

# Chemical Submission: A Systematic Violation of Women's rights

*“Shame must change sides”  
- Giselle Pélicot*



Source: AFP

## ***Introduction***

The trial of Dominique Pélicot, who is accused of having administered chemical substances to his wife, Giselle Pélicot, for a decade and then inviting other men to sexually abuse her, began on September 2. Currently, 51 of the rapists have been identified, however, after analyzing the recordings on Dominique's computer and cell phone, it is known that there are 29 more men who have not yet been identified. This case has brought attention back

to a problem that, although it has been a recurrent practice during recent history, has also increased as it has become normalized during the last few years; the use of chemical substances to sexually assault women. A problem that can present itself from everyday situations such as parties or dates, to cases of routine rape as was the case of Giselle.

### ***Drug facilitated crimes (DFC)***

Drug-facilitated crime, also known as chemical submissiveness (SQ), is defined by the United Nations Office on Drugs and Crime (UNODC) as the administration of psychotropic substances with the intent to alter individuals' decision-making capacity and modify their will for the purpose of committing criminal acts. Some of the crimes identified by the UNODC include rape, sexual assault, robbery, extortion, and deliberate mistreatment of the elderly and/or children. The UNODC emphasizes that there is no specific profile of perpetrators or a singular context in which these crimes occur. This means that both acquaintances and strangers can be involved, and these acts may be premeditated or spontaneous.

In the vast majority of cases, the substances used are typically central nervous system depressants that are difficult to detect in clinical studies, as the detection window for many of these substances in the body is extremely short. Additionally, according to the Red Cross, which has identified a list of 30 substances used in these crimes, the products are often administered in small doses, primarily through drinks or hypodermic needle sticks. The administration of these substances is often so subtle that victims may not notice it until symptoms begin to manifest, which they might mistake for the effects of an alcohol intoxication.

### ***Drug-facilitated sexual assault (DFSA)***

Within drug-facilitated crimes is the subclassification of drug-facilitated sexual assault,

which drug-facilitated sexual assault, which, as the name implies, refers to those acts in which someone is subjected to sexual activities while unconscious due to any intoxicating substance. As in the rest of the DFCs, the substances can be administered without the consent of the victim, or the victim can be taken advantage of once he or she has voluntarily ingested psychotropic substances.

Due to the nature of this crime, it can be particularly complicated for victims to seek justice. On the one hand, in particular cases such as the case of Giselle Pélicot, chemical submission may mean that the victim has no memory of the crime. In other cases, the incapacitating effects of the substances used may delay the reporting of the crime or may complicate an accurate statement of the facts. This in turn can complicate legal proceedings, as the lack of memory and the short window of time to detect the substances may result in the absence of concrete evidence. Moreover, when voluntary substance use is involved, the stigmatization faced particularly by women represents an additional barrier to reporting sexual assault, as they are often blamed for the drug use, diverting attention from the sexual assault itself.

### ***International response to chemical submission***

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In recent years, there has been a reported increase in the use of drugs - legal and illegal - as facilitators of crime. Despite becoming a global problem, there is currently no formal international mechanism in place to facilitate the detection and criminalization

of drug-facilitated crime. However, this does not mean that there have been no efforts by the international community to respond to this growing problem.

### United Nations

In 2010, during the 53rd session of the United Nations Commission on Narcotic Drugs, resolution 53/7 was adopted in which the UNODC was given the authority to analyze the drug phenomenon. In response to this, UNODC presented a report in 2013 that identifies the drugs most used in DFSA and seeks to improve practices and methods of investigation in response to reports of these situations. Likewise, in the document the UNODC lists the different difficulties that may arise during the investigation of cases and, alternatively, makes recommendations for the investigation of these cases. However, it is important to mention that the nature of this document, like the rest of the reports published by the United Nations, is non-binding.

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### European Union

In 2019, Amnesty International, through a study published by Revolt Sexual Assault and The Student Room, identified that 25% of the European Union (EU) population believes that sexual relations without consent can be justified when they occur under certain circumstances, such as the influence of

alcohol or other drugs. In addition, Amnesty International describes that these conclusions may be disturbing but not surprising, since it was only in 2020, with the change of legislation in Denmark that unanimity was reached in the EU on the definition of rape. With this change, legislation shifted from focusing on coercion and use of force to emphasizing the absence of consent. In other words, the change in the perception of this crime is legally quite recent, which in turn is reflected in the cultural perception of it.

Along these lines, the case of Giselle Pélicot is also serving as a turning point to address the issue within the European Union itself. In fact, the MEP Vicent Marzà Ibáñez, has taken the case to the European Parliament to request action against chemical submission. Furthermore, Marzà, with this petition also calls for “closing legal loopholes and ensuring that EU policies offer adequate protection to victims”. Additionally, it is important to highlight the French position that in April initially opposed including consent in the definition of rape in the European Parliament's Gender-Based Violence Directive. of the European Parliament. And that now, after the Pélicot case, has rethought the notion of rape, proposing a change in its penal code to emphasize the concept of consent.

