**EU Perspectives on Workplace Sexual Harassment: Potential and Practical Implementation of the Corporate Sustainability Reporting Directive**

**Abstract**

This study explores the impact of the mandatory Corporate Social Responsibility Directive (CSRD) on altering behavior to mitigate workplace sexual harassment (SH). In 2004, the European Union (EU) issued the first directive aimed at preventing workplace SH (Directive 2004/113/EC). As global attention intensified through the United Nations’ 2030 Agenda for Sustainable Development, addressing SH became pivotal under Sustainable Development Goal (SDG) 5 for Gender Equality and SDG 8 for Decent Work and Economic Growth. Research-informed frameworks spotlight preventative and remedial strategies for mitigating workplace sexual harassment. However, a global study unveils a stark reality - approximately 147 million employed individuals faced SH incidents worldwide between 2016 and 2021. This paper analyzed the CSRD and the corresponding European Sustainable Reporting Standards (ESRS) in light of previous findings from academia and corporate practice, contributing to an ex-ante impact assessment. The ESRS appear to be a significant set of measures for preventing and responding to SH. However, we identify weaknesses and areas for improvement and discuss potential threats to its effectiveness.

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**Introduction**

Numerous organizations, legislatures, policymakers, researchers, and social movements have acknowledged workplace sexual harassment (SH) as a prevalent issue and are dedicated to combating it (e.g., Bouzzine & Lueg, 2022; Willness et al., 2007; Fitzgerald, 1988; MacKinnon, 1979). For example, the European Union (EU) issued the first directive aimed at preventing SH in Europe in 2004 (Directive 2004/113/EC). From 2006, Directive 2006/54 implements equal treatment between women and men in the domain of European labor law, bringing together older directives. The United Nations 2030 Agenda for Sustainable Development Goal (SDG) 5 on Gender Equality is bringing welcome world attention to the problem of SH (United Nations, 2015). Governments are obliged to achieve gender equality and eliminate all forms of violence against women and girls. SDG 8 on Decent Work and Economic Growth implies decent workplaces free from gender-based violence. The new International Labour Organization (ILO) Convention concerning the elimination of violence and harassment in the world of work (ILO, 2019) challenges organizations to find appropriate and robust prevention measures and responses.

However, a global study on experiences and harassment at work reveals that SH is still a prevalent, widespread issue (ILO & Lloyd’s Register Foundation, 2022). Approximately 147 million people in employment worldwide faced SH incidents between 2016 and 2021. The EU’s Corporate Sustainability Reporting Directive (CSRD) came into force in January 2024, and may be an effective lever for altering sexually harassing behavior in the workplace (Directive 2022/2464/EU). The regulation significantly expands the range of companies required to mandatory publish reports and introduces a substantial number of new reporting requirements, including SH, which have not been included in the previous Non-Financial Reporting Directive (NFRD) (Directive 2014/95/EU).

This paper aims to evaluate the effect of the obligation for organizations to report SH incidents, prevention measures, and response strategies on their occurrence. It is discussed in light of the existing landscape of legislation on handling SH and existing gaps compared to scientific propositions. We build upon the existing workplace SH prevention and response framework from McDonald et al. (2015) and conduct a theoretical ex-ante assessment of the effect of the CSRD in conjunction with the underlying European Sustainability Reporting Standards (ESRS) on altering sexually harassing behavior in the workplace.

The proposed prevention measures and response strategies of the EU build a solid basis. We align with Grossman's (2003) argument that the computation of employer liability for SH aims to encourage employers to establish formal policies and procedures concerning workplace harassment rather than ensuring their effective prevention and response to such incidents. The existing NFRD did not particularly require any disclosure on matters regarding sexually harassing behavior (Directive 2014/95/EU). Therefore, we argue that the CSRD constitutes a transformative potential. It requires a high level of transparency and comparability, which may harm, in case of non-compliance the company’s reputation among stakeholders (Bouzzine & Lueg, 2022; Borelli-Kjaer et al., 2021), and shareholders (Billings et al., 2022; Baker et al., 2021). Nevertheless, we identify weaknesses and areas for improvement.

Our findings make several contributions to the extant literature on prevention and response to workplace SH and are relevant for policymakers and practitioners. First, by synthesizing the literature on SH prevention measures and response strategies and building upon existing frameworks by including the function of bystanders and recent work. Second, by assessing the effectiveness of the required measures from the ESRS on SH. Third, by discussing potential threats of the disclosure requirements.

The remainder of the paper is structured as follows. Section 2 reports our literature review while section 3 describes our theoretical framework. In Section 4, we assess the impact of the current legislation and discuss it. Section 5 concludes the paper.

**Literature Review**

*The issue of workplace sexual harassment*

The most widely known definition of workplace SH originates from the Equal Employment Opportunity Commission (EEOC). The EEOC is responsible for bringing into force federal laws on discrimination in employment (U.S. Equal Employment Opportunity Commission, n.d.). The definition of SH according to the EEOC is as follows:

“Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when: 1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, 2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or 3. such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance, or creating an intimidating, hostile or offensive work environment.” (29 Code of Federal Regulations §1604.11)

Most states in the U.S. have comparable laws and restrictions (Fitzgerald & Cortina, 2017). However, like federal law, they are not strictly behavioral. The definition is a broad representation of prohibited actions, leaving a great deal of leeway for the courts to decide. Legal decisions over the years have elucidated the criteria necessary for something to be legally recognizable as SH, introducing various considerations (e.g., statutes of limitations, issues of welcomeness, liability, procedural requirements) that delineate the scope of the legal charge.

In the realm of EU law, the Gender Recast Directive 2006/54/EC provides the legal framework for the prohibition of SH. The European Commission (EC) defines SH as actions

“where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment” (Directive 2006/54/EC Title I, Article 2, 1. (d)).

The EC distinguishes between SH and harassment. Both definitions incorporate the violation of an individual’s dignity and the creation of an intimidating, hostile, degrading, humiliating or offensive environment. The primary differentiation occurs in instances of harassment grounded in a person’s sex, whereas SH involves the unwelcome imposition of actions of a sexual nature. All EU member states base their national legislation on the EU definition (European Commission, Directorate-General for Justice and Consumers, Böök, et al., 2023). Most countries even extend the scope of the prohibition of SH.

