Stacy, a single mother, has been waiting tables at the diner since 8 am. She is scheduled to leave at 5 pm, but at 4:45 pm in walks a table of 15 people. Her manager says she cannot go home and has to serve the table. She knows that she has to pick up her son at the after school program by 5:15, what does she do?

Lorraine trekked into the restaurant to work her waitressing shift despite the impending snowstorm. However her customers weren’t as brave and the restaurant has been empty most of the evening. Her manager says she can go home early, only 2 hours into her shift. As a result she has not earned any tips, must pay for her transportation to and from work, and owes the babysitter for the full 8 hour shift.

Stacy and Lorraine’s experiences are shared daily by many workers in the restaurant industry. Whether it is forced to work past a scheduled end time or asked to leave early because the shift is not very busy, restaurant workers struggle to juggle their work and family demands, while trying to earn a living. Many restaurant workers—waiters, waitresses, bartenders, bussers, among others—are paid via a tipping system, and therefore depend on customers’ tips for the bulk of their income. Yet when restaurants are often the busiest—nights, weekend and holidays—are the times when there are the least among of options for family care. And even trying to plan ahead for childcare or transportation is quite difficult. Restaurant workers hours
vary—often weekly—making scheduling and incomes very unstable. The low levels of schedule and hour control are compounded with low sub-minimum wages, a dependence of tips, a lack of paid sick days and family leave, and a lack of employment based benefits. This creates a situation where many restaurant workers, despite working full time, often live in economic insecurity. And this economic insecurity disproportionately impacts women who make up the bulk of workers in restaurants. A recent report from the Restaurant Opportunity Center (ROC-UNITED) notes that over half of the workers in food preparation and related occupations are women, mostly concentrated in the lowest-paying occupations. And almost 2 million restaurant workers are mothers. More than half of them, 1.2 million, are single mothers with children in the household. And 1 million are single mothers with children under age 18.

While much has been written about the low wages and benefits in restaurant work, less has been focused on how workplace practices such as schedule control, leave options and workplace inflexibility impacts economic security opportunities. This is an issue particularly important to women, as they bear a disproportionate amount of the caring labor—child care, elder care, and other care work---in families and communities. The lack of access to flexible work options for low-wage workers in restaurants is symptomatic of the inherent segmentation of the U.S. labor market. Low-wage jobs are characterized by highly structured work environments such as in retail, hospitality, restaurant, and tourism industries. These jobs include the semi-skilled service trades where employers see low-wage workers as more “easily replaceable” than their higher paid counterparts. Furthermore, as women and people of color have higher rates of employment in these jobs and this situation reinforces gender and racial inequality with regard to the availability of flexible work options. In this paper I explore the economic insecurity of restaurant workers, focusing on these workplace practices, in order to highlight the challenges that restaurant workers face and the ways that both workplace practices and public policies can help to address the workplace flexibility of this large and growing workforce.

**Restaurant Workers and Economic Security**

The restaurant industry is one of the largest sectors in the United States economy and is projected to be among those with the highest growth by 2020. Between 2000 and 2010, American food services and drinking places created over 860,000 new jobs. And restaurants grew one and a half times faster, adding $134.7 billion to our economy. This pace is projected to continue over the next ten years.

Despite the industry’s growth, its workers overwhelmingly live in economic insecurity. Wages have not kept pace with neither the industry’s growth nor cost of living—as the minimum wage has not be raised from $2.13 an hour for over 20 years. Food preparation and service-related occupations comprised over one-quarter of all U.S. workers who earned the federal minimum wage and almost 60 percent of all U.S. workers paid below the federal minimum wage—the highest proportion of minimum wage employees of any sector. The wage is so low, that often restaurant workers receive a zeroed out paycheck at the end of the week, because once taxes are taken out of the hourly pay, there is nothing left. So tips are what they are living on. In fact living on tips is so economically precarious that restaurant workers use food stamps at twice the rate of the US workforce. Restaurant workers are also often denied common employee benefits, such as medical benefits and sick leave. In 2012, 60 percent of service sector workers, including restaurant workers, did not have paid sick leave. The irony
here is clear—those that serve us our meals and drinks cannot afford to feed themselves and their families.

As a result, restaurant workers have difficulty in achieving economic security, or being able to afford basic expenses such as rent, food, transportation, child care, health care, and savings. Wider Opportunities for Women (WOW) developed the Basic Economic Security Tables Index (BEST) — a measure of the local costs of these basic expenses for various household types - to provide a clearer understanding of the wage necessary to meet these basic needs and ensure economic security. (Table 1 details selected BEST incomes.)

