

# SEXUAL MISCONDUCT

in the workplace

# IS A FAILURE OF LEADERSHIP

A guide for  
boards &  
CEOs

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Since the New Yorker exposed the longstanding sexual predation by Harvey Weinstein in October 2017, headlines of other sexual harassment cases proliferated, public response has been emotionally charged, with demands for far-reaching reforms. As leaders of our own organization and advisors to our clients, we decided to publish a white paper on our perspective on this social and organizational imperative. Through sharing our thoughts, we invite you to a meaningful and constructive conversation about this topic.

**Any organization's culture—built on accepted behaviors and practices—is mostly created by its leaders. Therefore, if sexual misconduct exists in the organization, it has been tolerated by – perhaps even started by – leadership.** We wrote from our experiences working with leaders and shared our insights on the power of their role.

This paper contends that **allowing sexual misconduct in the workplace is a failure of leadership.** Why? Because leaders hold a moral obligation to do the right thing.

In this paper, we explore the definition of sexual misconduct, address the moral imperative of leadership, and provide suggestions on how to respond to an onset of sexual misconduct cases at work.

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1.

# WHAT IS SEXUAL MISCONDUCT?

In all human social systems, particularly in organizations, acceptable sexual conduct will take place. This human behavior is common when people interact and socialize. Acceptable sexual conduct consists of consensual behaviors such as flirting, dating and consensual sexual relationships.

The thing is, where you find acceptable conduct, you may also find unacceptable conduct. Unfortunately, it has proven challenging for some to clearly distinguish between acceptable and unacceptable conduct. Sometimes, that confusion can be attributed to misunderstandings. Sometimes, differences of opinion are to blame. More often, sexual misconduct is never clearly defined to begin with. Worse yet, this lack of definition makes it harder for those within the organization to respond appropriately when they witness unacceptable behavior.

The recent public outing of some egregious examples of misconduct, such as that of Harvey Weinstein, may prove to be the tipping point for a change in leaders' attitudes towards sexual misconduct at work. But, to hasten the process of change, now is the time for leaders to define what is unacceptable.

The trouble is, when many in the workplace are asked to describe sexual misconduct, we often hear vague language such as 'inappropriate behavior,' But this is as unhelpful as it is coy.

So that we all understand, and so meanings cannot be misinterpreted, let's call sexual misconduct what it is. To do that, we need to first define it. If our definition is vague, it won't be well understood, and its lack of precision will be exploited.

## RIVER ENCOURAGES YOU TO ADOPT DEFINITIONS SIMILAR TO THE ONES BELOW<sup>1</sup>:

- **Disrespectful**  
DemEANing or lewd comments, objectification.
- **Aggressive/Intrusive**  
Unwanted touching, verbal threats, ignoring physical boundaries.
- **Abuse of Power/Position**  
Asserting physical or positional power to coerce or unduly influence someone to meet your objectives, or mistreatment when one is passed over for promotions, fired from a job, or slandered.
- **Violence**  
Rape, physical abuse, forced sexual contact

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## 2. THE COST OF SEXUAL MISCONDUCT

We contend that leader's moral imperative to prevent sexual misconduct is of utmost importance, but they have a strong financial incentive to do so, as well. Sexual misconduct reflects on the organization negatively, which depletes the commercial value of the brand. Not only does the organization lose money, but also, the organization suffers from losing talent because the victims usually quit.

### HERE ARE SOME EXAMPLES:

- In late January 2018, The Wall Street Journal uncovered the sexual misconduct of Las Vegas mogul, Steve Wynn. Two days later, Wynn Resorts lost around **\$3 billion in value**.<sup>2</sup>
- The New York Times disclosed that The Weinstein Company reached at least **eight sexual harassment settlements in the six-figure range** to avoid litigation.<sup>3</sup> In November 2017, shortly after the New York Times coverage, Goldman Sachs Group, Inc. took the company's valuation to zero.<sup>4</sup>
- Fox News paid a total of **\$13 million** to five women in exchange for "agreeing not to pursue litigation or speak about their accusations against him (Bill O'Reilly)"<sup>5</sup>. Since the New York Times's coverage, dozens of sponsors canceled their advertising contracts with the most popular show on the network.<sup>6</sup>
- Shortly after the 2005 recording of Donald Trump making vulgar remarks about women, a Brand Keys survey showed that the perceived value of Trump's real estate and licensing brand had dropped significantly.<sup>7</sup>
- In Gender & Society, an academic peer-reviewed journal, researchers found that **80% of the women** who reported workplace sexual harassment changed jobs within two years.<sup>8</sup>

