

Unprecedented sexual harassment on
New Year's Eve – or racialized targeting
of asylum seekers? What can a legal
analysis do?

Johanna Niemi



“Unprecedented sex harassment in Helsinki at New Year, Finnish police report,” by Richard

Orange, Telegraph, January 8, 2016:

Asylum seekers who met in central Helsinki to celebrate New Year’s Eve “had similar plans” to commit sexual assault and other crimes as those who targeted women in the Germany city of Cologne, Finnish Police have reported.

Three Iraqi asylum seekers have been arrested...

Security personnel reported “widespread sexual harassment” during the celebrations, police added, with women complaining that asylum seekers had groped their breasts and kissed them without permission.

“This phenomenon is new in Finnish sexual crime history,” Ilkka Koskimaki, the deputy chief of police in Helsinki, told the Telegraph. “We have never before had this kind of sexual harassment happening at New Year’s Eve.”



Sexual harassment in Equality Act

- ...sexual harassment means **verbal, nonverbal or physical unwanted** conduct of a sexual nature by which a person's **psychological or physical integrity** is violated intentionally or factually in particular by **creating an intimidating, hostile, degrading, humiliating or offensive atmosphere.**



Harassment is:

1. unwanted,
2. sexual,
3. hurts the person to whom it is directed,
4. it is real, notwithstanding how the harasser experiences it, and
5. it creates a bad working environment.
6. Implicitly, it is usually continuous.



Supreme Court 2014:12

- passenger in a taxi had taken a grip of the female taxi drivers breasts and pushed his hand between the driver's legs during the drive.
- Lower courts: assault
- In SC damages 100 €
- SC:
- The sexual advances by A have been, **in their nature, humiliating and caused fear and anxiety** in B, underlined by her **limited possibilities to protect her while she was driving a car.**



Parliament

- The Bill proposed to make a crime of “violations of sexual self-determination by touching or similar acts”
- The Law Committee of the Parliament took similar acts out
- **§ 5(a) – *Sexual harassment* (509/2014)**
 - A person who, **by touching**, commits a sexual act towards another person that is conducive to violating the right of this person **to sexual self-determination**, shall be sentenced, unless punishment is provided elsewhere in this Chapter for the act, for *sexual harassment* to a fine or to imprisonment for at most six months.



Protected interest, "good"

- The importance of **bodily integrity and sexual self-determination** has increased in the society and this trend can be expected to continue. The criminalization should protect these goods.
- Regeringens proposition 216/2013



- ...with forms of harassment, which do not so much violate sexual self-determination but rather cause resentment, that would not necessarily be a clear enough protected good to be protected by a criminalization.
- Regeringens Proposition 3.2