### Basic Economic Security Tables, 2013
(Workers with Employment-based Benefits)

<table>
<thead>
<tr>
<th></th>
<th>US, Selected Family Types</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Expenses</td>
<td>1 Worker, 1 Infant, 1 Preschooler, 1 Schoolchild</td>
</tr>
<tr>
<td>Housing</td>
<td>$642</td>
</tr>
<tr>
<td>Utilities</td>
<td>$115</td>
</tr>
<tr>
<td>Food</td>
<td>$264</td>
</tr>
<tr>
<td>Transportation</td>
<td>$516</td>
</tr>
<tr>
<td>Child Care</td>
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</tr>
<tr>
<td>Personal &amp; Household</td>
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</tr>
<tr>
<td>Health Care</td>
<td>$161</td>
</tr>
<tr>
<td>Emergency Savings</td>
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</tr>
<tr>
<td>Retirement Savings</td>
<td>$87</td>
</tr>
<tr>
<td>Taxes</td>
<td>$374</td>
</tr>
<tr>
<td>Tax Credits</td>
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</tr>
<tr>
<td><strong>Monthly Total (per)</strong></td>
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<tr>
<td><strong>Annual Total</strong></td>
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</tr>
<tr>
<td><strong>Hourly Wage (per)</strong></td>
<td><strong>$14.17</strong></td>
</tr>
</tbody>
</table>

**Additional Asset Building Savings**

<table>
<thead>
<tr>
<th></th>
<th>1 Worker, 1 Infant, 1 Schoolchild</th>
<th>2 Workers, 1 Schoolchild</th>
</tr>
</thead>
<tbody>
<tr>
<td>Children's Higher</td>
<td>$0</td>
<td>$163</td>
</tr>
<tr>
<td>Homeownership</td>
<td>$112</td>
<td>$131</td>
</tr>
</tbody>
</table>

WOW found that economic insecurity is pervasive in our labor market: 45 percent of all Americans live in households that lack economic security, and are unable to cover those basic needs. Yet, economic insecurity is much worse among workers in the restaurant industry. In 2011, 72 percent of adult servers who worked in the last 12 months had total household incomes below the BEST for their family types. Eighty-one percent of these individuals were women. Seventy nine percent of households headed by an adult server who worked in the last 12 months had total household income below the BEST. Of those households, 80 percent were headed by women, 51 percent were headed by single women, and 27 percent were headed by single mothers.

The vast majority of servers are unable to provide basic economic security to themselves and their families, meaning they must routinely choose what necessities their families will forego as they struggle to make ends meet. For many restaurant workers, who are dependent on tips to pay the rent and keep the electricity on at their homes, being at work when the restaurant is busy is essential for economic survival. However that often means nights, weekends and holidays...
along with being able to have what it is referred to as “open availability”—being able to come into work at a moment’s notice, stay later if needed, and leave work early if the restaurant is not very busy. Open availability, similar to Joan William’s “ideal worker” in white collar work, requires one to have no other obligations other than work—a situation that is not a reality for any worker, especially women. The lack of schedule control and workplace flexibility in restaurant worker amplifies the economic insecurity that workers face. In order to fully address women’s poverty in restaurant work, public policy and workplace practices must help support workplace flexibility that is truly flexible and reflective of workers’ lives.

**Working Conditions in the Restaurant Industry**

While restaurant work may often be billed as “flexible” a deeper analysis into the labor process of the work highlights exactly what that flexibility means. Waitresses, bartenders, cooks and other restaurant jobs need to be performed on-site; they cannot be outsourced or performed remotely. 

14 And restaurant jobs are known for long hours (beyond the regular 8-hour shift), often with variable scheduling. Hotels and other lodging facilities are generally open 24 hours a day, 7 days a week and restaurants typically open early and close late. Additionally, restaurants are busiest during times that are outside the hours of the traditional work day or work week—that is, during evenings, nights, weekends, and holidays. Understanding the restaurant workplace practices helps to highlight the conditions that workers are trying to juggle.

**Just in Time Shift Work**

The vast majority of restaurant workers are scheduled to shifts. Shift work requires a worker to be on-site at particular start and stop times. Shifts work is often characterized by schedule rigidity, and the degree of the rigidity of start and stop times can significantly impact a worker’s flexibility. Just being a few minutes late or having to leave a few minutes early can lead to discipline or discharge. 

15 And consequently, as most shifts are paid by the number of hours worked, punching in late or punching out early (even just a few minutes) can have dramatic financial implications.

However, the challenge does not just rest in the fact that restaurant workers are scheduled to shifts. The larger challenge is a restaurant practice referred to as *volatile workplace scheduling* which relates to how shifts are scheduled. This scheduling practice means that both the number of hours and the timing of those hours can change day-to-day, week-to-week, and season-to-season at the discretion of management. This unpredictability means that a worker may have to work different hours and different days each week with no consistent days off. Coupled with this is the “on-call” status of many workers. Workers may be scheduled to be on-call during certain shifts, meaning that they work only if they are needed. They then may be called into work at any point during the shift. This forces workers to have childcare and transportation options readily available.