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# 3. SEXUAL MISCONDUCT IS A FAILURE OF LEADERSHIP

## WHY IS IT A FAILURE OF LEADERSHIP?

We have always taken the position that leaders must have a moral compass. Many organizations take a similar view, evidenced by the common inclusion of “Integrity” in organizations’ core values.

Of course, stating a value and living by it are two different things. Within an organization, displaying integrity is a binary issue. In other words, a leader either has integrity or he does not. For example, if you withhold information from colleagues to avoid a blatant lie, or if you tell partial or misleading truths, you are not displaying “some” integrity; you are displaying none.

Leaders need a moral compass because they have a moral obligation to do the right thing—to do good. It is part of the essence of leadership.

There are **three aspects of leadership** we find particularly apt for reducing the occurrence of sexual misconduct and purging it when identified. Organizations that uphold these traits know they have leaders with integrity and moral principles that will not tolerate sexual misconduct.

### **First, a leader must provide a safe place.**

Most of the time, ‘safe place’ refers to a safe psychological place—a place where people have the chance to do their work without feeling emotionally vulnerable, exposing their insecurities or being susceptible to humiliation and bullying. Above all, a safe place should be free of both coercion and exploitation of power differentials. It’s no surprise that a psychologically safe place is the key to team performance.<sup>9</sup>

Because so much emphasis has been recently placed on the importance of a safe psychological space, the necessity of establishing actual physical safety can become tragically overlooked. While psychological safety is certainly of great importance, it is particularly egregious for leaders to allow physical assault in the workplace.

To be blunt, if you are a leader who witnesses a violation of psychological or physical safety and you remain silent, you are complicit. You are not leading. Any senior executive at Uber or The Weinstein Company that looked the other way amidst the recently-uncovered scandals must now look in the mirror and take ownership of their actions. If they do not hold themselves accountable for their behavior, it is the Boards’ duty to make them accountable.

## **Second, leaders must be willing to sacrifice self.**

The power of leadership demands great responsibility. Power often creates inflated egos and blinding hubris, enabling its beholders to violate boundaries without consequence. Researchers have found that people in positions of power are more likely to misread sexual interest from subordinates.<sup>10</sup>

It is through sacrifice that leaders accumulate followers who believe in their vision, and it is through sacrifice that followers see when leaders are genuine because the leaders take on a burden, too.

Sacrifice can take many forms. It might mean working long hours and showing up for the cause or committing emotional energy to keep spirits high; it could entail taking pressure off of others' shoulder or giving praise to others when things go right and taking blame when they go wrong.

Leaders who intimidate others or retaliate not only sacrifice nothing, but they also prove themselves self-absorbed and concerned only about themselves and their careers.

**“ANYONE WHO OCCUPIES A LEADERSHIP POSITION WHILE PERMITTING SEXUAL MISCONDUCT TO OCCUR IS NOT A LEADER, REGARDLESS OF WHAT HIS OR HER TITLE SAYS.”**

## **Third, leaders must care deeply about others.**

Think of the best leader you know. It's likely someone who really cared about you; who was really interested in helping you achieve your hopes and dreams; who did all they could to minimize your worries and who would always listen when you needed someone to talk to. The most effective leaders demonstrate that they care deeply about their followers.

Anyone who occupies a leadership position while permitting sexual misconduct to occur is not a leader, regardless of what his or her title says.

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# 4. WHAT TO DO IF THERE IS SEXUAL MISCONDUCT?

If you have misconduct in your organization, what should you do to eradicate it? Perhaps there are one or two isolated incidents. Perhaps the problem is more widespread. Either way, **it is a question of your organization's culture.** As the saying goes, "culture eats strategy for breakfast." In other words, a good strategy in a toxic culture will always fail. So, any leader that does not attend to the organization's culture is putting the future value of that organization at risk.

