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Sexual assaults linked to “date-rape drugs”

Report
Committee on Equal Opportunities for Women and Men
Rapporteur: Ms Maria Damanaki, Greece, Socialist Group

Summary

The Parliamentary Assembly should be alarmed at the increasingly frequent reports of cases of sexual violence, the victims of which were, unknowingly, under the influence of drugs known by the name of "date-rape drugs". The victims of the involuntary consumption of these narcotics are in the great majority women and girls, most of whom are subjected to rape. Unfortunately, the number of successful prosecutions is negligible.

There is a need to raise awareness on “date-rape drugs” across the whole of Europe, both in the general public and amongst law-enforcement agencies. Appropriate assistance must be made available to victims of a sexual assault linked to “date-rape drugs”, as well as support and encouragement to make use of this.

The Parliamentary Assembly should recommend that the Committee of Ministers instruct the responsible Council of Europe bodies in the intergovernmental sector to examine the phenomenon and recommend a harmonised European approach to tackle it, both at the technical/scientific and the law-enforcement and judicial levels.

It should also recommend that, in the meantime, Council of Europe member states take specific measures to tackle the problem, by, for example, revising rape and sexual assault legislation to make it a gender-neutral offence and introduce a provision which requires the victim to have had the “freedom and capacity to consent” to sexual relations, including in cases of intimate rape (within marriage), where this has not yet been done.

I. Draft recommendation

1. The Parliamentary Assembly is alarmed at the increasingly frequent reports of cases of sexual violence, the victims of which were, unknowingly, under the influence of drugs known by the name of "date-rape drugs", such as Rohypnol, GHB and Ketamine. The victims of the involuntary consumption of these narcotics are in the great majority women and girls, most of whom are subjected to rape, but there are also reports of sexual assaults on men assisted by these drugs – as well as reports of robberies.

2. Any sexual assault, but especially rape, is an inexcusable crime which subjects the victim to severe physical and psychological trauma. The trauma is aggravated when the sexual assault takes place under the influence of "date-rape drugs", as the victim has ingested the drug unknowingly. Furthermore, the victim is often incapacitated for many hours, and the drugs pass through the victim's body very quickly – making it extremely difficult for the victim to report the crime in time for physical proof of the drugs to be found in his or her body.

3. To add insult to injury, the behavioural effects of these drugs can look very much like the effects of voluntary alcohol consumption to onlookers – and they can also lower victims' natural inhibitions. It is thus very difficult to prove that the attacker initiated sexual relations without the consent of the victim, even if the victim is able to identify the perpetrator (which is not self-evident, due to the drug-induced loss of consciousness and/or amnesia).

4. As a result, sexual assaults linked to "date-rape drugs" are amongst the most under-reported crimes – even in countries where the phenomenon is relatively well-researched, well-publicised, and taken seriously by the police. The number of successful prosecutions is negligible in the United Kingdom, for example, even though new legislation which defines sexual assault as sexual relations without the victim having the "freedom and capacity to consent" is starting to have a positive impact.

5. There is a need to raise awareness on "date-rape drugs" across the whole of Europe, both in the general public and amongst law-enforcement agencies. Appropriate assistance must be made available to victims of a sexual assault linked to "date-rape drugs", as well as support and encouragement to make use of this.

6. The Parliamentary Assembly, having regard to the specific nature of this offence and its consequences for victims, as well as the general lack of awareness of both the authorities and the general public of this problem, thus recommends that the Committee of Ministers:

6.1. instruct the responsible Council of Europe bodies in the intergovernmental sector to examine the phenomenon and recommend a harmonised European approach to tackle it, both at the technical/scientific and the law-enforcement and judicial levels;

6.2. recommend to Council of Europe member states in the meantime to:

6.2.1. raise awareness in the general public and among the responsible authorities about "date-rape drugs" and the specific problems linked to their use;

6.2.2. take specific measures to ensure that victims are given speedy medical and psychological care and informed of the possibility of undergoing tests and reporting the offence, for example by training the staff of places open to the public (bars, pubs) and distributing appropriate urine testing kits to the police and to medical services;

6.2.3. standardise policing methods and forensic medicine techniques for detecting the presence of such drugs in the blood, urine or hair;

6.2.4. revise rape and sexual assault legislation to make it a gender-neutral offence and introduce a provision which requires the victim to have had the "freedom and capacity to consent" to sexual relations, including in cases of intimate rape (within marriage), where this has not yet been done.

