

EDITORIAL

For many restaurant workers, fair conditions not on menu

It's easy to recognize a former restaurant dishwasher. Long, deep scars often line their forearms — the result of nights when, as the lowest on the chain of kitchen workers, they must plunge their hands into boiling hot water to unclog industrial-size dish-washing machines. Another requirement is hauling heavy dish tubs across slippery kitchens. For this backbreaking work, the hourly pay frequently doesn't exceed the state minimum wage of \$8. Undocumented workers often make significantly less. If a dishwasher shows promise, he'll get a second job in the kitchen, usually prepping salads, for no extra pay. "Paying your dues quietly is how to move up in a kitchen," says Jonny Arevalo, who worked at several Boston restaurants, including Bennigan's, for nine years. "Then some other poor guy takes your place."

The restaurant industry in the United States is exploding, just as the income gap is widening. The trends are related: While expansion of other industries often leads to higher wages and greater opportunities, growth in the restaurant business does not. Shielded by a powerful lobby and a franchise system that makes union organizing difficult and impractical, it provides the scraps at the bottom of the income ladder. The food service industry is the province of kitchen workers who must enlist government investigators to collect the bare minimum that the law entitles them to receive; wait staff who earn a punishingly low \$2.13 per hour nationally in exchange for tips whose distribution is often controlled by management; and fast-food employees who work for chains that explicitly advise them to apply for food stamps and other government aid to supplement their unlivable pay.

These low wages do not represent an efficient, market-driven distribution of labor. Because waiters making poverty wages turn to public aid, American taxpayers effectively subsidize the restaurant industry to the tune of \$7 billion per year. All this for an industry that isn't beset by global competition — as

industrial manufacturers are — and doesn't represent a vital national interest, like energy or utilities. In fact, the economic arguments against policies that would raise the wages of restaurant workers are distinctly unimpressive. Claims that higher wages would result in fewer jobs aren't borne out by the experience of California, which bolted ahead of Massachusetts and other states years ago by prohibiting the practice of giving sub-minimum paychecks to workers in jobs with heavy tipping: The number of restaurant jobs in the Golden State is expected to rise by 141,000, or 9.1 percent, by 2024 despite workers having higher guaranteed pay, outpacing Massachusetts' projected jobs growth of 5.7 percent over the same period.

Fairness alone suggests making a concerted effort to remove the loopholes that allow many restaurants to keep their workers in dire circumstances. Concern for the children of such workers ought to be enough of an incentive to mount an effort to raise salaries. But there is a larger reason to elevate the status of restaurant employees: It would be the single most effective way to combat income inequality in a country where the gap between rich and poor is soaring to levels not seen since before the stock market crash of 1929.

Restaurant workers represent a whopping 10 percent of the workforce, and a vastly disproportionate share of low-wage workers. By changing a few policies and adjusting some industry practices, the nation could sharply reduce the numbers of families in poverty and enhance the middle class while actually saving taxpayer dollars. It's time to start moving in this sensible direction, both in Massachusetts and the nation as a whole.

Restaurants, in a way, are the quintessential industry of a challenging 21st-century economy. Time-pressed Americans eat out for at least five meals a week, and the average household spent \$2,620 on food away from home in 2011, according to the National Restaurant Association. A thriving restaurant

scene like Boston's, with its fine dining and food trucks, is an integral part of a modern city. Massachusetts' restaurants alone are projected to ring up \$13.5 billion in sales for 2014. Yet as fine diners increasingly seek out organic, farm-to-table cuisine, few think much of the workforce making those meals.

What goes on behind the kitchen doors is grim. The 13 million-plus restaurant workers in the United States face a poverty rate that is nearly three times that of the rest of the country's workforce, and the industry hosts seven of the 10 worst paying American jobs, according to federal labor statistics. Dishwashers in Massachusetts, for instance, made \$10.29 per hour on average in 2012. (That figure is telling in itself, as it includes dishwashers at hotels, universities, and health care facilities, who are usually union workers and nationally earn on average nearly \$3 more per hour than restaurant dishwashers.) Research done by MIT puts a livable wage for Boston — the minimum income someone needs to live adequately given local costs of living — at \$12.65 for a single adult and \$22.40 for a family of four.

Moreover, these jobs come with few of the benefits that workers in other industries take for granted. Health coverage is rarely offered; paid sick leave, vacation time, and 401(k)s are virtually unheard of. Schedules often change on a weekly or even daily basis, making child care a nightmare to arrange. And forget about job security. Restaurant analyst Victor Fernandez says annual turnover is above 95 percent for hourly workers.

