



Driving Change in States to Combat Sexual Harassment

By Diana Boesch, Jocelyn Frye, and Kaitlin Holmes January 2019

Center for American Progress



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Introduction and summary

In 2005, Erika Morales was working as a night shift janitor for ABM Industries in California. While at work, she became the target of relentless sexual harassment by her supervisor. The harassment continued and eventually escalated into a vicious sexual assault one evening during her shift.¹ In the aftermath of the attack, Morales did what too few sexual harassment survivors feel safe enough to do: She spoke out.² She filed a charge with the U.S. Equal Employment Opportunity Commission (EEOC), leading to an investigation and, ultimately, a class-action lawsuit filed by the EEOC against ABM Industries on behalf of more than 20 women—all Latina—who had endured rampant sexual harassment while working at the company. The lawsuit resulted in a \$5.8 million settlement, providing relief to the claimants and requiring extensive action steps in order to prevent harassment in the future, including an outside monitor, a toll-free hotline to report harassment, robust training, and other measures. The case helped draw attention to the abuse of power that perpetuates harassment and violence; to the hidden nature of different forms of sexual misconduct; and to the need for targeted, comprehensive legal and policy changes to combat harassment, particularly for workers who face the steepest power imbalances on the job.

The viral reckoning that catapulted sexual harassment into national and global headlines in 2017 and 2018 focused much of its spotlight on Hollywood figures, media notables, and high-profile names in the halls of Congress. But the #MeToo movement—drawing its name from an initiative started by activist Tarana Burke more than a decade ago—has resonated with women and men from all walks of life because of the everyday reality of sexual harassment in every corner of the country.³ The stories of women like Erika Morales are a vivid, troubling reminder of the need to combat sexual harassment in workspaces that too often are ignored or invisible. In order to identify concrete solutions that can have real impact, society must focus on recognizing and valuing the diverse experiences of sexual harassment survivors, across race and ethnicity, in different industries and jobs.

Importantly, there are successful strategies that have been deployed at the state level that are already making a difference. This overview highlights some of these innovations—from worker-led initiatives to voluntary commitments by private industry to state-level legislative efforts and more—in an effort to provide a road map for future action and progress. In order to change workplace culture and create work environments that are free of discrimination for all, policymakers must prioritize bold, concrete action steps to combat harassment and misconduct.

Worker-led models to improve workplace rights and safety

Sexual harassment occurs in all industries and occupations. But a Center for American Progress examination of unpublished data about sexual harassment charges filed with the EEOC from fiscal years 2005 through 2015 revealed that the highest percentage of charges occurred in industries with large numbers of low-wage workers, often working in occupations disproportionately held by women, especially women of color.⁴ Many of these workers confront sharp power imbalances within the workplace—in relation to supervisors, managers, clients, customers, and other coworkers—and any attempt to report misconduct or challenge working conditions can put their jobs at risk. This lack of power, combined with concerns about being disbelieved, the threat of retaliation, and economic insecurity, can result in sexual harassment survivors rarely seeking justice.⁵ These fears are often exacerbated for workers who may feel even more isolated or subject to harsh scrutiny, such as those who are undocumented immigrants, LGBTQ, or disabled.⁶ By collectively mobilizing to combat discriminatory practices, workers have played a critical role in responding to harassment and violence, spearheading efforts to create or extend protections across specific industries, states, and beyond.

California and Oregon janitorial workers mobilize to pass state legislation

In 2015, a gripping “Frontline” documentary called “Rape on the Night Shift”⁷ chronicled an 18-month investigation that uncovered widespread instances of sexual assault targeting night shift janitorial workers such as Erika Morales.⁸ The findings mirrored other research undertaken by scholars at the University of California, Berkeley examining working conditions in the U.S. janitorial industry.⁹ The Berkeley researchers concluded that women janitors are particularly vulnerable to sexual assault and harassment on the job, in part, due to the isolated nature of janitorial work—they often work alone in large buildings after dark—the threat of retaliation, and employees’ lack of awareness of their rights.¹⁰

Latina workers, especially immigrant and undocumented workers, also face unique, oversexualized gender and ethnic stereotypes that make them even more likely to become targets of harassment. These women may be less likely to report sexual harassment or assault due to fears of losing their job or retaliation related to their legal status that could, in turn, lead to deportation.¹¹