Volatile scheduling practices reflect the notion that many employers establish work schedules based primarily on their own concerns, such as fluctuating customer traffic. These “just-in-time” management practices have placed the costs of inconsistent customer demand on restaurants’ lowest paid and most vulnerable workers—tipped based servers and bartenders. This unpredictability in scheduling has a drastic economic impact on workers. Workers are not often guaranteed a minimum number of hours; consequently, workers with fluctuating schedules cannot plan on having a consistent income each week or month, thereby exacerbating the difficulty of living on low wages. Finally, in addition to uncontrollable start and stop times, only
33 percent of low-wage workers can decide when they will take breaks in their workday. Not having regular or consistent break times means that workers may not be able to care for themselves (e.g., a nursing mother may not have time to pump milk) or others (e.g., parents may not be able to call home to check in on children or elders).  

The goal of just-in-time scheduling is to maintain a predetermined ratio between the number of hours employees work and the business sales or traffic. Yet just-in-time managed jobs do not fit within worker’s lives, especially in today’s world where many support services for workers are available on a traditional 9 a.m. to 5 p.m. schedule. Last minute changes in schedules make it challenging to arrange for transportation, childcare, or eldercare. This includes either overtime hours or cancelled shifts due to business that is not as lucrative that day. Canceled shifts also mean decreased income, and this income volatility makes it more difficult to survive economically. Ultimately, workers often want and need more rather than fewer hours of work.

According to national census data, about one-third of workers who work less than 35 hours a week want more hours. Among women in this group, only 7 percent of workers want fewer hours. One strategy that workers in these jobs use to deal with the decreased hours is to take on a second part-time job. However, this strategy further complicates the flexibility issue, as the unstable hours of the second job compound and conflict with the unstable hours of the first job. Ironically restaurant workers often financially need overtime, but unexpected overtime shifts provide workers with a large burden as they try to manage work and family.

These scheduling challenges become even more pronounced since many of these restaurant jobs are tip based. As a result many workers actually want and economically need to be working when customer demand is high. This places a significant burden on women with care responsibilities. For instance, the dinner shift in restaurants can be significantly more lucrative than other shifts. Holidays are often big travel days, so hotel workers may want to work those shifts. Yet those are precisely the times when schools and other daycare alternatives are not available, or, if they are available, the cost is often prohibitive.

Another common practice in the restaurant industry is posting schedules with little advance notice, and without advance knowledge of one’s schedule, it becomes a challenge to schedule life appointments around work. Restaurants often post schedules on the Thursday or Friday of the week, and this upcoming schedule begins just a day or so later—on Sunday. In addition, managers can make last-minute changes to the work schedule once it is posted if it appears that customer traffic may be higher or lower than anticipated. For example, managers may send a worker home if the establishment is not busy. Sometimes these changes are made with no advance notice, compounding work and life problems. Mary Gatta found that restaurant workers are often scheduled with a start time but no end time. In the restaurant she studied, workers were scheduled as a “12 BD.” This meant that the worker would arrive to work at noon and then leave when “business declined.” That could be anytime and at the discretion of the management. Such scheduling practices assume that workers are able to easily adjust home responsibilities or that their personal responsibilities are just not that critical.

A perhaps more drastic scheduling practice is “mandatory overtime.” Even if a worker has a scheduled end time, they may be forced to stay longer if customers remain and the establishment is busy. Under the Fair Labor Standards Act, workers have virtually no legal recourse to challenge terminations or retaliations for refusing mandatory overtime. These last-minute requirements and unpredictable schedules create undue burdens on workers. Workers who depend on public transportation may not have the means of getting to and from work and they also may not be able to meet their general family obligations—preparing meals, caring for...
children or elders, et cetera. And if an employee is forced to work late, they must have someone available to care for their children or provide needed medication to a parent—a scenario that is almost never a reality for low-wage workers.

The schedule challenges most usually associated with restaurant work are directly related to the degree of control that employers and employees have over the scheduling process. Control may be the key mechanism by which work schedules influence family life—in both positive and negative ways.²³ If the employer is maintaining complete control over the scheduling process, the worker has very limited flexibility. And, as noted, unfortunately, workers find the latter scenario is often the reality. Schedules are often posted with little advance notice and workers can be scheduled on-call for a shift. If a restaurant is busy, workers are expected to be at work and have the flexibility to stay late. And schedules can be impacted by the time of the year: Tourism and holiday seasons can lead to longer hours each day for workers. On-call work schedules place a burden on families, as low-wage workers must have caregiving alternatives that are also on-call—something that is virtually impossible for most. In addition, just-in-time scheduling often includes last minute changes—sending workers home or extending their hours on the spot. This unpredictability makes daily and weekly schedules difficult to manage. Through just-in-time management practices, managers in control of schedules often decide whether, and how long, workers work. When workers need to adjust their schedules, it is often done informally between the worker and manager—if it is allowed at all. The lack of worker control over schedules, coupled with a lack of monetary resources, make integrating work and family difficult, and often results in problems maintaining employment and providing stability and support for their families.