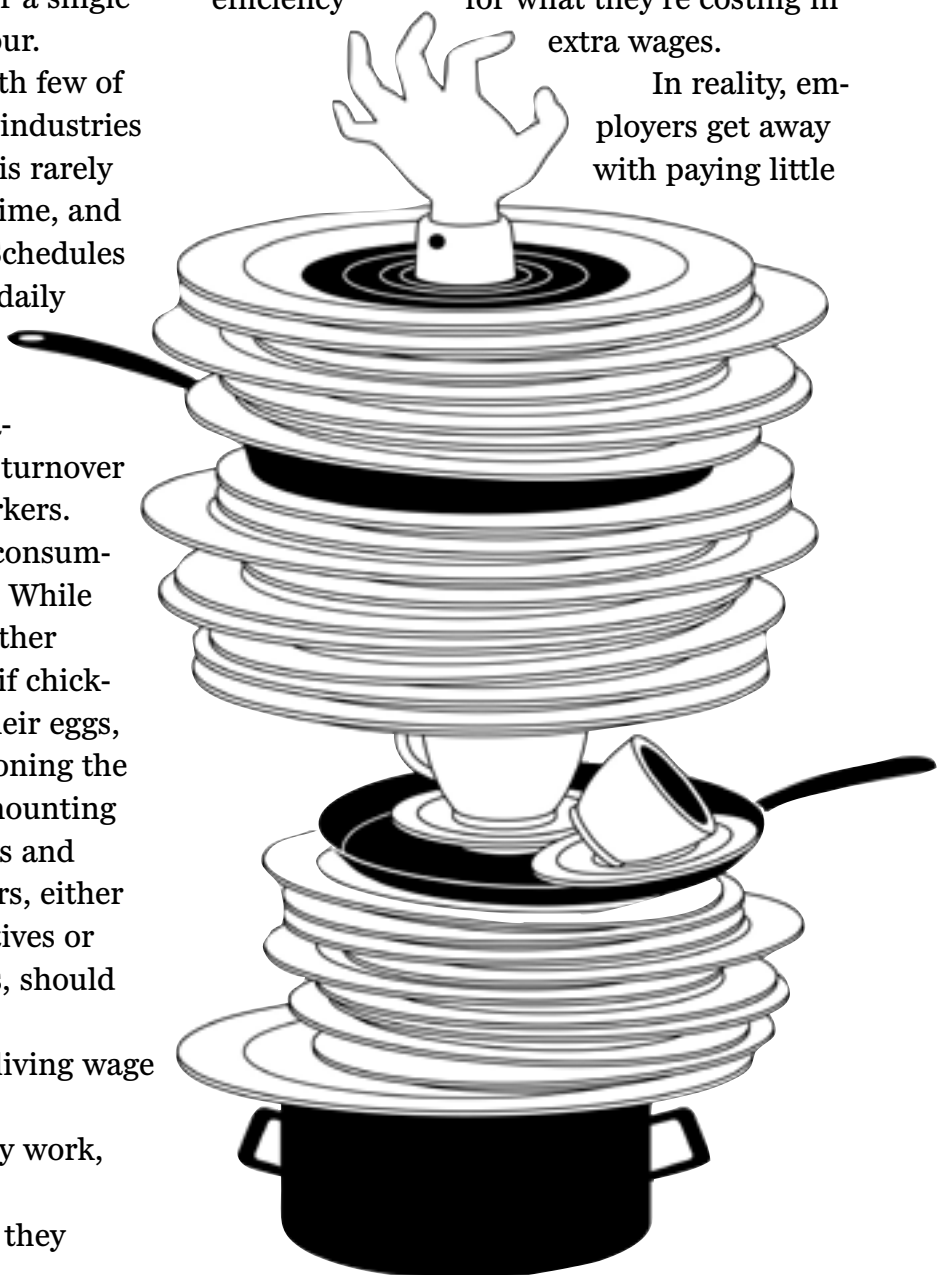
Very little will improve until consumers begin to pressure the industry. While diners feel empowered to ask whether produce was purchased locally or if chickens were given free range to lay their eggs, they don't feel comfortable questioning the treatment of employees, despite mounting evidence of violations of labor laws and poor conditions for workers. Diners, either through their political representatives or their own complaints to managers, should argue that workers be given:

- Hourly wages at or above a living wage for individuals.
- Payment for all the time they work, including overtime.
- Opportunities to organize if they choose to do so.