Research in this field generally adopts a feminist perspective, framing workplace SH as fundamentally a women’s issue (Fitzgerald & Cortina, 2017). While acknowledging SH’s occurrence among men and minorities, women are harassed due (and only) to their gender, and men, when harassed, are often perceived as “not man enough”, equating to being treated as women (Berdahl et al., 1996). In contrast to legislation, science conceptualizes SH behaviorally to measure its incidence reliably. This perspective recognizes SH as a gendered manifestation within the broader societal pattern of dominance and oppression. Fitzgerald et al. (1988) refined the 5-category classification approach by Till (1980) into three categories: sexual coercion, unwanted sexual attention, and gender harassment. Sexual coercion entails an “implicit or explicit demand for sexual favors through the threat of negative job-related consequences or the promise of job-rewards (Schneider et al., 1997, p. 402). It involves combining unwanted sexual attention with job-related pressures, such as bribes or threats. Even though sexual coercion is often considered the paradigmatic harassment experience, it is relatively rare. Unwanted sexual attention describes “expressions of romantic or sexual interest that are unwelcome, unreciprocated, and offensive to the recipient” (Leskinen et al., 2011, p.26). It involves uninvited, unwanted, and unreciprocated sexual advances, encompassing various verbal and physical behaviors such as sexually suggestive comments and compliments, attempts to engage in sexual or romantic relationships, and unwanted touching. These experiences are not expressly tied to job conditions or consideration even though they are annoying and unwelcome. Gender harassment is characterized by disparagement based on gender. It consists essentially of contempt and hostility, which has introduced the label gender hostility. Sexist gender harassment or sexist hostility is “demeaning jokes or comments about [gender]” (Committee on the Impacts of Sexual Harassment in Academia et al., 2018, p. 25; Fitzgerald et al., 1995, p. 430). It includes woman-bashing jokes, insults about their competence, the irrelevance or sexual unattractiveness of older women, and comments that women have no place in certain kinds of jobs or job positions (Fitzgerald & Cortina, 2017). Sexual hostility is a more harmful form of gender harassment and is defined as “the use of sexually crude terms that denigrate people based on their gender (e.g., using insults such as “slut” to refer to a woman or “pussy” to refer to a man)” (Committee on the Impacts of Sexual Harassment in Academia et al., 2018, p. 25; Fitzgerald et al., 1995, p. 430). It is clearly sexual and obviously hostile such as referring to derogatory terms for female body parts, explicit images, and inappropriate comments about female sexuality or sexual activity. In essence, sexual coercion and unwanted sexual attention represent “come-ons” while gender harassment is a “put-down” (Leskinen et al., 2011; Lim & Cortina, 2005). As the legislation mainly addresses sexual coercion and unwanted sexual attention, this is the followed approach in this paper.

In explaining the causes of workplace SH, research has explored situational and personal antecedents. Situational antecedents, focusing on environmental characteristics, highlight the role of organizational climate, including formal or informal policies and the gendered nature of jobs (O’Leary-Kelly et al., 2009). Organizational tolerance for sexually harassing behaviors emerges as a strong predictor, underlining the potential for organizations to prevent harassment (Willness et al., 2007). Notably, male-dominated contexts increase the likelihood of harassment, with a critical role attributed to the organizational context, including uncivil behavior and the justice climate (Rubino et al., 2018; Kabat-Farr & Cortina, 2014; Lim & Cortina, 2005). Strict management norms and a climate intolerant of offensive behavior have been shown to inhibit harassment even among those predisposed to it (Willness et al., 2007; Fitzgerald et al., 1997; Pryor et al., 1993). Considering victim characteristics, studies suggest that women who deviate from gender norms, either through personality traits or occupying traditionally masculine roles, are more susceptible to harassment (Berdahl, 2007). Ethnic minority women are also more likely targets (Berdahl & Moore, 2006). Examining perpetrator characteristics to a lesser extent, early research focused on the personality profiles of potential harassers, highlighting their likelihood to sexually harass (O’Leary-Kelly et al., 2009). However, attempts to create a typical harasser profile based on sociodemographic factors have proven limited, as harassers cut across social strata (Pina, et al., 2009). Power differentials play a crucial role, with unequal power facilitating harassment (Harned & Fitzgerald, 2002). Organizational pressures, such as expectations for service, create unique power dynamics, leading to increased harassment from external perpetrators like clients or customers (Kundro et al., 2020). Moreover, exposure to gender identity or status threats at work amplifies the likelihood of harassment (Halper & Rios, 2019; Maass et al., 2003).

Formal complaints regarding workplace SH often represent only a fraction of the actual incidents, with estimates suggesting that only 5-30% of targets file formal complaints, and fewer than 1% participate in legal proceedings (Fitzgerald et al., 1995). Fear of job loss, retaliation, reluctance to be perceived as a victim, and a belief that the harasser won’t face consequences are factors that inhibit reporting (Fielden et al., 2010; Hayes, 2004). Victims use informal methods to address the issue, and studies indicate that reporting not always improve the outcomes for the target (Lee et al., 2004). The likelihood of reporting depends on various factors, including the severity of harassment. Sexual assault or solicitation tends to increase the reporting rate, and women generally report more frequently than men (Benavides-Espinoza & Cunningham, 2010). In small organizations where the perpetrator holds a position of power, reports are less likely to be made (Knapp et al., 1997). According to Hayes (2005), proactive leadership is considered essential in transferring the responsibility of identifying unprofessional behavior from the target to the institution itself. The management of grievance procedures within organizations is critical since internal procedures often determine de facto employment rights (Dobbin & Kelly, 2008). However, critics argue that organizational grievance procedures, while common, are designed to protect employers from liability rather than to help victims (Charlesworth, 2002; Thornton, 2002). According to Dobbin and Kelly (2008), SH policies are often viewed as bureaucratic defenses against grievances, prioritizing risk management over the needs of victims. However, organizations can still promote change by implementing training, education, incentives, and sanctions to foster a respectful work environment (Parker, 1999). Strategic transformation of corporate cultures is essential as it reduces organizational tolerance for SH (Willness et al., 2007).