Paid Family and Sick Leave

In addition to rigid and unpredictable schedules, many restaurant workers also face the challenges associated with not having access to paid or even unpaid leave in many of the jobs they hold. The United States does not have a national system of mandated paid family and medical leave, paid sick days, or paid vacation time. The only piece of work-family legislation at the national level is the 1993 Family and Medical Leave Act (FMLA).²⁴ The FMLA ensures 12 weeks of unpaid, job-protected leave to eligible workers who need to provide family care. However, FMLA does not cover all workers. To take FMLA leave, a worker must be employed with a company of 50 or more employees, work at least 1,250 hours per year, and have worked for their employer for at least one year. These restrictions limit the number and kinds of workers that have access to FMLA. Many restaurant workers are working more than one job. Requiring FMLA hours to be available through only one employer can exclude these workers. Looking across race and gender also shows serious inequities. More women (43 percent) have held their jobs for less than one year than men, (31 percent). Among White workers ages 18 to 25 with a small child at home, 39 percent have held their job for less than one year. And 48 percent of Black workers and 32 percent of Hispanic workers have held their current jobs for less than one year, as well.²⁵ And company size requirements exclude many workers. According to the U.S. Census Bureau, 28 percent of the total U.S workforce is employed by companies with fewer than 50 employees.²⁶ These small businesses can include family-owned hotels and restaurants. These requirements then exclude millions of workers from taking advantage of FMLA. And because FMLA is unpaid leave, even if a low-wage worker meets the eligibility requirements, he or she often cannot afford to take time off of work without pay.
In addition to paid family leave, access to paid sick leave can help workers take care of their own health and the needs of their families. With a lack of public options, low-wage workers must depend on employers to provide leave options. Large organizations are the most likely to offer paid sick days: 77 percent of workers in organizations with 5,000 or more employees had access to paid sick days, as opposed to 42 percent of workers in organizations with less than 9 employees. Moreover, almost 66 percent of all workers—with the majority consisting of low-income parents—lack the ability to take a sick day off to care for a family member, and 28 percent of low-wage caregivers lack any paid vacation time at all. For the lowest-paid private sector workers (earning $8.10 an hour or less), only 2 in 10 have paid sick days. Alternatively, more than 8 in 10 workers earning $24.53 an hour or more have paid sick days. Finally, only 5 percent of U.S. workers in the entire labor force have access to a job that provides paid parental leave. And a lack of paid sick days is bad not just for workers but also restaurant patrons. A recent study conducted by the Centers on Disease Control (2012) traced 53 percent of norovirus outbreaks, and possibly up to 82 percent, to infected food workers. As a result, workers must make difficult choices between work and life responsibilities.

Shift work, long hours, volatile scheduling, and lack of paid leaves lead to an increased level of family stress for workers, and decreased economic security. Workers are often forced to make hard choices---go to work sick or lose a day’s pay; hope that their young child can stay home alone when they are forced to stay late that the restaurant; not be able to take care of a family member, because they will be fired if they cannot get their shift covered; and give up holidays with family so that they earn enough money to pay the rent.

Family Stress and Restaurant Work

Working in a just in time scheduling environment, particularly one that involve working nonstandard hours—such has nights and weekends----has been found to create stress and behavioral consequences for workers and their families. Survey findings reveal that working nonstandard shift hours is statistically significant when associated with work-family role conflict, low marital quality and stability, and reduced time spent with children. Many studies have investigated the mental and physical stress presented by work-life conflict. One nationally representative study of 2,700 working parents demonstrated that individuals who experience work-life conflict were 2.5 to 3 times more likely to experience mood or anxiety disorders. Moreover, people experiencing the stress of work-life conflict are two times more likely to have a substance dependence disorder than those with no work-family conflict. And working outside the standard work hours compounds one’s ability to deal with family demands. Childcare centers and schools are not typically available at nonstandard times. And workers increasingly have eldercare responsibilities; 59 percent of workers are caring for an adult relative or friend while working at the same time. This forces workers to find alternative mechanism for dependent care—such as informal care arrangements between friends and family that are requested without much advance notice—to try to match their work hours. And working hours that differ from children’s school times drastically reduces the amount of hours available for positive family activities such as eating meals together, homework supervision, and shared leisure time.

Shift work and long work days are related to marital disagreements and child-related problems. Within the hospitality industry, this pattern is quite pronounced: A 2007 study of hotel managers found high levels of work-family stress among this group. Overall, managers reported stress associated with unconventional and long hours and the fact that “hotels never close.” Spouses reiterated that this was stressful, adding that the hotel managers (who they were
married to) were always on-call. Ninety-two percent of spouses identified time demands as a negative challenge for the family. The pitfalls associated with the need to be available at all times were shared by both spouses and hotel managers alike and were further amplified by schedules that often varied. While most managers reported the expectation for long, irregular, and unpredictable hours, there was some variability in the sample highlighting the challenges associated with restaurant work. Specifically, managers in food and beverage reported greater expectations for these scheduling demands than did managers in engineering or human resources in hotels.

