

# NEWS LETTER

Number 183

May 2008

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### THE "REGIONAL COMMITTEE AGAINST THE HUMAN TRAFFICKING; MEXICO, CENTRAL AMERICA AND THE CARIBBEAN" WAS CONSTITUTED

Last May 26, the acceptance of the Agreement of Constitution of the Regional Committee against the Trading of People was held. Such a Committee is formed by the National Ombudsman of Mexico, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama and Dominican Republic. Among its activities, there is the development of a diagnostic on the dimension of the illegal trading of people, its tendencies, evolution and the response of the national authorities; it will watch over the fulfillment and application of the international and regional commitments subscribed by the authorities of each country.

The agreement was subscribed in Mexico City by the Ombudsmen who form the "Regional Committee against the Trading of People; Mexico, Central America and the Caribbean" (CORMECAC): Lizbeth Quesada Tristán, Defender of the Inhabitants of Costa Rica; Óscar Humberto Luna, General Attorney for the Defense of the Human Rights of El Salvador; Sergio Fernando Morales Alvarado, General Attorney of the Human Rights of Guatemala; Ramón Custodio López, National Commissioner of the Human Rights of Honduras; Omar Cabezas Lacayo, General Attorney for the Defense of the Human Rights of Nicaragua; Ricardo Vargas, Defender of the People of Panamá; Manuel María Mercedes Medina, President of the Human Rights National Commission of Dominican Republic and José Luis Soberanes Fernández, President of the Mexican National Human Rights Commission.

The agreement that creates the Regional Committee points out that the trafficking in persons is a lash that represents a challenge for the governments and a grave threat for the harmony among the countries as well as a brutal attack against the human beings' freedom and dignity.

The regional diagnostic on Human Trafficking will focus on knowing the ranges and dimensions reached by this illegal, immoral and inadmissible form of commerce in Mexico, Central America and the Caribbean.

Human Trafficking, apart from being a problem of public order worldwide, is also a national security issue, due to its link with the migration flux, the increase in poverty and the acting of transnational organized crime, pointed out the Ombudsmen, among the considerations that support the creation of the Committee.

The Committee mentions the possible coordination in actions of prevention, protection measures and assistance to the victims of the trade of people.

In order to create this Regional Committee, the principles and letters of the United Nations Organization and of the Organization of American States were taken into account, as well as the fact that the Law to prevent and Sanction the trafficking in persons was instituted in Mexico on November 28, 2007, with the goal of assisting and protecting the victims independently from the prosecution of the crime and the punishment of the criminal.

## RECOMMENDATIONS

The following presents a synthesis of the recommendations emitted by the CNDH during the month of May. The complete version can be consulted on the website of this institution.

Recommendation 18/2008  
May 13, 2008  
Case: Mrs. María Mónica Domínguez Valdez  
Addressed Authority: Ministry of Health

On June 13, 2007 the file 2007/2554/1/Q was opened by this National Commission, due to the complaint of Mrs. María Mónica Domínguez Valdez before the Commission of Human Rights of Mexico City, which by reasons of competence, was sent to this institution and in which she manifested alleged violations to the Human Rights against her by public officers of the National Homeopathic Hospital of the Ministry of Health, derived from an inadequate attention of the public health service. She manifested that she went on May 19, 2007 to such hospital for discomfort derived from her pregnancy in the ninth month, and she was submitted to a "tact" to check her state of pregnancy. When the check-up finished, the person who assisted her, whose name she does not remember, in a rude way told her, "your baby is not going to be born and if he does, he'll be undernourished", giving her a suppository of "rectal indometoena" and a glove to apply it for three days; however, she carried on with the discomfort.

On May 22, 2007, the petitioner got an ultrasound in a private lab, in which the diagnosis was that the baby had died for asphyxia, so that she went to the aforementioned Homeopathic Hospital to inform the facts and to ask for the needed medical attention, which was not given. Instead, she received a list of diverse hospitals and she decided to go to the General Hospital of Xoco of the Ministry of Health of Mexico City, where she was submitted to a cesarean section and the unborn product was extracted.