California janitorial workers themselves took initiative to better empower workers and begin changing workplace culture. Worker activists, such as the Service Employees International Union (SEIU) United Service Workers West, engaged workers directly in order to draw attention to the problems occurring on the night shift. SEIU, for example, fielded a survey of its members and found that about half of the 5,000 survey respondents reported being sexually harassed or assaulted at work.¹² In response, the union launched a worker- and survivor-centered education and culture change campaign in 2016 and worked to negotiate more protective contracts with employers.¹³

Janitorial workers also pressed state lawmakers to take action in support of legislation requiring in-person sexual harassment training.¹⁴ In September 2016, a group of janitorial workers staged a hunger strike in front of the California Capitol, urging then-Gov. Jerry Brown (D) to sign the Property Service Workers Protection Act into law¹⁵—something he did after three days.¹⁶ The new law requires biennial, in-person sexual harassment training for all covered janitorial employees and their supervisors.

In 2017, worker advocates in Oregon—including Oregon’s local SEIU chapter—responded to survivor stories involving janitorial workers in the state by successfully pushing state lawmakers to pass a measure similar to the California law. The measure went into effect on January 1, 2018.¹⁷ It is modeled after California’s legislation and an existing structure in Oregon that requires licensing and registration in the forestry and construction industries.¹⁸ The law requires that companies hire janitorial contractors who are registered with the state; that janitorial employers provide employees with training on sexual harassment, discrimination, and anti-retaliation; and that janitorial employees are protected from wage theft.¹⁹

Hospitality workers mobilize for local legislation requiring provision of panic buttons

Workers in the hotel and accommodations industry also have organized to make their workplaces safe. These workers can be particularly vulnerable to sexual harassment because they work in isolated conditions and are often alone with guests in their

rooms. In 2016, UNITE HERE Local 1, which represents more than 15,000 hospitality workers in Chicago and northwest Indiana, conducted a survey of 500 women members working in hotels and casinos. They found that 58 percent of hotel workers and 77 percent of casino workers had been sexually harassed by a guest, with 96 percent of respondents saying that they would feel safer if they were equipped with a panic button.²⁰ The survey also found that there is a dearth of training on sexual harassment. Only 19 percent of survey respondents said that they had received employer-provided training on how to handle sexual harassment by guests.²¹

In response to the survey, the local chapter in Seattle—UNITE HERE Local 8—proposed and advocated for an initiative to require hotels to provide housekeepers with panic buttons, ban guests who harass employees, and establish other health and safety measures.²² The initiative passed with overwhelming support from voters in the city but has since encountered legal challenges from hotel associations, stalling the law’s implementation.²³

With the initial success of the law in Seattle, hotel workers mobilized across the country and advocated for similar laws in other cities. After lobbying and pressure from local hospitality workers, the Chicago City Council unanimously passed an ordinance known as the “Hands Off, Pants On” law in October 2017, which requires hotels to provide housekeepers with hand-held panic buttons.²⁴ Sacramento County Board of Supervisors passed a similar measure in February 2018 that applies to hotels in unincorporated Sacramento County.²⁵ In July 2018, the Miami Beach City Commission in Florida also voted in favor of requiring hotels and hostels to provide housekeepers with panic buttons.²⁶ Most recently, in November 2018, after advocacy by the local UNITE HERE chapter, voters in Long Beach, California, passed a ballot measure requiring hotels with 50 or more rooms to provide workers with panic buttons.²⁷ Similar legislation has been proposed in California and New Mexico state legislatures,²⁸ and voters in Rancho Palos Verdes—a city in Los Angeles County—are scheduled to consider a panic button ballot measure in November 2019.²⁹

In addition to pushing for panic buttons, worker advocates have urged for new requirements for regular training. Lawmakers in the New York State Assembly introduced a bill that would require hotels and motels to provide biennial sexual harassment training for their employees, including education on their rights.³⁰ The bill stalled in committee in 2018, but a similar policy was passed in the final 2018-2019 New York state budget requiring all New York employers to provide annual sexual harassment training.³¹

