

Religion & Democracy

A SPECIAL REPORT

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The Sanctuary Movement: A Time for Reappraisal

The Sanctuary movement has been gaining growing support among major U.S. denominational boards and agencies in recent months, calling us to the Biblical injunction not to oppress the stranger in our midst. It should not be surprising that many Christians and Jews have responded.

But there are some who believe that the sanctuary campaign is primarily a means to undermine U.S. opposition to Marxist-Leninist movements in Central America. These politicized sanctuary supporters are not on the fringes of the movement: they are at its very center. The principal sanctuary coordinating organization, the Chicago Religious Task Force on Central America declared in a December 1984 position paper that:

...some churches have declared themselves sanctuary and have done almost nothing to oppose U.S. military aid to Central America. We question whether this is adequate.... What is the value of a sanctuary church that continues its support (by silence, by vote or whatever) for U.S. policies in Central America?

The political agenda of such leaders of the sanctuary movement has so detoured the movement from Christian purposes that it now threatens not only to worsen the problems of Central Americans, but to further undermine the moral credibility of our churches.

Consider, for instance, the central argument of the movement: the assertion that an illegal alien about to be deported to El Salvador probably faces death upon his return. There is simply no proof that this is so.

El Salvador has been the second largest source of illegal aliens in the U.S., after Mexico, for the last thirty years. In 1979, before the beginning of guerrilla war, the number of Salvadoran illegal aliens in the U.S. was already approximately 350,000. By 1984, that number had increased to some 500,000.

Clearly, a large proportion of the illegal Salvadorans now in the United States were here before the onset of civil war. What do we know about the others? In fact, most Salvadoran illegal aliens apprehended by the INS opt for

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Felipe Escot, a featured speaker, denounces U.S. imperialism at the sanctuary symposium held in late January at the Temple Emanu-El in Tucson, AZ.

Photo by Elizabeth Mangelsdorf, Arizona Daily Star



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what is called voluntary departure, in which they post bail and arrange to return to El Salvador within six weeks in order to collect their money. In 1982 the number of Salvadoran voluntary departures (2,701) exceeded the number of deportees (2,127). Today the Congressional Research Service (CRS) of the Library of Congress estimates that "About 70% of the Salvadorans apprehended by INS return to El Salvador under a 'voluntary departure' agreement rather than a deportation order."

Even those Salvadorans who do apply for asylum after apprehension -- a growing number now -- freely cite economic considerations as a principal reason for coming here. These asylum applicants have overwhelmingly responded in the asylum questionnaire that they were not in any more jeopardy than anyone else in El Salvador.

Thus by self-admission these persons do not qualify as refugees under international law. The 1951 Geneva Convention on Refugees defines a refugee as someone who has a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion." A refugee must demonstrate membership in a group subject to persecution. It is not enough simply to be trying to escape generally unpleasant conditions in one's home country.

The assertion that Salvadorans who are sent back to El Salvador are in grave danger there has been repeated so often and with such a strong sense of urgency by church sanctuary activists that the absence of hard evidence sometimes goes unnoticed.

In 1982 the Chicago Religious Task Force's Basta! Sanctuary Organizer's Nuts & Bolts Supplement, No. 1, claimed Amnesty International as a source for the assertion that: "As of August 1982 ... 30% of all refugees forcibly returned to El Salvador from the US and Mexico have been tortured, maimed or murdered upon their return." But, this testimony was disclaimed in a letter of June 23, 1983 by Rona Ellen Weitz, Amnesty International's Area Coordinator for Latin America, who stated that "for the record, none of the facts or figures attributed to Amnesty International in the organizer's guide published by the Chicago Religious Task Force are accurate."

In 1983 the American Civil Liberties Union (ACLU) published a study which attempted to fill in the lack of documented evidence of abuses against Salvadoran returnees. This study was based on a comparison of the names of 8,500 deportees with a list of the names of 22,000 victims of human rights violations. The study took nine months but found only 113 "possible" matches among the names, and a mere 25 cases where, by the ACLU's own estimation, there was better than an average possibility of a match, i.e. 1/3 of 1% of the total. The ACLU could not actually establish a single positive identification between a deportee and a human rights victim. This study is still quoted as if it proved the sanctuary movement's case, while in fact it proves the opposite.

