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Feminicides

Report[1]
Committee on Equal Opportunities for Women and Men
Rapporteur: Ms Lydie ERR, Luxembourg, Socialist Group

Summary

In response to the feminicides in Mexico, the Mexican authorities have made considerable efforts, in particular to investigate the murders and disappearances of women and bring to justice the perpetrators of the crimes and those officials who initially botched the investigations and perverted the course of justice. The Parliamentary Assembly should invite Mexico to step up its efforts to combat violence against women and, in particular, feminicides.

The Assembly should define "feminicide" (or "gynocide") as a murder of a woman because she is a woman. In view of the Mexican experience, it should ask national parliaments to provide for a comprehensive law on equality between women and men, taking into account their right to a life free of violence, where it has not yet been done.

It is deeply dismayed by the millions of "missing girls" in many parts of the world (even in Europe) and should ask the Council of Europe member states, in their relations with third countries, to encourage families to treat their daughters better, bring them up and regard them as human assets rather than burdens.

Finally, the Assembly should also recommend the Committee of Ministers ask a group of experts / an observatory of the Council of Europe to gather specific data on cases of violence against women, in particular feminicides in Europe, with a view to analysing any shortcomings in the protection of women so as to improve preventive measures and develop new ones, and also to conduct a study of both the sociological and the legal aspects of feminicides.

1. Reference to committee: Doc. 10718, reference No. 3204 of 17 March 2006, extended to 31 December 2008 by Bureau decision on 23 June 2008

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A. Draft resolution

1. The Parliamentary Assembly recalls its Resolution 1454 (2005) on the "Disappearance and murder of a great number of women and girls in Mexico", in which it highlighted *inter alia* the Mexican authorities' initial efforts to resolve the recurring problem of violence against women in north Mexico. At the same time, the Assembly decided to "study the concept of 'feminicide' and, in co-operation with the Mexican Congress, to explore how this concept may usefully be applied in the European context, including its possible introduction into European criminal law".

2. "Feminicide" or "gynocide" is the murder of a woman because she is a woman. The word "feminicide" was coined by the Mexican Chamber of Deputies' "special commission to study and review the investigations of murders perpetrated against women in Mexico and promote justice for the victims of feminicide" to describe the murders and atrocities suffered by women because they are women.

3. All forms of violence, psychological and physical, against women are violations of their fundamental rights and intolerable infringements of their right to live a life free of violence.

4. Committed to the Council of Europe campaign to combat violence against women, including domestic violence, the Assembly is continuing even more strongly its fight to eradicate this scourge, and particularly feminicides.

5. The Assembly notes with satisfaction the progress made, since its previous report in 2005, by the Mexican authorities in combating violence against women and disappearances and murders of women and girls in Mexico.

6. It emphasises in particular the creation in February 2006 of the position of Special Federal Prosecutor for crimes related to violence against women, and the subsequent improvements in the method and speed of investigations.

7. It also welcomes the adoption on 1 February 2007 of a general law on women's access to a life without violence.

8. The Assembly asks its observer State to continue to step up its efforts to combat violence against women and feminicides. In particular, it invites Mexico to:

8.1. ensure that the general law on women's access to a life without violence is implemented;

8.2. develop throughout its national territory working methods to increase the speed and efficiency of investigations when women disappear or are victims of violence;

8.3. set up sufficient numbers of shelters for victims;

8.4. continue its efforts to raise awareness throughout the country, and particularly among the staff in contact with victims and their families, as well as among the press and youth;

8.5. co-operate at regional level with the states of central America, in particular with Guatemala, on the issue of feminicides, and to share their good practices.

9. It asks Council of Europe member states, in their bilateral relations with Mexico, to place this subject on the agenda for their meetings.

10. In the context of co-operation and political dialogue between Mexico and the European Union, the Assembly asks the European Union to ensure that feminicides and impunity for them are systematically placed on the agenda for meetings with the various institutions.

11. The problem of such serious violations of human rights is also a particularly significant one at global level.

12. In fact, the Assembly is dismayed by the fact that millions of women and girls are "missing", either in the sense that they remain unborn or because they met an early death, in many parts of the world, such as southern and western Asia, China and north Africa.