From the evidence in file 2007/2554/1/Q, an inadequate medical attention to the aggrieved and the violation to the fundamental right to life were proved, performed by the medical staff of the National Homeopathic Hospital who assisted her on May 19, 2007, which provoked the death of the baby, situation corroborated with the death certificate issued on May 23, 2007, in which the cause of death was established by the interruption of maternal fetal circulation. As a consequence, the petitioner's right to health was violated, when no strict look-up of her health was done, derived from the symptoms presented, omitting the corresponding interrogation to detect the causes of pain. Besides, no reference to the presence or absence of uterine activity was done, nor the infection in urinary tract that the patient presented was taken into account.

Therefore, this National Commission issued, on May 13, 2008, the Recommendation 18/2008, addressing the Minister of Health, in which it is requested: to order the due payment for the concept of amending the damages to Mrs. María Mónica Domínguez Valdez, as a consequence of the institutional liability derived from the inadequate medical attention given on May 19, 2007 in the National Homeopathic Hospital of the Ministry of Health, according to the considerations given in the chapter of observations of the mentioned Recommendation and according to what the applicable legislation on the matter disposes. As well it is requested that the certificates with which the fulfillment of the payment is proved are sent to this National Commission. Also, it is asked to inform of the facts which are the matter of the complaint to the Internal Auditing Body of the National Homeopathic Hospital to begin and determine, according to Law, an administrative procedure of investigation against the medical staff of the Area of Emergencies of the Hospital who were in charge of the attention of Mrs. María Mónica Domínguez Valdez on May 19, 2007, according to the considerations exposed in the chapter of observations of this document. As well, it is asked to order to whom it is relevant to teach training courses to the medical staff of the National Homeopathic Hospital to avoid that, in the future, similar facts to the ones referred in the chapter of observations of the Recommendation in question happen.

Recommendation 19/2008  
May 23, 2008  
Case: Appeal of Mrs. Hilda Nereyda Vizcarra Arellano  
Addressed Authority: H. Congress of the State of Sinaloa and H. City Council of Sinaloa de Leyva

On October 22, 2007, this National Commission opened the file 2007/382/4/RI, due to the appeal of Mrs. Hilda Nereyda Vizcarra Arellano, against the failure of fulfillment of Recommendation 26/05, by the municipal authority of Sinaloa de Leyva, Sinaloa.

At the beginning of the month of January, 2005, Mrs. Hilda Nereyda Vizcarra Arellano, who was a municipal traffic agent of the City Council of Sinaloa de Leyva, Sinaloa, was pregnant with twins, pregnancy which was developed without any complication within the first months. However, from the month of March of that year, she presented some discomfort consisting on a change in blood pressure, anxiety and swollen feet, so that she turned to one of her immediate superiors to ask for a change in her activities as a "street" traffic agent and suggested to do office work, to which the traffic coordinator agreed though she was constantly assigned jobs "out of the office".

From that date, the petitioner was subject to bad treatments and harassment by her superiors, consisting on verbal humiliation and threats of firing her, and they also assigned her work activities incompatible with her state of health, which jeopardized her pregnancy. This situation provoked her premature delivery of two girls who died few days later. On July 20, 2005, she turned to the State Commission of Human Rights of Sinaloa to put in a complaint against the director of Public Security and Municipal Traffic for the bad treatment, harassment and threats which she was victim of during her work.

Once the corresponding actions had been made, on October 26, 2005, the State Commission of Human Rights of Sinaloa addressed the Recommendation 26/05 to the City Council of Sinaloa de Leyva, which was partially accepted by the authority, so that Mrs. Vizcarra Arellano put in the impugnation resource to this National Commission, which was filed under the number 2006/69/4/RI. Such resource was discarded on April 18 2007, because the municipal authority accepted integrally the recommendation of the case by means of the official letter S.A.O./0-07/0763.

Notwithstanding such acceptance, the President of the City Council of Sinaloa de Leyva did not prove the fulfillment of the first point to the State Commission, related to the payment of an indemnity to the aggrieved.

Besides, the aggrieved, with a document dated on June 4, requested the City Council of Sinaloa de Leyva to fulfill the first point of the referred recommendation, without any response. This situation violated her right of request, contained in article 8th of the Political Constitution of the Mexican United States, which put the aggrieved in a situation of juridical uncertainty, because, as the authority did not give any response to her petition, she could not know if any action was going to be taken to fulfill it.