Unlike the ACLU, the State Department has conducted an "on the ground" investigation of what actually happens to deportees when they return to El Salvador. Of a random sample of 482 deportees, interviews conducted with the deportee or a close family member found only one case in which a deportee became a human rights victim. In that one case, the deportee was shot and killed back in 1981 by the guerrillas, apparently as a result of mistaken identity.

No Salvadoran human rights organization -- including even Tutela Legal, a favorite source for opponents of U.S. policy in El Salvador -- has reported any case of a deportee being killed since two deaths were reported in 1981. Moreover, the Geneva based Inter-government Committee for Migration (ICM), which provides resettlement services to every returnee to El Salvador, has found no cases of human rights abuses of the returnees.

Today the general level of violence resulting from the fighting in El Salvador is steadily abating. Out of a total population of 5 million, estimates of the number of civilian violent deaths in 1984 range from the 771 compiled from newspapers reports to Tutela Legal's high estimate of 2,024. Tutela Legal asserts that among its number, 205 were the victims of death squads, 55 were killed by guerrillas, and the rest were killed incidental to combat between the army and the guerrillas. But Tutela Legal has been criticized for counting dead guerrillas as civilians killed in combat, and the

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Sanctuary: A Look at Church Tradition

by Richard H. Feen

The use of churches as places of refuge for illegal aliens from war-torn Central America is rapidly gaining acceptance by the clergy and the lay community.

Some theologians have been eager to point out that the current practice of offering sanctuary to fugitives is a continuation of a Judeo-Christian tradition. In part, their justification is based upon the claim that they are simply observing a custom which can be traced back to the Old Testament and medieval canon law. In their eyes, sanctuary has always been of deep "religious-political significance." As one minister explained, since the earliest times, "God's law could be invoked . . . in opposition to civil law," (Sid L. Mohn, "Central American Refugees: The Search for Appropriate Responses," World Refugee Survey 1983, New York: American Council for Nationalities Service, p. 45).

It is therefore important to determine what really has been the historical usage of sanctuary by the church. Was it used as a challenge to civil authority? Could any fugitive from justice place himself under ecclesiastical protection? Only by examining both the form and substance of this ancient tradition can we judge whether these modern advocates of sanctuary are truly following the practice as it actually developed in the canonical codes of the church.

The legal basis for church sanctuary can be found in the Old Testament with the establishment of the Levitical cities of refuge for those guilty of involuntary homicide. The intention of this law was to rule out blood vengeance and similar forms of retribution. In order that the cycle of retaliation could be stopped and tribal unity maintained, the duty of vengeance by a murdered person's relatives was to be turned over exclusively to the highest authority -- God. Thus the priests, as God's surrogates, became arbitrators and protectors for those fleeing vengeance. This occurred not only in the ancient Near East but in the Greco-Roman world as well.

This article was adapted for Religion and Democracy from an article published in: Immigration Reform and Refugee Policy Development, Defense of the Alien, Vol VII, edited by L. Tomasi, Center for Migration Studies, New York: 1985.

By the late Middle Ages, with the growth of state power and the king's authority, royal edicts were conceived further to restrain this "license" of revenge and to limit the duration of feuds. Again, custom dictated that the clergy have a special role as intermediaries between criminals and those who desired vengeance. Thus the church became a recognized place of refuge for those involved in any number of crimes.

In general, one could seek sanctuary in any religious center, be it a church, monastery or abbey. In fact, a number of such places were specifically chartered by the crown for that purpose. However, not every type of criminal was permitted to go into sanctuary or, if he got in, was allowed to remain. Those excluded from the privilege were repeat offenders, heretics, sorcerers, those already convicted of an offense, and suspected or indicted traitors.

According to canon law (especially as formulated in England), those who arrived safely within the precincts of a sanctuary were expected to make a confession of their misdeeds to the ecclesiastical officials, surrender any weapons, and put themselves under the supervision of the religious leader. Depending upon the place of sanctuary, the fugitive might be required to wear religious garb and take part in daily activities such as the ringing of the bells and attendance at mass.