Julio Juan’s Cammarota’s case study of fast-food managers similarly found that the expectations of 50- to 60-hour work weeks and working 6 days per week placed great stress on their family lives. These managers reported that they had very little control over their work hours and needed to respond to just-in-time scheduling. In addition, the managers reported being on-call even when they were off work, so planning regular or consistent periods of time with their family became impossible. Furthermore, in these research studies, respondents reported delaying or not having children as a result of their intense work schedules.

Scheduling inflexibility has family spillover effects onto the family lives of the hourly workers employed in the restaurants, as well, although this is much less studied. In a study of hourly hotel workers and their children, it was found that a lack of workplace flexibility led to more frequent arguments at work, an increase in health-related issues, and added stress on the parent-child relationship. Additionally, evidence was found that parents in the hospitality industry who had lacked flexibility had a greater negative effect on their children.

Consequently, a 2008 survey by Corporate Voices for Working Families found that more than 80 percent of responding employees identified workplace flexibility as an important factor in accepting a job offer and remaining with an employer. Workers with access to flexible work options have documented better physical and mental health than other workers. For low-wage workers, the positive effects are even stronger than for their high-wage counterparts. Studies have demonstrated that work-life balance is the second best predictor of an hourly worker’s quality of health, frequency of sleep problems, and stress levels. Indeed, one study noted that increased dissatisfaction felt by female hospitality workers about the flexibility policies of their workplace resulted in increased work-family conflict. But, for hourly, low-wage workers who have access to flexible options, stress and burnout rates are 45 percent lower than for those workers without such options. As a result, employees with access to flexible work arrangements tend to be more satisfied, committed, and engaged in their jobs. And this results in increased innovation, quality, productivity, and market share for the business.

Business Impacts of Just in Time Scheduling

The work structure and expectations of the restaurant industry also have an impact on employers. While just-in-time scheduling has been argued to be an effective way to control costs, much research has shown that such a practice can actually increase employer costs. Indeed, inflexible and variable scheduling is directly related to higher levels of worker turnover for both managerial-level workers and hourly workers in the hospitality industry. Subsequently, turnover is one of the most prevalent concerns of the hotel and hospitality industry—so much so that this industry has been characterized as having a “turnover culture.” According to a 2003 study conducted by Smith Travel Research, turnover rates average 50 percent for hourly hotel workers and 21 percent for hotel managers. Furthermore, employees typically leave the industry
altogether, as opposed to leaving to go to another hospitality firm. Ultimately, these workers cite the long hours as a major reason for leaving the industry.44

Turnover costs restaurants. Indeed, the turnover rate among hourly low-wage workers is substantial, ranging from 80 to 500 percent in such industries as hospitality, retail, and healthcare. When workers must choose between their family and work demands, these decisions can result in job loss. The cost to replace an hourly low-wage worker is anywhere from 50 to 75 percent or more of that worker’s annual salary.45 This includes direct costs such as finding, hiring, and training new workers, as well as indirect costs such as lower productivity and inefficiencies.46 Businesses spend a great deal of money recruiting and training workers, only to lose them when a family crisis arises. But when employers work with employees on flexible options, they see tangible results. Low-wage workers with flexible work options are 30 percent less likely to leave their employer within two years than workers that have none.47 In fact, research concluded that hourly workers were more inclined to quit their jobs, and this voluntary turnover was associated with dissatisfaction with their work.48

Peter Ricci and Ady Milman’s study of 317 hourly workers concluded that “the most powerful indicators to predict hourly employee retention in the lodging industry . . . were a positive experience with their company’s policies, satisfaction with their current job, a higher level of importance for paid vacations, [and] a positive experience with their company’s humane approach to employees.”49 Such findings are similar to hourly workers in the retail industry, another industry characterized by just-in-time management and scheduling. In a study of low-income retail industry workers, interviews with full-time employed mothers with family caregiving responsibilities revealed that the variability and predictability of flexible employee-driven scheduling was shown to reduce worker stress and challenges related to family caregiving, yet employee control is rarely a formal policy.50 While scheduling flexibility reduces work-family conflict, it is mainly available through informal, personal relationships between retail store managers and employees after a period of employment in which the employee “creates a reputation for punctuality and work quality.”51

Addressing the Challenges of Restaurant Work with Real Workplace Flexibility

Many of the aspects of restaurant work that make integrating work and life difficult, if not impossible, and compound economic security, can be addressed with workplace practices and public policies that enhance flexibility opportunities for workers. Yet often employers—and even workers—may not see the potential for flexibility in this industry. Or, they may wrongly assume that simply having multiple shifts available equates to flexibility. Workplace flexibility for these workers is an area where there is great potential for impact and change.52

In order to develop and implement policies and practices to provide workplace flexibility options, the working conditions of restaurant work must be taken into account. A large segment of the labor force is comprised of hourly shift workers; as a result, attempts to create workable flexibility options must consider this structure. Many service occupations require workers to be on-site to perform essential tasks and duties, making alternative worksites impossible. These workers are typically employed in jobs that do not offer employer-sponsored leave programs and are often exempt from FMLA. Additionally, many of these jobs offer low wages, so workers usually cannot afford to reduce their hours in order to handle personal or family needs. In fact, low-wage workers often need to work more hours for economic survival.