Unsurprisingly, SH significantly harms victims’ psychological well-being, health, and work outcomes. Extensive research demonstrates the adverse impact of workplace SH on coworker relationships, supervisor interactions, life satisfaction, and organizational commitment (Sojo et al., 2016; Willness et al., 2007). Victims suffer from declines in general mental health (Fitzgerald et al., 1997), depression and anxiety disorders (Ho et al., 2012; Reed et al., 2005), and symptoms of posttraumatic stress disorder (Ho et al., 2012; Willness et al., 2007). Not only psychological consequences affect the lives of victims, but also physical consequences. Often, the effects on physical health are indirect, mediated through mental health (Fitzgerald & Cortina, 2017). Willness et al. (2007) found a positive correlation between SH and withdrawal behaviors at work. Job satisfaction consistently declines after incidents of workplace SH (e.g., Lonsway et al., 2013; Willness et al., 2007; Fitzgerald et al., 1997). It results in organizational withdrawal, manifesting as disengagement, absenteeism, tardiness, neglect of assignments, and contemplation of quitting (e.g., Fitzgerald & Cortina, 2017; Miner-Rubino & Cortina, 2007). Longitudinal studies, like Sims, et al., (2005), reveal higher exit rates among harassed women from military employment, indicating the effectiveness of this strategy in escaping an abusive environment but at significant social, professional, and financial costs. Moreover, SH adversely affects productivity and performance (Dodson et al., 2023). It correlates with reduced organizational commitment, heightened job stress, and various job-related challenges including impaired team relationships, conflicts, lower financial performance, lowered justice perceptions, cognitive difficulties, and overperformance (e.g., Lim & Cortina, 2005; Magley et al., 2005; Cortina et al., 2002; Schneider et al., 1997). Studies exploring harassment experiences of both genders highlight that the repercussions are more substantial for female victims, possibly because harassment is more threatening to women due to its reinforcement of their relatively lower status (Berdahl et al., 1996). Bystander stress occurs when observers of SH incidents experience stress themselves (Schneider, 1996). This can lead to issues in team dynamics, productivity, and a negative impact on team unity followed by decreased economic outcomes (Miner-Rubino & Cortina, 2007; Raver & Gelfand, 2005). Consequently, SH is in fact an organizational level challenge rather than a personal issue (Glomb et al., 1997).

Alongside the detrimental consequences for the victims, organizations also experience significant consequences. Workplace SH can tarnish an organization’s reputation, damage its organizational performance, and erode trust among stakeholders, as well as the public (e.g., Au et al., 2023; Bednar et al., 2022; Bouzinne & Lueg, 2022). Organizations may experience challenges in attracting and retaining top talent and may face difficulties in securing investments or partnerships (Billings et al., 2022). Au et al. (2023) reveal long-term negative financial implications following incidents that go along with legal costs, including settlements and legal fees, as well as potential regulatory fines (Dodson et al., 2023).

*The EU legislative landscape*

The Treaty of the Functioning of the European Union (TFEU) emphasizes gender equality and non-discrimination and promotes equal treatment of men and women (Art. 8, 10, 19, and 157 TFEU). Based on these principles, the EU pursues a multidimensional approach through a legal and policy framework to uphold human rights and achieve gender equality. The recast Directive 2006/54/EC covers all aspects, from objectives and definitions to equality in all matters of employment and consolidates legal measures and strategies to address and remedy issues of discrimination. Furthermore, Directive 2006/54/EC expanded by broadening its scope, clarifying definitions and obligations, and strengthening enforcement mechanisms to promote and ensure gender equality in the workplace (Numhauser-Henning & Laulom, 2012). EU member states are required to transpose the directive into national law (Burri & Prechal, 2009). The European Parliament's resolution on the issue of SH and abuse in the EU recognizes and builds upon the established EU legal framework for the protection and support of victims of crime set out in Directive 2012/29/EU. In an organizational context, the EC has adopted the Directive (EU) 2019/1937 on the protection of individuals reporting violations of Union law and a communication that outlines a comprehensive legal framework for whistleblower protection at the European level. The framework establishes easily accessible reporting channels, emphasizes the obligation of confidentiality, prohibits retaliation against whistleblowers, and introduces specific protective measures.

*Sustainability Reporting*

Corporate reporting, particularly in the realm of sustainability and integrated reports, has become a well-established business practice (Mervelskemper & Streit, 2017; Stacchezzini et al., 2016). Enhancing regulatory mandates for companies to disclose information based on Environmental, Social, and Governmental (ESG) criteria is a pivotal instrument for advancing the SDGs (Plastun et al., 2020). The transparency of the business environment and the reporting of Corporate Social Responsibility (CSR) integration into company operations are crucial elements for effectively monitoring progress toward SDGs within the corporate sector. Phan et al. (2020) reveal a positive correlation between disclosing non-financial information aligned with SDGs. Larger companies and those with higher risk profiles have made progress in improving their ESG disclosure. Ho and Park (2019) advocate for combining the strengths of public and private forms of disclosure regulation to optimize the quality and utility of ESG-related information. In the EU, SDGs are highlighted in the Communication from the Commission Guidelines on Non-Financial Reporting (2017/C215/01) as important methodologies for sustainability reports (Plastun et al., 2020). Adams (2020) underscores the significance of endorsing SDG disclosure recommendations supported by reputable accounting organizations.