Consequently, by means of a document dated on October 19, 2007, Mrs. Hilda Nereyda Vizcarra Arellano put in an impugnation resource before this National Commission, which was registered with the file number 2007/382/4/RI. On November 15, 2007, this National Organism requested the Mayor of Sinaloa de Leyva to inform about the actions developed to fulfill the first point of recommendation 26/05, and to send copy of the corresponding certificates, without any attention from the authority in question regarding the request.

With the silence of the municipal authority of Sinaloa de Leyva, this National Commission proved that there really was an act of simulation about the acceptance and fulfillment of the first point of the recommendation issued by the State Commission, making the omission evident, from which administrative liabilities could be derived on the public officers who made it.

From the logical-juridical analysis made to the evidence that compose the resource that is being solved, this National Organism agrees with the reach of Recommendation 26/05, consequently considering that it is actually justified to indemnify Mrs. Hilda Nereyda Vizcarra Arellano, since it was proved that the petitioner performed, ordered by her superiors, tasks that demanded a considerable effort and meant health related danger to her pregnancy, with the already described consequences.

Therefore, on May 23, 2008, this National Organism issued the Recommendation 19/2008, addressing the Chairman of the Board of the LIX Legislature of the H. Congress of the State of Sinaloa and to the members of the H. City Council of Sinaloa de Leyva, Sinaloa, in the following terms:

To the Chairman of the Board of the LIX Legislature of the H. Congress of the State of Sinaloa:

SINGLE: To give the necessary instructions to whom it is relevant to determine the liability in which the Mayor of Sinaloa de Leyva, and other public officers of that City Council could have incurred, who omitted to answer the requests of information formulated by the State Commission of Human Rights of Sinaloa, as well as by this National Commission and, if it is the case, to agree in what is lawfully procedural and to send the certificates that prove its fulfillment.

To the members of the H. City Council of Sinaloa de Leyva, Sinaloa:

SINGLE: To be so kind to instruct to whom it is relevant to integrally fulfill the Recommendation 26/05, issued on October 26, 2005 by the State Commission of Human Rights of Sinaloa, and send back to this National Commission the certificates that prove its fulfillment.

Recommendation 20/2008

May 23, 2008

Case: Appeal of Mrs. Laura García Castro

Adressed Authority: H. Congress of the State of Guerrero Sinaloa and H. Constitutional City Council of Ayutla de los Libres

On February 9, 2007, this National Commission opened the file 2007/343/4/RI, due to an impugnation resource put in by Mrs. Laura García Castro, against the failure of fulfillment of Recommendation 27/2006 by the municipal authority of Ayutla de los Libres, Guerrero.

On January 24, 2006, without prior notification or any warrant issued by a competent authority, the municipal sheriff of Colotepec, Pedro Rodríguez Navarrete, el Commissariat of Communal Goods, Jesús Tacuba Castro, and many people of the community, turned up in the residence of Mrs. Laura García Castro and Mr. Jesús García Flores, in the communal town of Colotepec, municipality of Ayutla de los Libres, Guerrero, and, with "sledge hammers" hit the perimeter walls of their respective housings, which are adjacent to the public road, until the walls were demolished, also damaging the walls of Mr. García Flores's house. When they saw that their rights

to legality and juridical safety had been violated, on February 17, 2006, Mrs. Laura García Castro and Mr. Jesús García Flores put in a complaint in the Commission of Defense of the Human Rights of the State of Guerrero.

Once the corresponding actions had been made, and as violations to the human rights of the aggrieved had been proved, on May 31, 2006, the Commission of Defense of the Human Rights of the State of Guerrero addressed the City Council of Ayutla de los Libres the Recommendation 27/2006, which was not accepted by the mentioned authority, so that Mrs. Laura García Castro put in an impugnation resource before this National Organism, which was registered under the file number 2006/334/4/RI, and was discarded on January 29, 2007, since the municipal authority accepted the recommendation in question.

Notwithstanding such acceptance, the President of the City Council of Ayutla de los Libres did not prove the fulfillment of the recommendation in question to the State Commission, consequently, on September 6, 2007, Mrs. Laura García Castro wrote an appeal, which was registered in this National Organism with the number 2007/343/4/RI.