13. The Assembly notes that foetus selection, the abandonment of new-born girls and the lack of care given to girls also affect Europe, in certain immigrant communities which prefer boys.

14. Consequently, the Assembly asks Council of Europe member states, in their relations with third countries, to encourage families to treat their daughters better, bring them up and regard them as human assets rather than burdens.

15. The Assembly asks the European Union to place on the agenda the problem of feminicides and violence against women, both during negotiations on the admission of third states to the Union and in the context of its external relations.

16. The Assembly asks national parliaments to provide for a general/comprehensive law on equality between women and men, taking into account their right to a life free of violence, with the aim of regulating and guaranteeing equality between women and men and to propose machinery for the practical achievement of equality in all spheres of public and private life, where it has not yet been realised.

17. It invites them to provide for measures to ensure that all kinds of violence against women are prevented, dealt with, punished and eliminated.

18. It invites them to consider the inclusion in criminal legislation of aggravating circumstances where female victims have suffered violence or been killed because of their gender.

19. Finally, it asks the Council of Europe Commissioner for Human Rights to take account of gender equality issues, and particularly violence against women, in the course of his work.

B. Draft recommendation

1. The Parliamentary Assembly refers to its Resolution … (2008) on the same subject.

2. The Council of Europe, the guarantor of human rights in Europe, has an important role to play in combating violence against women, including domestic violence, not only in Europe, but also worldwide, in view of the serious violations of human rights that occur in the form of feminicides and violence against women. This role is even more valid for observer states.

3. The Assembly was disappointed by the reply from the Committee of Ministers to its Recommendation 1709 (2005) on the "Disappearance and murder of a great number of women and girls in Mexico".

4. The Assembly points out that the Parliament of Mexico played an active part in the implementation of the parliamentary dimension of the Council of Europe campaign to "Stop domestic violence against women".

5. The Assembly remains convinced that the Committee of Ministers should take specific measures within the framework of its co-operation and assistance programme to encourage reform of the courts and the prosecution system, and to promote equality between women and men, and especially efforts to combat violence against women in Mexico.

6. In this context, the Assembly suggests that Mexico be invited to participate in the drafting of the Council of Europe convention on combating violence against women advocated in Recommendation 1847 (2008) on "Combating violence against women: towards a Council of Europe convention".

7. The Assembly also recommends that the Committee of Ministers ask a group of experts / an observatory of the Council of Europe to gather specific data on cases of violence against women, in particular feminicides in Europe, with a view to analysing any shortcomings in the protection of women so as to improve preventive measures and develop new ones, and also to conduct a study of both the sociological and the legal aspects of feminicides.

C. Explanatory memorandum by Mrs Err, rapporteur

1. Introduction

1. In December 2007, after my Swiss colleague Ruth-Gaby Vermot-Mangold left the Parliamentary Assembly, I was appointed rapporteur on an innovative theme on which she had been working with courage and determination. I should like to pay tribute here to the quality of her work and to her commitment to promoting women's rights in Europe and worldwide.

2. In 2005 the Parliamentary Assembly adopted a recommendation and a resolution following Ms Vermot-Mangold's report on the "Disappearance and murder of a great number of women and girls in Mexico".[2] The purpose of these texts was to reinforce Mexico's co-operation with the Council of Europe while drawing attention to the Mexican authorities' initial efforts to resolve the recurring problem of violence against women in north Mexico. At the same time, the Assembly decided to "study the concept of 'feminicide' and, in co-operation with the Mexican Congress, to explore how this concept may usefully be applied in the European context, including its possible introduction into European criminal law".

3. Ms Vermot-Mangold initiated a motion for a resolution[3] worded as follows: "in view of the mounting importance of the issue, and the pioneer role the Assembly can play in applying the concept of 'feminicide' in Europe, the Assembly decides to carry out its study of 'feminicides' without further delay". That is the subject of the report I was asked to draw up.

4. I should therefore like to review developments in the response to feminicides in Mexico, then focus on the possibility of making feminicide a specific offence under criminal law, in line with the above-mentioned motion for a resolution. I also wish to highlight the worldwide problem of "missing women", which undeniably has much in common with the problem of feminicides.