Despite these challenges there are several ways to increase workplace flexibility for these workers. The following sections highlight four main ways to address these challenges:
Practices that relate to schedule control;
High-road management practices;
Policies that provide leave options; and
Policies that increased minimum and subminimum wages.

Schedule Control

Research shows that the structure of hourly, low-wage jobs makes it difficult to implement most traditional flexible work arrangements. Notably, these jobs do not have minimum-hour guarantees, costs are variable, and managers must tie labor to customer-driven demand. Indeed, managers rated the goal of “staying within hours” as more challenging than meeting sales quotas. This just-in-time management system reduces flexibility for workers and privileges workers who can provide “open availability” to their employers. Thus, the employees who say they can be scheduled whenever will be scheduled more often than those with scheduling restrictions due to schooling or family needs. In the hotel, restaurant, and tourism labor market, where income is tied to being physically present during busy time periods, not being at work during peak business hours (which often conflict with family demands) may have a drastic impact on a worker’s income.

If traditional scheduling practices are not effective in promoting workplace flexibility, then it is necessary to look beyond the conventional strategies to achieve schedule effectiveness. First, employers must determine what the staffing needs are and who is available to meet those needs. Subsequently, surveying employees is recommended to determine “the number of hours workers would like to work each week, the times when workers would prefer to work, when they are not available to work, and when they would prefer not to work but could do so if necessary.” This is a much different way of surveying workers than is traditionally used in restaurant jobs. Traditionally, workers are asked for their availability and those that say they have “open availability” are often hired and offered the most hours. Yet in reality, this expectation of total availability and lack of communication actually hurts employers, as workers will inevitably have to request changes after their schedules are set due to unplanned life events.

A more cost-effective approach may be to determine an effective schedule (in terms of hours and staff needs) for a particular worksite. Surveying employees to determine the number of hours workers would like to work each week, the times when workers would prefer to work, when they are not available to work, and when they would prefer not to work but could do so if necessary is recommended. Once that is complete, schedules need to be made available to workers with enough notice for them to plan their lives. As noted, often schedules are established weekly. This gives workers just a few days’ notice of their work schedules. With little advance notice or regular scheduling, it is not surprising that workers frequently have difficulty integrating work and life demands. By planning schedules ahead of time and providing them to workers weeks in advance, difficulties can be minimized. Additionally, by adopting formal mechanisms to handle schedule changes—such as using a shared online scheduling system (as opposed to informal practices, where there is no policy in place and a worker must either find a co-worker to cover for them or they cannot take off)—workers and employers can find ways to deal with unanticipated personal emergencies. Such effective scheduling, which creates regular and predictable schedules, can be a powerful management tool that results in workplace flexibility for restaurant workers.
Another well-known form of workplace flexibility is “flextime.” By utilizing flextime, workers can address unanticipated personal and family needs by coming to work a bit late or leaving a bit early with no consequences. For this to be successful, not only does flextime have to be approved by managers, but there may need to be coordination with co-workers to ensure the work gets accomplished during shift changes. Without the coordination and mutual agreement with co-workers, flextime can lead to chaos in the workplace.\(^5\) However, if shift workers have a small window at the beginning and end of their shifts, they will be better able to account for fluctuations in transportation and care schedules. Even something as minimal as a 15-minute window at the start and end of the shift that workers can use without financial penalty can alleviate anxiety and stress.

There are, of course, times when established schedules do need to be changed, and this can be initiated by either the worker or the employer. For worker-initiated changes, there needs to be a seamless way for employees to find coverage for their shifts. Shift swapping is a strategy used by employees to find coverage for their shifts within their team. This often informal strategy requires the employee seeking coverage to communicate with team members to arrange a scenario in which one of their team members agrees to exchange shifts for time needing coverage. There are some challenges to shift swapping: In tip-/commission-based jobs, some shifts pay higher wages than others; subsequently, the desire to participate in a swap can be greater or less, depending on the shift.

Since it may difficult to find shift coverage, employers are implementing new technologies to provide employees with opportunities to create team-based flexibility solutions such as shift swapping. For instance, “online scheduling,” a practice in which employers set up virtual scheduling databases that may be altered by managers or employees, depending on the business, creates opportunities to more formally and efficiently search for shift coverage. Additionally, “cross-training” is a practice employers can use to enable a larger number of workers to cover different types of shifts because these workers are trained to perform the tasks of multiple positions. Having a group of workers who can serve as “floaters” offers great potential for coverage and ensures that larger numbers of skillful employees are working during each shift.