Domestic workers campaign for a bill of rights

Like janitorial workers and farmworkers, domestic workers—such as house cleaners, in-home child care workers, and home health care aides—are particularly vulnerable to sexual harassment and assault due to the isolated nature of their work, among other factors. Immigrant women and women of color are disproportionately represented in these occupations and have been for more than 150 years.³²

Domestic workers can work in settings that are harder to monitor because their work may be intermittent, isolated, or performed for a very small employer such as an individual family.³³ Both domestic workers and farmworkers have often been explicitly or effectively excluded from many critical federal labor and civil rights protections and standards, leaving them vulnerable to exploitation and abuse.³⁴ A six-year, worker-led, grassroots campaign addressed this issue among domestic workers and pushed then-Gov. David Paterson (D-NY) to sign the New York State Domestic Workers’ Bill of Rights in 2010.³⁵ The law created the right to overtime pay for all of the state’s domestic workers, as well as a day of rest each week, or overtime pay if they agree to work that day; three paid days of rest after one year of work for the same employer; protection under the New York State Human Rights Law; and the creation of a special cause of action for domestic workers who face sexual or racial harassment.³⁶ Following grassroots activism from domestic workers—including groups such as the National Domestic Workers Alliance—and their allies, other states and cities began to follow suit. For example, Hawaii, California, Massachusetts, Oregon, Connecticut, Illinois, Nevada, and Seattle have all passed a domestic workers’ bill of rights.³⁷ The Seattle domestic workers’ bill of rights is the only bill that also requires the development of a standards board, which includes affected workers at the table, to set standards related to the bill and ensure their enforcement.³⁸

Agricultural workers launch social responsibility models

Although it is difficult to survey the seasonal, often-changing agricultural workforce, studies have shown that sexual harassment and assault in the industry are major issues.³⁹ For instance, in 2013, an earlier “Frontline” investigative documentary called “Rape in the Fields” reported on sexual assault and harassment in the agricultural industry.⁴⁰ The documentary found that migrant and undocumented women in the agriculture industry often do not report abuse and sexual harassment for fear of being deported or losing their job, and when they do file lawsuits, such cases are

rarely successful.⁴¹ Over the years, worker organizing in key states has helped spearhead grassroots efforts to push back effectively against this type of harassment and abuse in the industry.

Tomato farmers' Fair Food Program

The Coalition of Immokalee Workers (CIW)—a worker-led initiative—has worked for decades to prevent and address sexual assault and harassment of tomato farmers in Florida. In 2001, CIW launched the Campaign for Fair Food to raise consumer awareness about Florida tomato farmworkers' labor conditions.⁴² The campaign formed agreements with large food retailers and ultimately improved working conditions on these farms. Because of the campaign's success, CIW launched the Fair Food Program in 2011, expanding to tomato farms in North Carolina, New Jersey, Georgia, South Carolina, Virginia, and Maryland, and even expanding to strawberry and green bell pepper producers in Florida.⁴³

By entering the Fair Food Program, participating buyers—including Walmart, Trader Joe's, and McDonald's⁴⁴—are held accountable to only purchase from farms that abide by the Fair Food Program Code of Conduct, which includes worker protections against sexual harassment and assault. The CIW educates farmworkers on their rights, on how to recognize sexual harassment and assault, and on how to seek justice. Moreover, the Fair Food Standards Council provides a complaint line for farmworkers that is available 24/7. The standards council investigates complaints, protects survivors from retaliation, and performs audits on participating farms to enforce the code of conduct. This model has proven to be effective in helping to prevent workplace sexual harassment and assault; the EEOC has described the Fair Food Program as the most effective way to combat sexual violence for agricultural workers.⁴⁵

Milk with Dignity in Vermont

Based on the CIW's Fair Food Program and the Worker-driven Social Responsibility model, Migrant Justice, a nonprofit organization, launched "Milk with Dignity" in 2014 and officially signed an agreement with Ben & Jerry's in 2017. The agreement will hold Ben & Jerry's accountable to only purchase milk from Vermont farms that comply with the Milk with Dignity Code of Conduct. Along with implementing economic protections, offering housing guarantees, and enforcing basic labor protections, Milk with Dignity farms must have a zero tolerance policy for sexual harassment and assault. The program ensures that workers can receive education about their rights under the Milk with Dignity Code of Conduct and has set up a third-party resource for workers to turn to for enforcement of their rights, complete with a toll-free hotline.⁴⁶

Model state legislative efforts to protect survivors and other workers

The meteoric rise of the #MeToo movement has put pressure on many state legislatures to take action to address sexual harassment and misconduct. These legislative efforts have focused on both the private and public sector—ranging from proposals to prohibit mandatory arbitration clauses and nondisclosure agreements to increased support of public education and training on sexual harassment to a greater emphasis on transparency of sexual harassment settlements in state legislative offices.