The disclosure of ESG factors has predominantly been a voluntary practice, driven by stakeholder expectations and a quest for legitimacy (Cho et al., 2012; Deegan, 2002). Scholars contend that businesses, in response to stakeholder expectations, willingly produce reports to maintain their license to operate (Maltby, 1997). They argue that transparent reporting on sustainability risks helps manage these risks more effectively, leading to improved financial performance (Doane, 2002). However, voluntary reporting faces criticism for its ad-hoc nature, the risk of being a public relations exercise, difficulty in inter-company comparison, a lack of enforcement, accountability, and independent verification (Buhr et al., 2014; Thirarungrueang, 2013; Overland, 2007). Recognizing the inefficacy of voluntary reporting, many countries have started to enforce mandatory reporting, exemplified by the NFRD, amending previous directives (Directive 2014/95/EU). The EU's objective is to enhance companies' accountability, transparency, and stakeholders' trust, ultimately facilitating companies' access to resources (Campra et al., 2020; Cohen et al., 2015). However, scholars raised doubts about the desire for accountability and regulatory reform among stakeholders other than investors, potentially leading to 'window dressing' and inconsistencies between reporting and CSR performance (Stubbs and Higgins, 2018; Cooper and Owen; 2007). Mandatory reporting is seen as a solution to these issues, offering a defined framework, greater comparability, and increased accountability (Overland, 2007). While concerns about the lack of enforcement mechanisms and credible assurance practices exist, studies in multiple countries show that mandatory reporting increased CSR disclosures, and adoption of assurance, enhanced their credibility and reporting guidelines (Grewal et al., 2019; Ioannou & Serafeim, 2014). Scholars revealed that mandatory disclosures are more likely to yield real CSR effects compared to voluntary disclosures, although the effects of non-binding approaches like the comply or explain method remain unclear (Christensen, et al., 2021). Cuomo et al. (2022) find that the comply or explain approach to regulate CSR disclosure, as in the case of the EU NFRD, is effective in promoting CSR transparency and more sustainable development. In general, legislation by central governments is more successful in ensuring credible reporting compared to market mechanisms promoted by stock exchanges (Chelli, et al., 2018). However, studies by Luque-Vilchez and Larrinaga (2016) and Chauvey et al. (2015) show that mandatory ESG disclosure does not necessarily lead to an improvement in information quality. Rather, the credibility of ESG disclosures depends on the level of assurance provided by Internal Auditors and other entities countering information bias (e.g., Ackers & Eccles, 2015; Holt, 2012).

The NFRD required publicly traded companies with an average of more than 500 employees to disclose non-financial information, focused on environmental, social, employee, human rights, and anti-corruption and anti-bribery issues (Directive 2014/95/EU). The NFRD did not impose a specific standard to be followed, allowing companies considerable latitude in how they implemented its requirements, potentially permitting disclosures that might favor their interests. In addition to following the comply-or-explain principle, the concept of double materiality, which requires companies to consider how sustainability issues affect the business and vice versa, was difficult to implement as stakeholders noted that the NFRD lacked a clear definition of materiality (Hahnkamper-Vandenbulcke, 2021). The NFRD requires only a limited scope of assurance, which results in limited comparability of disclosures. The CSRD goes one step further than the NFRD in three key areas (1) the nature of the disclosure requirement, (2) the scope of companies covered by the Directive, and (3) the scope of topics to be reported. While the NFRD applied the comply or explain principle, the CSRD ultimately moves away from the concept of voluntary reporting practices or relying on market mechanisms to compel company reporting. The CSRD addresses the issues outlined in the SDGs through mandatory measures, given the urgent need to achieve sustainable change in the global economy and the increased comparability provided by a defined reporting framework. However, this approach also carries the risk off overshadowing the genuine efforts of many to contribute to this necessary sustainable change, as well as promoting a checkbox mentality towards sustainability reporting (Adams & Abhayawansa, 2021). In addition, the CSRD significantly expands the scope of the NFRD and increases the number of companies subject to reporting requirements from 11,600 to 49,000 across the EU (Federal Ministry of Labor and Social Affairs, 2024). The scope of application affects organizations and commercial partnerships with exclusively limited liability shareholders, including large companies as defined by accounting law, small and medium-sized enterprises that are capital market-oriented, and third-country companies with a turnover of EUR 105 million in the EU whose subsidiaries meet the above size criteria or whose branches achieve a turnover of more than EUR 40 million. In comparison to the NFRD, the CSRD provides a coherent and comprehensive set of sustainability standards focusing on environmental, social, and governmental aspects (Directive 2023/2772). These standards complement the CSRD by providing specific reporting guidelines to achieve both comparability between reports and direction in the development of sustainability reports (Giner & Luque-Vilchez, 2022). Disclosures under the CSRD are subject to external review to ensure compliance with the guidelines (Directive 2022/2464/EU). Beginning in the 2024 financial year, the reporting requirements will be phased in, with the first wave of companies required to comply with the new rules due to publish their reports in 2025 (European Commission, 2023c).

**Theoretical Framework**

In order to understand, predict, and mitigate the phenomenon of workplace SH, scholars developed various theories. Foster and Fullagar (2018) applied the Theory of Planned Behavior to predict a victim’s intention to report incidents of SH based on the victim’s attitudes, subjective norms, and perceived control over the incident. The likelihood of a victim reporting SH is higher when they have confidence that the harasser will face consequences, assurance that their reputation will remain intact, and a positive perception of the reporting process rather than feeling embarrassed. Clarke (2014) suggests that the level of tolerance for SH, organizational justice, trust in leaders, and support from coworkers can affect a victim’s attitude, subjective norm, and perceived behavioral control regarding reporting. These factors, in turn, contribute to the formation of the intention to report, which ultimately predicts actual reporting behavior. Although the literature on SH has not yet adopted a clear explanation for the phenomenon following the Social Cognitive Theory, empirical evidence suggests applicability (e.g., Pryor et al., 1993). In general, a social-cognitive explanation of any phenomenon includes three basic components: (1) the content and structure of long-term memory, which refers to beliefs and their schematic organization; (2) social-cognitive processing, which involves cognitive mechanisms such as attention and retrieval used to process social information; and (3) cognitive products, which are final-stage beliefs, thoughts, and attributions resulting from the content, organization, and processing of social information (Hollon & Kriss, 1984). According to Social Cognitive Theory, men who engage in antisocial behavior possess behavior-supportive beliefs and schemas in long-term memory that affect their social information processing in antisocial ways (Ward & Keenan, 1999). The Four Factor Theory of Sexual Harassment integrates key components of earlier single-factor theories (O’Hare & O’Donohue, 1998). The multifactor theory consists of: (1) the motivation of an individual to harass, such as power, control, or sexual attraction, (2) the internal inhibitions an individual must overcome, such as moral inhibitions, (3) the external inhibitions an individual must overcome, such as organizational barriers, and (4) the victim’s resistance an individual must overcome, such as assertiveness or the victim’s relative status in the workplace. Institutional theory focuses on the relationships between individuals, organizations, and society. Shadnam and Lawrence (2011) suggest that morality is integrated within a nested system of individuals, organizations, and moral communities. Ideology and regulation flow downward from moral communities through organizations to individuals, while moral ideas and influence flow upward from individuals through organizations to moral communities. Moral breakdown is linked to a collapse of these flows.

