

DRUGS, ALCOHOL AND SEXUAL ASSAULT: A GENDERED ANALYSIS

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Basically, I wanted to talk a little bit about some of the underlying issues of the orientation of the campaign that Paul Quigley was talking about, because when I was looking at different campaigns in some media around drink spiking, the WA campaign was one that I thought was particularly good because often the campaigns don't target perpetrators at all – they tend to be really victim focused, really about risk management etc; so I wanted to talk about some of the issues underlying drink-spiking as it pertains to sexual assault – so not pranking and not spiking to try and perpetrate robbery. Natalie will be talking about the AIC study into drink spiking per se, so she has all that information. But my concern is with drink-spiking as one mode of drug and alcohol facilitated sexual assault, and my argument, basically today, is that we shouldn't take drink-spiking out of this broader context and look at it as though it's the only link between drugs, alcohol and sexual assault – because then we get into all sorts of problems, for women who experience sexual assault while they are intoxicated – however that may occur.

So, basically you have this classic drink spiking narrative, which everyone's familiar with – it is where people are in a club and there is this predatory stranger, who drops an illicit substance into someone's drink, and it is one of the typical 'rape drugs', for example rohypnol and GHB. And one of the images that comes along with this, especially where sexual assault is concerned, is that the drug means that the woman cannot resist sexual assault – and that is how the sexual assault happens, i.e. if she had not been spiked, she would have been able to resist and sexual assault would not have occurred; and I think that's a bit problematic, for reasons I will get to. So what I am going to argue is that drug and alcohol facilitated sexual assault is a much broader issue, where assault occurs essentially because people are incapable of giving consent or even formulating whether they want to engage in sexual activity or not – so consent cannot really be formulated.

For a while there was a lot of talk in the media about drink spiking being epidemic and happening all over the place, until about last year when drink-spiking was pretty much declared as being an urban myth. People were saying it was not really happening and there was a whole series of articles – however, the WA drink-spiking study was, as far as I understand it, having spoken to the toxicologist at the chemistry centre in WA who did the drink spiking study, and he was saying that that study actually did not involve associated criminal victimisation – it was just drink spiking, and so when you have got sexual assault where victims are saying 'I think I was drugged' or 'drugs were involved', that was not actually included in that study.

Another thing I would like to note, at the same time, is that there was a big interest in drink spiking, and then suddenly that disappeared – but now there is a big concern with young women's voluntary consumption of high levels of alcohol; and I have noticed that there has been a Salvation Army report that is saying: "we need to panic because women aged 13-17 are drinking massive quantities of alcohol, and this is going to cause all sorts of harms", and one of the harms they identify is unprotected sex, and another one is unwanted sexual activity, and so we have got this sense of

women getting very drunk and having unwanted sexual activity – but there is no sense of what that unwanted sexual activity is. (I will come back to that in a second).

In terms of drink spiking in the classic narrative, where there is an addition of an illicit substance – the kind of studies that I am aware of, that we have access to, are American studies in which you see quite high rates of alcohol, as opposed to illicit drugs like GHB and rohypnol, although, those were sexual assault victims and those studies accepted samples from women – on was up to 72 hours after the assault and one had no limit, so you are going to be seeing drugs that have simply been metabolised by that point – especially something like GHB. But I think the point still stands, that alcohol is probably much more prevalent as a spiking agent than illicit drugs are, so there is a question really about can you spike with alcohol? Well absolutely, alcohol is your number one spiking agent – and that occurs when people do things like buy a double or a triple of spirits for someone unbeknown to them.

However, when it comes to an issue of sexual assault, we get into a tricky area, because there is a lot of concern about “how did you get so drunk?” or “How did you get incapacitated?” “Were you spiked or did you voluntarily consume?” So if a woman has presented and said “I think I was sexually assaulted, I think I must have had my drink spiked”, and then she has a ‘tox-test’ that reveals no illicit substance, there is a sense of “well maybe you just drank to much”. But at what point does drinking too much slip into drink spiking? If you have voluntarily consumed a large quantity of alcohol, and someone spikes one drink, or brings you a double instead of a single, have you been spiked or have you not been spiked? So it gets a bit tricky, where alcohol comes into the mix, trying to figure out where voluntary consumption ends and drink spiking begins.