On October 12, 2007, this National Commission requested the Mayor of Ayutla de los Libres to surrender a report in which the reasons and fundaments by which the mentioned recommendation had not been fulfilled were explained, without any attention to the request by the referred authority. With the silence of the municipal authority of Ayutla de los Libres, this National Commission proved that there really was an act of simulation about the acceptance and fulfillment of the Recommendation issued by the State Commission, making the omission evident, from which administrative liabilities could be derived on the public officers who made it.

This National Commission also agrees with the reach of Recommendation 27/2006, for the authority abuse referred by the local Organism.

Therefore, on May 23, 2008, this National Organism issued Recommendation 20/2008, addressing the Chairman of the Board of the LVIII Legislature of the H. Congress of the Free and Sovereign State of Guerrero and to the members of the H. City Council of Ayutla de los Libres, Guerrero, in the following terms:

To the Chairman of the Board of the LVIII Legislature of the H. Congress of the Free and Sovereign State of Guerrero:

SINGLE: To give the necessary instructions to whom it is relevant to determine the liability in which the public officers of the City Council of Ayutla de los Libres could have incurred, who omitted to answer the requests of information issued by the Commission of Defense of Human Rights of the State of Guerrero, as well as by this National Commission and, if it is the case, to agree in what is lawfully procedural and to send the certificates that prove its complete fulfillment.

To the members of the H. Constitutional City Council of Ayutla de los Libres, Guerrero:

SINGLE: To be so kind to instruct to whom it is relevant to integrally fulfill the Recommendation 27/2006, issued on May 31, 2006 by the Commission of Defense of Human Rights of the State of Guerrero, and send back to this National Commission the certificates that prove its fulfillment.

Recommendation 21/2008

May 26, 2008

Case: Mr. Luis Adrián Hernández Correa

Addressed Authority: Ministry of Federal Public Security, Government of Mexico City

On May 15, 2007, this National Commission received the complaint of Mrs. Diana María Cervantes Morales, in which it was exposed that her husband, Mr. Luis Adrián Hernández Correa, was an inmate at the East Preventive Jail for Men of Mexico City, for the following prison penalties: a) 5 years, 6 months, 22 days, given in the case 205/2001 of the index of the Sixtieth Court for Criminal Matters of Mexico City; b) 4 years, 9 months, given in the case 43/2002 of the index of the Fourth District Court of Federal Criminal Processes in Mexico City. So that, in this second criminal case he promoted the application of the simultaneous completion of the prison penalties, contained in articles 25 and 64 of the Federal Code for Criminal Matters. Consequently, by means of the resolution of April 12, 2007, the simultaneous completion of this sanction was ordered within the local jurisdiction; however, the competent authorities did not order his freedom.

The complaint was registered in this National Commission with number 2007/2160/3/Q and from the analysis of the information gathered, it is implied that the Federal Public Security Ministry as well as the East Preventive Jail for Men of Mexico City and the former General Direction of Prevention and Social Readaptation of the Government of Mexico City violated the human rights of personal freedom, legality and juridical safety included in articles 14, second paragraph, and 16 first paragraph of the Political Constitution of the Mexican United States, since Mr. Luis Adrián Hernández Correa was kept in the East Preventive Jail for Men of Mexico City for longer time than it corresponded to the legal completion of the prison penalties imposed on him.

In the incidental resolution, the federal judge determined that the simultaneous completion of the penalty was pertinent with the variable imposed in the case 2005/2001 of the index of the Sixtieth Court for Criminal Matters of Mexico City, informing the federal authority that executes the sanctions and the warden of the East Preventive Jail for Men of Mexico City of the resolution, dated on April 20, 2007. Notwithstanding, the Decentralized Administrative Body of Prevention and Social Readaptation of the Ministry of Federal Public Security issued the certificate of completion until June 6, 2007, that is to say, with more than a month and a half of delay. On the other hand, on June 6, 2007, the federal authority that executes the sanctions informed the former general director of Prevention and Social Readaptation of the Government of Mexico City that the sanction had been considered completed; however, the aggrieved was released until June 13, 2007.

