that it is something we have to do.”

— Fine Dining; Part of a group

At the other end of the spectrum, some employers we interviewed did not appreciate the need to provide workers with health benefits at all. When asked about what kind of “benefits” were provided to employees, these employers cited everything from employee meals to trips to amusement parks to free glassware, but, when asked about health insurance, expressed the view that it was unnecessary given the existence of workers compensation. Such an approach fails to appreciate that workers’ compensation, required by law, is in no way the equivalent of health insurance, as it does not cover the worker, or his/her family, off the job.

TRAINING

“In order to have a successful restaurant, the employees you hire, the managers, the work staff – they all need to be given the opportunity to perform to the best of their abilities. In order for them to do that, they need to be trained. If you fall short on training, they are going to fall short as employees.” – Casual Dining; National Chain

Training restaurant workers is important not only for health and safety reasons, but also to enhance worker productivity. Training is also an investment in workers -- a means to promote mobility and longevity in the workforce. The benefits of making such an investment are a well-trained staff, low turnover rates, and ultimately lower costs over the long run. There is, however, a great deal of variation across the industry in terms of what training is available to restaurant workers. Some employers expressed an appreciation for the need for training – both to help a worker perform their job and to encourage mobility. Others fell short on providing training to all workers, focusing on workers in the front of the house to the exclusion of those performing equally valuable work in the back of the house.

Restaurant chains, regardless of industry segment, have very formal training systems, with programs ranging in duration from one week to two weeks, and a formal review anywhere from thirty to ninety days. One chain in particular stated that it considered employee training to be the second biggest factor in its success, after good management. Chains also spoke of cross-training to facilitate promotion from within. Despite looking to chains and fast food restaurants for inspiration in other areas, most non-chain restaurant employers generally did not follow their lead with respect to training, generally reporting only informal on-the-job training, and only a handful reporting a structured program.

“They [the corporate headquarters] feel that the ticket to their success is the people who work in the restaurants. So they will do what they can to make them happy and to make sure that we can recruit the best possible people. We don’t want people leaving our restaurant and going to another restaurant, which is why we have one of the lowest turnover rates in the industry. We want to retain our people. And furthermore, it costs money to train somebody. With the extra dollars you’re spending on the materials for your employees, like uniforms, and paying the trainers and so on, if you have people coming in and leaving all the time, it ends up placing additional financial burden on the restaurant.”

— Casual Dining; National Chain

Of the fine-dining and casual non-chain restaurant employers who discussed training during our interviews, only about one third mentioned training back of the house staff. There is a general sense in non-chain restaurants that trained employees in the front of the house tend to stay and improve customer service while back of the house workers provided with training tend to move on to higher-level jobs in a different restaurant. Data from worker surveys and interviews with workers, however, demonstrate that there is actually greater longevity in tenure among back of the house employees. Interviews with some employers also revealed that in some restaurants, there is higher turnover in the front of the house: “a lot of the waiters – they’re actors, singers. It’s not their goal to be in the restaurant business so they come and go” (Fine Dining). Nonetheless, our data also indicates that workers in the back of the house are much less likely to be promoted, suggesting a flawed practice on behalf of many employers.

I had been working as a busboy and as a bar back for a while and decided to speak to the manager about giving me the opportunity to be a waiter. He agreed based on my good performance as a busboy, so I went ahead and trained with the captain of the waiters. When I felt ready, I went to the manager who sets the schedules and told him that I was ready to be waiter. When I first started waiting tables, I had problems with other waiters. Since I was new and don't speak English so well, they would give me the bad sections. When the manager learned that I could do my job well, and none of the clients complained about my service, he began to put me in the better sections. Then I began to have even bigger problems with the other waiters who did not like that I was working the good sections. There were other busboys who had been working for five to six years who were not given the same opportunity. I don't know if the manager ever noticed.

— Luis, Mexican, Waiter

There is recognition on the part of some employers of the value of training all staff – not just those who regularly interface with the public or who represent the “public image” of the restaurant. One exceptional employer reported providing training to all employees, from the dishwasher on up. This employer also spoke of training employees *in the business* of running a restaurant in order to promote their growth from line workers to managers. Interestingly, a few employers even reported providing or paying for ESL classes for non-English speaking employees so that they could move up in the industry.

“We have one guy who started as a busboy and then moved to a food runner. He is a waiter now and in training to be a manager. And it's good because he knows every aspect of the job so naturally he can manage everybody in his or her respective position.” — Fine Dining; Family owned

“We will pay for them to go to school if they express an interest in a certain area of the business. We had one guy who started as a busboy and became a food runner. We thought he would make a good waiter so we sat him down and quizzed him about the work, the menu and so on. He told us he would need more time before he was ready to take on the extra duties associated with waiting and we offered to send him to classes in order learn about wine, for example, whenever he decided he was ready.” — Fine Dining; Family owned

E. Conclusion - The cost of taking the “low road”

While employers recognize the importance of providing decent pay, benefits, raises, and training to their workers, a number of employers are pursuing “low road” workplace practices that undermine such good policies. Such practices ultimately have cost implications for businesses as a result of constant turnover as workers leave to find better paying work with better workplace conditions. Turnover impacts on productivity and consequently profitability, thereby having the opposite result to employers stated goals.



Four Seasons Restaurant

A union restaurant with excellent working conditions and sweeping success

The Four Seasons, an independent restaurant, not affiliated with the hotel by the same name, has been a successful union establishment since 1959. Alex VonBitter, owner for the past 17 years, and his partner Julian Niccolini have established the Four Seasons as a world-renown restaurant while maintaining equally high standards for the treatment of their workers. Although competition with non-union counterparts in the industry does present certain challenges, they are committed to providing decent wages and benefit packages to their employees. Customers sometimes question the higher prices charged at a restaurant like the Four Seasons, but the extra money they are paying is helping the Fours Seasons to provide benefits - such as fully paid health care, living wages, 401K plans and paid sick/vacation days - to all employees, thereby reflecting the true cost of the service they are receiving.

Restaurants like Four Seasons have low turnover and provide careers for workers in the restaurant industry – employees stay an average of 8-12 years. “My job is to make sure they have what they need,” says Alex of his employees. “I take care of my employees who in turn take care of the customers, which in turn takes care of me.” “They want us to be very happy and we are so this carries over to the customers” said Pedro Guerra an immigrant from the Dominican Republic and a 25 year employee who worked his way up from being a busboy to head waiter. As a career restaurant worker, Guerra has been able to afford to buy a house in New Jersey with his wife and three children.

The kind of success achieved by the Four Seasons is simple. Its approach benefits all who come in to contact with the restaurant, and most importantly, the lives of those who work there.

Some employers reported that “low road” practices implemented by their competitors, such as minimum wage and overtime violations, had the effect of undercutting them. “High road” employers lose business to those pursuing the “low road” while the latter benefit from unfair competition by violating the rights of workers. By and large, however, most employers had a relatively micro perspective on this issue, failing to appreciate how “low road” practices end up costing them, the industry as a whole, and the public at large in the long run by pushing industry wages down even further, harming the very workers on whom their profitability depends, and spawning the proliferation of “low road” practices across the industry. The end result, as further explored in Chapter VI, is an increase in “hidden costs” to the public.

Clearly, employers would benefit from greater awareness of their obligations towards their workers as well as more guidance in terms of employing better business strategies and of the value of implementing pro-workplace practices. Further study in this area is also needed - particularly regarding the impact of “low road” practices on the proliferation of low-wage jobs and on employers pursuing the “high road” - in order to help the New York City Restaurant Industry realize its full potential as a source of both revenue and much needed employment to New York City.

Unionization

“And one of my biggest problems was, I would sit down and say to them, I have no problem, go try to have Congress pass a law that every restaurant should belong to the union. But what happens? When I first opened in 1963, it was a union house. So was [list of other restaurants]. We were all union. We were all competing with each other. We all had to pay the same wages, the same benefits. Now, [other restaurants closed down, somebody else took it over, they didn’t have to be union]. I’m the only guy left in the union. Twenty new restaurants come into the neighborhood. They’re all competing with me. None of them is union. You ask around and [find out that others] are paying their waiters \$90 a week for six days. It costs me \$300 a week for five days. How do you compete?”

