



A Cal Labor Expert Explains Hidden Restaurant Industry Practices

By Barbara Tannenbaum

Saru Jayaraman, director of [UC Berkeley's Food Labor Research Center](http://laborcenter.berkeley.edu/topic/food-labor-research-center/) (<http://laborcenter.berkeley.edu/topic/food-labor-research-center/>) and lecturer with the [Goldman School of Public Policy](https://gspp.berkeley.edu/) (<https://gspp.berkeley.edu/>), has spent the last two decades advocating on behalf of restaurant workers. This may not seem glamorous but Jayaraman's efforts recently brought her to the red carpet alongside comedian Amy Poehler at the Golden Globes, to HBO's *Real Time* with Bill Maher, and to interviews with NPR and *60 Minutes*.

A Harvard-trained scholar and lawyer, in 2001 Jayaraman co-founded an advocacy group, Restaurant Opportunities Center United (ROC United) for restaurant workers left unemployed and without federal protection following the 9/11 attack on New York's Twin Towers. Economic reports produced by ROC United have long made Jayaraman a much-demanded spokesperson when public attention falls on restaurant workers, as in 2012's national "Fight for \$15" campaign to raise the minimum wage for fast food workers. Jayaraman has also published two books, 2013's *Behind the Kitchen Door* and 2016's *Forked* based on ROC United surveys, interviews, and research findings.

Today, the public's interest in the plight of restaurant workers has skyrocketed. This is due, in part, to recent sexual harassment charges levied against high-profile chefs including New York's Mario Batali and Oakland's Charlie Hallowell, with additional media coverage of harassment faced by staff and servers amplified by the #MeToo movement and the reach of Hollywood's *Time's Up* project. Jayaraman is using this attention to shift the discussion from individual behavior to the underlying structural problems that plague the industry.



Jayaraman has a variety of data points at hand that reveal little-known aspects of the food service industry. For example, the industry's explosive growth over the past two decades means that nearly 14 million workers (or 1 out of 11 Americans) are employed in food service. It is the second largest employer in the U.S. and the economy's fastest growing sector. Yet it has a two-tiered wage structure in 43 states, with the minimum wage for tipped workers set as low as \$2.13 per hour, far below the federally mandated level of \$7.25.

When the questions of tipping arises, such as on Bill Maher's *Real Time*, Jayaraman is adamant that the responsibility of paying workers should reside with employers, not with audiences contemplating a "bonus." If fee for service ensures good work, why not pay doctors that way? Or members of congress? This gets audiences laughing, but the reality is sobering. As Jayaraman clarified in written testimony to the Senate Budget Committee in 2013, according to U.S. Labor Department data, the average hourly wage of restaurant workers across the country—with tips factored in—is only \$8 an hour.

Digging for Data

Research has a strategic value in an industry organized by a crazy quilt of rules and exceptions often leading to unintended consequences and public misconceptions. Teófilo Reyes is ROC United's national research director and a visiting scholar at the Goldman School of Public Policy. Based in Philadelphia, he confers by phone almost daily with Jayaraman and flies out once a month to coordinate projects with the student volunteers and work-study interns at Berkeley's Food Labor Research Center.

At the cramped FLRC office on Channing Avenue, researchers comb through Bureau of Labor statistics, including the Quarterly Census of Employment and Wages, the American Community Survey and Current Population Survey from the U.S. Census Bureau, and data from the Equal Employment Opportunity Commission (EEOC).

"We are constantly analyzing industry and worker-related data on a national, state, and county level to get a sense of the issues in play," he says. Based on these findings, FLRC publishes state-specific fact sheets, provided free to advocacy groups and academic colleagues. "Our research is the starting point. It's an educational tool that allows us to build relationships."

Seventy percent of tipped workers are women. Their reliance on tips and the need to please the customer creates a dynamic of compliance and powerlessness

Though sexual harassment has recently "received a dramatic amount of attention," says Reyes, "ROC United has been investigating the issue for many years." In 2014, the nonprofit group issued *The Glass Floor: Sexual Harassment in the Restaurant Industry*.

The motivation, according to Reyes, came in 2012 after seeing a report by the Center for American Progress examining five years' worth of EEOC complaints of sexual harassment. However, more than half the EEOC filings did not list the employee's field or industry. "Then we saw MSNBC did a deep dive on harassment filings, too," recalls Reyes.

In the MSNBC report, a disproportionate number of complaints came from the restaurant industry, double what it should have been, based on total workforce representation.

"When the numbers didn't match up, that was a red flag," says Reyes.