So, from my perspective – and Natalie will have a much clearer empirical base on which to make assertions like this – but from what I understand of what is happening, we have got relatively limited (at least where sexual assault is concerned - prank spiking you are probably going to see a lot more of it happening in clubs than in homes) - but where sexual assault is an issue, you are seeing fairly limited drink spiking, by a stranger, with an illicit substance; and much more drink spiking with alcohol, so buying someone a massive quantity of alcohol when they think they are only drinking singles and they are drinking triples. But most frequently of all, women are simply consuming drugs or alcohol and becoming incapacitated, and then people are sexually assaulting them – and when Paul mentioned this he used a great phrase: “it is the intoxication that is at issue, rather than how you get intoxicated”.

So, how do we deal with the issue of voluntary intoxication and sexual assault, when drink spiking has come to be seen as the clearest link between drugs and sexual assault? Because there is a sense now that if people have their drinks spiked with an illicit substance by a stranger, it is really clear to be able to say “I didn’t consent to sex I was spiked”; there is a lot of talk about ‘drugs as weapons’, and this is a metaphor that is quite prevalent – it is being used by researchers and also by a lot of prevention campaigns, you have got people saying: “drugs are being used as weapons to facilitate sexual assault”, and that is a really problematic metaphor because a weapon is wielded by an individual against another, and that really positions a perpetrator in the action; if the victim consumes the drugs voluntarily, then you kind of loose your perpetrator, and this I think is what happens when people talk about

‘unwanted sexual activity’ as a harm resulting from young women’s voluntary drinking or drug use. And what I want to say is that, sexual activity that happens when a woman is unconscious, because of voluntarily ingesting a large amount of drugs or alcohol – it is not a ‘harm’, it’s a ‘crime’, and we are kind of loosing the perpetrator out of that image.

There is another issue I think, in terms of how an exclusive focus on drink spiking is going to affect women’s interpretation of their experiences; so if a woman is out, and she is voluntarily ingesting drugs or alcohol, and she goes home with someone and passes out, and then wakes up and finds that she is been sexually assaulted – but she has been told that sexual assault happens when you have been drink spiked, if you voluntarily consume then you do not really get sexually assaulted – then she might interpret that experience as one in which where she has been drink spiked, but that may not necessarily be the case. If we could acknowledge that sexual assault is still sexual assault, whether ingestion of drugs is voluntary or spiked, then we might get a clearer picture of whether people are spiked or are voluntarily ingesting.

A concern I have is that taking drink spiking – where sexual assault is concerned – out of the broader context of drug and alcohol facilitated sexual assault, actually has a number of problems for women, because it reinforces various myths and stereotypes about sexual assault, namely that it tends to be perpetrated by strangers and that it involves force and a dynamic of force and resistance on the woman’s part – the woman is obliged to resist, so drugs give evidence that she would have resisted if she could; all these things mirror what feminists would call a ‘real rape script’, that is narratives that we tell about rape and what is ‘really rape’ in our culture. So I am kind of saying that drink spiking has become positioned as ‘real rape’ in this day and age, whilst broader issues of drug and alcohol facilitated sexual assault – like in the salvation army report which showed that young women were drinking very heavily and then reporting ‘unwanted sexual activity’, that is not being positioned as sexual assault, that is kind of something else – that is ‘a harm’, and women need to modify their own behaviour to prevent that harm – they need to drink less because they might experience unwanted sexual activity – whereas, from my perspective, in prevention campaigns like Paul talked about, I think we need more of a focus on perpetrators, saying: “you need to ensure that consent is present and can be formed.”

And so, just quickly to talk about intoxication and the law: legally, it does not make any difference whether intoxication occurs through voluntary ingestion or whether there is a spiking incident, subsection 36D states that: “Where a person is asleep, unconscious, or affected by alcohol or other drugs, as to be incapable of fully agreeing, that person cannot freely agree to sexual penetration”. So in Victoria, if your unconscious and someone has sex with you – that is a crime. And it does not matter whether that is drink spiking or whether the person has simply voluntarily ingested, and is then unconscious. These are other ones that apply as well, although 36D should pretty much cover it, but other ones are this ‘positive standard of consent’, which is what Paul was saying when he was saying “silence does not count as free agreement”. You need to get some indication that someone wants to be having sex with you. So that is a very progressive situation that we have got going on right now.

Ok, I will wrap it up there – thanks very much.