We use these theories to assess the validity and eligibility of the framework of McDonald et al. (2015) on effective prevention and response strategies in workplace SH for our ex-ante impact analysis. McDonald et al. (2015) categorize strategies using a two-dimensional typology that describes the timing of interventions and their functions. Examining both the timing and key functions or tasks associated with prevention interventions helps to explain why SH remains a persistent phenomenon in the workplace, despite laws prohibiting it. Many organizations fail to implement effective strategies across all organizational functions and/or at the right time. The absence of proactive, coordinated, and responsive measures against SH can create an environment in which such injustices can flourish. According to McDonald et al. (2015), the categorization of strategies addressing SH based on timing – primary, secondary, and tertiary prevention – provides conceptual clarity in understanding organizational actions. These strategies aim to: (1) eliminate the causes of SH, (2) respond immediately and appropriately when SH occurs to deal with short-term consequences, and (3) address lasting consequences, including restoring health and safety (Chamberlain, 2008; Cornelius and Resseguie, 2006). This classification informs organizations about the need for preventive, short-term, and longer-term remedial measures. Within this framework, strategies are further categorized into messages (defining SH legally and behaviorally and communicating within the workplace), management (how organizational actors with the authority to do so prevent or intervene in SH), and monitoring (tasks identifying risk factors and assessing professional standards).

We reviewed the literature on SH prevention and response strategies in organizations to add to the framework. Although the framework is already very mature, we found various aspects that should be added. Following prevalent literature, organizational climate is one of the most significant situational antecedents for incidents of SH in the workplace (e.g., O’Leary-Kelly et al., 2009, Willness et al., 2007). An organizational climate that tolerates sexually harassing behavior contributes to incidents of such behavior. Consequently, managers must take specific measures to create a work environment that does not tolerate sexually harassing behavior. Atwater et al. (2021) emphasize that given to the managers’ authoritative roles, they bear the primary responsibility for shaping organizational norms and climate. This responsibility cannot be relinquished or delegated to others because employees naturally observe and follow the lead of authorities in adhering to the stated norms that define the organizational climate. Therefore, we propose that this tone from the top needs to be added to the framework. Scholars suggest that victims may not report incidents of SH because they believe the harasser will not face consequences (Fielden et al., 2010; Hayes, 2004). We argue that a zero-tolerance policy towards SH and clear communication of the consequences of any incidents will encourage reporting. Additionally, organizations should position themselves after complaints have been resolved and communicate any consequences while protecting victims. This demonstrates the absence of organizational tolerance for SH and reassures victims to report incidents. One important addition that we propose is the involvement of bystanders. Scholars argue that bystander intervention is a crucial factor in shaping organizational tolerance for SH and promoting reporting of incidents (e.g., McDonald et al., 2016; Bowes-Sperry & O’Leary-Kelly, 2005). Incorporating bystander intervention training can yield various advantages at both the organizational and individual levels. This includes reducing the organization’s perceived tolerance for SH, enhancing the level of moral intensity, fostering a better understanding of SH, and increasing awareness among potential perpetrators about their behaviors (Lee et al., 2019). Atwater et al. (2021) argue that managers should avoid the inclination to hire fewer women, recognizing that excluding women is not a viable solution to mitigate workplace SH. Instead, it is crucial to explore ways to delve deeper into an individual’s character during the selection process. While organizations typically focus on competencies and past achievements when hiring, it’s important to acknowledge that organizations often terminate employees due to character flaws. Therefore, competencies alone are necessary but insufficient, and there is a need to address character traits as well (Sturm et al., 2017). We agree with this argument and suggest incorporating character-based hiring methods into the selection process. Finally, the U.S. Equal Employment Opportunity Commission (EEOC) suggests safeguarding the safety of complainants (Title VII, 29 CFR Part 1604, 29 CFR Part 1605, 29 CFR Part 1606). The act aims to protect the confidentiality of harassment complaints to the fullest extent possible and ensure that complainants are protected from any form of retaliation.

Table 1 Framework of effective prevention and response strategies in workplace sexual harassment in accordance with McDonald et al., 2015, p.50; added aspects in bold font

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  |  | Timing | | |
| Function |  | Primary | Secondary | Tertiary |
| Message | * Clear statement of intent to prevent SH in organizational policy * Communicate defined wrongdoing * Clarify misconceptions, challenge gendered cultures in training * **Establish a tone from the top that does not tolerate SH** * **Communicate a zero-tolerance policy for SH and the consequences of any incidents** | * Modelling and reinforcement of effective complaint handling * Communicate outcomes of complaint processes in a transparent way | * Revisit and update policies periodically * Utilize evidence-based training approaches * **Communicate taken consequences** |
| Management | * Ensure SH training is regular/inclusive * Include conflict management in training modules * Emotional skills training for managers * Modelling and rehearsal principals delivered through training and policy * **Incorporate bystander intervention training** * **Inclusion of character-based hiring methods in the selection process** | * Develop multiple complaint handling channels * Ensure timely, transparent complaint handling * Apply commensurate sanctions * **Protect the safety of the complainant** | * Provide longer term support and assistance to targets * Ensure no longer term victimization of the target |
| Monitoring | * Assess specific organizational risk factors * Document attendance at training | * Assist managers to recognize victimization * Identify and reward managers **and bystanders** who respond appropriately | * Monitor practices that derogate on the basis of sex * Stay abreast of developments in anti-discrimination law and policy |

**Discussion and Impact on Workplace Sexual Harassment**

We compare the established principle and application requirements of Directive 2023/2772/EU (the ESRS) with previous research to assess the opportunities presented by expanding the scope of the CSRD. In our analysis, ESRS S1 on Own Workforce, ESRS S2 on Workers in the Value Chain, and G1 on Business Conduct apply because these standards contain disclosure and application requirements that impact SH prevention and response strategies.