Contrary to contemporary beliefs about the practice of sanctuary, the fugitive was not given an indefinite period of time to remain on church grounds. Moreover, his future options were specifically circumscribed. Within a period of forty days, the individual had the choice either of taking an oath to "foreswear the realm" (i.e., forfeit all lands and goods and go into permanent exile), or surrendering to the king's authorities and standing trial. On the continent of Europe, as opposed to England, there existed the possibility (rarely exercised) of remaining and joining a religious order for the duration of one's life.

In regard to those who chose to turn themselves in to the civil authorities, the forty days offered the fugitive gave him time to contemplate his offense and prepare his case.

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Furthermore, the formal transfer from authority ecclesiastical to that of lay officials would take place under guard, thus keeping the defendant safe from any retribution by avenging parties.

With the Reformation in the 16th century came a critical questioning of the practice of sanctuary. The early leaders of the Reformation held the concept to be invalid because the physical structure of the church, as well as the clergy within, were thought to have no exclusive hold on holiness. Furthermore, the reformers usually sided with the Protestant princes in their fight to obtain supreme authority over their domains. The French king and other Catholic monarchs soon followed suit in abolishing sanctuary. If the least confidence in public order was to survive, they held, violent criminals could not be allowed to escape civil justice.

In order to accommodate these changing views, in 1591 Pope Gregory XIV issued a Papal

Bull which restructured the process of granting sanctuary. Henceforth, when a bishop received an application, the individual was to be taken out of sanctuary and placed in an episcopal prison until he could be tried by the ecclesiastical authorities for his crime. If the evidence gave reason for a guilty verdict, the accused was to be immediately handed over to the civil authorities for trial in the state's court. The Pope later eliminated the right of sanctuary for anyone whose acts resulted in a death, regardless of circumstances. By the late 17th century, the only persons who could seek sanctuary were debtors. A period of two months was established for the individual to "make grace," at which point the debtor would be expelled from sanctuary and given over to the mercy of his creditors.

Though sanctuary remained in the canonical code books of the Catholic Church, it was very rarely practiced from the 18th century onward. The use of churches as places of refuge for civilians fleeing the horrors of war did continue in the modern era, but the laws of warfare did not designate churches as places of safe haven

Bringing the Revolution Home. . . .

The first national inter-American symposium of the "sanctuary" movement, "From Fences to Friendship," was held on January 23-24 in Tucson, Arizona. This conference marked a new stage in the sanctuary movement, which for the first time is becoming more centralized and is broadening its appeal. At least 1300 people registered for the conference, but the total number of participants may have reached 1700. Further, the sanctuary movement has begun to use sympathy for the plight of refugees not merely to build opposition to U.S. Central American policy, but also to try to bring radical change to the United States.

The conference was sponsored by the Tucson Ecumenical Council's Task Force on Central America which, along with the Chicago Religious Task Force on Central America, have become de facto coordinators of the sanctuary movement. The conference also coincided with the trial of Texas church worker Jack Elder, who was recently convicted of transporting illegal Salvadoran aliens. Many of the sixteen other indicted sanctuary workers (including the Rev. John Fife of the Southside Presbyterian Church and Jim Corbett, who are credited with launching the sanctuary movement in 1982) are connected with the Tucson Ecumenical Council.

The following are highlights of the actual conference proceedings which, in the main, were not reported in the press.

The keynote speaker at the symposium was the familiar Rev. William Sloane Coffin Jr., of the Riverside Church in New York City. He argued that if the sanctuary movement reaches out to the poor in the U.S., especially blacks, it can help foster economic and social change in our own country. Coffin noted that a "successful revolution in Central America would not only bring economic and social change there, but also cast a few hopeful rays in our direction."

Yvonne Dilling, the director of Witness for Peace, the principal church support group for the Sandinistas, equated her work in the sanctuary movement with her previous work among Salvadoran refugees in Honduras. Dilling had worked with a refugee settlement which by her own estimate was in a "center of guerrilla activity."

Jim Wallis of Sojourners magazine and "Christian community" reported on his role as the National Director of the Emergency Response Network. The Network will undertake massive civil disobedience in the event of any

for the noncombatant population. Unfortunately, no international conventions on war have recognized churches as a refuge for the innocent.