Meanwhile, lawmakers should summon the courage to reject the demands of the National Restaurant Association, which is largely responsible for Massachusetts' "tipped minimum wage" — under which restaurants are allowed to pay workers just \$2.63 with the hard-to-enforce understanding that tips will make up the rest of the way to at least \$8 per hour. California, for its part, has guaranteed that all restaurant workers will earn at least \$10 per hour by 2016, through a straightforward paycheck, with tips extra.

Most restaurant owners blame low wages and poor working conditions on slim profit margins amid intense competition. But raising wages across the board wouldn't change the competition; every outlet would have to play under the same rules and demands. And while consumers should expect somewhat higher prices to cover higher labor costs, some restaurants insist that better-paid workers are more reliable and stay in their jobs long enough to make up in efficiency for what they're costing in extra wages.

In reality, employers get away with paying little



THOMAS FUCHS FOR THE BOSTON GLOBE

and treating workers badly simply because they can. There aren't many other opportunities in Massachusetts for workers with few or no skills, especially if they are undocumented. In 2012, there were 1.8 job seekers for every opening in the restaurant sector statewide, a relatively low figure compared to other industries. Yet the data suggest more than two-thirds of those openings were for part-time work, while the vast majority of the unemployed want full-time positions.

In Boston, immigrants from Latin America — most often from Colombia, El Salvador, or Brazil — fill restaurant kitchens. Many, because they have limited English or are in the country illegally, are simply glad for paying work. Supporting family here and back home, they often string together two or three jobs to make ends meet. “They start at 7 a.m. in one kitchen doing prep, then leave for a second shift, working until midnight or 1 a.m.,” says Arevalo, who was a pilot in his native Colombia and now runs the worker center at the Massachusetts Coalition For Occupational Safety and Health (MassCOSH).

Filiberto Lopez moved to Boston from El Salvador seven years ago in hopes of finding the American Dream, and ended up sleeping in the kitchen of a East Boston Peruvian restaurant. He worked more than 80 hours a week there, schlepping 200-pound sacks of flour from the kitchen's basement storage area, cleaning the restaurant after hours, even maintaining its air filters and electrical system. His boss, himself an immigrant, was verbally abusive, regularly referring to Lopez as “Boy.” For this, Lopez was paid \$5 an hour and never overtime. “I didn't speak English and didn't have legal documents,” Lopez says. “I assumed I had no rights at all.” Lopez has moved on to work at other Boston restaurants, and has helped MassCOSH identify other abusive workplaces.

Wage theft is common across the industry, and not just at struggling ethnic outlets in distant neighborhoods. It starts with failure to pay overtime. State law exempts eateries from paying time-and-a-half for more than 40 hours of work in one week. However, federal laws do not — and if a restaurant makes more than \$500,000 in gross annual sales, it is compelled to follow the federal law. Local establishments have also been found to be breaking child labor laws, failing to pay minimum wage, or failing to pay workers at all.

Massachusetts' restaurants are under more scrutiny than most. The Boston office of the US Department of Labor conducted 165 investigations in the restaurant industry in fiscal year 2013, collecting more than \$1.7 million in back wages from employers who violated wage-and-hour laws. Among those cited for various violations since 2009 by the Labor Department, state Attorney General's Office, and other enforcement agencies are some of the Boston area's most popular dining establishments: Not Your Average Joes; the Metropolitan Club; Sunset Grill & Tap; Brookline's Pomodoro; Cambridge's Miracle of Science, Middlesex Lounge, and Tory Row; and Ruby Tuesday.

In 2012, acclaimed restaurateurs Patrick Lyons and Ed Sparks agreed to pay \$424,000 in back pay and damages to improperly underpaid workers at 15 of the restaurants they own, including Towne, Scampo, Sonsie, and the Bleacher Bar. In what is a common practice, Lyons and Sparks had contracted out their labor to an agency that not only failed to pay employees but also disappeared. At the end of the day, though, the law rightly holds the restaurants responsible for ensuring their workers are fully paid. “Know who you're doing business with,” Lyons warns. “Or you'll end up paying at least twice what you owed in the first place.”

But resources for enforcement are limited. Boston Mayor Marty Walsh could help. During his campaign, Walsh pledged his support for a livable wage. A first step for his administration toward achieving that would be to streamline the permitting process. By allowing restaurants to open and operate with less red tape, overhead could be reduced, and capital freed up for owners to pay their workers a higher wage.

Or, better yet, Walsh could follow the lead of Somerville Mayor Joe Curtatone. Last summer Curtatone championed and passed a citywide ordinance put forward by local activists that now prevents employers who are guilty of wage theft from getting or renewing permits. This law should be replicated across Massachusetts. “If you break the law and don't pay your workers what they're owed, you won't do business in Somerville,” Curtatone says.

That's a message any business owner will understand.