Based on the facts exposed, on May 26, 2008, this National Commission issued the Recommendation 21/2008, addressing the Minister of Federal Public Security, for him to order and perform the payment that is pertinent for the concept of amending the damages, according to the applicable legislation, for the damages caused to the petitioner by means of the unjustified illegal freedom deprivation he was victim of; also to take the pertinent measures with the purpose of supervising that the execution of prison sanctions of inmates who are under the custody of the Decentralized Administrative Body of Prevention and Social Readaptation of that Ministry are strictly applied to avoid violations to the inmates' human rights.

It was recommended to the Governor of Mexico City to order and perform the payment that is pertinent for the concept of amending the damages, according to the applicable legislation, for the damages caused to the petitioner by means of the unjustified illegal freedom deprivation he was victim of in the East Preventive Jail for Men of Mexico City; and also to involve the Justice General Attorney's Office of Mexico City to start the corresponding preliminary investigation on the conducts of the public officers of the East Preventive Jail for Men of Mexico City and the former General Direction of Prevention and Social Readaptation of the Government of Mexico City; to involve the corresponding Internal Auditing Body to start and determine an investigation to set the administrative liability in which the public officers of East Preventive Jail for Men of Mexico City and the former General Direction of Prevention and Social Readaptation of the Government of Mexico City could have incurred on the illegal retention and freedom deprivation that Mr. Luis Adrián Hernández Correa was victim of; and, finally, to take the pertinent measures with the purpose of supervising that the execution of prison sanctions of inmates of the federal order who are under the custody of the penitentiary facilities under the control of the Government of Mexico City are strictly applied to avoid violations to the inmates' human rights.

Recommendation 22/2008

May 30, 2008

Case: Case of A1

Addressed Authority: Constitutional Government of the State of Guerrero

On March 7, 2007, Q1 put in a complaint before the Commission of Defense of the Human Rights of the State of Guerrero, in which alleged violations to the Human Rights of A1 were manifested, caused in an operative in which elements of the Federal Preventive Police of the General Attorney's Office of the Republic, of the Public Security Ministry of the State of Guerrero, of the General Attorney's Office of that State, as well as the Mayor's Office of Zihuatanejo, in which A1 was killed and T1 was wounded.

From the analysis done to the evidence in the file, this National Commission could prove violations to the right to life against A1, and to the physical integrity of T1, as well as a faulty administration of justice, in establishing the presumption that the aggressor or aggressors transgressed article 16, first paragraph, of the Political Constitution of the Mexican United States, when they broke into the aggrieved's house and took his life within a distance of less than 75 centimeters, thus resulting evident the unnecessary use of fire arms, and failing to fulfill by this with the principle of proportionality included in the numeral 5th, sub-clause a), On the Basic Principles of the use of Force and Fire Arms by the Officers in Charge of Serving the Law, circumstance that resulted in a violation to A1's right to life.

Besides, violations to the rights to legality and juridical safety were proved. Such violations were caused by an irregular integration of the preliminary investigation and delay in the administration of justice, attributable to public officers of the General Attorney's Office of that State, when it was evident that the Public Prosecutor and the head of the Public Prosecutor's Office, both of the Common Power and appointed to the Judicial District of José Azueta in Zihuatanejo, Guerrero, with their omissions in the correct integration of the preliminary investigation AZUE/SC/01/0084/2007 violated these individual guaranties.

Therefore, on May 30, 2008, this National Commission issued the Recommendation 22/2008, addressing the Constitutional Governor of the State of Guerrero, in which it was requested to give instructions to amend the damage caused to A1's relatives who have the right, as a consequence of the institutional liability, in the terms of the considerations stated in the body of the Recommendation in question. It was also requested to give instructions to the Justice General Attorney of the State of Guerrero, in the use of his faculties, to order to whom it is relevant to give protection and personal security to Q1, T1 and to the minors, as victims of crime, in order to avoid the production of damages of difficult amendment. It was requested, as well, to give instructions to the Minister of Public Security and Citizen's Protection of the State of Guerrero to involve the competent Internal Auditing Body to start and determine, according to law, an administrative procedure against the elements of the State Preventive Police who participated in the operative where A1 died and T1 was injured, based on the considerations stated in the body of the Recommendation in question.