B. Explanatory memorandum by Mrs Damanaki, Rapporteur

I. Introduction

1. There are increasingly frequent reports of cases of sexual violence, the victims of which were, unknowingly, under the influence of drugs known by the name of "date-rape drugs". The victims of the involuntary consumption of narcotics are in the great majority women and girls, most of whom are subjected to rape, but there are also reports of sexual assaults on men assisted by these drugs – as well as reports of robberies.

2. Any sexual assault, but especially rape, is an inexcusable crime which subjects the victim to severe physical and psychological trauma. Unfortunately, rapes are one of the most underreported crimes in Europe. Many victims feel unable to come forward in a society whose attitudes about rape are still to a large extent shaped by myths which serve to minimise the seriousness of rape and shift the blame away from those who commit the crime¹. Reporting and proving rape is even more difficult in "date-rape"-situations, when the rapist is a friend or acquaintance who maintains that the victim consented to sexual relations.

3. Sexual assaults linked to "date-rape drugs" pose an additional problem: The initial context in which these drugs (the best-known are Rohypnol and GHB) are used is often that of a social encounter where alcohol consumption and the involuntary ingestion of drugs go together. What is more, the "blackout" effect and absence of recall brought on by the drugs help to aggravate victims' feeling of guilt, giving the false impression that they had in the first place agreed to have sex. Consequently, victims are even more hesitant to report the assaults they have suffered. The fact that such drugs cause submissiveness and amnesia in the victims does not, for all that, alter the nature and serious consequences of sexual assaults, which always entail an element of coercion and therefore constitute an offence or a crime.

4. On 15 May 2005, the Committee held an exchange of views with three experts in the field: Ms Olszewski, Project Director at the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), Mr Rhodes, Founder and Chief Executive of the Roofie Foundation in the United Kingdom (an NGO and victim support group), and Mr Sansoy, Representative of the Interministerial Working Party on the Fight against Drugs and Drug addiction (MILDT), France. This exchange of views was very valuable and provided some new information and insights.

II. "Date-rape" drugs and their effects

5. In the mid- and late 1990's, the first reports surfaced of drugs, often referred to as "roofies" and "liquid ecstasy", being administered clandestinely to immobilise victims, impair their memory, and thus facilitate rape². Two drugs in particular were mentioned in these reports: Rohypnol (flunitrazepam) and GHB (gamma-hydroxybutyrate), which can produce loss of consciousness and the inability to recall certain events. Other drugs in the firing-line are GBL (gamma-butrolactone), Ketamine (ketamine hydrochloride), Butanediol 1.4, and Burundanga (Scopolamine).³ To onlookers, the behavioural effects of these drugs can look very much like the effects of voluntary alcohol consumption – in other words, the victim may seem drunk. In reality, however, victims usually float in and out of consciousness and can feel literally "paralysed", unable to fight, scream, or even realise what is happening to them. Their memory can be impaired even after they regain consciousness.

6. Furthermore, these drugs are detectable only for a very short period, from 12 to 48 hours after ingestion. The time factor therefore comes into play, and the victim has to react speedily to report the attack, possibly while still partially under the influence of the drug. "Date-rape" drugs are more likely to be detected in urine than in blood, and the urine specimen should be collected and analysed as soon

¹ Common myths include: Only certain types of women get raped (those who are promiscuous or have poor judgment); women provoke rapes by the way they dress or the way they flirt; men rape women because they are sexually aroused or have been sexually deprived (in fact, men rape women to exert control and humiliate). See Gillian Greensite, "Rape Myths", California Coalition against Sexual Assault internet site.

² Nora Fitzgerald and K. Jack Riley: "Drug-Facilitated Rape: Looking for the Missing Pieces", National Institute of Justice Journal (USA), April 2000.

³ Speech by Ms Olszewski, Project Director at the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), at the meeting of the Committee in Paris on 15 May 2006.

as possible⁴. In short, if an assault has been reported, there is a need to ascertain whether a drug was administered and to make a distinction between the victim's consent and absent of consent where sex may have taken place following the ingestion of a drug.