Culture is so hard to change because it requires changes in long-standing, ingrained habits, expectations, mindsets and values that drive people's behavior. So, if you are the CEO or the Board, where do you start?

We don't find that "change programs" really work. In fact, research suggests that training programs may actually perpetuate gender stereotypes in the short run." The problem is that they focus on process over behavior. They create a lot of noise which distracts everyone from leadership's fundamental role in the problem.

**NEWS FLASH:  
TRAINING PROGRAMS  
ALONE AREN'T GOING  
TO CREATE THE  
CHANGE YOU NEED.**

## WE THINK THERE ARE REALLY ONLY THREE WAYS TO CHANGE BEHAVIOR WITHIN AN ORGANIZATION:

### 1. You have an epiphany.

For example, perhaps an illness shocks you into changing your diet. Perhaps you have a spiritual experience. Perhaps something rather sudden happens that makes you see things differently. In an organization of hundreds or thousands, those who have epiphanies will be a tiny minority.

### 2. You take baby steps.

Making the big change is really hard, so you identify an end goal and devise a series of small steps to take, one at a time, until your habits have changed. An example at work might be to have the end goal of being innovative. So, you start by experimenting with a minimum viable product and assess the impact.

### 3. You change your environment.

Our behavior is greatly shaped by our environment. In 1936, Psychologist Kurt Lewin proposed that human behavior is a function of the person and her environment. Researchers have used this theory as a foundation to understand human behavior, from the Stanford prison experiment that illuminated the prisoner abuse at Abu Ghraib, to the Milgram study on obedience and authority that shed light on the mentality of civilians who acquiesced in Nazi Germany.

Situational forces, including organizational design, can influence how we behave. If we move out of our current environment into a new one, our behavior will change because the new environment will be full of new explicit norms and hidden assumptions we will likely conform to.

Companies can do real, tangible things to change their environment. Consider Unilever in India. This global consumer goods company saw that **70% of the people making buying decisions were women, and 64% of consumer spending was controlled by women.**<sup>12</sup> To respond to these data, in March 2017, Unilever published a detailed report on the organization's effort to support women and remove the negative effects of gender stereotypes. In the early 90s, only 2-3% of the organization's employees were women. In 2011, the number rose to around 25%, pushing closer to its goal of becoming a gender-balanced employer.<sup>13</sup>

By 2020, the organization will reach the goal of empowering 5 million women in its value chain.

**“ULTIMATELY, LEADERS NEED TO SHIFT FROM A ‘POWER-OVER’ MINDSET TO A MINDSET THAT ENABLES THE POWER OF COLLABORATION.”**

Toleration of sexual misconduct is a systemic problem that is as much about power as it is about sex and it serves to impede women's career advancement. In Silicon Valley, investigations revealed the “Boy's Club” culture, where business deals were done at parties fueled by sex and drugs.<sup>14</sup> Female entrepreneurs who did not participate risked ostracism. The most effective way to combat the systemic problem of power is for leaders to create an environment where no sexual misconduct is tolerated and to change the environment if and when it is unearthed.

Ultimately, leaders need to shift from a “power-over” mindset to a mindset that enables the power of collaboration.

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# 5. HOW TO CREATE AN ENVIRONMENT WITHOUT SEXUAL MISCONDUCT

## IN THE SHORT-TERM

There is much that can be done in the short-term to gain quick wins and to start transitioning the culture:

- Institute a zero-tolerance policy, according to the definition at the beginning of this paper. That means the immediate termination of offenders..
- Be sure to make an unequivocal statement about this zero-tolerance approach, with a stated definition, so there is no room for interpretation.
- Ensure that zero-tolerance is enshrined in company policy.
- Find out how widespread the issue is. Poll employees to discover the extent of the problem and hire third-party, objective investigators so that victims have recourse outside of the internal HR channels.
- Be rigorous in screening prospective leaders for integrity—psychological safety, sacrifice and care for others.