Employers may still need to change schedules at a moment’s notice, and much of this is driven by customer demand. In the restaurant sector, this has often resulted in mandatory overtime, which disproportionately negatively impacts workers who have caregiving responsibilities outside the workplace. While the need for requiring overtime may be unavoidable, there are ways to better address this business challenge. First, managers could ask for volunteers to work overtime, as opposed to simply assigning workers to stay late. Having workers request overtime in advance can also help. In addition, it is effective to identify—in advance—specific weeks and/or shifts that have the potential for overtime. And tied to the challenge of last minute schedule changes is the need for on-call workers. Management should carefully handle on-call assignments with care by providing as much advance notice as possible to workers and by equitably dividing on-call assignments among workers. These practices give workers more control over their hours by allowing them to plan for potential overtime and on-call participation. When employers are better able to achieve scheduling equilibrium by matching business demands and employee scheduling preferences, the need for mandatory overtime and on-call practices will be reduced.

One final point in regard to schedule control is that many restaurant workers lack even the authority to decide when they will be able to take work breaks. Part of this is due to the need
to ensure that there is a co-worker available to cover another worker’s absence, and part of this is related to the labor process itself. For example, in restaurants, if a server has tables that are active, they either need to turn that table over to another worker or wait for those diners to leave. Working in teams may make it easier to schedule and ensure regular breaks during shifts (which can coincide with business demand), thus providing degrees of flexibility and control to workers.

However, sometimes workplace practices are not enough and some cities and states are implementing policies to guarantee flexibility. For instance in 2013, Vermont passed an “equal pay” law that included provides employees with the right to request flexible working arrangements or predictable work schedules. And San Francisco became the first city in the US to pass a similar law. As a result of these “right to request” laws workers can request changes to their work schedules to care for family members. For instance employees could request to adjust their start time, work part-time, have a set schedule that does not change, or even telecommute. And these laws prohibit discrimination against workers on the basis of their caregiver status, along with any retaliation against employees who request flexible work arrangements.

Right to request laws are very important first steps toward workplace flexibility and should be celebrated. They create a formal mechanism for workers and employers to discuss workplace flexibility options, and provide specific procedures to address requests. However these policies do not mandate a right to workplace flexibility, just that a worker has a right to request flexibility. And while in each case the law requires employers to listen to workers’ requests, they do not have to grant those requests. (Although they have to make a case that the flexibility will create an “undue hardship,” to business.) Yet despite such limitations right to request laws are paving the way to help improve workplace flexibility in our workplaces—which has the benefit of helping workers, their families and the businesses that employ them.

**High Road Management Practices**

While schedule control policies are critical components of creating a flexible work environment, to be most effective, high road management practices should be in place. This includes a mix of national and state policy, employer engagement, and occasionally, the reorganization of hotel, restaurant, and tourism industry work. This reorganization can take the form of cross-training employees. As mentioned, cross-training enables multiple workers to fulfill multiple roles instead of assigning specific people to specific duties. Having workers who can cover multiple job roles will not only improve the quality of the work performed, but will also allow for greater levels of coordination, especially when emergencies arise and flexibility is needed.

Cross-training workers also provides employers with additional routes to schedule employees to work more hours and decreases involuntary part-time status. A study found that in lieu of sending home restaurant workers during slow shifts, some managers reassigned waiters to other tasks such as food preparation or stocking. This ensures the productivity of workers during slow times. However, the advantages of cross-training will only be reaped if employers do not use it as a tool to intensify work at limited cost, that is, force workers to work more complex positions and under stricter deadlines without promoting their job title or increasing their compensation.

**Leave Policies**

As in other fields, leave policies can take many forms restaurant workers. Some leave may be for unanticipated emergencies lasting from a few hours to a few weeks, while other
absences may be longer in duration—such as for the birth or adoption of a child. Many of these work absences enable the employee to care for another family member. Other absences are needed for the worker to use when they get sick, need some time off to attend a child’s activity, to take vacation, or to pursue educational or training courses. For leave policies to be more effective, a combination of national policy and employer practices is necessary.

To increase employees’ accessibility to short-term leave, there are several practices businesses can adopt. As noted above, flextime can allow workers to shift their schedules in order to arrive or leave at a slightly different time when an emergency or other event arises. Having a policy of flextime and then empowering workers to coordinate schedules with co-workers and managers to ensure that the work is covered is one of the most effective workplace flexibility arrangements for employees and employers. Additionally, paid leave policies can offer employees the ability to manage their lives without fear of work-related repercussions. Some restaurants do provide access to paid leave for their workers. Eggs Restaurant in Brooklyn, New York provides workers with 10 paid days of leave each year that they can use for sick time, personal days, or vacation.

However the reality is, that public policy needs to be in place in order to ensure that workers have access to paid family leave. The Family and Medical Insurance Leave Act of 2013 (FAMILY Act) would provide individuals with up to 60 workdays of leave from work and a partial wage replacement equaling approximately 66% of an individual’s monthly earnings. This leave may be taken to care for a worker’s own serious health condition, the illness of a family member (parent, child or spouse, including domestic partners), or for the birth or adoption of a child. The flexibility provided by the FAMILY Act helps employers retain women in nontraditional occupations when they become seriously ill, care for a family member, or bond with a new child.