— Fine Dining; Part of a group

The restaurant industry in New York City has benefited from varying levels of unionization over the course of its history. Recent years have seen increasingly creative and determined efforts on the part of both large unions and smaller associations such as ROC-NY to organize service sector workers as a whole, and those in the restaurant industry in particular. They have also seen resistance to unionization in the restaurant industry, particularly among fast food and chain restaurant employers. While the benefits of unionization were not explored in great detail in our study, secondary research suggests that the presence of unions in restaurants clearly benefit workers - and ultimately employers and the public - and can go a long way toward addressing some of the issues raised in this report.

Unions are Good for Workers

A recent study of retail workers in New York City conducted by the Economic Policy Institute concluded that unionization is the most direct and effective way to improve wages and working conditions because it enables workers to negotiate collectively rather than facing individual “take it or leave it” choices. The presence of unions in the workplace can result in wage increases of up to 20 percent, and improve overall compensation, including benefits, by approximately 28 percent.²⁵ Unions can also contribute to reducing wage inequalities among workers -- their presence generally results in greater earnings increases for low- and middle-wage workers than for high-wage workers.

The majority of workers we spoke with in the course of our study appeared to be well aware of the benefits of unionization – 64% of survey respondents said they would want to become members of a union if they were assured that it would not result in their termination or deportation.

Unions are Good for Employers and the Public

There is a large body of research that suggests that unionization can actually lead to cost savings for employers by contributing to the maintenance of a stable, loyal, and well trained labor force.²⁶ This is particularly true in the restaurant industry, where teamwork is absolutely necessary to keep a restaurant running smoothly and efficiently. Additionally, labor costs are easier to plan for in unionized restaurants because they are negotiated and codified in a contract several years in advance. Also, restaurant workers who participate in negotiating union contracts often have a solid understanding of the restaurant’s finances, and make every effort to take these into account - it is neither in the interest of the union nor the employees to close down a restaurant by making excessive demands.

Researchers at the Economic Policy Institute also concluded that unionization not only helps workers earn a living wage, but also spares taxpayers the considerable public costs discussed in further detail in Chapter VI.²⁷



CHAPTER V
Discrimination

CHAPTER V

Discrimination

It is clear from our interviews with both workers and employers that the experiences of restaurant workers across the industry are far from uniform. Further analysis of our data reveals that this is not simply a result of working at different types of restaurants, or for different employers with different workplace practices. There is a stark division between the treatment and experiences of the workers we see, or those with front of the house positions, who tend to fare somewhat better in terms of wages, hours, benefits, and working conditions, and those we do not, who work in the back of the house, where there is a greater likelihood that they will be subject to poor wages and working conditions. Additionally, factors such as gender, race, ethnicity, national origin, and immigration status have a significant impact on the nature and quality of the experiences of restaurant workers.

Our research indicates that:

- Jobs in the restaurant industry are divided between those in the front of the house and those in the back of the house. Earnings, benefits and workplace conditions differ considerably between the two.
- White and U.S. born workers are employed primarily in front of the house positions, while the vast majority of immigrant restaurant workers are found in the back of the house. As a result, the impacts of poor working conditions in the back of the house fall disproportionately on workers of color.
- Race remains a significant determinant of wages and upward mobility in the industry, even after the effects of education, English language skill, and immigration status are considered.
- Some employers discriminate in hiring and promotion.
- Several workers reported experiencing verbal abuse based on race and immigration status. They also reported being disciplined more often or more severely based on their race, immigration status or language ability.
- The informal economy is important to the restaurant industry. According to employers, undocumented workers are found in significant numbers in the industry because they are more likely to work for lower wages and under worse conditions.

A. Introduction

The nature and quality of restaurant work in New York City differs depending on a number of factors, including the type of restaurant, its location, and the employer. It also depends on the type of job and the value the employer places on the work performed. Perhaps most disturbingly, our worker and employer data indicate that it also depends on a workers’ race, gender, national origin, and immigration status.

Our research suggests that discrimination – both direct and indirect – is evident in the New York City restaurant industry. While we are generally most familiar with direct forms of discrimination, it is often indirect discrimination – which occurs when policies which are neutral on their face have a disproportionate impact on a particular group – that is most prevalent, insidious, and difficult to remedy.

Because workers’ experiences of discrimination were not the primary focus of this study, our surveys and interviews, and therefore the information presented in this chapter, provide only a glimpse into what are

clearly complex issues. However, the data we did obtain is sufficiently striking to warrant characterization of discrimination in the restaurant industry as a major finding of this report. Further exploration of the manifestations, nuances, and impacts of both forms of discrimination in the restaurant industry is clearly needed. The Restaurant Industry Coalition plans to conduct additional research in this area in the coming year, and strongly encourages both industry and worker analysts and advocates to pay greater attention to these issues.

TABLE 16. Differences in Job Quality by Restaurant Job Type

	Front of the House Jobs	Back of the House Jobs
Wages		
Less than minimum wage	8%	21%
Under poverty line	41%	48%
Low wages	26%	20%
Livable wage	25%	11%
<i>Total</i>	100%	100%
Workplace Conditions		
Do not have health insurance	67%	83%
Worked overtime hours (>40 hours/week)	42%	71%
Experienced overtime violations	53%	67%
Received on-going job training from employer important for promotion	41%	22%
Worked when the restaurant was understaffed	65%	71%
Unsafely hot in the kitchen	44%	54%
Did not receive workplace safety training	44%	65%
Have done something that put own safety at risk	23%	36%
Have done something due to time pressure that might have harmed the health and safety of customers	25%	35%
Workplace Injuries		
Have been burned while on the job	28%	52%
Have been cut while on the job	36%	63%
Have slipped and been injured while on the job	16%	22%
Have come into contact with toxic chemicals	14%	33%

Source: Restaurant Industry Coalition survey data

B. Occupational Structure

Jobs in the restaurant industry essentially fall into one of three categories: those performed by the workers we see, or front of house workers, who greet and seat customers, provide table service, and work behind the bar; those performed by workers in the back of the house, who we don’t see, but who perform a multitude of functions essential to the smooth operation of the city’s restaurants, such as food preparation, dishwashing, and cleaning; and managerial and supervisory positions.

Our research indicates that workers’ positions within this hierarchy determine their earnings, benefits, opportunities for training and advancement, and working conditions (see Table 16). Front of the house workers generally earn higher wages and have greater opportunities to increase their earnings through tips. Conversely, back of the house workers are the lowest paid in the industry, and are subject to minimum wage violations and required to work overtime in greater proportions than front of the house workers. They are also less likely to be afforded benefits such as health insurance and sick and vacation days, or receive job training. There are, of course, some differences in wages and work quality among positions within each side of the house. For example, although both occupations would be classified as front of the house positions, compensation and working conditions differ considerably between bussers and waiters. However, our analysis found the starkest disparities between front and back of the house positions.

Additionally, back of the house workers reported more frequently than front of house employees that they had been injured on the job. While these results can be explained in part by the greater health and safety hazards associated with positions requiring use of sharp instruments and work near hot ovens or with toxic chemicals, they also appear to be related to workplace practices. Despite the fact that they work in more dangerous environments, more back of house workers reported that they did not receive health and safety training than front of house workers.

C. Racial Disparities

“The waiters are mostly white and the runners are Hispanic. Most of the people in the back are Hispanic. Management positions are opened to white guys and unless you went to college or you have exactly what they are looking for, it is very hard to find a general manager who is Hispanic.”

— Eddie, Puerto Rican, Food Preparation/Salad Maker

Differences between back of the house and front of the house positions are not limited to wages and working conditions – there are also significant differences in the demographic characteristics of the workers who occupy them.

As demonstrated by the data in Table 4 in Chapter II, New York City’s restaurant workforce has a greater proportion of workers of color, and particularly new immigrants, than the citywide workforce. According to the U.S. Census, compared to the city’s labor force, a strikingly small proportion of the restaurant workers are either Non-Hispanic white (27.0% vs. 41.2%) or Non-Hispanic Black (11.6% vs. 21.8%). The majority of New York City restaurant workers are either Asian (26.6% compared to 14.9% citywide) or Hispanic (34.9% compared to 22.1%). Two-thirds (64.4%) of the restaurant workforce was born abroad, compared to less than half (43.6%) of all residents of New York City.

It is important not to conflate the terms “immigrants” and “people of color,” particularly in the context of the New York City restaurant industry. While many of the people of color who work in the city’s restaurants are also immigrants, not all immigrant restaurant workers are people of color – there are a number of Canadian, European, and Australian immigrants working in the industry. However, the experiences of white immigrants working in the city’s eateries appear to be more consistent with those of their U.S. born white counterparts than with those of their fellow immigrants who are not white.