*Definition*

The perception and understanding of SH can vary depending on the definition used (McDonald, 2012). Surveys that use the legal definition tend to yield fewer reported incidents than survey that ask individuals to provide their personal definition. Individuals affected by behaviors that meet the criteria for SH suffer comparable adverse effects, regardless of whether or not the behaviors are identified or labeled as such (Magley et al., 1999). However, the understanding of what constitutes SH by the general public plays a crucial role in shaping management behavior regarding complaints and consequences and employees’ perceptions of acceptable behavior within the organization (Cortina & Berdahl, 2008).

The ESRS do not explicitly define SH but harassment in general. They define harassment as:

“ A situation where an unwanted conduct related to a protected ground of discrimination (for example, gender under Directive 2006/54/EC of the European Parliament and of the Council […], or religion or belief, disability, age, or sexual orientation under Council Directive 2000/78/EC […] occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment.” (Directive 2023/2722/EU, Annex II)

Directive 2006/54/EC provides a clear definition of SH as "where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment" (Directive 2006/54/EC, Article 2, 1(d)). Based on this, we argue that the definition of the ESRS align with European and international standards (see EEOC definition). However, Gomes et al. (2004) critize the term ‘unwanted’, the concept of dignity, and the idea of an abusive work environment. The term ‘unwanted’ implies that an individual has the right to choose whether or not they are exposed to sexually harassing behavior. The concept of dignity is subject to interpretation. It is unclear when an individual’s dignity is violated, as this may vary between member states and individuals. Consequently, each member state will need to address this question as a matter of public policy, which limits comparability. Directive 2006/54/EC does not provide guidance on what specifically constitutes “an intimidating, hostile, degrading, humiliating or offensive environment”. The severity or pervasiveness of such behavior can be determined by examining whether it is intimidating, degrading, or humiliating. The determination of incidents of SH is influenced by national norms and different work environments within a single country. It is crucial to note that SH should not be justified solely because it is deemed acceptable in a particular workplace or industry. Employers must be held accountable for creating and tolerating an abusive work environment. It would be unacceptable if employers could avoid liability for creating and approving an abusive work environment. In the application of the ESRS member states should provide guidance on what constitutes unacceptable behavior, taking into account the social and cultural context. The definition of SH must strike a balance between a clear, behavioral definition that leaves no room for adaptation and an interpretable legal definition that does not encourage management action in terms of prevention and response measures.

*Primary Intervention*

Primary interventions include antecedents and preventative practices that occur before an incident of SH takes place. Situational antecedents were found to be the most predictable and generalizable across different member states. Organizational tolerance for sexually harassing behaviors and male-dominated contexts were found to increase the likelihood of harassment (e.g., O’Leary-Kelly et al., 2009; Willness et al., 2007). In our proposed framework this constitutes a clear statement of the organizational policy, and tone from the top. The ESRS determine several disclosure requirements on primary intervention. First, it addresses organizational climate in standard G1 on Business Conduct:

“The undertaking shall disclose its policies with respect to business conduct matters and how it fosters its corporate culture. […] The objective of this Disclosure Requirement is to enable an understanding of the extent to which the undertaking has policies that address the identification, assessment, management and/or remediation of its material impacts, risks and opportunities related to business conduct matters. It also aims to provide an understanding of the undertaking’s approach to corporate culture. [Policies] shall include how the undertaking establishes, develops, promotes, and evaluates its corporate culture.” (Directive 2023/2772/EU, Disclosure Requirement G1-1, 7.-9.)

The respective application requirements for disclosure requirements G1-1 specify:

“The undertaking may consider the following aspects when determining its disclosure […] (a) the aspects of corporate culture that are taken into consideration and discussed by the administrative, management and supervisory bodies and with which frequency; (b) principal themes that are promoted and communicated as part of the corporate culture; (c) how the members of the undertaking’s administrative, management, and supervisory bodies provide direction to promote a corporate culture; and (d) specific incentives or tools for its own workers to foster and encourage its corporate culture.” (Directive 2023/2772/EU, Application Requirement G1-1, 1.)

We argue that concerning situational antecedents the ESRS provides mature measures for promoting a clear statement regarding the intent to prevent SH. The application requirements establish the basis for conveying an inclusive and benevolent tone from the top, thereby reducing the organization’s tolerance for SH. However, we would recommend that organizations include a statement about promoting an inclusive and non-violent organizational culture in their vision and/or mission statement to emphasize its importance. In addition, an organization’s management should consistently model and reinforce a culture that embodies these values. There is a significant risk that the ESRS will be implemented as a tick-the-box requirement rather than an effective one, especially when dealing with difficult-to-measure factors such as corporate culture.

The composition of the board is an important factor that influences corporate culture (e.g., Nielsen & Huse, 2010). Empirical evidence has shown that gender diversity on boards has a positive effect on culture (Di Miceli da Silveira, 2022). The corporate culture of a firm can be seen as its attitude towards the inclusion or exclusion of women in the workplace. The ESRS address this lever by requiring organizations to disclose the characteristics of their employees:

“The undertaking shall describe key characteristics of employees in its own workforce. […] The undertaking shall disclose: (a) the total number of employees by head count, and breakdowns by gender […]” (Directive 2023/2772/EU, Disclosure Requirement S1-6, 48., 50.)

“The undertaking shall disclose the gender distribution at top management […]” (Directive 2023/2772/EU, Disclosure Requirement S1-9, 64.)

Preventative practices include the assessment of risk factors, policies, and training (McDonald et al., 2015). The assessment of early risk factors involves identifying situations where SH is more likely to occur, evaluating the role, status, and positions of women in the organization, and conducting regular and anonymous surveys of women's attitudes that include measures of SH. Directive 2023/2772/EU requires organizations to explain:

“[…] the general approach [they take] to identify and manage any material actual and potential impacts on [their] own workforce in relation to the following social, including human rights, factors or matters: […] (b) equal treatment and opportunities for all, including gender equality […]; measures against violence and harassment in the workplace; and diversity.” (Directive 2023/2772/EU, Objective, 2.)

Organizations are required to disclose their processes to identify and assess material impacts, risks, and opportunities in relation to business conduct matters. Derived from this risk assessment, organizations need to compose their policies and actions to prevent, mitigate, and remediate actual and potential sustainability matters. That indicates the importance of the risk assessment. Although the requirements for the risk assessment process are comprehensible, we recommend conducting the process both top-down and bottom-up to ensure a thorough evaluation. Including employee perspectives can make a decisive difference, especially for non-measurable issues such as SH.