7. Mr Rhodes, Founder and Chief Executive of the Roofie Foundation in the United Kingdom emphasized during the exchange of views with the Committee that sexual assaults connected with "date-rape drugs" were the most under-reported crimes of all, due to the speed with which these drugs pass through the body and their capacity to incapacitate the victims for many hours, as well as the drugs' capacity to reduce the victims' natural inhibitions. The victims often failed to report such incidents. This type of sexual assault did not only concern teenagers and the average age of the victims ranged from 25 to 50.

8. One can often read in the newspaper that alcohol is the most widespread "date-rape drug". This, however, is not the case: while alcohol can, to a certain degree, have similar effects to "date-rape drugs", alcohol is usually knowingly and voluntarily ingested by victims of sexual assault, while "date-rape drugs" are not. This in no way excuses sexual assault on drunk victims, but it is necessary to underline that victims of real "date-rape drugs" ingest the drugs unknowingly and against their will.

III. The problem of "consent"

9. When victims come forward to report "date-rape" drug-assisted sexual assault, they come up against a number of problems. First, by the time they are physically able to report the crime, the drug may have already passed through their system, so that even in cases where the police are well-informed and react quickly and appropriately in collecting and testing evidence, the drugging may be impossible to prove. Second, the drug-induced loss of consciousness and/or amnesia makes it difficult to prove that the rapist – even if he can be identified – initiated sexual relations without the consent of the victim.

10. Thus, on 23 November 2005, a High Court judge in the United Kingdom directed the jury to return a not guilty verdict in a rape case involving a university security guard and a drama student, because the alleged victim could not remember if she had agreed to have sex⁵. The ruling was criticised by legal experts and MPs, who pointed out that under section 74 of the UK's Sexual Offences Act 2003, a person must have the "freedom and capacity" to give consent – which is probably not the case when a victim is drifting in and out of consciousness, as in this case⁶.

11. Such rulings may explain the low number of drug-assisted sexual assaults which make it to court, and the even lower number of convictions obtained. In the period of 1999-2003, only 15 men were convicted for drug facilitated rape in the UK⁷. In the last statistical update provided by the "Roofie Foundation", the United Kingdom's only specialised agency dealing with issues surrounding drug rape and sexual abuse, 6,008 cases of drug rape were reported to the Foundation via their Helpline from 1997 to July 2004. 730 of the victims were male, 5278 female; 705 were attacked abroad; in 1832 the drug was administered in a pub, in 1176 cases in a club, in 722 cases in a wine bar, in 719 cases at a private party, in 625 cases on business premises and in 596 cases in a private house⁸. According to a national survey published in the UK in September 2004, one in four women who regularly go to clubs and pubs had their drinks spiked in 2003, with as many as 30 women a week potential rape victims afterwards⁹. The phenomenon is relatively well researched in the UK, the USA and Australia, but is less so in other European countries – although cases have been reported in France, Spain and Greece.

⁴ There is evidence to suggest that some drugs, such as Rohypnol, deteriorate quickly in samples, which is why it is important that the urine sample is also tested quickly, preferably using a sensitive test such as GC/MS analysis which can detect smaller amounts than traditional drug screening techniques. See Jim Campbell, "How long drugs last in the body, and effectively testing for them", Roofie Foundation (United Kingdom) internet site.

⁵ Geneviève Roberts, "Drunken consent is still consent, judge rules", *The Independent* (UK), 24 November 2005, on-line edition.

⁶ Caroline Gammell, "Judge 'dreadfully wrong' over rape ruling", *The Independent* (UK), 24 November 2005, on-line edition.

⁷ Lee Glendinning and Maggie O'Kane, "One in four 'had drinks' spiked", *The Guardian* (UK), 9 September 2004, on-line edition.

⁸ The Roofie Foundation, "Drug Rape Statistics", press release, The Roofie Foundation internet site.

⁹ Survey by the Guardian and the Channel 4 programme *Dispatches*, cited in Lee Glendinning and Maggie O'Kane, "One in four 'had drinks' spiked", *The Guardian* (UK), 9 September 2004, on-line edition.

12. Ms Olszewski of the EMCDDA stressed at the exchange of views that investigations into sexual assaults were very complex and as a result there were very few convictions. The conceptual approach to what constituted sexual assault and the empirical research were still disputed. She also emphasized that the media tended to perpetuate stereotypes instead of trying to change perceptions and a large proportion of the population believed that rapes were provoked by the way victims behaved or dressed or the excessive consumption of alcohol.