To examine the disparity, the ROC United team and their partners at Cornell University surveyed more than 800 restaurant workers in person and online. The survey deliberately avoided loaded terms like "sexual harassment," instead asking workers about a range of specific behaviors and how they felt about it. "They were much more forthcoming about examples of flirting, hugging, grabbing, all the way up to instances of assault," says Reyes. "And this time, we found incidents of harassment from close to 90% of the respondents."

This year, Jayaraman and her research teams are partnering with the [Berkeley Institute for the Future of Young Americans](https://gspp.berkeley.edu/centers/bifya) (<https://gspp.berkeley.edu/centers/bifya>) to launch a new survey on the lifelong impact of sexual harassment in the restaurant industry. As Jayaraman explains, 70% of tipped workers are women. Their reliance on tips and the need to please the customer creates a dynamic of compliance and powerlessness.

"We've heard stories from Hollywood celebrities, lawyers, CEOs, union organizers—women across the board—of abuse taking place later in their careers," Jayaraman said. "But they didn't complain because it wasn't as bad as what they experienced in the restaurant industry."

Reyes adds another point. "People come up to Saru at speaking engagements and share their experiences," he says. Such stories enable Jayaraman to see missing pieces in their research efforts. "She always brings this to our attention," Reyes says. "It helps us direct our efforts."

A Guide For the Perplexed

Although Jayaraman has a busy travel schedule, she agreed to meet in person on a recent sunny day at Café Strada. After speaking with me, she would head across campus to the Goldman School of Public Policy to teach the graduate seminar *Mobilizing the Working Class in a Divided Nation*.

A California native, Saru Jayaraman grew up in a close-knit family in the town of Whittier, just east of Los Angeles. Like Whittier's other famous native, Richard Nixon, Jayaraman was accepted to Harvard University at a young age but declined, choosing to attend college closer to home. "I was only 16," she laughs, describing her decision to attend UCLA. Traveling east after graduation, she then earned degrees from the Harvard Kennedy School of Public Policy and Yale Law School.

After teaching stints at Cornell, NYU, and Brooklyn College, Jayaraman sought to move back to the West Coast with her husband and two children. In 2012, she wrote to Berkeley officials, proposing a new Food Labor Research Center. It is now the only academic center in the U.S. examining the intersection of the food industry with worker's rights.

Given the range of issues facing restaurant workers, I asked Jayaraman what Berkeley students should know about working a summer job.

"Number one," she replied, "most people don't even *know* there's a lower wage for tipped workers. Start with that baseline and do some research based on where you're going to be this summer." Some states do have a higher minimum wage and seven states (Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington) do not have a lower minimum for tipped workers.

California recently increased its minimum wage to \$15 per hour, but most cities will gradually increase to this rate between now and 2022.

For those working outside of California, Jayaraman advised, know that on slow days, restaurant employers are legally obligated to make up the wage gap between the lower versus regular minimum wage. "If there are no customers or no tips, you are still entitled to earn that higher hourly minimum," she said. "And if you work additional hours, you're entitled to overtime, too."

Back wages can be hard to collect, even when workers file a complaint with the EEOC. Working with state or federal agencies can be complicated and time-consuming, says Jayaraman advised students to search out information and resources on ROC United's website. "They will support you in that process," she says.

In California, add-on service fees, some as high as 16% are confusing. Jayaraman pointed to a [policy brief](https://food.berkeley.edu/wp-content/uploads/2015/06/BFL_Servicecharges_Brief_2016-12-6.pdf) (https://food.berkeley.edu/wp-content/uploads/2015/06/BFL_Servicecharges_Brief_2016-12-6.pdf) on the Berkeley Food Labor Institute website for clarity.

"These fees are not legally required to go to the workers," she cautioned. With increasing use of credit cards and other forms of digital payments instead of cash, it has become more important to require restaurant owners to disclose who collects the service fees. Jayaraman adds that ROC United is working with California's legislature to clarify this issue.

On the other side of the menu, consumers can download ROC United's free [National Diner's Guide](https://itunes.apple.com/us/app/roc-national-diners-guide/id577946103?mt=8) (<https://itunes.apple.com/us/app/roc-national-diners-guide/id577946103?mt=8>) from iTunes to see various restaurants' employee policies: paid sick days, wages of the nontipped workers, and internal promotion strategies. "If your favorite spot isn't on the list, talk to the manager," she advised. Questioning management policies can lead to positive changes.