The FAMILY Act would apply to all workplaces, regardless of size, and there is no requirement that the individual work for a specific employer for any period of time prior to applying for the leave. Instead, eligibility is based on eligibility for Social Security Disability Insurance. The wage replacement would be paid for by a .2% payroll tax, paid by both employees and employers. The FAMILY Act creates a self-sustaining fund that will cover the cost of benefits and program administration. An individual may not be fired or discriminated against for applying for or using the leave under the FAMILY Act. While there is federal legislation pending, several states have enacted similar laws. For instance in California, the paid family leave is funded by the employees, who have 1.0% of their pay withheld and placed in an insurance fund; the employees typically receive 55% of their weekly wages in paid leave. In New Jersey, the paid family leave for the employees’ own disabilities is funded by both the employers (0.10% to 0.75% of taxable wage base) and employees (0.36% of annual taxable wages deducted), while family care is funded by the employees (0.1% of annual taxable wages deducted); the employees typically receive 2/3 of the average last eight weeks of salary (with a maximum of $584 weekly). In Rhode Island: The paid family leave is funded by the employees, who have 1.2% of the first $61,400 of their earnings withheld, and less after; the employees receive a maximum benefit of $752 per week for their own disability. In all of these cases workers have access to paid leave insurance to take care of families members, without the fear of economic ruin.

In addition to paid family leave, workers needs protections when they are sick. In restaurants, this not only protects the workers from working sick, but also the customers from being served by a sick worker. While the US does not have a federal paid sick day law, there is
potential legislation. For instance the Healthy Families Act (H.R. 1286/S. 631), would set a national paid sick days standard – a critical step toward meeting the health and economic security of restaurant workers. This law would allow workers in businesses with 15 or more employees to earn up to seven job-protected paid sick days each year to be used to recover from their own illnesses, access preventive care or provide care to a sick family member. Similar to paid leave, several cities and states have enacted paid sick day legislation. In 2006, San Francisco became the first US city to guarantee access to earned paid sick days. And in 2008, the District of Columbia and Milwaukee passed paid sick days standards that included paid “safe” days for victims of domestic violence, sexual assault and stalking. They have been followed by other cities including Los Angeles, Portland, New York City and Jersey City. In 2011, the Connecticut legislature became the first in the nation to pass a statewide paid sick days law. These state and city laws serve as important models to protect restaurants workers when they are sick.

Increasing Minimum Wage

What underlines many of the scheduling challenges is the very dependence of the workers on tips for their income. The tipped minimum wage of $2.13 an hour, which has not been raised in over twenty years, forces restaurant workers to be dependent on tips, along with the whims of just in time scheduling. This creates significant economic insecurity for workers, forcing most to live in poverty. Critical then to restaurant’s workers economic security is raising the minimum wage so that workers are able to better support themselves and their families. While the federal minimum wage has remained stuck at $2.13 an hour for two decades, many states have enacted legislation that has raised the wage. For instance Illinois guarantees tipped workers 60% of the minimum wage, and New York and Connecticut tipped minimum wage is approximately 70% of the state minimum wage. And a handful of states-- Alaska, California, Minnesota, Montana, Nevada, Oregon and Washington--guarantee tipped workers the full minimum wage. This is best practice that has successfully reduced poverty among tipped workers in those states. 
There is potential for a federal raise in the minimum wage. The Fair Minimum Wage Act of 2013 introduced by Sen. Tom Harkin (D-IA) and Rep. Miller (D-CA) earlier this year would promote economic security by: raising the federal minimum wage from $7.25 per hour to $10.10 per hour over three years and raising the minimum wage for tipped workers from $2.13 by $.095 per year until it is 70% of the minimum wage. For the first time, link the minimum wage to inflation and raise it along with increases in the cost of living. As Table 2 shows, passage of the Fair Minimum Wage Act will enable a single tipped worker to earn $10,000 more per year by raising the tipped wage.

Concluding Remarks

Restaurant workers are a growing and predominately female occupation—and they are among the lowest paid workers in our labor market. With low minimum wages, workers are dependent on tips for their incomes, and schedule control and workplace flexibility are critical for these workers to be able to move toward economic security. We still have a ways to go to ensure that restaurant workers are protected by public policies and workplace practices that ensure paid leave, paid sick days and schedule control. It is only then that some of the most vulnerable workers, many of whom are women, will be able to reach economic security.

2 CPS 2010-2012
5 http://www.bls.gov/opub/mlr/2012/01/art4full.pdf see p. 71
6 Industries with the largest wage and salary employment growth and declines. Table 2.4. January 2012 Monthly Labor Review. http://www.bls.gov/emp/ep_table_204.htm
7 Employment by major industry sector. Table 2.1. http://www.bls.gov/emp/ep_table_201.htm
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10 http://billmoyers.com/segment/saru-jayaraman-on-justice-for-restaurant-workers/
24 Amendments to the FMLA have expanded benefits to active duty personnel, in addition to providing notices to workers. To see amendments, visit http://www.spbrez.ms.gov/HRSUMMIT/Written%20Materials.pdf
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