State private sector reforms

In the wake of the misconduct of numerous high-powered men in Hollywood, the media, and politics, the legal tools used to prevent potentially negative stories about sexual harassment and misconduct from becoming public—such as forced arbitration and nondisclosure agreements—have come under scrutiny. Forced or mandatory arbitration is a requirement included in many employment contracts that specifies that any disputes or claims arising during the time of employment must be resolved in an arbitration proceeding rather than by an alternative legal or investigative process. These mandatory arbitration provisions are often required as a condition of getting or keeping a job, and therefore, many workers feel compelled to agree before any dispute arises and without knowing the broader ramifications. In the context of harassment claims, requiring disputes to be settled in an arbitration process can mean that employees face additional costs for representation in a specialized proceeding and do not have access to the same important, basic, anti-discrimination legal protections around burdens of proof, appeal rights, and evidentiary rules as they would in a legal proceeding. Similar concerns have also been raised about the use of certain pre-dispute confidentiality or nondisclosure agreements (NDAs)—legal contracts that bind the parties from sharing information in the agreement with third parties. These agreements may induce survivors’ and others’ silence about sexual harassment. States have passed legislation to begin addressing both of these issues through new laws or the expansion of existing protections and standards. For example, in 2018, California’s S.B. 1300 prohibits employers from using

nondisparagement agreements as a condition of employment and expanded employers' responsibilities related to sexual harassment under the California Fair Employment and Housing Act to include contractors as well as employees, applicants, unpaid interns, and volunteers.⁴⁷

Meanwhile, Vermont's recent legislation—passed in May 2018 and effective July 1, 2018—may be the most innovative and comprehensive existing law that addresses sexual harassment.⁴⁸ It prohibits employment contracts from including forced arbitration or other clauses that require employees to waive their rights to litigate sexual harassment claims; prohibits settlement agreements from preventing an employee's disclosure of sexual harassment to a government agency or cooperation with legal proceedings related to their claim of sexual harassment; and prohibits retaliation against employees for making a claim of sexual harassment. The legislation also allows the state attorney general or human rights commission to investigate a business for compliance with the sexual harassment law and requires the state attorney general or human rights commission to improve reporting mechanisms for workplace harassment and discrimination. Finally, it directs the Vermont Commission on Women to develop education and outreach materials related to best practices for preventing sexual harassment.

Beyond addressing employee contracts and settlements, some states have taken action over the years to inject stronger prevention practices in the workplace. Five states have passed laws requiring employers in that state to provide sexual harassment training to their employees or supervisors. The laws vary; some have been in place for years, and some are newer. There are also differences in the size of employers covered and the frequency with which sexual harassment trainings are required to be conducted. Maine was the first state to pass such a bill in 1991, a law that was recently amended in 2017.⁴⁹ Connecticut followed in 1992,⁵⁰ and California passed its bill in 2004,⁵¹ which was amended in 2018 to cover private and public employers with five or more employees, including temporary or seasonal employees.⁵² New York state,⁵³ New York City,⁵⁴ and Delaware passed their respective laws in 2018.⁵⁵ California has also been innovative in addressing sexual harassment in specific industries with particularly vulnerable workers, for example, through its 2016 bill requiring janitorial workers and supervisors to complete biennial, in-person sexual harassment training.⁵⁶

State public sector reforms

The halls of state houses and public offices also have not escaped the consequences of sexual harassment. Sexual harassment involving state lawmakers or public officials can be especially problematic given the power that they hold and the public funds they can use to settle harassment claims against them. State legislatures have begun to respond to this issue in a variety of ways.