For instance, one Mexican restaurant worker told us that she had recently met an Irish woman who had just arrived in the country the day before but had already found a job as a waitress in an upscale restaurant. She said that when she heard this, she began to cry because so many of her Mexican friends and family had such a hard time finding jobs, and of course none of them would ever get a job as a waitress. She herself had spent many years working her way up to a waitress position.

While in an ideal world, one would expect these demographics to remain consistent across occupations in the restaurant industry, this is not the case. Rather, a greater proportion of workers of color are relegated to the lowest paying jobs under the worst workplace conditions, while underrepresented white workers are employed primarily in better positions. As a result, disparities in job quality between the front of the house and the back of the house have disproportionate impacts on workers of color.

As shown in Table 17, white workers are employed predominantly in front of house positions. Conversely, a greater proportion of workers of color are concentrated in the back of the house.

Given these racial disparities, it is clear that the impacts of differences in conditions of employment and between front and back of the house positions fall most heavily on workers of color. Not surprisingly, given

TABLE 17. Race Breakdown by Restaurant Job Type

	Non-Hispanic Black	Non-Hispanic Asian	Hispanic	Non-Hispanic White	All Workers
Front of the House Workers	64.7%	55.2%	52.4%	82.8%	62.3%
Back of the House Workers	35.3%	44.8%	47.6%	17.2%	37.7%
	100.0%	100.0%	100.0%	100.0%	100.0%

Source: U.S. Bureau of the Census, PUMS 2000

the disparity in earnings between front of the house and back of the house positions, all of the workers of color in our study earn less than the white workers we spoke with. Differences in earnings along racial lines were significant, and, perhaps even more disturbingly, held true across occupations, within back of the house and front of the house positions, and when we controlled for level of educational attainment. Moreover, as indicated by the data discussed in further detail in Chapter III, wages in the restaurant industry are an important indicator of other employment conditions such as the existence of benefits, health and safety hazards, and opportunities for advancement. As a result, it appears from our research that workers of color are more often trapped in the worst jobs in the industry.

In addition to the underrepresentation of Black workers in the New York City restaurant workforce indicated by Census figures, our research also revealed a greater spread in favor of front of the house positions where Black workers were concerned than for Hispanic and Asian workers. Nevertheless, the distribution of non-Hispanic Black workers between front of the house and back of the house positions more closely approximated that of other workers of color than that of Non-Hispanic white workers. Further research into how discrimination based on race, ethnicity, and immigration status affects Hispanic and Non-Hispanic Black workers is clearly needed – particularly given that New York City is home to a significant African and Afro Caribbean immigrant population whose experiences in the restaurant industry do not appear to be adequately addressed by current data.

D. Discrimination in Hiring and Promotion

“For front of the house, I look for personality. Look, you’ve seen the studies - the taller, more attractive people make more money. It’s a given. It’s unfortunate, but that’s what I look for... What I look for in back of the house is talent, and a good work ethic. We’d like to hire people with integrity. That makes a big difference. But certainly front of the house people – those you see when you first come in - they have to be attractive. I just hired last year’s Miss Oregon as one of our hostesses.” — Fine Dining

Our interviews with employers revealed that they actively seek “attractive individuals” for better paying, better quality front of house restaurant jobs – many we spoke with told us that attractiveness, “personality,” and ability to interface well with clientele were priorities when hiring for positions at the front of the house. Such preferences, while not overtly discriminatory, clearly have discriminatory impacts – it appears, based on the racial make-up of front of house workers that white workers are more often perceived to be more “attractive” than workers of color. As a result, discrimination in hiring for front of house positions, however unconscious, likely contributes to the racial disparities between those employed in the front of the house and those working in back of the house positions.

JOB ADS FOUND ON NEW YORK CITY INTERNET BULLETIN BOARD CRAIGSLIST²⁸

Bartender REPOSTED

Model types only (male/female) for 14-seat bar and 90 seat restaurant. Photo attached gets first reply. If you responded to this posting before AND HAVE EXPERIENCE, please respond AGAIN.

Need bartender for 4-8 shift Monday thru Friday

I need an attractive bartender to work 4-8 shift mon. thru fri and be reliable. If interested please send picture and resume.

Waitress Needed for Awesome Uptown Bar and Grille

Are you cute, young, and like to have a good time? We are looking for a waitress to join our laid back, fun-seeking staff. Fax us a resume - pictures appreciated. We have Tuesday, Thursday, Friday and Saturday shifts available. Schedules are flexible, let us know what you need...

Conversely, when hiring for back of the house jobs, “work ethic” was the characteristic most commonly cited as important by the employers we spoke with. Further inquiry revealed that employers’ perceptions of an employee’s “work ethic” generally related to willingness to work long hours for low wages, perform tasks that others were not willing to, and work under poor working conditions. The fact that back of the house workers are largely workers of color and immigrants suggests that employers’ hiring decisions with respect to back of house positions are based, even subconsciously, on racialized perceptions of who possesses the type of “work ethic” they are referring to.

“Kitchen work is hard work. Latinos - they’re good workers.” — Casual Dining

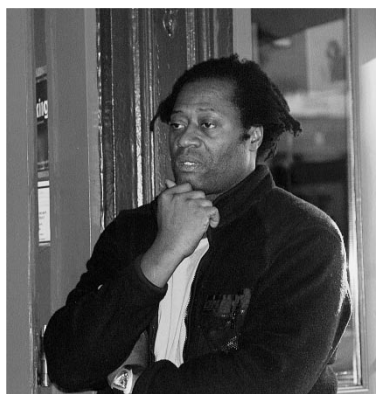
When asked about demographic breakdown of employees in front and back of house positions, several employers responded that they hired those “who applied.” While they were aware that front of house workers are predominantly white and back of house staff are overwhelmingly immigrants of color, they maintained that any disparities were a result of the fact that Latino/as and other people of color apply primarily for back of the house positions.

“We mostly get Caucasian applications here, in terms of front of the house. In the back of the house, we only ever get Latino people that apply.” — Casual Dining

Others were candid about why immigrant workers, and particularly undocumented immigrants, tended to be employed in the back of the house. All employers in our study knew or believed that undocumented workers make up at least half of the restaurant industry workforce in New York City. Many employers we spoke with acknowledged the importance of undocumented workers to the New York City restaurant industry, and some even expressed the view that if undocumented workers were removed from the industry, it would shut down. Nevertheless, employers noted that that it is easier to take advantage of an undocumented immigrant, perhaps explaining in part their concentration in more arduous, lower paying back of the house positions.

“They come in hungry, a bowl of rice is a luxury for them. They work harder than six or seven other workers in some cases.” This makes them easier to take advantage of. It makes them work harder and it makes them more reliable. They have to do the work others will not and they’re more willing to take on additional tasks, those outside their official duties, like cleaning bathrooms - without complaint.”
— Casual Dining; National Chain

Our data indicate that the stark differences in job quality between front of house and back of house positions are compounded by a general lack of mobility between the two types of positions. In fact, many workers described a “glass ceiling” between the back of house and front of house positions which was extremely difficult to break through. As a result, once hired in back of house positions, workers are essentially trapped in low-wage positions. On the other hand, workers told us that promotion from front of house positions to supervisory or managerial positions was relatively common.



Patrick Woodside, Owner of CamaJe and Bocal Cafe

Promoting teaching business and mobility for workers of color

Patrick Woodside owns two casual continental restaurants in the West Village area - CamaJe and Bocal Cafe. He got his start as a 13-year-old busser in Nassau in the Bahamas, and eventually immigrated to the United States and opened his own restaurants. Along the way he received a lot of support and encouragement from the employers he worked for, and wanted to provide the same to his workers. And he is doing just that.

Patrick currently shares ownership of his restaurants with one of his former employees, an immigrant from the Dominican Republic. Patrick’s passion is helping young workers of color like himself to one day own their own place. “Give me the money and I will show them. I have talented kids around me who need direction and if I had time and money I would help them all open restaurants.” Patrick believes he has an obligation to teach his employees the restaurant business in its entirety. He does this by taking cooks to local fish markets to help them to learn the business aspect of their job, or by putting a younger owner in training in charge of ordering supplies.