## IN THE LONG-TERM

Over the long-term, a systemic approach to creating the right environment to address the causes of misconduct, not just its symptoms, will create the right impact. Through learning from our experience working with senior executives across the globe, we identified four components that must be operating properly for a sustained effect on changing the environment:

**Beliefs, Structure, Policies and Measures.**

## Your Beliefs

Invest heavily in women. Hire more female leaders and promote more women into leadership positions. Publicly commit to achieving 40-50% board diversity and make it happen by 2020, as many European organizations are already doing. Research is clear. The more women in leadership roles, the less likely a culture of sexual misconduct is to develop.

When there is equal representation, things change. It is not rocket science. Equal representation mitigates the ability of male leaders to abuse power and reduces complicity in peers who are unwilling to speak up. How many women were on the Board of The Weinstein Company? Zero<sup>15</sup>. To correct the inequality, Maria Contreras-Sweet, the former Administrator of the Small Business Administration under President Obama, proposed a women-led board in her bid to acquire Weinstein Co.

A key to success for companies is a culture of innovation. Through innovation comes growth. Highly innovative companies are not full of people who see power as the power to impose their will upon others. Innovation is about bringing out the best in teams by working collaboratively with others to capture a diversity of ideas and to build on them to create shared success.

A culture of feedback can help create an open and transparent work environment. Giving and receiving feedback once a year during the annual performance review is sub-optimal. It is much more effective for everyone to be encouraged to have regular, informal conversations about their performance and their behavior—after meetings, in corridors—anywhere. With norms like these in place, people are less afraid to speak truth to power, allowing misuses of power or sexual misconduct to be called out on-the-spot by peers.

## OTHER EXAMPLES INCLUDE:

- Egon Zehnder UK, one of the world's largest executive search firms, committed to an initiative to place 25 female chief executives at FTSE 100 companies by 2025.
- The European Union (EU) is one step closer to closing the gender gap in the workplace.<sup>16</sup> The legislative body introduced a gender quota proposal that requires companies with over 60% men in non-executive director positions to prioritize female candidates.
- In January 2018, Iceland enacted a new law mandating organizations to prove that they are paying men and women equally.<sup>17</sup>

## Your Structure

Rethink how you are organized. An old-school, hierarchical structure may be contributing to an unhealthy balance of power. The original aim of these structures was to provide management control as organizations became larger and larger. But, is management control the right objective today? The internet has changed everything. It has reduced disparities of knowledge. Information is everywhere. Organizations can't control information any longer. Staff members know as much as leaders do. An environment where there is a flatter organization with distributed decision making helps to ensure power is not accumulated and abused.

## Your Policies

- Eliminate Confidentiality and Arbitration Clauses:**

Just because a lawyer says a company can use these instruments to silence employees does not make them ethically or morally correct. Confidentiality agreements and payoffs have been a convenient tool used to cover up the crimes and to allow these abuses of power to continue with impunity. A culture of transparency and full legal recourse for victims will go a long way towards outing the bad actors.
- Ensure Gender-Balanced Hiring Committees:**

It's not a good idea to have just one person sifting through all the CVs for potential employees. Bias and preconceived ideas always get in the way. Consider adopting a 'Rooney Rule' to require the inclusion of at least one, two or three females in a job interview pool. This rule was adopted by the NFL and required teams seeking a new coach to consider at least one minority candidate.
- Lead on Equal Pay<sup>18</sup>:**

Immediately institute an equal pay policy and investigate to uncover and correct historical imbalances. Mark Benioff, the CEO of Salesforce, was the first CEO to publicly commit to this issue. In 2016, the American cloud-based technology company invested \$3 million to adjust for the salary gap between male and female employees. Last year, Salesforce pushed for a deeper look at salary equality. The company looked for gaps in race and ethnicity and also investigated its bonus structure. It's 2018; every company should be following Salesforce's lead.
- Prioritize Effective Leadership Development Training:**

Sexual harassment training has not worked. A more systematic approach is required. Employers have known for ages that society—high schools and colleges, in particular—does not do a great job of preparing young people for work. Companies often have to provide first-time employees with additional skills training to make them 'work-ready.'