2. Developments in the response to feminicides in Mexico

5. Let us first see how this new concept developed in Mexico, so that this experience can provide the basis for further work to determine whether it is feasible to introduce it, as such or in modified form, at European level.

6. The facts originally occurred in a particular context. Since 1993, hundreds of women and girls, an estimated number of between 350 and 500, have been brutally murdered in the northern Mexican border state of Chihuahua. The exact number of victims is disputed but most of them were killed in or around the town of Ciudad Juárez, others in the state capital of Chihuahua. Many were abducted and raped before they were killed and their bodies dumped in the desert. Others were victims of domestic violence taken to the extreme. A few seem to have been involved in the drugs trade or were victims of revenge killings. Some were *maquiladoras*[4] workers, others students and schoolchildren; many were young mothers; most were poor and aged between 13 and 30. In addition to the hundreds of women and girls killed, many have disappeared (presumed to have been abducted) and are still missing.

7. The reason for these murders and atrocities is unfortunately simple: "These women were killed because they were women".[5] The Mexican Chamber of Deputies' special commission to study and review the investigations of murders perpetrated against women in Mexico and promote justice for the victims of feminicide has coined the term "feminicide" to describe these murders, which stem from a climate of generalised violence and discrimination against women. Feminicide can therefore be defined as the murder of a woman because she is a woman. The term "gynocide" would also reflect the deep causes of these crimes against women.

8. After an initial reaction of denial, the Mexican authorities have made considerable efforts at all levels (municipal, state and federal) to investigate the murders and disappearances of women in Ciudad Juárez and Chihuahua and bring to justice both the perpetrators of the crimes and those officials who initially botched the investigations and perverted the course of justice. They are also trying to repair the social fabric of these two cities and to fight violence against women state- and nationwide.

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2. Resolution 1454 (2005) and Recommendation 1709 (2005), Report by Ms Vermot-Mangold: http://www.assembly.coe.int/mainf.asp?Link=/documents/workingdocs/doc05/fdoc10551.htm
3. Doc 10718.
4. Sub-contracting firms for export products.
5. See Recommendation 1454 (2005), paragraph 2, for further explanations.

9. To find out about developments in Mexico, the Committee on Equal Opportunities for Women and Men held a hearing[6] on "feminicides" in Paris on 6 September 2007. It was attended by several Mexican judges and parliamentarians, by Mr Romeva i Rueda, Rapporteur of the Committee on Women's Rights and Gender Equality of the European Parliament,[7] and by Mr Di Girolamo of the European Commission.

10. Mexico has set up specialised institutions at federal and local level.

11. An initial appropriate response to the problem in question was the creation in February 2006 of the office of Special Federal Prosecutor for crimes related to violence against women, which was held by Ms Pérez Duarte until 31 January 2008[8]. At the hearing,[9] she explained that the situation had changed radically in Chihuahua. Mexican society had demanded that justice be done and be speeded up. The violence had cultural roots which worsened towards the border, a complex frontier with a wall that held back immigration from the south to the north. Information about "feminicides" and violence against women was one of the factors in change. Awareness-raising activities have been organised, in particular for judges.

12. Ms Pérez Duarte said that changes in investigative procedures had been made at federal and state level. In Chihuahua, 413 women had died since 1993. In 2007, there had been 11 murders; 56 proceedings were in progress; 124 cases were being investigated, of which 13 were federal cases because of their links with organised crime, and 18 had been closed following the suicide of the accused[10]. Of 46 women who had disappeared, her department had established that a third had fled domestic violence and had been found again and a third had died, while there was no explanation for the remaining third. A change in method and in the speed of work had taken place in finding girls who had disappeared: investigations were now carried out straightaway to check whether the person had really gone missing. The focus of the investigations was on the human beings and their lives to date. Cases of sexual abuse were a form of violence against women or acts of torture, as provided for in the Istanbul Protocol on investigation of torture.

13. It should also be underlined that a general law on women's access to a life without violence was promulgated on 1 February 2007. It is based on the principle of de jure and de facto equality between women and men, respect for human dignity, non-discrimination and women's freedom. A comprehensive programme has also been drawn up with a view to eradicating violence against women, particularly through measures in schools designed to raise awareness from an early age and stamp out prejudices.[11]

14. A recent report by Amnesty International[12] condemned shortcomings in the enforcement of the law, in particular in terms of refusals to register complaints made by women, botched inquiries and inadequate implementation of protective measures for women. The report also highlighted the need to set up additional shelters for women who are victims of violence.