Patrick’s restaurants have a unique focus on teaching workers skills to help enhance their career mobility - not just to cut vegetables or wash dishes, but to one day own a restaurant for themselves. He believes in giving them hope, just like he had. “I want to open a credit union and give money and help these kids open restaurants. I have made it my business that when I employ these girls and guys, I tell them everything I know. I want to arm them so they are totally ready should I ever decide to make one of them a partner.” He may only be helping one worker at a time, but Patrick is giving workers of color a chance to succeed.

“In the front of the house, there is room for mobility. There are two people who were busboys before and are now managers. This mobility was due to their wanting to succeed. If they are smart, they will be able to grow. Mobility is harder in the back of the house because they need more skill to move up and the gap is too big. Language is a big barrier. The majority of employees (in the back of the house) don’t speak English.” — Fine Dining; Part of a group

Level of education, proficiency in English, and immigration status are often cited as factors influencing the lack of upward mobility in the restaurant industry for back of the house workers. While there is no doubt that in some cases a worker’s literacy or numeracy level, inability to speak English, as well as basic reading, writing, and addition skills, would legitimately preclude them from positions requiring interaction with customers, it appears that discrimination in promotion also contributes to barriers to movement from the back to the front of the house. Analysis of our data revealed that, while these factors clearly had an effect, when education and English proficiency were controlled for, race remained a determining factor with respect to restaurant workers’ occupations. The unspoken perceptions and assumptions in play with respect to hiring decisions also likely drive promotion decisions in this regard, thus perpetuating racial disparities between populations of workers in front of house and back of house positions.

The data in Table 18 reveals that a significant proportion of the workers we surveyed believed they were passed over for promotion based on race or immigration status. Additionally, workers reported that employers use educational attainment to screen workers of color and immigrant workers out of front of house positions, even though formal education beyond a basic level is clearly not necessary to perform the tasks required by these positions. In some cases, workers told us that employers considered the presence of an accent as an indicator that a worker did not speak English well enough to perform a front of house job, even where the worker possessed a high degree of fluency in English.



I have been working at this restaurant for the past eight months but I have built up over eight years of restaurant industry experience since coming to the United States. I started working as a cashier but now I am a hostess although my employers shift me around all the time and have me do other work. I have two other jobs in addition to this one so that I can support my family in India.

I neither have health insurance nor do I receive sick days. I have had to work while I’ve been sick on many occasions. I have been so sick at times that I could barely keep my eyes open. My body would be aching, I would have a fever, my nose would be running but I would have to keep on working. I cannot request time off and when I have, my bosses have refused. They would rather fire me than give me a break or a sick day.

My pay is very erratic and at the whim of my employers – I earn whatever my employers decide to pay me and they have in the past repeatedly failed to uphold their promises to me regarding payment of wages. I think I am paid less than other workers and treated so poorly because of my immigration status. I come to work sometimes and they say they don’t need me for that day. But this is my income.

This is how I support myself! How can they, one day, tell me to come and work for them and then change their minds at the last minute? I have other jobs I could have worked at but I promised them I would work for them, at their restaurant, on those days.

I have never received proper training and have been exposed to many dangerous situations such as wet, slippery floors, being required to carry heavy loads and using knives and cutting boards without any safety guards. I am often required to perform many roles and do many jobs at once – none of which I’ve been trained for. I have had to cut corners on a number of occasions – I’ve even used my hands instead of spoons because of time pressure. I don’t receive any kind of break and work right through until the end of my shift. My employers make me do all kinds of things because of my immigration status and because they know I need this work to support my family. I feel really helpless!

I know I will not be promoted. I am not going to receive the training I would need for promotion because, as an immigrant woman of color, my employers simply do not value my work. I would really like to organize the workers here but I am really scared. I feel that my bosses would fire me for making trouble. I try and speak with the workers anyway but I have to be discrete.

– Anjali, Indian immigrant, Hostess

“I think that the reason maybe why some people stay in lower-paying jobs is partly due to motivation but I think that maybe they just feel that this is their lot and I’d hate to think that. I think it would take encouragement from the employer to change this.” — Fine Dining; Part of a group

*“I think that in terms of de facto segregation, some of it may have to do with prejudice.”
— Fine Dining; Part of a group*

There were a few employers who did acknowledge the existence of systemic discrimination in the industry and actively sought to counter it by implementing workplace practices such as training and mentoring that promote the development of immigrant workers and workers of color. However, the more common view among employers was simply that those who have initiative and motivation will be able to move up in the industry, regardless of race or immigration status. Unfortunately, this ideal is belied by our data.

E. Verbal abuse and discipline

*“I used to work at *restaurant name* for five years, and I left because of the constant verbal abuse. I remember that the manager got angry when the employees called in sick. When you came back after missing a day you became his enemy – he would give you the hardest job, call you “lazy,” scream at you, and call you “stupid” in front of the customers. It was humiliating. All because most of us are undocumented Latinos, mostly from Mexico.” — Margarita, Ecuadorian, Cashier*

Verbal abuse was reported by workers we surveyed with alarming frequency (see Table 19). Even more disturbing, a significant proportion of the workers we spoke with believed that the abuse to which they or a co-worker had been subjected was motivated by race, national origin, or facility in English.

*“The chef would always say to Muslim workers who had made a mistake “Go to Iraq and die there!” or ask “Are you sending money to Al-Qaeda?” He would also tell Muslim waiters to taste food that had pork in it – when they wouldn’t do it, he’d say “you guys suck!”
— Ahmed, Bangladeshi, Back waiter*

Similarly, among restaurant employees who believed they had been disciplined more often or more severely than other workers within the past year, approximately a third cited race, immigration status, or language as the reason (see Table 20).

TABLE 18

Barriers to Promotion Reported by Restaurant Workers	Percent of Workers
Responded that in the past 12 months they or a co-worker had been passed over for a promotion	23%
Of those who reported being passed over for a promotion...	
Reported that race was a factor	37%
Reported that immigration status was a factor	33%
Reported that language was a factor	36%

Source: Restaurant Industry Coalition survey data

TABLE 19

Verbal Abuse Reported by Restaurant Workers	Percent of Workers
Responded that in the past 12 months they or a co-worker had experienced verbal abuse	34%
Of those who reported experiencing verbal abuse...	
Reported that race was a factor	44%
Reported that immigration status was a factor	28%
Reported that language was a factor	41%

Source: Restaurant Industry Coalition survey data

TABLE 20

Discipline Reported by Restaurant Workers	Percent of Workers
Responded that in the past 12 months they or a co-worker had been disciplined more often or severely than others	23%
Of those who reported more frequent or severe discipline...	
Reported that race was a factor	37%
Reported that immigration status was a factor	31%
Reported that language was a factor	30%

Source: Restaurant Industry Coalition survey data

Gender discrimination

“We don’t have any girls in our places...”

— Manager of Cipriani’s restaurants in response to an inquiry by a woman who applied for a position, at the request of the New York State Attorney General ²⁹

The research instruments used in this study were not designed to elicit qualitative information regarding gender-based discrimination. However, analysis of our data revealed that women restaurant workers earned less than men across occupations in the industry. Additionally, a recent study conducted by a professor at the University of Pennsylvania found that one third of high-end New York City restaurants do not employ women in front of house positions.³⁰ In fact, the New York State Attorney General launched an ongoing investigation into gender-based discrimination in the city’s restaurants, which resulted in a lawsuit against Cipriani’s restaurants culminating in the imposition of a three year consent decree setting targets for employment of women at those establishments.³¹ Moreover, sexual harassment by management, coworkers, and customers is frequently reported by women working in restaurants. Additional quantitative and qualitative analysis of women’s experiences in the industry, and particularly those of women of color and immigrant women, is clearly needed. The Restaurant Industry Coalition plans to further examine the role of gender in an upcoming in-depth study of discrimination in New York City’s restaurant industry.

I came to the United States from Mexico in 2000. In Mexico, I worked as a cashier in a restaurant. Now I’m a waitress but all the restaurants I’ve worked for have been very small so I end up doing a little bit of everything. I send money to support my family in Mexico but to make ends meet and to have a little extra for myself, I have to work seven days a week. I usually work eight shifts per week. It’s really hard for women in the restaurant industry – my co-worker has two children. In Mexico, she could easily work two shifts and leave her children with her family. But now, she can only work during the day, while they’re in school and she has to pay someone to look after them in the afternoon.