In 2017, Illinois passed a comprehensive bill to reform policies across state government, not just the state Capitol. The new law prohibits sexual harassment by state employees; requires personnel policies for state employees—including policies from government agencies—to prohibit sexual harassment and retaliation; requires all state employees and lobbyists to undergo sexual harassment training; and establishes a sexual harassment hotline for state officials and employees.⁵⁷ In other states, legislators have proposed requiring the appointment of an independent counsel to investigate and litigate claims of sexual harassment in the state legislature.⁵⁸ Additionally, in an effort to increase transparency and accountability, some states require reports on the number of sexual harassment complaints and settlements in the state government, including settlement amounts.⁵⁹

Voluntary industry commitments to combat sexual harassment

Business has an important role to play in taking proactive steps to address workplace harassment. Employers are uniquely positioned to set the tone, serving as the foundation for a company's workplace culture and designing a company's workplace infrastructure. Sexual harassment remains a pervasive problem across all industries, and there are certain practices—such as forced arbitration agreements in employment contracts—that arguably make it more difficult to combat the problem. Voluntary action by businesses can help to improve how they address sexual harassment and misconduct.

Hotels and hospitality associations commit to providing workers with panic buttons

In addition to winning local legislation that requires the provision of panic buttons, hospitality workers have also successfully negotiated union contracts requiring employers to provide panic buttons to certain employees. In 2012, the New York Hotel Trades Council, AFL-CIO and the Hotel Association of New York City established the first union contract to do this, which covered certain workers in New York City.⁶⁰ This was soon followed by a union contract in Washington, D.C.⁶¹ In July 2018, Las Vegas union members finalized a contract with MGM Resorts International and Caesars Entertainment that requires the hotel-casinos to provide certain hotel workers with panic buttons.⁶²

After previously resisting local ordinances requiring panic buttons, the American Hotel and Lodging Association—which includes many major national hotel chains—announced the “5-Star Promise” in September 2018 to improve the safety of the hotels’ employees by providing panic buttons and enhancing policies, training, and resources related to sexual harassment and assault.⁶³ After years of advocacy and raising awareness, this industry commitment is an important step forward for hotel workers that will help to empower them and change workplace culture.

Companies commit to ending forced arbitration and provide funding for prevention

Some companies are changing how they address and respond to sexual harassment claims. Notably, large technology companies such as Microsoft, Uber, Lyft, Google, Facebook, Airbnb, and eBay have announced the end of using forced arbitration agreements to bind workers who make sexual harassment claims.⁶⁴ Uber and Lyft have also announced plans to release a safety report on information they receive about sexual assault and misconduct through their services.⁶⁵ In addition, some companies have responded to mismanagement of sexual harassment claims by committing funding to prevent and respond to sexual harassment. In November 2017, Uber committed \$5 million over five years to prevent sexual assault and domestic violence against its employees, its customers, and the public.⁶⁶

While these industry commitments are a start, bigger and bolder commitments are needed to change the national culture and prevent sexual harassment in the workplace. Companies, business leaders, and the public can and should do more to empower survivors and stop sexual harassment and assault.

Ideas for state-level action

Building on the important work already underway across the country, there are a number of action steps that can be pursued at the state level to combat sexual harassment and other forms of sexual misconduct. These include actions to improve how states respond, such as strengthening existing anti-discrimination protections, bolstering enforcement efforts, and investing in robust prevention and training measures. Additionally, states can support innovative work by nongovernmental partners and workers, for example, by funding research and removing barriers to collective organizing. These ideas, which will help states make critical progress, are discussed in greater detail below.

Improve workplace practices through stronger enforcement and employer standards

There are important steps that state legislatures can take to strengthen existing labor standards and protections for employees. For example, states should explore ways to limit employers' use of forced arbitration or pre-dispute nondisclosure agreements as a condition of employment in order to curtail tools that can be used to dissuade survivors from reporting harassment. States should also take steps to gain a better understanding of employer practices and consider whether state-imposed requirements are needed to ensure that employers have anti-harassment policies in place and that these policies are communicated and made available to workers. Policymakers should examine where laws—such as anti-retaliation protections—need to be strengthened, not only to support survivors but also to reduce under-reporting of sexual harassment and help root out discriminatory practices.⁶⁷ States should increase funding for enforcement agencies to bolster staff and investigatory resources and ensure that investigations are as robust and thorough as possible. Furthermore, states should consider innovations such as those adopted in Vermont to enhance state enforcement agencies' power to conduct on-site reviews and inspections of workplaces. This would help to better assess employers' compliance with anti-discrimination rules.

