



*Diretu ba ema hotu no Ema hotu iha diretu
(Every body has rights and rights are for all)*

***This is an edited version of HAK Association's Report on the
Human Rights Situation in Covalima and Bobonaro Districts of Timor-Leste***

15 February 2010

Excellency
Mr. Kay Rala Xanana Gusmao
Prime Minister – IV Constitutional Government
Democratic Republic of Timor-Leste

CC: Copies of this letter also sent to:

1. His Excellency President of the Republic, Dr. José Ramos-Horta
2. His Excellency President of the National Parliament, Mr. Fernando “Lasama” de Araujo
3. Excellencies Chiefs of Parliament Party Benches
4. Her Excellency Minister of Social Solidarity, Ms. Maria Domingas Fernandes Alves
5. His Excellency Secretary of State for Security, Mr. Francisco Guterres
6. His Excellency Secretary of State for Defense, Mr. Julio Tomas Pinto
7. Her Excellency Prosecutor General RDTL, Ms. Ana Pesoa
8. His Excellency General Commander of the PNTL, Mr. Longuinhos Monteiro
9. His Excellency Commander F-FDTL, Major General Taur Matan Ruak
10. Public via media

Subject: Human Rights Situation in Covalima and Bobonaro

Excellency Prime Minister,

Many people are surprised by and focused on the situation in Bobonaro and Covalima Districts regarding the PNTL operation led directly by the General Commander Mr. Longuinhos Monteiro against “ninja” groups, as recently publicized in the mass media.

As a human rights organization we are concerned about the situation in these two districts, particularly about the right of the population to live in security. The right to live in security is a human right, and it is an obligation of the responsible organs of the state, especially the National Police of Timor-Leste (PNTL), to guarantee the people actually live in security. We may consider the reaction of the PNTL in attending to the situation as an obligation of the state to uphold people's rights. To insure the actions of the PNTL

actually do restore the population's right to security and to prevent a contrary situation, our organization sent an observer team to the two districts. Our team has gathered information from community authorities and local government, some victims, suspects, community members, and from direct observation of the situation where "ninja" threats might exist. Based on our observations, we urge immediate attention by the responsible authorities to prevent a worsening situation and further human rights violations.

1. Rumors About "Ninja"

According to information in the media (several newspapers and TVTL), a group called "ninja" are intimidating people in Bobonaro and Covalima Districts. The tendency is to associate the "ninja" with an organized crime group that is systematically intimidating the population in the two districts, especially because of the distortion of information from some of the media that is twisting the facts to portray "the operation of the ninja group as engaged in sexual assault and that it has already resulted in two murder victims."

The unforgotten experience of intimidation from pro-Indonesian militia groups in 1999 and the horizontal confrontations based on "east – west" rumors in 2006 – 2007 makes for a population that is easily panicked, and even more so when the PNTL is present and mobilized within the communities in green uniforms with heavy weaponry. [Previously police uniforms were blue.]

According to the observations of HAK's team, due to the increased focus and police activity there, the population feels that the "ninja group" is a "big monster." The people and some of the authorities the team met spoke about criminal acts against some of the population, such as throwing rocks at their houses at night or assaults to steal personal belongings, but they said this criminal behavior is not organized crime – especially not with the political motivation as in 1999 or 2006. These events are only incidents, and there is no relationship between the incidents in one place to those in another location. Groups such as CPD-RDTL (Popular Council for the Defense of the Democratic Republic of Timor-Leste) or "bua-malus" (betel nut) exist in some places in these two districts, and at times they have attitudes that are uncomfortable or irritating to some of the population. However the activities of these two groups do not display tendencies of an organized movement systematically intimidating the whole population. According to some community authorities, sometimes the incidents are due to personal problems, including poverty, but also because of a lack of information about how to address problems through legal mechanisms.

On one hand, some PNTL authorities are surprised by the operation "to combat ninja". According to them, they have not yet received any complaints that indicate large groups of organized crime. Their recent experience is of usual criminality, and the PNTL in the two districts succeeded in arresting the suspects and bringing them before the court. However, after the court applied restrictive measures that were not severe (*Proof of Identity and Residence or TIR*), and the investigation of the suspects stopped, it is no longer the responsibility of the district PNTL, but part of the responsibility of the Office of the Prosecutor General to lead the investigation.

On the other hand, one PNTL member lamented that at times they receive arbitrary orders or plans from their superior to detain individuals identified as CPD-RDTL members, which they follow. But when

they take those detained to court, the suspects are released due to a lack of evidence. Some of these people have been repeatedly arrested by PNTL, and are very vulnerable to being tagged as suspects for political motives. For example, one CPD-RDTL member with the initials OR who lives in Covalima District has been repeatedly detained by the police. If there is an incident the police arrest him, but he has never been convicted of any crime. Most recently, the PNTL detained him at 11:15 at night on 30 January 2010. They took him from his home and locked him up in the police detention facility in Suai. The police said that they detained OR because they suspected he is a “ninja” and asked him clarify which of his CPD-RDTL members are “ninja”. The police did not have sufficiently strong evidence for their accusation that OR is a “ninja” and he was released at 3:00 in the afternoon on 31 January 2010. OR’s experience is not new; he has also been a victim of similar police behavior during the previous government. He was arrested several times by a “special” police group from Dili that had orders directly from former Interior Minister Mr. RTL.