I don’t have health insurance, if I’m sick I just keep working. I have to pay out of my own pocket to see the doctor. I don’t get any paid sick days. I’ve gone to work with a fever and a cold. I just can’t afford to get sick.



In my current place of work, the owner is very machista – he really demeans the female workers. He gets angry with us all the time, complains that we don’t speak English well enough and mocks us. He makes fun of the way I speak English and makes sexist comments about my weight and my breasts. When a woman applies to work at the restaurant, the owner will refuse to hire her based on her looks and will she say things like, “she’s too fat.” He says women aren’t useful for anything except serving, “I don’t know why women even go to school.” He says things in front of us like, “they’re stupid,” “they can’t carry as much as men,” and “men understand better.” When we confront him about the things he says and tell him he’s offending us, he denies saying them. He lets the other male workers insult us and they call us things like, “pendejas, burras, que se vayan a lavar” [*stupid, donkeys, that you should go clean yourselves*]. He expects us to just take it!

We women have done the work of the managers and we know better than the managers about some things. But the boss is never going to make us managers. My co-worker has worked here for 5 years, and I’ve worked for 3 years. We’ve never received a raise or a promotion. The boss says it’s because of the way we speak English. We’re stuck as waitresses; if there was a possibility to be manager, I’d like to take it. I know I am capable.

– Maria, Mexican immigrant, Waitress



CHAPTER VI
The Social Cost of Low Wage Jobs

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The Social Cost of Low Wage Jobs

Absent from much of the data and discourse regarding the restaurant industry is an assessment of the cost to customers and taxpayers alike of low-wage jobs with few benefits and poor working conditions. While hidden, these costs are significant, ranging from increased public health risks to public subsidies to employers pursuing “low road” practices through social safety programs employed by some restaurant workers to make ends meet. A key finding of our research is that whenever restaurant workers and employers are hurt, so are we all:

- “Low road” workplace practices ultimately harm not only workers but restaurant customers, employers pursuing the “high road,” and the public.
- Restaurant employers who violate labor and employment laws are also more likely to violate health and safety standards in the workplace.
- Violations of employment and health and safety laws place customers at risk and endanger the public health.
- Failure to provide health insurance and paid sick days to restaurant workers can lead many to delay seeking primary or preventative medical care, ultimately increasing health risks to workers and consumers, and contributing to increased health care costs.
- Poor health and safety conditions in restaurant workplaces, combined with low wages and lack of employment-based health insurance, increase costs of providing emergency care to uninsured individuals at public hospitals, thereby ultimately decreasing the availability of free health care services for those in need.
- Low wages and lack of job security among restaurant workers lead to increased reliance on unemployment insurance and social assistance programs such as welfare and housing and child care subsidies;

A. Introduction

‘The proliferation of low-wage jobs has an impact on public budgets and the availability of public services. Those earning minimum wage would qualify for and would need to rely on a number of government programs in order to make ends meet.’

— Hidden Costs: The Public Cost of Low-Wage Jobs in San Diego³²

The “low road” workplace practices described in this report have impacts beyond those affecting members of our communities who are employed in the city’s restaurant industry. Predictably, they affect the quality of the food we eat when we dine out at one of New York’s eating establishments. In some cases, they can lead to increased risks to public health. They also have more far-ranging – and more hidden – effects on the local economy, social safety net, and ultimately, the local taxpayer.

A major finding of our research is that restaurant employers who violate labor and employment laws are also more likely to violate health and safety standards in the workplace. These “low road” employers put the safety of the public at risk by overworking their employees, pushing them to cut corners, requiring them to do jobs they have not been trained for, failing to provide basic health and safety training, and creating conditions leading employees to work when they are sick or injured. The healthy and safety of both workers and consumers is compromised as a result.

A further finding of this report is that restaurant workers who are paid lower wages are also less likely to receive workplace benefits such as paid sick leave and employer provided health insurance. Workers who do not have employment based health coverage, and otherwise cannot afford insurance, delay accessing treatment, often leading to the development of more serious medical conditions requiring more costly medical care. Because their low wages provide barely enough to survive on, they are generally unable to pay for the cost of that care, increasing uncompensated costs incurred by public hospitals. Furthermore, when workers are unable to earn enough to support themselves and their families through their jobs, they are forced to rely on public safety net programs to make ends meet. The result is a “hidden cost” of the restaurant industry, taking the form of indirect public subsidies to employers who do not pay adequate wages.

B. Endangering Public Health

“When I was working in my restaurant, I saw a friend cut off a piece of his finger and keep working because the assistant chef made him – he told him it was nothing. He told him to put a Band-Aid on and keep working. The accident happened because there weren’t enough employees and the worker wasn’t trained to be a salad man. They never trained him, so he cut himself. Even though he was bleeding he kept serving salads and I was in anguish knowing that the customers would find a piece of his finger in their salad. It hugely affects the health of the client.”

— Angelina, Dominican, Pastry maker

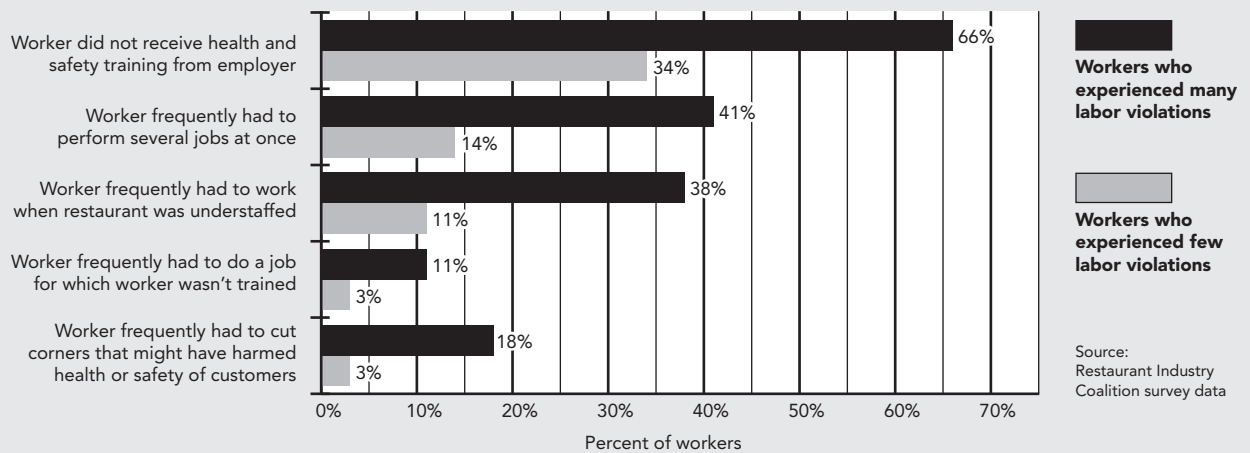
“I was once working in a restaurant taking delivery orders and also sending them. For a couple of days I was feeling sick with a bad flu but my boss told me to forget about my job if I stayed home - he would replace me. A lady called for an order for her kids and realized that I had a bad cold. She told me that I should not be working. She commented that she didn’t want me to contaminate her kids. I reported it to my boss who denied my request to go home. The boss made me work until I lost my voice completely and I myself decided to stay home. A curious fact, the day following my staying home, the health department came to the restaurant.”

— Juan, Mexican, Counter Attendant

Our research findings strongly suggest that “low road” workplace practices prevalent in New York City’s restaurant industry place can increase public health risks. For instance, over half of workers we spoke with in the course of our study reported working while sick. Nearly one third of workers surveyed had done something as a result of time pressure that might have put the health and safety of a customer at risk. Employers pursuing a “low road” business strategy place enormous pressure on workers, and often cut corners on health and safety training, leading to workplace practices that endanger employee and food safety, and consequently public health. As demonstrated by Figure 3, workers who reported employment

law violations at their place of work were also much more likely to report workplace practices such as failure to provide health and safety training, being required to work when the restaurant is understaffed or perform several jobs at once, and being asked to perform a job for which they are not trained. This lethal combination of workplace conditions could have harmful effects on the health and safety of customers.