While these suggestions are helpful, the larger question that animates Jayaraman's work is the role the restaurant industry can play in rebuilding the middle class. This potential is something that Jayaraman vividly illustrated for Teófilo Reyes five years ago at his orientation as a new ROC United employee.

"She contrasted the dramatic growth in service industry jobs with the long-term economic decline in manufacturing," Reyes says. For example, data from the U.S. Department of Agriculture shows that people did cut back on dining out or buying food prepared outside the home in 2009 at the height of the Great Recession. Within the year, however, the public resumed its eating habits. By 2010, public expenditures on food and drink outside the home surpassed its previous high set in 2008, enabling the restaurant industry to rebound from the downturn within one year, faster than any other economic sector.

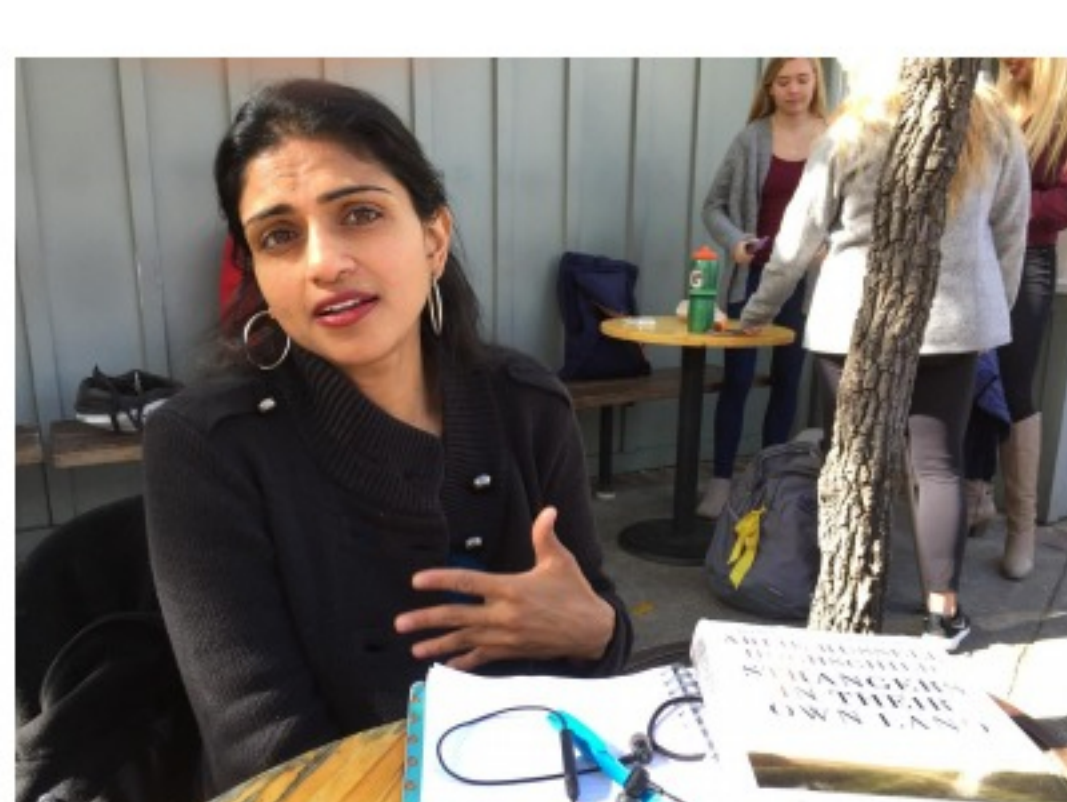
Another sign that the industry strength comes from deeply rooted consumer behavior rather than low prices or cost sensitivity is illustrated by recent reports from the National Restaurant Association and the U.S. Department of Labor. The restaurant industry continues to post profits, growth, and expansion even in cities with higher minimum wages.

"We target our research to address these misconceptions," says Reyes. "The question becomes ...How do you strengthen the wages, benefits, and working conditions for a broad section of the American workforce? These are the building blocks of our research strategy."

"Restaurant work is important to society," Jayaraman says. "Public policy and public interactions should reflect our values. We should honor dignified work."

Barbara Tannenbaum is a journalist and fiction writer based in San Rafael, CA. Her pieces on science, arts, and culture have appeared in *The New York Times*, *San Francisco Magazine*, *Christian Science Monitor*, *The Los Angeles Times*, and *Science Today*, the news channel of *California Academy of Sciences*.

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Jayaraman at Cafe Strada on a recent afternoon. / courtesy of Barbara Tannenbaum