Policies should provide a clear understanding of what constitutes wrongdoing in an organization, be visible, communicate ways to use the SH policies in a trustworthy manner, rely on effective high-level management and modeling, ensure serious and immediate enforcement, along with clear sanctions, and commit to broader gender equality goals (McDonald et al., 2015). The ESRS require organizations to disclose information on:

“[…] (a) whether it has specific policies aimed at the elimination of discrimination, including harassment, promoting equal opportunities and other ways to advance diversity and inclusion; (b) whether the following grounds for discrimination are specifically covered in the policy: racial and ethnic origin, color, sex, sexual orientation, gender identity, disability, age, religion, political opinion, national extraction or social origin, or other forms of discrimination covered by Union regulation and national law; (c) whether the undertaking has specific policy commitments related to inclusion or positive action for people from groups at particular risk of vulnerability in its own workforce and, if so, what these commitments are; and (d) whether and how these policies are implemented through specific procedures to ensure discrimination is prevented, mitigated and acted upon once detected, as well as to advance diversity and inclusion in general.” (Directive 2023/2772/EU, Disclosure requirement S1-1, 24.)

Furthermore, the ESRS mandates that organizations adhere to the UN Guiding Principles on Business and Human Rights, ILO Declaration on Fundamental Principles and Rights at Work, and the OECD Guidelines for Multinational Enterprises. This signals a clear step towards equality and inclusion. In order to ensure policy accessibility and understanding among different audiences, organizations must disclose their communication tools and channels. This disclosure contributes to the visibility of these policies. of communication tools and channels contribute to the visibility of these policies. Organizations are required to assign responsibility for equal treatment and opportunities to top management and issue clear company-wide policies and procedures to guide equal employment practices. The ESRS impacts the enforcement, high-level management, and modeling of these topics by mandating the assignment of responsibilities. Although the ESRS disclosure requirements on policies regarding SH in organizations are detailed and differentiated, they do not include clear sanctions, a definition of organizational wrongdoing or indicate zero tolerance.

Policies cannot stand alone. Training approaches are necessary for individuals to memorize and apply policy content. These approaches should be based on organizational assessments, raise awareness, and clarify misconceptions, include conflict management and emotional skills for managers, incorporate bystanders, and challenge gendered organizational cultures (McDonald et al., 2015). The ESRS recognize that by requiring organizations to:

“[provide] staff training on non-discrimination policies and practices with a particular focus on middle and upper management to raise awareness and address resolution strategies for preventing and addressing systemic and incidental discrimination” (Directive 2023/2772/EU, Application Requirements S1-1, AR 17. (c)).

Despite the fact that the ESRS require training to prevent discrimination and thus raise awareness of it, the standards have great potential for improvement in this area. The standards do not specify whether the trainings are based on organizational assessments and job specific, thus addressing issues such as conflict management, emotional skills, and bystander intervention.

*Secondary Intervention*

Secondary intervention refers to immediate actions taken after an incidents of SH to prevent further perpetration and address short-term consequences, including victimization (McDonald et al., 2015). Organizational grievance procedures are the primary method for victims to enforce their rights. However, they often fail to effectively address complaints of SH. To address reporting challenges, recommendations for secondary prevention include implementing appropriate managerial responses, providing multiple reporting channels, conducting timely investigations, imposing sanctions, offering mediation, and protecting the complainant. Managers and bystanders can be incentivized and rewarded for correctly handling and intervening in victimization of complainants. The ESRS emphasize the significance of secondary intervention by mandating that organizations:

“[…] shall describe the processes [they have] in place to provide for or cooperate in the remediation of negative impacts on people in [their] own workforce that the [organizations are] connected with, as well as channels available to [their] own workforce to raise concerns and have them addressed.” and

“[…] shall disclose the number of work-related incidents and/or complaints and severe human rights impacts within its own workforce, and any related material fines, sanctions or compensation for the reporting period.” (Directive 2023/2772/EU, Disclosure Requirement S1-3, 30. and S1-17, 100.)

The ESRS require organizations to have available and transparent complaint-handling processes. Additionally, they mandate organizations to disclose their complaint processes and outcomes as well as the awareness and trust of employees in these. To explain how employers ensure that their employees are aware of and trust the complaint channels, they may provide reliable data on the effectiveness of these channels based on surveys of employees who have used the complaint channels and their satisfaction levels with the process and outcomes. Furthermore, organizations must disclose how they track and monitor the issues that have been raised. Although the ESRS follows a best-practice approach to complaints management, it is important to communicate about its processes, effectiveness, and complainant satisfaction through informal internal channels in addition to the management report. This is because trust and sensitivity are crucial in complaints management to avoid inefficiency. Therefore, we recommend that employees receive mandatory training sessions to become aware of and trained in the complaints processes.

In terms of protecting complainants, the ESRS require organizations to disclose their policies. The ESRS recommend that organizations adhere to the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Business Conduct. The ESRS proposes remedial action for both the perpetrator and the victim. If victims have incurred any expenses due to harassment, they may be entitled to reimbursement for counseling sessions, paid time off, and the reinstatement of sick/vacation days. Perpetrators may face disciplinary action, including verbal and/or written warnings, mandatory anti-harassment counseling or attendance at an appropriate seminar, harassment awareness and prevention training, suspension without pay, and more serious consequences if the perpetrator has been disciplined previously. Even if the harassing behavior stops after measures such as warnings, seminars, or training, it can still be stressful for victims to continue working with the former perpetrator. Victims often change jobs after experiencing SH and, in some cases, accept career disadvantages, while perpetrators are less likely to change jobs (e.g., Willness et al., 2007). Therefore, measures such as transfer should not only be reserved for repeat perpetrators.

By requiring organizations to disclose work-related incidents and/or complaints, they allow all stakeholders to understand the impacts affecting their workforce. The standards emphasize that disclosure must be made regarding harassment incidents. Specifically, the ESRS require information on the total number of incidents, the number of complaints filed through existing channels and grievance mechanisms, and the sanctions resulting from the incidents.