15. I am convinced that the Council of Europe, the guarantor of human rights in Europe, has an important role to play in combating violence against women, including domestic violence, not only in Europe, but also beyond. This role concerns observer states in particular.

16. I therefore propose that the Committee of Ministers take specific measures within the framework of its co-operation and assistance programme to encourage reform of the courts and the prosecution system in Mexico and to promote equality between women and men, and especially efforts to combat violence against women.

17. It also seems appropriate to me that Mexico, a country strongly committed to the implementation of the parliamentary dimension of the Council of Europe campaign to "Stop domestic violence against women", be invited to participate in the drafting of the Council of Europe convention on combating violence against women advocated in Recommendation 1847 (2008) on "Combating violence against women: towards a Council of Europe convention".

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6. Reference: AS/Ega (2007) PV 9 Addendum. The minutes of the hearing are available on request from the Secretariat of the Committee on Equal Opportunities for Women and Men.

7. See report of 20 September 2007 on "The murder of women (feminicide) in Central America and Mexico and the role of the European Union in fighting the phenomenon".

8. 7 Since 31 January 2008, the post has also covered human trafficking, "Special Federal Prosecutor for crimes related to violence against women and trafficking in human beings", and has been held by Ms María Guadalupe Morfín Otero.

9. See AS/Ega (2007) PV 9 Addendum, page 2.

10. See AS/Ega (2007) PV 9 Addendum.

11. See Ms Castro Romero, PV 9 Addendum, page 3 and Ms Díaz Delgado, PV 9 Addendum, page 4.

12. "Mexico: Women's struggle for justice and safety: Violence in the family in Mexico" (AI Index: AMR 41/022/2008) of 1 August 2008.

3. Making feminicide a specific offence under criminal law in Europe?

18. Clearly, the concept of "feminicide" has now become institutionalised in Mexico. With the aid of this national experience, I suggest that the committee consider whether this concept can usefully be applied in a European context, particularly under criminal law.

19. At first sight, I believe various solutions are possible. They call for the Council of Europe's close attention. The introduction of a special offence of "feminicide" into criminal law or the addition of "feminicide" as an aggravating circumstance to existing offences in criminal law, such as murders or assassinations, could be a solution.

20. It would be necessary to have a clear understanding of the acts constituting the offence or the conditions constituting the aggravating circumstances.

21. In addition, as in similar cases, it may be very difficult to bring evidence to bear. In fact, evidence and its use by criminal judges is a sensitive issue. Although the concept of feminicide has not yet been defined, it would have to be proved that the victim of feminicide had been killed simply because of her gender. Such acts will at least include violence perpetrated against women because they are women.

22. It will also have to be decided who will bear the burden of proof and whether a system of presumption would be appropriate. In these conditions, the question of possible sharing of the burden of proof would have to be examined.

23. Taking account of particular situations would help overcome this difficulty regarding proof. For instance, violence against a spouse/partner or ex-spouse/ex-partner on a habitual basis could constitute a specific offence subject to a harsher penalty proportionate to the seriousness of the acts committed. In that case, habitual acts of violence would constitute objective proof that the offence had taken place. If it was proved that the victims had been subjected to violence prior to the acts being dealt with by the judicial authorities, the perpetrators would be charged with the more serious offence, without their necessarily being repeat offenders.

24. There remains the possibility of making "feminicide" in the strict sense, ie the murder of a woman, a specific criminal offence. There, too, circumstances external to the murder, such as previous acts of violence or the particular violence of the murder, might be taken into account in applying this specific offence. By way of information, Mexico's general law on women's access to a life without violence refers to "violence by homicide against women" as "the most extreme form of gender-based violence against women, resulting from the violation of their human rights, in the public and private spheres, which comprises all the forms of misogynistic conduct that can lead to social and state impunity, and which can result in homicide or other forms of violent death for women".[13]

25. Accordingly, in view of the difficulties referred to above, I suggest that a group of Council of Europe experts conduct a detailed legal study of the member states' existing legislation combating violence against women and of ways to make feminicide and violence perpetrated against women simply because of the victim's gender a separate criminal offence.