It should be noted that in America, given the early separation of church and state, a law of sanctuary never existed. There was a brief attempt by isolated Protestant churches in the North to establish the "right of sanctuary" for escaped slaves from the South, but it was never officially recognized. Persons could seek refuge in a church, but the clergy had no formal power to refuse the entrance of public law officers to arrest runaway slaves. During the Vietnam War, draft resisters sought the protection of the churches but that, too, failed because there was no legal precedent for sanctuary.

From this brief review of the historical usage of sanctuary by the church, it is clear that the contemporary practice of sanctuary does not have its roots in ecclesiastical tradition. Sanctuary was never meant as a means of openly and defiantly challenging the policies of the civil

authorities. In addition, those seeking sanctuary were not encouraged by the clergy or their congregations. Furthermore, once a fugitive was inside church grounds, it was expected that he would resolve his uncertain status by either turning himself in to the king's officials to stand trial, or permanently leaving the country. Finally, sanctuary as a means of providing accused persons with a certain immunity from the state was a foreign practice and was never accepted in the United States.

Dr. Richard Harrow Feen did graduate work at the Fletcher School of Law and Diplomacy and Harvard Divinity School. He served as a University Chapel Associate at Tufts College, and was a staff member with responsibilities for ethical and human rights issues in the Office of Ambassador Eugene Douglas, United States Coordinator for Refugee Affairs. Dr. Feen is currently a broadcast journalist for the Voice of America in Washington, D.C.

escalation of U.S. military involvement in Central America primarily by occupying federal offices. The Network's Pledge of Resistance was distributed to all participants during the symposium.

Many of the panel discussions included a Salvadoran or Guatemalan refugee, usually wearing a bandana as a mask. Each of these refugees argued against U.S. policy in Central America and demonstrated a highly ideological understanding. One Salvadoran identified the sanctuary movement as the most effective challenge to the U.S. role in Central America. A Guatemalan army deserter said "sanctuary is a symbol of solidarity with us," in the struggle against "U.S. and Israeli imperialism."

Roberto Pineda of the Student Christian Movement of El Salvador also argued that "sanctuary creates a beautiful opportunity to work with us in building up a community... for our people to get united." His apparent goal is to make the refugee community in the U.S. an arena for radicalizing Salvadorans before their return to El Salvador.

Marta Benavides, a U.S.-educated Salvadoran who had worked for a church relief group in El Salvador until Archbishop Romero's assassina-

tion, asserted that in returning to the U.S.: "We from El Salvador are not here to make friends but to wage peace." She called for "revolutionary patience" in this effort. Ms. Benavides now works for the MEDEPAZ, an NCC related group based in Philadelphia that is involved in Central American solidarity work.

Phillip Wheaton, director of the NCC-related Ecumenical Program for Inter-American Communication and Action (EPICA) and the coordinator of the Washington, D.C. sanctuary group, reminded the participants that the struggle for sanctuary was not directed against a particular Administration but "an acquisitive system based on the maximization of profit...."

"This empire," Wheaton added, "is sucking the world dry of its wealth and resources." The sanctuary movement must seek "change in the fundamental economic priorities of the American system." The sanctuary movement is not "a goodwill gesture" but a way to force people "to ask basic questions about our way of life."

The open January 23-24 symposium was followed by a closed consultation on January 25 which only representatives of churches already engaged in sanctuary were allowed to attend.

— Kerry Ptacek

A Sanctuary Survey: Positions of the U.S. Denominational Boards

The Presbyterian Church (U.S.A.) recommends:

"That the General Assembly support congregations and individuals who provide sanctuary to asylum seekers as a way of showing Christian compassion for them and stressing the need for change in our government's policies and actions; and that other congregations be challenged seriously to take this stance."

"The Church and Asylum Seekers." Adopted by the 1983 General Assembly of the P.C. (U.S.A.)

The United Methodist Church:

"Therefore, be it resolved that the General Conference of the United Methodist Church strongly...Encourages congregations who take seriously the mandate to do justice and to resist the policy of the Immigration and

Naturalization Service by declaring their churches to be "sanctuaries" for refugees from El Salvador, Guatemala, and other areas of the Caribbean and Latin America."