We suggest that an important stakeholder group is missing from the ESRS – managers who may witness victimization of complainants. Managers should be trained to identify and respond appropriately to victimization. In addition, it is important to reward managers and bystanders who respond appropriately when witnessing victimization.

*Tertiary Intervention*

Tertiary interventions are implemented after an incident of SH has occurred to address lasting consequences, minimize its impact, restore health and safety, and prevent further perpetration and victimization (McDonald et al., 2015). These interventions are relevant to SH due to the significant negative psychological, health, and job-related consequences experienced by targets. The existing literature has largely neglected longer-term interventions, emphasizing policy and training (primary intervention) and short-term responses (secondary intervention). It is necessary to balance these current emphases with strategies that address the significant longer-term damage caused by SH.

Similar to the literature, the ESRS only weakly include tertiary intervention measures. Due to the nature of sustainability reporting in the management report, policies and underlying laws require regular revision. This information must be published annually and externally audited, obliging organizations to review and update their policies at least once a year in accordance with laws. Regarding further tertiary intervention measures, we suggest that organizations use the work they have already done as required by the ESRS to train employees on evidence-based approaches to SH intervention, emotional skills, conflict management, victimization, and grievance mechanisms. Additionally, they should communicate findings and actions taken internally using completed complaint processes to increase trust within the organization. Special attention should be given to protecting personal rights and the victims to ensure that these measures do not have any negative consequences. To ensure an inclusive and benevolent work environment, organizations should provide long-term support to assist victims and offer extended victimization protection. Finally, practices that discriminate on the basis of sex should be monitored.

*Discussion*

Our theoretical review provides the basis for several well-founded suggestions regarding sustainability reporting effectiveness. First, we expand on the comprehensive framework on prevention and response strategies by incorporating bystander intervention and several state-of-the-art findings. Secondly, we assess the potential of the CSRD and ESRS in addressing SH in the workplace. Our ex-ante impact assessment indicates that the ESRS necessitate a comprehensive set of measures to be implemented and disclosed by organizations to foster inclusive and benevolent work environments. The ESRS provide a comprehensive definition of SH that aligns with other institutions. However, scholars argue that definitions of SH should focus on behavior in order to be effective (Fitzgerald & Cortina, 2017). Regarding primary intervention, the ESRS propose robust requirements for policy intervention, while training intervention is in its infancy. The ESRS do not consider personal antecedents. However, character-based hiring might have significant positive implications for organizations, especially when it comes to the prevention of SH. The ESRS covers secondary intervention with best practice grievance mechanisms. Tertiary intervention, as in literature, is only rudimentarily covered in the ESRS.

The CSRD requires mandatory sustainability disclosure and will be audited by external auditors. As a result, companies are forced to comply with the CSRD and ESRS. Research has shown contrasting results regarding the effectiveness of mandatory sustainability disclosure in addressing human rights issues. According to Hess (2019), the mandatory approach has several issues. Human rights metrics lack validity or are based on easily collected data rather than the most important data. Furthermore, empirical evidence indicates persistent issues with selective disclosure, impression management, incomparable disclosures, and the use of disclosure as an end in itself, rather than as a process that leads to organizational change (Grossman, 2003). Following that, Adams and Abhayawansa (2021) argue that a mandatory approach also carries the risk of overshadowing the genuine efforts of many to contribute to this necessary sustainable change, as well as promoting a checkbox mentality towards sustainability reporting. Nevertheless, the ESRS state measures against violence and harassment in the workplace as one factor that should be considered and provides clear guidelines on disclosed data. Scholars argue organizations falling under the newly obligated organizations face significant challenges in implementing the CSRD (Baumüller & Grbenic, 2021). This is because the introduction of the CSRD requires 34,700 organizations to disclose sustainability reports that did not disclose non-financial reports under the NFRD before. However, the ESRS allow organizations to replace measures that have not yet been implemented with a justification and an implementation plan, including a timeframe. The inherent limitations of theoretical reviews, together with the significant limitations associated with much of the literature reviewed, prevent us from drawing a general conclusion about the effectiveness of the CSRD and ESRS in reducing the incidence of workplace SH.

**Conclusion**

The CSRD, together with the ESRS, provide a comprehensive framework for sustainability reporting on SH in the workplace. With a substantial set of measures to be implemented and disclosed, the ESRS address SH as a sustainability reporting topic for the first time in EU Member States. Our findings propose a comprehensive definition of SH that is consistent with other institutions. The policy intervention requirements are robust, while the training intervention requirements are weak. Best practice requirements are suggested for complaint mechanisms, and rudimentary requirements are proposed for tertiary intervention.

However, it is unclear whether the disclosure requirements of the ESRS lead to organizational change or merely to the act of disclosure itself, potentially creating a ‘tick-the-box’ mentality regarding SH. Hess (2019) warns of the transparency trap: the mistaken belief that increased transparency through sustainability reporting will lead to corporate accountability. It remains unclear if the administrative burden for organizations is too excessive, particularly for those required to disclose sustainability reports for the first time. Although companies in EU member states are required to invest in their processes and structures to comply with the ESRS reporting requirements, they also invest in creating inclusive and benevolent work environments. Regarding strategic management, it is important to promote harmonious workplace relationships and minimize legal liability as well as the risk of reputational damage. Additionally, it is crucial to provide a safe and productive work environment for employees and ensure fair treatment in the event of a complaint.

Based on our ex-ante impact assessment, some future research opportunities arise. First, future research could focus on empirically assessing the effectiveness of the CSRD in addressing human rights issues such as SH. Key issues to be explored include the extent to which mandatory sustainability disclosure leads to organizational change. Secondly, further research could focus on assessing the challenges faced by companies in implementing the CSRD requirements. Understanding the practical implications of the CSRD can inform policymakers and stakeholders about the feasibility and effectiveness of mandatory sustainability reporting initiatives in addressing human rights issues such as SH.

In the future, researchers, policymakers, and practitioners need to collaborate closely to monitor the effectiveness of CSRD and intervene if it proves to be ineffective or counterproductive. Due to the limitations of this theoretical ex-ante assessment, it underscores the importance of empirical studies to assess the effectiveness of the different components of the ESRS.

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