FIGURE 3. Five indicators of unhealthy workplace practices, by whether or not labor violations were common in the restaurant



Our examination of publicly available data regarding restaurant health code violations bolsters our finding that “low road” employers put the public’s health at risk. Almost 200 of the workers we surveyed gave us the name of the restaurant where they worked. When we checked the NYC Department of Health and Mental Hygiene’s (DOHMH) website for health code violations reported by DOHMH inspectors at those restaurants, we found that employers reported by study participants to have violated employment laws were also likely to have been charged with at least one of following health code violations: (1) live animal present in food storage, preparation or service area, including but not limited to, cockroaches, flies, mice, rats, cats, and dogs; (2) live flies/other insects present in facility; (3) cooked or prepared food cross contaminated; (4) cold food held above 41°F except during necessary preparation; (5) canned food product swollen, leaking, rusted, severely dented; and (6) sanitized equipment or utensil, including in-use food dispensing utensil, improperly used or stored.

C. Hidden Costs of Low Wage Jobs

‘Housing vouchers, child care subsidies, food stamps, and publicly funded health coverage can be seen as subsidies that benefit employers by allowing them to hire workers at salaries too low to live on.’
— Linda Ostreicher, former budget analyst, New York City Council³³

*“Interviewer: Health care is just for managers?
Employer: Yes, but you know, they all have workers comp anyway, so that’s why we skip them.”*
— Quick Serve; National Chain

Paying workers wages below the federal poverty line hurts not just workers and their families, but everyone – from employers who pay higher unemployment insurance premiums to the taxpayer who pays more for, or receives fewer, social benefits. When workers have trouble making ends meet despite working long hours, they have no choice but to utilize food banks, housing and child care subsidies, tax rebates for low-income people, and other social benefits. As a result, more public resources must be devoted to these programs – or, more likely in the current economic climate, there are fewer public resources available to all of those in need.

According to the authors of *Wages, Health Benefits, and Workers' Health*, higher-wage workers are more likely than their lower-paid counterparts to have health insurance and health-related benefits, such as paid sick leave, and to use preventative care.³⁴ Low-wage workers, meanwhile, are much more likely to forego needed health care because of cost and to report problems paying medical bills.

A study by the New York City Department of Health and Mental Hygiene found that restaurant workers reported almost 10% of all lacerations / abrasions / amputations reported by workers in the city, representing over twice their representation in the overall workforce.³⁶ Restaurant workers also frequently reported injuries caused by burns, lifting / pulling / pushing objects, and being struck by objects. The study found that the number of injuries reported by restaurant workers were greater than those reported by construction workers, and were second only to the number reported by hospital workers and NYPD and FDNY personnel. While some employers we interviewed did indicate that they paid employees' emergency room expenses where no employer-sponsored health care was provided, this practice is by no means widespread. As a result, the low rates of employer covered health insurance in the industry, combined with high rates of workplace injury among restaurant workers demonstrated by our survey findings and official reports, further contribute to the public costs associated with the industry, borne either by the worker compensation system or public hospitals.

HEALTH CARE COSTS

Our survey data indicates that the lowest paid workers in the restaurant industry are much less likely to have health insurance. In fact, 86% of workers earning less than minimum wage and 81% of workers with income below the poverty line did not have health insurance, compared to 44% of those earning living wages. As a result, low-wage workers are less likely to be able to access primary or preventative care for themselves or their families. Data from other studies suggests that low-wage workers are much more likely to forego needed health care because of the costs involved, and to report problems paying medical bills.³⁵

Additionally, workplace injuries among restaurant workers are endemic. Data from this and other studies suggests that restaurant workers often access emergency room services for a range of work related injuries such as burns, scalds, and cuts.

When medical care is required, restaurant workers without health insurance are forced to seek treatment in emergency rooms at public hospitals, and are often subjected to the indignities of being unable to pay for the medical services they need. Almost 30% of workers in our survey reported that either they or a family member had gone to the emergency room without being able to pay. When these realities are compounded by the fact that low-wage workers are also less likely to receive paid sick days, it is clear why restaurant workers often feel compelled to work while sick, increasing the risk of worsening health conditions and increased public health hazards.

Previous studies have noted that where health care financing relies on employer sponsored health insurance, the public suffers as a result of "free riders" - employers who opt out of the system by not providing affordable health insurance to their workers, and pass the costs of their workers' health care onto the public.³⁸ Ultimately, it is other employers, workers, and the public at large who pay for these "low road" practices espoused by employers.

A 2001 study of major burn injuries among restaurant workers in New York City found that major burns among food service providers are a frequent occurrence and 'appear[] to be an underappreciated source of preventable [injury] and public expense in the city.'³⁷ The study found that 76 adult patients admitted to the Burn Center during the study period were identified as having sustained burns while working in a restaurant. Staff caring for patients reported that injured workers are often 'low-wage, immigrant kitchen assistants.' These patients had an average length of stay of 12.6 days, costing \$3400 per day (excluding physician's fees). Annualized average hospitalization costs for treating these patients is reported to be as much as \$1.13 million.

"I know an undocumented restaurant worker who was working as a cook in a Chinese restaurant in Chinatown. The man was ill and weak but without health insurance and no savings so he had to work without missing a day. He worked for about two years until he got fired because he couldn't work hard enough to suit his boss. Shortly after he was fired, he was hospitalized and diagnosed with tuberculosis."

— Jose, Colombian, Waiter

SOCIAL PROGRAMS

Our survey data also revealed that low-wage restaurant workers are, at times, forced to access social programs such as welfare benefits and housing and childcare subsidies in order to supplement low wages. Sixteen percent of eligible respondents reported accessing social programs at some point to supplement their wages.

Numerous studies have suggested that employers paying low wages rely on social programs to sustain their workers rather than paying better wages. By creating conditions that force workers to participate in social programs rather than providing essential benefits, employers are, in effect, receiving an indirect public subsidy for engaging in poor, and sometimes illegal, workplace practices. Such practices also have the effect of undermining other employers who do provide benefits, thereby creating disincentives to those who might otherwise take the “high road” to profitability.⁴⁰ Existing literature concludes that this can lead to a downward cycle for wages and benefits across the industry, ultimately resulting in worsening conditions for workers, consumers, and the public.⁴¹

Clearly, further study is needed to determine the full impact of the prevalence of low-wage jobs in the restaurant industry on social programs in New York. What is clear from existing data is that failure to address low wages and the lack of health coverage for thousands of workers in the restaurant industry leads to increased costs to workers, employers pursuing the “high road”, and, inevitably, the public.

The University of California, Berkeley Center for Labor Research and Education recently released a study estimating that California taxpayers pay \$10 billion annually in hidden costs associated with the poverty wages earned by 2 million families. The study found that most public assistance (over 25% or \$5.7 billion) that went to working families was received by families whose workers were earning very low wages – average wages of less than \$8 per hour.³⁹ A further \$1.9 billion, or 9% went to those with wages between \$8 and \$10 per hour. Furthermore, the study also found that most public assistance went to families with full-time workers. The simulation conducted on wages by the study’s authors predicts that a drop in public assistance payments from \$10.1 billion to \$7.4 billion would occur if the current group of public assistance recipients earned at least \$8 an hour, concluding that simply raising wages for these workers would help working families and could save billions of dollars in program expenditures.



CHAPTER VII
**Conclusions &
Policy Recommendations**

CHAPTER VII

Conclusions & Policy Recommendations

By weaving together industry and government data, existing academic literature on the restaurant industry, and the voices of restaurant workers and employers, we are able to obtain a clearer and more comprehensive picture of New York City’s restaurant industry. Existing research, as well as the experiences of workers and employers documented in this report, demonstrate that the restaurant industry holds enormous promise as a source of income and jobs to the city. Its particular importance as a locally tied, sustainable industry providing employment to workers without formal training, those seeking entry level positions, and immigrant workers whose experience is not recognized by other employers, is clear.

However, our research confirms that, in practice, the majority of restaurant employers are unable or unwilling to take the “high road” to profitable and sustainable businesses, creating an industry of predominantly “bad” – low-wage, long hour, dangerous and dead end jobs for most of the industry’s workers. Additionally, the persistence of “low road” practices has the effect of compromising the health and safety of both workers and customers alike, and forcing the city’s taxpayers to subsidize restaurant employers through social programs.

Nevertheless, one of the major findings of our research is that it is possible to run a successful restaurant business while paying workers living wages, affording standard workplace benefits such as health care and paid sick and vacation days, ensuring adequate levels of staffing, providing necessary training, and creating career advancement opportunities. While commitment to doing so on the part of employers is a necessary ingredient to achieve this goal, additional public policy measures are also needed to help restaurant employers fulfill the potential of the industry to providing good, locally based jobs. A commitment on the part of government and regulatory agencies to find ways to support and reward employers who take the “high road”, and enable them to do so, is an equally necessary ingredient to a truly successful New York City restaurant industry.