26. I also endorse the principle set out by the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence, whose final activity report[14] suggests that specific data be gathered on cases of violence against women and feminicides with a view to analysing any shortcomings in the protection of women so as to improve preventive measures and develop new ones. This dual task of data gathering and legal analysis could be assigned to a multidisciplinary working group or an observatory made up of specialists in violence against women.

27. In addition to this sensitive issue, it is essential to make professionals in contact with the victims, especially doctors, social workers, police officers and judges, more aware of violence against women. They can help to establish that the victim was killed because she was a woman.

4. The worldwide problem of feminicides

28. As I had already emphasised in 2005 in my report on "Promoting a United Nations 5th World Conference on Women",[15] it is difficult not to tackle this crucial problem at world level: Amartya Sen, winner of the Nobel Prize for Economics, writing as long ago as 1990, said that there were over 100 million women

13. Section 21 of the general law on women's access to a life without violence.
14. EG-TFV (2008) 6.
15. Report of 6 July 2005.

missing worldwide.[16] He analysed the impact on mortality of the inequality of rights between women and men in developing countries, especially in Asia. In his view, the only explanation for this demographic phenomenon was inequality and neglect leading to excess mortality of women and girls. Furthermore, a strong gender preference for boys in many regions, such as in southern and western Asia, China and north Africa, leads to abortion of female foetuses, infanticide and/or abandonment of new-born girls. In countries where men and women receive similar care and attention, the ratio of women to men is about 105 to 100. The ratio in the aforementioned regions with strong preferences for men and boys, however, stands at 94 to 100, i.e. there is a shortfall of about 11%, meaning that hundreds of millions of women are "missing" – not born or meeting an early death.

29. The findings of a recent survey carried out by journalist Bénédicte Manier, updated in September 2008, are alarming. Between 1990 and 2005 the number of "missing" women rose from 100 to 163 million in Asia alone (the world figure is certainly far higher), and these "absent ones" are little girls sacrificed either before or at birth.[17] Nor is it any longer denied that these ratios depend on sociological factors, rather than biological (they had been attributed in the context of biological factors to a high rate of hepatitis B among mothers).[18]

30. Certain steps have been taken by the authorities concerned to curb this problem. The Indian Government, for instance, has released millions of dollars to encourage families expecting baby girls to keep them and bring them up. Every family in the provinces with the most marked population imbalances is to receive 400 dollars when its baby is born, and a further 2,500 dollars if the girl attends school and reaches the age of majority still unmarried. By the local standards of rural families, these are huge sums. The need for action being urgent, I remain convinced that this method can be effective. In the longer term, as in European countries, it is preventive action and the raising of awareness of equality between women and men that will, in my view, be the most effective methods.

31. Europe has not been spared this problem. Ms Manier has shown that the vast Asian diaspora is "importing" these customs into the countries of immigration, especially where a widely available medical service enables the sex of unborn babies to be determined at an early stage. In the United Kingdom, for example, the babies born to Indian mothers between 1990 and 2005 averaged between 104 and 108 boys to every 100 girls, an imbalance that is even higher for third-born children, reaching 113 boys to every 100 girls. She found the same tendency among Chinese and Korean families in the United States, where the ratio was 117 boys to 100 girls for first-born children, and, where the first two babies had been daughters, the rate among third-born babies was 150 boys to 100 girls.

32. This dramatic finding of serious human rights violations and manifest discrimination worldwide leads me to call for this problem to be highlighted in relations between Council of Europe member states and the countries concerned. I believe that it is urgent to deal with this problem and to ask especially those third countries concerned (such as Mexico and Guatemala) both to encourage families to treat their daughters better, bring them up and regard them as human assets rather than burdens, and to continue their efforts to this end.

5. Conclusions

33. I submit for adoption by the Assembly the above draft resolution and draft recommendation. I propose that these be examined at the first part-session of the Assembly in 2009 (26-30 January), so that the members of the Mexican delegation to the Assembly will be able to be present during the debate.