"Assistance and Sanctuary for Central American Refugees." Adopted by 1984 General Conference.

The Christian Church (Disciples of Christ):

"The Department of Church in Society of the Division of Homeland Ministries ... stands with those congregations who seek to be true to their understanding of the faith by making the decision to provide sanctuary."

"Sanctuary for Central Americans: A Position Paper." September, 1984.

The American Lutheran Church:

"Resolved, that The American

Lutheran Church at its 1984 General Convention ... offer support and encouragement to congregations that have chosen to become refugee sanctuaries."

Resolution on "Central Americans in the United States."

The American Baptist Churches in the U.S.A.:

"Therefore, we commend to American Baptist churches the following: ... that we respect those churches that, responding to the leading of God's Spirit, are providing sanctuary for refugees fleeing certain suffering and death in Central America."

Resolution on "Central America," June 1984.

The United Church of Christ:

"Be it further resolved that the Fourteenth General Synod applauds those congregations granting sanctuary to El Salvadorans and Guatemalans, and encourages all our congregations to consider providing sanctuary until such time as extended voluntary departure status is granted."

Statement on "Sanctuary," General Synod, June 1983.

The Lutheran Immigration and Refugee Service of the Lutheran Council in the U.S.A.:

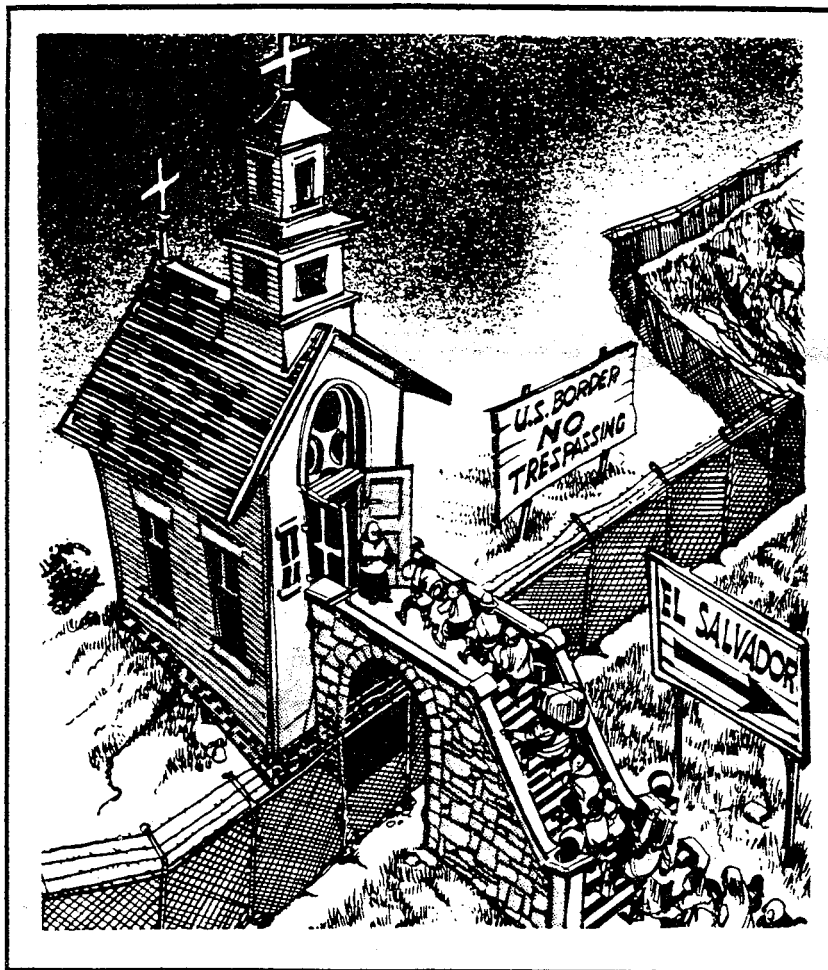
"Therefore, be it resolved that the ministry of congregations providing sanctuary to Central American refugees be affirmed by the Lutheran Council in the U.S.A. through its Department of Immigration and Refugee Services of its division of Mission and Ministry."