### ***Chemical submission in Spain***

In Spain, chemical submission is typified as a crime in Organic Law 10/1995 of the Penal Code. Moreover, after the case of “La Manada de

Pamplona”<sup>1</sup> and with the approval of Organic Law 10/2022 on Integral Guarantee of Sexual Freedom, it is also considered as an aggravating circumstance of the crime of sexual abuse. Now, despite the judicial mechanisms that punish DFSAs, the figures in this regard remain alarming within the country.

In August 2024, a study carried out by three universities in Madrid revealed that 37.9% of the population between 18 and 35 years of age has been a victim of some type of sexual violence -touching, kissing, masturbation by third parties, oral sex and penetration- facilitated by drugs at some time in their lives in nightlife contexts. In addition, the study reveals that women are four times more likely to suffer some type of sexual violence while under the influence of drugs, as they are more likely to suffer some type of sexual violence under the influence of drugs, affecting 40% of young women, in contrast to men, of whom 20% of the young population have been affected by this problem. These figures are not only are alarming, but they also reflect a serious public health problem in Spain that must be addressed with the be addressed with the seriousness and urgency it deserves.

In response, the Spanish government through the National Institute of Toxicology and Forensic Sciences has designed various mechanisms to study and respond to drug-facilitated sexual assaults. These include the publication of the 2021 Report on Toxicological Findings in Sexual Assaults with

Suspected Chemical Submission, which aimed to improve the efficiency of the justice service through data management and analysis. In addition to a qualitative analysis that provided a better understanding of the Spanish landscape, this served to undertake more precise measures. For example, in the search for stronger evidence to punish DFSA, the Spanish Ministry of Justice began in 2023 with the distribution of sample collection kits in cases of suspected chemical submission. These kits are intended not only to facilitate the collection of information for reporting, but also to standardize the process at the national level.

As has been demonstrated, in the Spanish case, various legal measures have been implemented to combat chemical implemented various legal measures to combat DFSAs, however, the existence of a cultural barrier prevails. Despite legal efforts, the normalization of certain behaviors and the lack of awareness about consent continue to create an environment in which such assaults continue to occur at an often-alarming rate. It is therefore vital to address the problem from a perspective that includes legal frameworks but is accompanied by education that promotes a profound change in social attitudes towards sexual violence.

### ***Conclusions and final comments***

As discussed so far, chemical submission, especially in cases of sexual assault, not only represents a

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<sup>1</sup> Media case in 2016, of group rape (5 men) of an 18 year old girl during the famous San Fermin festivities.

global public health problem, but also reflects a deeper legal and cultural problem.

In the first instance, it can be observed that the legal and regulatory response to these situations is more reactive than preventive. Although DFSAs have been a problem that has been present for years, it is not until extreme cases of media relevance -such as the Pélicot and La Manada cases- that the authorities take appropriate measures. In this sense, it is discouraging that, despite the magnitude of the problem, significant reforms only occur in response to public pressure, when preventive measures should have been implemented from the beginning.

On the other hand, it is also important to highlight the lack of research on the problem, especially at the international level. An example of this is that the last United Nations report on substances that facilitate sexual assault and criminal acts was published in 2013 and no substantial updates have been presented in more than a decade. Thus, the absence of international coordination not only limits concrete measures, but also the tools, such as guidelines and official reports that can emerge to effectively combat DFSAs.

Similarly, it is important to emphasize the cultural norms that normalize and dismiss women when sexual assaults occur, especially in the presence of voluntary alcohol consumption. As Otger Amatller, coordinator of prevention projects at the Fundació Salut i Comunitat, explains:

While with boys it serves as an extenuating circumstance 'I was drunk, I didn't know what I was doing'. With girls it serves to blame them. In this sense,

the real cause is not so much the consumption of substances in itself - which is important - but this inequality, this sexism that still exists in society.

In this sense, the strong sexist charge that gives rise to DFSAs violates women's rights in multiple ways. Firstly, and as already explained, women are deprived of the right to consent autonomously and freely, which also violates women's sexual rights. On the other hand, cultural norms that place the blame on women and the social tendency to discredit them also undermine the right to equality, as well as to dignified and fair treatment. Finally, it is important to emphasize that drug-facilitated assaults also represent a risk to the physical and moral integrity of women, threatening the physical and mental health of the victims.

Finally, to conclude, it is worth noting that this problem reveals the absence of an international legal framework to regulate in favor of victims. international legal framework that regulates in favor of the victims. As well as the need for a sociocultural change at the sociocultural level that seeks to modify the attitudes that divert the responsibility of the aggressors that continue to give rise to cases such as those already mentioned or that continue to allow the impunity of the aggressors.

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