Reporting committee: Committee on Equal Opportunities for Women and Men

Reference to committee: Doc. 10718, reference No. 3204 of 17 March 2006, extended to 31 December 2008 by Bureau decision on 23 June 2008

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http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc05/EDOC10643.htm

16. Article entitled "More Than 100 Million Women Are Missing", published in the New York Review of Books, Volume 37, 20 December 1990.

17. "Quand les femmes auront disparu-l'élimination des filles en Inde et en Asie" (When women have disappeared – the elimination of girls in India and Asia), by Bénédicte Manier, published by La Découverte-Poche. Also see the article (in French) in La Tribune of 19 September 2008 http://www.latribune.fr/info/IDD0FD6C05FA0D1581C12574C9002AA56F

18. "Hepatitis B does not explain male-biased sex ratios in China", by Emily Oster, Gang Chen, Xinsen Yu (16 April 2008). Also see Stephen Klasen's article of 28 August 2008: "Missing women in South Asia and China: Biology or discrimination?"

http://www.voxeu.org/index.php?q=node/1583

Draft resolution and draft recommendation unanimously adopted by the committee on 5 December 2008.

Members of the committee: Mr Steingrímur J. Sigfússon (chairperson), Mr José **Mendes Bota** (1st vice-chairperson), Mrs Ingrīda **Circene** (2nd vice-chairperson), Mrs Anna **Čurdová** (3rd vice-chairperson), Mr Frank Aaen, Mr Francis Agius, Mr John **Austin**, Mr Lokman **Ayva**, Ms Marieluise Beck, Mrs Anna Benaki (alternate: Mr Ioannis **Giannellis-Theodosiadis**), Mr Laurent Béteille, Mrs Oksana Bilozir, Ms María Delia Blanco Terán, Mrs Olena Bondarenko, Mr Pedrag Bošcović, Ms Anna Maria **Carloni**, Mr James Clappison, Mrs Minodora Cliveti, Ms Diana Çuli, Mr Ivica Dačić, Mr David Darchiashvili, Mrs Lydie Err, Mrs Catherine Fautrier, Mrs Mirjana Ferić-Vac, Ms Sonia Fertuzinhos, Mrs Alena **Gajdůšková**, Mr Guiseppe Galati, Mrs Claude Greff, Mr Attila **Gruber**, Mrs Carina **Hägg**, Mr Ilie Ilaşcu, Mrs Fatme Ilyaz, Ms Francine John-Calame, Ms Nataša Jovanović, Mrs Birgen **Keleş**, Mrs Krista Kiuru, Mrs Angela Leahu, Mr Terry Leyden, Mrs Mirjana Malić, Mrs Nursuna **Memecan**, Mrs Danguté Mikutiené, Mr Burkhardt Müller-Sönksen, Mrs Christine **Muttonen**, Mrs Hermine Naghdalyan, Ms Fiamma Nirenstein, Mrs Yuliya Novikova, Mr Mark Oaten (alternate: Ms Christine **McCafferty**), Mr Kent Olsson, Mr Jaroslav Paška, Mrs Antigoni **Papadopoulos**, Mr Claudio Podeschi, Mrs Majda Potrata, Ms Mª del Carmen **Quintanilla Barba**, Mr Frédéric Reiss, Mrs Mailis Reps, Ms Maria Pilar Riba Font, Ms Jadwiga Rotnicka, Mrs Marlene Rupprecht, Mrs Klára **Sándor**, Ms Miet **Smet**, Mme Albertina Soliani, Mrs Darinka **Stantcheva**, Mrs Tineke Strik, Mr Michał Stuligrosz, Mrs Doris **Stump**, Mr Han Ten Broeke, Mr Vasile Ioan Dănuţ Ungureanu, Mrs Tatiana Volozhinskaya, Mr Marek **Wikiński**, Mr Paul Wille, Mrs Betty Williams (alternate: Baroness Anita **Gale**), Mr Gert Winkelmeier, Ms Karin S. Woldseth, Mrs Gisela **Wurm**, Mr Andrej Zernovski, Mr Vladimir Zhidkikh, Mrs Anna Roudoula **Zissi**.

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

Secretariat of the committee: Mrs Kleinsorge, Mrs Affholder, Mrs Devaux.