Strengthening the obligations of state contractors—companies that are paid with state funds to perform work on state contracts—is also an important mechanism to ensure that private employers who receive state funds are held to high standards. For example, states could require state contractors to report annually to the relevant state enforcement agency on the number of findings of discrimination and settlements that involved harassment at their company.⁶⁸ States that conduct on-site reviews of state contractors can use such opportunities to review existing anti-harassment policies and assess any other harassment prevention measures.

Increasing the accountability of employers through stepped-up enforcement and reporting requirements can help to improve workplace practices while also incentivizing changes in organizational culture that are critical to creating workplaces free of discrimination.

Promote employer prevention efforts

Beyond efforts to improve employers' responses to sexual harassment and assault, state policymakers should focus on measures to promote prevention and proactive engagement by employers. States could require all employers, regardless of size, to provide annual, accessible, high-quality training on harassment and discrimination to all employees—and make available models and resources to assist with compliance.⁶⁹ States could play an important role in working with employers to incorporate new innovations, such as the development of bystander intervention training programs for workers, which have been shown to be an effective method of preventing and reducing sexual harassment and assault.⁷⁰ States also could encourage employers to conduct anonymous climate surveys of their workforces to better understand the prevalence of sexual harassment and how best to address it.

Protect and empower survivors

States can support survivors by removing access to justice barriers. Examples include extending the statute of limitations for filing a harassment or discrimination complaint beyond the federal standard of 180 days and improving the financial remedies for findings of discrimination in order to offset the full range of costs experienced by survivors and to better deter employer violations.⁷¹ States should examine how to provide third-party experts who can aid survivors in navigating the reporting process. This could manifest as a 24/7 hotline—as the California janitorial

union members implemented—or as an in-person consultation. Additionally, states can make available free, confidential counseling to survivors. Studies have shown that when survivors of traumatic events, such as sexual assault, have access to social supports and counseling, they recover more readily.⁷²

Support research on sexual harassment

To create an adequate, effective response to sexual harassment at the state level, states must investigate where sexual harassment is occurring and understand complexities that are unique to affected populations, industries, and geographic areas. On the federal level, there is a dearth of publicly available data on sexual harassment, and for many states, even fewer data are available. Research is sorely needed to better understand the role of racial and ethnic stereotypes, as well as other forms of bias, in motivating harassment. More data is also needed on industry-specific differences in harassment charge filings and rates of harassment by occupation and wage level. This information is critical to identifying the most effective solutions. Accordingly, state leaders should fund efforts to examine the prevalence of sexual harassment within their state and should take action tailored to their particular findings. This could include a statewide climate survey of public and private sector workers—disaggregated by race, ethnicity, gender, and other factors—which would be a useful tool in understanding where sexual harassment is occurring and the best ways to respond.⁷³ For example, a 2018 proposal in the New York State Assembly would have directed the New York State Division of Human Rights to conduct a climate survey on sexual harassment and discrimination of employees at all companies doing business in New York.⁷⁴ Companies would then be scored based on the aggregate survey results, and if they did not improve in two years, low-scoring companies could face consequences related to their eligibility for state tax credits and state contracts. States could also create a statewide task force to look at workplace harassment more broadly and develop a comprehensive menu of potential interventions.

Support public education

Survivors of workplace sexual harassment who are seeking justice must first understand what constitutes sexual harassment under the law, what resources are available to them, and how to pursue legal remedies. Public education, such as “know your rights” campaigns and outreach materials, would help create safer workplaces and allow survivors to access justice. Public education would arm workers with the tools

necessary to recognize and address sexual harassment as a bystander or a survivor, as well as potentially deter workers from engaging in behavior that might qualify as sexual harassment.⁷⁵

Public education campaigns can be especially important for undocumented and immigrant workers, who are protected against sexual harassment and assault under federal law but may be unaware of their rights or too fearful of legal enforcement to come forward.⁷⁶ Public education can increase reporting for this vulnerable group and encourage bystander intervention by coworkers or others when immigrant workers are being harassed.