As well, it is requested to give instructions to the Justice General Attorney of the State of Guerrero to have the pending actions done as soon as possible, to clarify the facts in which A1 was killed in order to determine the liability of the public officers who participated in the facts involved in the preliminary investigation AZUE/SC/01/0084/2007, opened in the Public Prosecutor's Office of the Common Power in the Judicial District of José Azueta in Zihuatanejo, Guerrero, based on the considerations stated in the text of the Recommendation.

Likewise, it was requested to give instructions to the Justice General Attorney of the State of Guerrero to involve the competent Internal Auditing Body, in order to start and determine, according to law, an administrative procedure against the elements of the Ministerial Police who participated in the operative where A1 was killed and T1 was injured, based on the considerations stated in the Recommendation; it is requested to give instructions to the Justice General Attorney of the State of Guerrero to involve the competent Internal Auditing Body in order to start and determine, according to law, an administrative procedure against the auxiliary Public Prosecutor and the titular Public Prosecutor, both of the Common Jurisdiction appointed to the Judicial District of José Azueta in Zihuatanejo, in that State, who have had in their responsibility the integration of the preliminary investigation number AZUE/SC/01/0084/2007, based on the considerations stated in the body of this Recommendation. To give instructions to the Justice General Attorney of the State of Guerrero to involve the competent Internal Auditing Body, in order to start and determine, according to Law, an administrative procedure against the auxiliary Public Prosecutor and the titular Public Prosecutor, both of the Common Power appointed to the Judicial District of José Azueta in Zihuatanejo, for the actions in which they have incurred during the integration of the investigation pointed out heretofore; this based on in the considerations stated in the Recommendation. Finally, it is requested to give instructions to the Justice General Attorney of the State of Guerrero and to the Minister of Public Security and Citizen's Protection of the State of Guerrero to establish training courses to the elements of the Ministerial Police and of the State Preventive Police that guarantee the adequate public security and the respect to Human Rights, giving privilege to the use of non-violent measures in the performance of their functions.

## NATIONAL ISSUES

Last May 7, the National Commission and the National Institute of Statistics, Geography and Informatics (INEGI) signed a collaboration agreement, which will allow the elaboration of indicators in the matters of human rights and of gender as well as the incorporation of the CNDH in the National Statistics Registry.

The National Ombudsman, Dr. José Luis Soberanes Fernández, underlined that such indicators will clearly reflect the situation of the fundamental rights of people in Mexico, besides working as a tool to consolidate the positive work and to generate the changes in practices and norms that will allow the effective respect to the human rights in our country.

Along with the president of the INEGI, Gilberto Calvillo Vives, Dr. Soberanes Fernández highlighted the importance of the elaboration of indicators in the matter of human rights, whose lack has been pointed out to Mexico by diverse Committees of Human Rights Treaties of the UN.

"The collaboration that is held in the agreement signed today", he added "will contribute not only to the formulation of such indicators, but will accomplish the observations and recommendations of the bodies of treaties in the matter of human rights, an action which is directed to the fulfillment of the international treaties in which Mexico takes part."

Dr. Soberanes Fernández manifested that the incorporation of the CNDH to the National Statistic Registry clarifies the compromise and will of the National Commission with the transparency and the right to information, because, by means of statistics, it will give more diffusion to the information produced by the CNDH, to be consulted and used by the interested public.

The collaboration agreement between the INEGI and the CNDH is the document from which other cooperative works between both institutions will derive about specific topics as equality between women and men and people with disabilities, among others. It will allow that all the people who inhabit our country to have objective information, which works as a basis to make decisions allowing the consolidation of a culture of human rights in Mexico.

## INTERNATIONAL ISSUES

On May 29, in the Marist University of the city of Merida, Yucatan, the panel The future of Human Rights 60 Years after the Universal Declaration of Human Rights was held, with the participation of Dr. Javier Moctezuma Barragán, Executive Secretary of the CNDH, Dr. Guillermo Escobar Roca, Director of the Masters in Human Rights, State of Law and Democracy in Ibero America of the University of Alcalá, as well as Dr. José María Castellá Andreu, Professor of the University of Barcelona.

The event was directed by Mr. Jorge Victoria Maldonado, President of the State Commission of Human Rights of Yucatan. The Presidents of the State Commissions of Human Rights of Chiapas, Oaxaca and Veracruz also attended.

## DIRECTORY

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Second Visitor

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Third Visitor

Andrés Calero Aguilar

Fouth Visitor

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