Perhaps the same is true for gender relations. Maybe society is not doing a great job of preparing young men to inhabit a social system with female co-workers. Employers should provide education on their zero-tolerance sexual misconduct policy, coupled with good leadership development programs that teach collaborative problem solving. These programs should emphasize self-awareness and ingrain the mindset and critical skills for servant leadership, including active listening, giving and receiving feedback, collaborating with others and handling conflict.

## What You Measure

### Track and Monitor Culture & Align Incentives:

Evaluate your CEO and senior leaders based on the environment they have created. Measure what type of culture they have created, and if it is not aligned with the stated aims, reduce their bonus. Leaders must be accountable for their behavior through tangible financial incentives. In an organizational setting, if a behavior is not measured and not directly linked to compensation, it simply does not happen. The solution is for boards of directors to mandate diversity targets for senior positions--not as afterthoughts but as key business goals, just like they do with revenue targets, new-client goals, and expense reduction. Compensation should be affected by managers' ability to meet specific diversity objectives, such as mentoring or promoting women to the top. Organizations that fail to employ systems that provide this alignment of interests are not protecting shareholder value. Thus, they risk being discounted in the long run.

### Prioritize EQ:

For leaders hoping to have a positive impact on the lives of others, emotional intelligence (EQ) is more important than IQ. Many organizations don't hire with EQ in mind or develop it in their leaders. Some CEOs have psychological profiles devoid of empathy. When selecting the next generation of leaders, organizations must screen candidates for EQ and personality traits through quantitative and qualitative methodologies. When developing leaders internally, prioritize EQ coaching and training. By putting a much higher emphasis on developing EQ skills, it is possible to stop sexual misconduct before it can start. Self-awareness and self-control are vital skills for all employees to create and maintain a culture of trust.

### Commit to Assessment Without Bias:

Learn from other industries and adopt best practices to eliminate gender bias. It is extremely difficult to design interview and promotion practices that are gender-blind, but it can be done. Sexism in U.S. symphony orchestras has been largely eliminated through the use of blind auditions. In just 30 years, women have moved from 5% to over 30% of the top five major US symphony orchestras.

### Measure Using A Balanced Scorecard & Long-term Value Creation:

The European Union's Gender Action Plan requires mandatory reporting of results as the institution becomes more active in advancing women in the workplace. Blackrock and Vanguard, as active investors, now look beyond the numbers to measuring company results on a more balanced, holistic set of impacts that reaches far beyond just quarterly returns. Many now see that there is a moral imperative of leaders to create the right environment at work for the benefit of all of their stakeholders and to society at large.

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# 6. CONCLUSION

## **Sexual misconduct is a failure of leadership**

Abuse of power in any form is a failure of leadership. In this paper, we offer some ideas for avoiding such failures and for addressing them if they occur. These tactics require action from both men and women.

We have offered our perspective on how to take a lead on this issue. There are many short- and long-term steps that can be taken to stamp out the wrong behavior.

We encourage all Boards and CEOs to commit to an **honest cultural assessment of their organization** and to a systemic, coordinated, five-year plan to address gender inequities and stamp out sexual misconduct. The line of questions every Board and CEO should ask themselves is: “Are we proactively leading on this issue or are we in denial, subconsciously hoping it will go away? Where is the plan and what are the metrics? How will we know when we have achieved them?”

No one said being a leader is easy; it is about taking responsibility for the hard work needed. And while we don't own the moral high ground, we do know what good leadership is; we see it every day in our work.

**NO ONE IS A PERFECT  
LEADER, BUT OUR  
CHALLENGE TO EVERY  
MALE LEADER IS TO  
TAKE RESPONSIBILITY,  
BE A LEADER AND  
DO THE WORK OF  
LEADERSHIP.**

That means not permitting any environment of misconduct. It means that when you see something, you say something. Don't be complicit. Call it out, even if you must call out one of your friends. If you're not sure how to approach it, seek advice on how to give feedback in a constructive and empowering way.

If you see misconduct, you may need to make a sacrifice—perhaps of a friend, of your promotion or of a pay rise. Ask yourself if you would be willing to do that.