Based on the results of our research, The Restaurant Industry Coalition makes the following specific recommendations:

1. **Policymakers should consider initiatives and incentives that will assist and encourage employers to pay living wages and provide basic workplace benefits such as health insurance and paid sick and vacation days to their workers.** Such initiatives could include rent and property tax incentives for employers who implement exceptional workplace practices, thereby enabling them to reduce fixed costs and invest more in workers. They could also take the form of subsidies to employment-based health insurance or support of collective health insurance provision across the industry. Given the high health care and public assistance costs associated with current practices, limited public expenditures in these areas could result in substantial savings to the taxpayer overall. We urge decision-makers to explore and implement such initiatives for the benefit of all New Yorkers.
2. **Workers suffering from egregious violations of labor and health and safety codes must be protected.** Not only do federal, state, and municipal agencies have a responsibility to ensure that these laws are respected; they also have a responsibility to individual workers whose lives are often threatened by illegal workplace practices. They also have a responsibility to protect the public from the unsanitary conditions and public health risks associated with illegal workplace practices. Additionally, public resources need to be spent in order to enable these agencies to effectively carry out this mission. Deep cuts to funding of agencies charged with monitoring food safety, workplace health and

safety, and compliance with wage and hour laws have compromised their ability to do so and enabled employers to pursue “low road” workplace practices with impunity at significant cost to the public. Elected officials must make it a priority to provide resources to these agencies, and they must engage in rigorous oversight of their activities.

3. **Policy options ensuring greater career mobility for workers of color should be explored, and racial discrimination in the industry addressed.** Our research illustrates the impacts of the occupational segregation within the restaurant industry evident in official and industry data. It is clear from our findings that discrimination based on race and immigration status acts in concert with occupational segregation to keep immigrant workers of color from higher-paying and more sustainable positions in the restaurant industry. Policy makers must explore initiatives that encourage internal promotion and discourage discrimination on the basis of race and immigration status in the restaurant industry.
4. **Model employers’ practices should be publicized.** The vast majority of employers we interviewed agreed in theory that “high road” workplace practices were better for both their workers and their businesses, decreasing turnover and improving customer service. However, they appeared unable to implement them in practice, citing external pressures and factors impacting their bottom line. Dissemination of model business practices such as those cited in this report could go a long way toward helping the vast majority of well-intentioned restaurant employers to not only do the right thing, but also increase their profitability, and therefore tax revenues from the industry.
5. **Collective organizing among restaurant workers should be supported.** In light of the significant benefits which can inure to workers and employers alike as a result of unionization of restaurant workplaces, governments, employers, and non-governmental social sector organizations should ensure that relevant initiatives foster and support organizing among restaurant workers and publicize the public benefits of unionization in this and other industries. Additionally, creative collective organizing efforts among restaurant workers which foster better wages and working conditions, enable restaurant workers to access health care insurance and other benefits, and facilitate advancement, investment and ownership in the industry should be supported through research, funding, and policy initiatives. Finally, development and dissemination of “know your rights” training for restaurant workers is clearly necessary.
6. **Further study and dialogue is required.** While the results of our research shed much needed light on the realities underlying existing statistical data, they also identify significant gaps in information currently available. There is a particular call for more detailed information regarding the factors influencing employers’ workplace practices and the needs that must be addressed in order to improve them – ultimately, these are generally what drive the workplace practices documented in this report. Additional potential areas for further study identified by our research include: impacts on health care and public assistance costs occasioned by industry practices, discrimination based on race and immigration status in the industry, and effective remedies to occupational segregation, to name just a few. Data and policy initiatives in these areas must be explored with the full participation of restaurant workers, employers, and decision-makers in order to ensure effective and sustainable solutions.



ROC-NY and 35 Workers

A Cooperatively-Owned Fine-Dining Restaurant

Slated to open in 2005, the Restaurant Opportunities Center of New York (ROC-NY) Cooperatively Owned restaurant has been one of the most highly-anticipated restaurant projects in New York City since September 11, 2001. ROC-NY is a non-profit organization that is made up of restaurant workers and families of workers from Windows on the World, the famous restaurant that sat atop the World Trade Center, as well as restaurant workers from across the city. Over the last two years ROC-NY has worked

toward launching a New-American restaurant in downtown Manhattan that would be owned cooperatively by these talented workers. The restaurant would serve as a legacy to the 73 lost workers at Windows while providing additional jobs, economic re-development and symbolic renewal after September 11th.

This cooperative restaurant will create many new jobs and establish a model of fair labor in Downtown Manhattan. Each worker in the restaurant, from the dishwasher to the General Manager, will have an equal share of ownership in the business, though daily management, including hiring and firing, will follow traditional restaurant operation, led by a General Manager and a Chef. However, following the lead of an Italian cooperative restaurant that serves as our model, the General Manager and Chef will be trained to be coaches, and will be accountable to a Board of Directors that is elected from the worker-members. The restaurant will be a union shop, in which all worker-members except management will be a part of the collective bargaining unit. As a result, it will provide high-quality wages, health benefits, training, and opportunities for advancement. Beyond the restaurant itself, worker-members will have access to job training and other services at ROC-NY the non-profit organization.

The ROC-NY Cooperatively Owned restaurant is one of the few beacons of hope to rise from the ashes of the World Trade Center tragedy, providing workers displaced from the World Trade Center (and family members of victims) with jobs and a new sense of hope for the future.

How do we get America on the "high road?" The answer, I believe, lies in partnerships – partnerships between unions and employers, between industry groups and community groups, between workers and academic and political leaders, between foundations and government agencies and schools and colleges.

— John J. Sweeney⁴²

APPENDIX

Survey Demographics

The survey was administered by staff, members, and volunteers from the Community Development Project of the Urban Justice Center (UJC) and the Restaurant Opportunities Center of New York (ROC-NY), Hotel Employees and Restaurant Employees' (HERE) Local 100 and Andolan,⁴³ - all community based organizations with significant contacts among restaurant workers and access to workplaces in the industry. A total of 530 surveys were conducted with workers, face-to-face on subways, in neighborhoods, in the vicinity of restaurants during breaks or at the end of shifts, and inside restaurants. Employers were also asked to identify workers to participate in the study.

Table 21 outlines the demographics of our sample:

TABLE 21. Characteristics of Restaurant Industry Coalition Survey Sample

	Percent of Sample		Percent of Sample
Race		Position	
Hispanic/Latino	64%	Front of the House	53%
Asian	14%	Back of the House	36%
African-American/Black	10%	Mixed Front and Back of the House	9%
White	8%	Supervisor (including chefs)	2%
Other	3%	Location of Restaurant	
Sex		Manhattan	73%
Male	84%	Queens	15%
Female	16%	Brooklyn	6%
Age		Bronx	4%
Below 25	37%	Staten Island	2%
26 to 35	43%	Restaurant Segment	
36 to 45	16%	Family style (chain/franchise and non-franchise)	43%
46 to 55	3%	Fancy expensive table cloth restaurant	30%
Above 55	1%	Fast food or quick service restaurant	27%
Place of Birth			
Foreign Born	84%		
US Born	16%		
		Sample Size (number)	530

Source: Restaurant Industry Coalition survey data

NOTES ON SAMPLE:

While we used industry and Census data related to demographics, as well as the data on the breakdown of restaurants by location and type of restaurant to guide our outreach and data collection to promote a sample that is reflective of the industry as a whole, we are cognizant of the fact that the demographics of our survey are not statistically representative of the industry. Indeed, our sample is over-representative of Latinos/Hispanics, as well as foreign-born workers. Our sample includes a large percent of workers who report lacking legal documentation status to work in the United States, possibly explaining some of this over-representation. Moreover, our outreach methodology also impacted the results in that surveys were conducted with workers found on the subway, on the streets and in communities in which many restaurant workers reside, therefore we were unable to control completely how the sample was developed. Moreover, many of the workers who were involved in undertaking the survey outreach were Spanish speakers. Finally, the survey prioritized back of the house staff, among whom there is a higher prevalence of lower-wage positions, and a higher chance of exposure to workplace hazards and violations, and who are less visible. Back of the house workers are largely people of color, specifically immigrant and Latino

Endnotes

¹“Employment Up In City Bars and Restaurants Since Implementation Of The Smoke-Free Air Act,” New York City Department of Health and Mental Hygiene, 23 July 2003. Accessed 10 January 2005. Available from <http://www.nyc.gov/html/doh/html/public/press03/pr081-0723.html>.