Resolution adopted by the Central American Concerns Program of the Lutheran Immigration and Refugee Service, March 1983.

The Rabbinical Assembly:

"The Rabbinical Assembly endorses the concept of sanctuary as provided by synagogues, churches, and other communities of faith in the United States."

1984 Convention of the Rabbinical Assembly.



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guerrilla practice of hiding in civilian homes and forcing civilians to act as supply carriers must also be weighed when evaluating the organization's figures.

But even if one accepts Tutela Legal's numbers, the 2,024 civilian victims in 1984 represent a decrease of more than half from the 5,142 reported in 1983. This decline is a product of the improving government control over the practices of the security forces and the firing of officers charged with abuses. The army has also shown greater skill in separating civilians used for cover from the guerrillas. Even Americas Watch, a critic of the U.S. Administration, has noted in its July, 1984 report that "death squads are virtually non-existent today." ~~Violence in El Salvador now is largely criminal -- not political -- save for that which occurs in military combat.~~ In some degree, this must be attributed to the success of U.S. military training and human rights policies.

These facts are apparently understood by the Salvadoran people. Most of those fleeing the civil disorder in El Salvador go to the regions of the country held by the army. According to U.S. government figures, in Fiscal Year 1984 they numbered at least 400,000. This is seven times the number of Salvadorans who fled to camps outside El Salvador, including 20,000 in Honduras, 18,000 in Costa Rica, 17,500 in Nicaragua, 3,500 in Mexico, and 2,000 in Belize. And only a small portion of these would claim they were fleeing from the Salvadoran authorities.

While many Salvadorans have fled the areas affected by the guerrilla war, more have left El Salvador because of the decline in the economy caused by the armed struggle. This economic crisis worsened when the guerrillas, unable to defeat the army in the field, turned their war against the economy, deliberately targeting warehouses, bridges, coffee farms, and power stations. (Ironically, some church-based opponents of U.S. policy in El Salvador carry out their own version of what Archbishop Rivera y Damas calls the "War of the Empty Table" by pressing for a boycott of Salvadoran coffee.)

But the growing ability of the Salvadoran army to maintain stability has now begun to produce an improvement in the economy. According to The Washington Post (February 11, 1985), the Salvadoran economy stabilized in 1983 and posted real growth in 1984. There are already indications that this economic revival is slowing migration to the U.S.

But there are still many thousands of Salvadorans who come illegally to the United States, and feeling grows among many of our citizens that we are becoming a nation which has no real borders, and therefore no effective government. Many who favor more liberal U.S. immigration policies agree that whatever those policies are, they must be established by law and effectively enforced. Christians and Jews who blur the distinction between authentic asylum-seekers and economic refugees contribute to undermining our government's policy of granting political asylum. This policy has not always

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been honored, as the shameful treatment of Jewish refugees in World War II reminds us. Those who are abusing the concept of political asylum in order to "destabilize" our foreign policy may again turn public opinion against the American tradition of granting haven to the victims of political persecution.

At present, any illegal alien is allowed to apply for asylum and to remain in the United States while his case is being heard. The INS, the State Department, the immigration judges, the Board of Immigration Appeals and the U.S. District Courts are obliged to guarantee his rights until his case is decided. U.S. immigration law, far from deserving attacks from churches, has permitted our country in recent years to accept for permanent resettlement more refugees than all of the other Western countries combined.

Under U.S. law Christians and Jews are not prevented from helping illegal aliens. An editorial in The Washington Post clarifies this important point:

Leaders of the sanctuary movement are embarked on a heavily political mission. They seek to do more than shelter and feed Salvadoran refugees, which would not violate any American law. Instead, by organizing thousand-mile caravans and calling press conferences, they publicize the fact that they are transporting undocumented aliens in furtherance of their evasion of the immigration laws, and that is a violation.

It is clear that the plight of illegal aliens in the United States is a painful one, and surely our churches should maintain special ministries to aid them. But the sanctuary movement is becoming a cause which exploits these vulnerable people for political ends which are not good, either for Salvadorans or Americans.



This husky hero of socialist realism appears on the cover of the Chicago Religious Task Force's sanctuary manual. For the public, the iconography is usually more appealing.

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