**WE CHALLENGE EVERY  
FEMALE LEADER TO  
TAKE RESPONSIBILITY  
FOR THE ENVIRONMENT  
YOU CREATE AND WORK  
IN, BE A LEADER AND  
DO THE HARD WORK  
OF LEADERSHIP.**

Female leaders who have made it to the top must not be complicit in permitting a 'bro-culture' to exist or any kind of misconduct to endure. If a female leader 'speaks truth to power,' you may have to sacrifice something, or perhaps get thrown under the proverbial bus. Consider if you would be prepared to accept the consequences.?

Throughout this paper, we have made the business case for investing in gender. We believe gender pay equity should be the norm, not just an initiative. We believe companies with gender equity in executive leadership would reduce stagnation, enable innovation, and experience higher growth. We believe every leader holds the key to shaping the best work environment for people. The moral imperative of leadership should persuade everyone that it is the right thing to do.

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Thank you for reading our white paper. We would love to hear your thoughts, feedback and questions on this topic. Please feel free to reach out to us at [leadership@trgglobal.com](mailto:leadership@trgglobal.com).



1. Roth, 2018. <https://getrealleadership.com/2018/01/03/making-sense-of-metoo-in-the-work-place/>
2. <https://www.wsj.com/articles/wynn-resorts-is-the-biggest-test-for-investors-1517248977>
3. <https://www.nytimes.com/2017/10/05/us/harvey-weinstein-harassment-allegations.html>
4. <https://www.reuters.com/article/us-weinsteincompany-goldman/goldman-sachs-marks-stake-in-weinstein-co-down-to-zero-source-idUSKBN1DE0z1>
5. <https://www.nytimes.com/2017/04/01/business/media/bill-oreilly-sexual-harassment-fox-news.html>
6. <https://www.nytimes.com/interactive/2017/04/11/business/oreilly-advertisers.htm>
7. <http://www.latimes.com/politics/la-na-pol-trump-brand-tarnished-20161022-snap-story.html>
8. <https://gendersociety.wordpress.com/2017/06/07/the-cost-of-sexual-harassment/>
9. <https://hbr.org/2017/08/high-performing-teams-need-psychological-safety-heres-how-to-create-it>
10. <https://qzprod.files.wordpress.com/2018/01/83e41-sexual-overperception.pdf>
11. Tinkler, J. E. (2013). How do sexual harassment policies shape gender beliefs? An exploration of the moderating effects of norm adherence and gender. *Social science research*, 42(5), 1269-1283.
12. [https://www.unilever.com/Images/unilever-opportunities-for-women\\_tcm244-500987\\_en.pdf](https://www.unilever.com/Images/unilever-opportunities-for-women_tcm244-500987_en.pdf)
13. <https://economictimes.indiatimes.com/news/company/corporate-trends/how-hindustan-unilever-gets-its-women-to-rise-to-its-top-rungs/article-show/10586488.cms>
14. <https://www.vanityfair.com/news/2018/01/brotopia-silicon-val-ley-secretive-orgiastic-inner-sanctum>
15. [https://www.washingtonpost.com/news/on-leadership/wp/2017/11/22/a-bidder-for-the-weinstein-company-suggests-a-rare-boardroom-set-up-a-majority-female-board/?utm\\_term=.3cf3c2700c75](https://www.washingtonpost.com/news/on-leadership/wp/2017/11/22/a-bidder-for-the-weinstein-company-suggests-a-rare-boardroom-set-up-a-majority-female-board/?utm_term=.3cf3c2700c75)
16. 25by25, E. (2018). Egon Zehnder - About 25by25. [online] Egonzehnder.com. Available at: <https://www.egonzehnder.com/specials/25by25/about-25by25.html>
17. Unilever.com. (2018). Opportunities for Women: Challenging harmful social norms and gender stereotypes to unlock women's potential. [online] Available at: [https://www.unilever.com/Images/unilever-opportunities-for-women\\_tcm244-500987\\_en.pdf](https://www.unilever.com/Images/unilever-opportunities-for-women_tcm244-500987_en.pdf)
18. Boffey, D. (2018). EU to push for 40% quota for women on company boards. [online] The Guardian. Available at: <https://www.theguardian.com/world/2017/nov/20/eu-to-push-for-40-quota-for-women-on-company-boards>