² The Zagat Survey is a provider of consumer survey-based dining, travel and leisure information

³ Lisa Fickenscher, “Employers in the soup: Restaurant jobs jump; good staff hard to find, keep,” *Crain’s New York Business*, 1 November 2004.

⁴ The surveys allowed the Coalition to produce a second document in summer 2004, *Dangerous Dining*, outlining the link between labor violations and violations of the City’s health code, which has allowed the Coalition to explore potential policy options to stop the most irresponsible and egregious violators of the law from potentially harming the whole industry.

⁵ While the U.S. Bureau of the Census uses the term Hispanic to describe individuals from Spanish speaking countries and communities, we have chosen to use the term Latino in this report, as this term is preferred by our members as more representative of the historical experiences of those who trace their origins to Latin America and the Spanish speaking Caribbean.

⁶ U.S. Bureau of the Census. *County Business Patterns 2001*. Washington, D.C., 2003.

⁷ “Special Report: 2002 Top 100 Independent Restaurants.” *Restaurants and Institutions*, 1 April 2002.

⁸ *Ibid.*

⁹ *NYC’s Restaurant Resource for 2000*, New York State Restaurant Association, 2000.

¹⁰ The Fiscal Policy Institute estimated that up to 12,500 restaurant industry jobs were lost after 9/11 in New York City compared to 10,800 in air transportation and 10,600 in retail. *The Employment Impact of the September 11 World Trade Center Attacks: Updated Estimates based on the Benchmarked Employment Data*. New York: Fiscal Policy Institute, 8 March 2002.

¹¹ New York State Department of Labor. *Occupational Outlook 2000-2010: New York State and Labor Market Regions in New York State*. Accessed 10 January 2005. Available at http://64.106.160.140:8080/lmi/projections_generator.html.

¹² This report is focused on the first two of these sectors. Within these sectors, we have identified three general sub-segments of the restaurant industry which are presently untracked by Government data and which were important in guiding our study and understanding the varying practices and strategies used by individual businesses. They are further outlined in Chapter III

¹³ Jerry W. Jackson, “The Restaurant Industry, the Largest Employer of Immigrants in the Nation, Hoping ‘Guest Worker Program’ Is a Part of Immigration Reform,” *Orlando Sentinel*, 10 March 2002.

¹⁴ Andolan (Organizing South Asian Workers) is a membership-based organization working with South Asian workers in New York City

¹⁵ Fewer workers from fast food and chain restaurants were surveyed given that this segment is by and large part of a corporate infrastructure, making for more consistency and less variation across experiences.

¹⁶ Produced by the Center for an Urban Future and the Schuyler Center for Analysis and Advocacy, November 2004

¹⁷ American Chamber of Commerce Researchers Association (ACCRA) Cost of Living Index. Accessed 8 January 2005. Available at <http://www.coli.org/>.

¹⁸ *Out of Reach 2004*, National Low Income Housing Coalition. Accessed 10 January 2005. Available at <http://www.nlihc.org/oor2004/>.

¹⁹ Shoshana Kordova, and James W Pindell, “Business Down Under, Basements: More Than Just Boxes,” *NYC24.com*, 7 (2001). Accessed 10 January 2005. Available at: <http://www.nyc24.com/2001/issue07/story03/index.html>

²⁰ HG Parsa, Associate Professor of Hospitality Management, Ohio State University, cited in, “Ohio State University research indicates restaurant failure rate is much lower than 90% - Brief Article,” *Nation’s Restaurant News*, September 29, 2003

²¹ Michael Lynn, “Turnover’s Relationship with Sales, Tips and Service Across Restaurants in a Chain.” *International Journal of Hospitality Management* 21: 443-447.

²² *Key Issues of Concern for Food-Service Managers*, Center for Hospitality Research at Cornell University. (Ithaca, N.Y.: 2003).

- ²³ NYC's *Restaurant Resource for 2000*, New York State Restaurant Association, 2000.
- ²⁴ *High Road Partnerships Report*, AFL-CIO Working for America Institute. Accessed 10 January 2005. Available at <http://www.workingforamerica.org/documents/HighRoadReport/highroadreport.htm>
- ²⁵ Lawrence Mishel and Mathew Walters, *How Unions Help All Workers*. Washington, D.C.: Economic Policy Institute, 2003.
- ²⁶ Interview with Brooks Bitterman, Research Director, UNITE/HERE Local 100, December 2004.
- ²⁷ Moshe Adler, "Unionization and Poverty: The Case of New York City Retail Workers," Working Paper No. 127. Washington, D.C.: Economic Policy Institute, 2003.
- ²⁸ Accessed October 2004. Available at <http://www.newyork.craigslist.com>
- ²⁹ Paul Frumkin, "In wake of Cipriani ruling, study reveals lack of women servers," *Nation's Restaurant News*, 24 July 2000.
- ³⁰ "Exclusive Restaurants Agree To Hire Women In Service Roles, Cipriani Settlement Called Model to End Discrimination in Restaurant Business," Office of the New York State Attorney General, 6 July 2000.
- ³¹ *Ibid.*
- ³² *Hidden Costs: The Public Cost of Low-Wage Jobs in San Diego*. San Diego: Center on Policy Initiatives, March 2004.
- ³³ Linda Ostreicher, "The Working Poop," *Gotham Gazette*, November 2004. Available at <http://www.gothamgazette.com>.
- ³⁴ Sara R Collins, Karen Davis, Michelle M. Doty, and Alice Ho, *Wages, Health Benefits, and Workers' Health*. New York: The Commonwealth Fund, October 2004.
- ³⁵ *Ibid.*
- ³⁶ James E. Cone et al., "Closing Public Health Data Gaps: Occupational Injuries Presenting to New York City Hospital Emergency Departments." Paper presented at the 133rd Annual Meeting of the American Public Health Association, November 2004.
- ³⁷ M.S. Suzman et al., "Major burn injuries among restaurant workers in New York City: an underappreciated public health hazard." *Journal of Burn Care and Rehabilitation*. (November 2001): 429-34.
- ³⁸ C. Jeffrey Waddoups., *Employer Sponsored Health Insurance and Uncompensated Care: An Updated Study of the University Medical Center in Clark County*, Center for Community and Labor Research, July 2001.
- ³⁹ Carol Zabin, Arindrajit Dube, and Ken Jacobs, *The Hidden Public Cost of Low-Wage Jobs in California*, (Berkeley, CA: Center for Labor Research and Education, University of California), May 2004.
- ⁴⁰ The impact of such practices on other industries has been well documented. See Arindrajit Dube and Ken Jacobs, *Hidden Cost of Wal-Mart Jobs, Use of Safety Net Programs by Wal-Mart Workers in California*, Briefing Paper Series, (Berkeley, CA: Center for Labor Research and Education, University of California), August 2, 2004; *Hidden Costs: The Public Cost of Low-Wage Jobs in San Diego*, Center on Policy Initiatives; Carol Zabin, Arindrajit Dube, Ph.D., Ken Jacobs, *The Hidden Public Cost of Low-Wage Jobs in California*.
- ⁴¹ *Ibid.*
- ⁴² *High Road Partnerships Report*, AFL-CIO Working for America Institute.
- ⁴³ Andolan (Organizing South Asian Workers) is a membership based organization working with South Asian workers in New York City



The Restaurant Opportunities Center of New York (ROC-NY)

New York City Restaurant Industry Coalition partners include:

Andolan Organizing South Asian Workers
The Brennan Center for Justice at New York University
Community Development Project of the Urban Justice Center
Community Service Society
City University of New York (CUNY) Law School Immigrant Rights Clinic
The Fiscal Policy Institute
National Coalition for Asian Pacific American Community Development (CAPACD)
National Employment Law Project (NELP)
Dr. Manny Ness, Brooklyn College
New York Committee for Occupational Safety and Health (NYCOSH)
New York Disaster Interfaith
The New York Immigration Coalition
New York Jobs With Justice
New York University's Medical Center for Immigrant Health
Restaurant Opportunities Center of New York (ROC-NY)
Restaurant Owners
Restaurant Workers
United Food and Commercial Workers (UFCW) Local 1500
UNITE/HERE Local 100
Urban Agenda

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