Support economic equity in the workplace

Persistent inequality in the workplace and power imbalances between workers can perpetuate a culture that tolerates—and effectively normalizes—sexual harassment, assault, and other forms of misconduct on the job. Women from all racial and ethnic backgrounds are increasingly breadwinners, and their economic contributions are more and more critical to their families’ sustainability and stability.⁷⁷ Therefore, the loss of a job could have devastating economic consequences. Survivors of sexual harassment and assault may decide not to report because of threats to their economic and job security by those in power at their workplace. Additionally, they may be dissuaded because of concerns about future retaliation or interference with future job success. Economic inequity in the workplace is already particularly problematic for working women, especially women of color. Women earn less than their male counterparts, and the steepest wage differences are experienced by African American, Latina, Native American, and certain subpopulations of Asian American and Pacific Islander (AAPI) women.⁷⁸

Sexual harassment and assault may also contribute to women’s lower earnings and the gender wage gap.⁷⁹ It is critical to take steps to remove the ability of perpetrators to use financial threats—such as docking pay, denying overtime or tips, or refusing a promotion—as leverage to engage in sexual misconduct. Measures to promote equal pay and pay transparency are important strategies that will help to establish equity in the workplace and reduce discriminatory practices that can be used to facilitate harassment.⁸⁰ States can provide stronger protections, beyond the federal Equal Pay Act, for example, by banning the use of salary history in hiring, enhancing penalties for equal pay violations, and requiring employers to report wage-related data.⁸¹ In

2018, California, Connecticut, Hawaii, and Vermont passed bills banning the use of salary history in hiring, and Washington state and New Jersey passed more comprehensive bills to close the gender pay gap.⁸²

In addition to equal pay, fair pay for low-wage workers is an essential protection against sexual harassment. For example, restaurant workers—disproportionately women and people of color⁸³—who earn only the federal tipped minimum wage of \$2.13 per hour and rely heavily on customers tips may feel unable to report when they are sexually harassed by customers.⁸⁴ A February 2018 study by the Restaurant Opportunities Centers United found that tipped women workers in states that have abolished the tipped minimum wage report half the rate of sexual harassment as tipped women workers in other states; this is in part because they can challenge customers' inappropriate behavior without worrying about their income.⁸⁵ The One Fair Wage campaign, led by tipped workers and restaurant unions, advocates ending the tipped minimum wage and requiring the restaurant industry to pay employees the regular minimum wage.⁸⁶ States can move to address this disparity by passing legislation that eliminates the tipped minimum wage.

In addition, states can take further steps to support and ensure workers' economic security and prevent sexual harassment. For example, they can address other forms of wage irregularity and protect workers in specific industries or those excluded from labor protections. States can investigate wage practices generally to limit wage theft and abuse of overtime, which is often used against low-wage workers, particularly farmworkers and domestic workers who are excluded from federal protections.⁸⁷ States should also explore whether there is a need for industry-specific interventions, such as those used to address the unique experiences of janitorial workers, hotel workers, and farmworkers. Furthermore, states can follow the lead of innovative states such as Vermont by extending protections to workers who may not be covered by existing laws and who may be targets of harassment—for example, contractors, interns, and volunteers. Finally, because unions provide workers with a voice and lead to important changes, states should partner with them and other worker organizations on sexual harassment training and enforcement efforts. Additionally, states should ensure that workers who do not enjoy bargaining rights under the National Labor Relations Act are able to form unions and bargain collectively.⁸⁸

Conclusion

All workers deserve a work environment free of any type of gender discrimination, including sexual harassment. Survivors and workers have spearheaded many effective solutions and protections in some of the most affected industries. Worker-led changes—from state laws to industry social responsibility models—can give power and voice back to workers so that they can pressure employers and policymakers for change. Meanwhile, lawmakers can amplify the impact of workers’ organizing by listening to their experiences and collaborating with them to implement state-level protections. With sexual harassment occurring across all industries, states can play an important role in regulating employers, improving standards, and protecting survivors. As specific industries and businesses also feel added pressure to better address and prevent sexual harassment and assault for their workers and customers, they can also take a leading role to create change.

Changing the national culture and improving prevention of and responses to sexual harassment and assault will require political and industry leaders to listen to the experiences of workers and take bold action. States have unique potential to push for these changes, empower survivors, and stop sexual harassment.

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