IV. Conclusions and recommendations

13. Sexual assaults linked to “date-rape” drugs are a reality, not an urban myth. Though more research and statistics are needed, especially in continental Europe, no time must be lost in fighting this abhorrent crime. Every victim of a sexual assault must be informed of the assistance available and obtain support and encouragement to make use of this.

14. Having regard to the specific nature of this offence and its consequences for victims, as well as a lack of awareness on behalf of both the authorities and the general public of this problem, the Assembly should recommend that Council of Europe member states:

- i. raise awareness in the general public and among the responsible authorities about “date-rape drugs” and the dangers linked to their use;
- ii. take specific measures to ensure that victims are given speedy medical and psychological care and informed of the possibility of undergoing tests and reporting the offence, for example by training the staff of places open to the public (bars, pubs) and distributing urine testing kits to the police and to medical services;
- iii. standardise policing methods and forensic medicine techniques for detecting the presence of such drugs in the blood, urine or hair;
- iv. revise rape and sexual assault legislation to make it a gender-neutral offence, include intimate rape (within marriage), and introduce a provision which requires the victim to have had the “freedom and capacity to consent” to sexual relations.

Reporting committee: Committee on Equal Opportunities for Women and Men

Reference to Committee: Doc 10317, reference N°3008 of 8 October 2004

Draft recommendation unanimously adopted by the Committee on 13 September 2006.

Members of the Committee: Mrs Minodora **Cliveti** (Chairperson), Mrs Rosmarie **Zapfl-Helbling** (1st Vice-Chairperson), Mrs Anna Čurdová (2nd Vice-Chairperson), Mrs Svetlana Smirnova (3rd Vice-Chairperson), Ms Birgitta Ahlqvist, Ms Elmira Akhundova, Mrs Edita Angyalová, Mrs Željka Antunović, Mrs Aneliya **Atanassova**, Mr John Austin (alternate: Mr James **Clappison**), Mr Oleksiy Baburin, Mr Denis Badré, Ms Marieluse Beck, Mrs Gülsün **Bilgehan**, Mrs Marida Bolognesi, Mr Krzysztof Bosak, Mrs Mimount **Bousakla**, Mr Paul Bradford, Ms Sanja Čeković, Mrs Ingrida Circene, Ms Diana Çuli, Mr Ivica Dačić, Mrs Lydie Err, Mrs Catherine Fautrier, Mrs Maria Emelina **Fernández Soriano**, Ms Sonia Fertuzinhos, Mrs Margrét **Frímansdóttir**, Mr Guiseppe **Gaburro**, Mr Piotr Gadzinowski, Mrs Alena **Gajdůšková**, Mr Pierre Goldberg, Mrs Claude **Greff**, Mr Attila Gruber, Mrs Carina Hägg, Mr Poul-Henrik Hedeboe, Mr Ilie **Ilaşcu**, Mrs Halide **Incekara**, Ms Danuta **Jazlowiecka**, Mrs Eleonora Katseli (alternate: Ms Maria **Damanaki**), Baroness Knight of Collingtree, Mrs Angela Leahu, Mrs Minna Lintonen, Mr José **Mendes Bota**, Mrs Danguté Mikutienė, Mrs Fausta Morganti, Mr Burkhardt **Müller-Sönksen**, Mrs Christine Muttonen, Mrs Hermine **Naghdalyan**, Mr Hilmo Neimarlija, Mrs Vera Oskina, Mr Ibrahim Özal, Mr Julio **Padilla**, Mrs Patrizia Paoletti Tangheroni, Ms Elsa Papadimitriou, Mrs Fatma Pehlivan, Mrs Antigoni **Pericleous-Papadopoulos**, Mr Leo **Platvoet**, Mrs Majda Potrata, Mr Jeffrey Pullicino Orlando, Mr Andrea Rigoni, Mrs Marlene Rupperecht, Mrs Klára Sándor, Mrs Rodica-Mihaela **Stănoiu**, Mrs Darinka **Stantcheva**, Mrs Ruth-Gaby **Vermot-Mangold**, Mrs Betty Williams (alternate: Ms Chris **McCafferty**, Mrs Jenny Willott, Mr Gert Winkelmeier, Ms Karin S. Woldseth, Mrs Gisela Wurm, Mr Andrej Zernovski).

N.B. The names of the members who took part in the meeting are printed in bold.

Secretariat of the Committee: Ms Kleinsorge, Ms Affholder, Ms Devaux