According to information gathered by HAK’s observer team, the PNTL operation had arrested 20 people by 5 February 2010. Four days later, on 9 February 2010, the PNTL General Commander Mr. Longuinhos Monteiro declared on TVTL that the PNTL had already arrested 40 people. The PNTL brought the first 20 suspects detained to court. They were released under the restrictive measure TIR, which means that there is not sufficiently strong evidence that the suspects committed the action that the PNTL and Prosecutor accused them of (involvement in “ninja” action).

Community authorities and some public servants in the two districts complained that the rumor about “ninja” originates from national politicians or some national authorities in order to provoke social tensions such as discrimination based on stigmatizing one group to generate additional infractions. Local authorities and some members of the population told our team that they believe the rumors about “ninja” have some relation with political interests or with the municipal elections scheduled for later this year. Therefore HAK perceives that the rumors about “ninja” may be spread by some irresponsible people for political purposes, as there are no facts that verify the existence of “ninja” activity as organized crime.

2. Criminal Cases Being Considered as “Ninja” Activity

According to information released by some media, the “ninja” activity has already resulted in several victims from three cases that occurred in Bobonaro and Covalima Districts; the homicides of a young woman in village Atus, Lolotoe Sub-district and of a boy in the village of Oges, Suai Sub-district, as well as the discovery of the bones of a corpse in Lepo, Zumalai.

According to the information gathered by HAK’s team:

- The homicide of a young women of 15 years in the community Galitas 1, village of Atus, Lolotoe Sub-district that occurred on 22 December 2009 was not committed by “ninja.” According to PNTL authorities in Bobonaro the principle suspect is the former neighborhood chief (xefe aldeia) who the PNTL already arrested on 29 January 2010 based on a complaint by the victim’s father (the new neighborhood chief), together with one other suspect. The two suspects are already in Becora Prison. The motivation behind this incident is a private problem and political party rivalry. The former neighborhood chief is the coordinator of the opposition party and the new neighborhood chief is a supporter of a party of the current government. The facts of the case

demonstrate no relationship to “ninja” operations, but a strong indication unhealthy election competition among community leaders resulted in the suspect murdering the victim. It is a case of homicide, but not a homicide by an organized group.

- The homicide of a one and a half year old boy in the village of Oges in Suai Town on 19 January 2010, who disappeared. His mother and father looked but could not find him until the following day. On 20 January 2010 the family found the child’s body in their water tank. The police believe the suspect is a family member, but until now no suspect has been identified. Therefore, this case does not corroborate any relationship to “ninja” activity.
- Regarding the image of bones portrayed on TVTL, together with the images of the PNTL operation in Suai that attempted to show the sadism of the “ninja.” The bones the police discovered in Lepo, Zumalai Sub-district, are not from a body that is recently deceased; rather the Police believe they are from someone who died ten or more years ago. The PNTL arrested someone crazy (mentally abnormal) named “Agus” in the market of Suai Town as the suspect in the case of the discovered bones. He resides in the community of Dais/Pelekasa in the Sub-district of Suai Town.

The information gathered by HAK’s team reveals that there are no facts to demonstrate that these crimes were committed by “ninja” or organized criminal groups. Some of the suspects in the cases have already been identified and are being investigated, and there is no indication that the criminal acts are related to one another or were committed by an organized group. Therefore the information spread by some authorities in the media regarding the events related to these cases as being the result of “ninja” action have no grounds, or we can say is false information.

3. The Effects of the PNTL Operation “Combat Ninja”

According to information from mass media the objective of the PNTL operation to combat “ninja” in Covalima and Bobonaro Districts, led directly by the General Commander Mr. Longuinhos Monteiro, is to restore security. But the “special” PNTL commando operation’s militaristic approach, rather than one of policing, resulted in a situation of more insecurity and had a negative effect on human rights. According to HAK’s observation team, the presence of the “special” PNTL commandos in the area of operations has, in general, had the effect that the population is afraid to leave their homes.

Some people, including victims (people illegally detained and mistreated by the police), reported the operation of the “PNTL special commandos,” besides creating fear, causes them to limit their movement, including activities to sustain their livelihoods such as tending to their fields, going to the market, collecting water, tending their animals, etc.

In the village of Tas-Hilin, Zumalai Sub-district, the population told HAK’s team that they are staying at home because they are afraid of what they hear about the “ninja operation” that aims to rape people – especially children and women. In addition the population is afraid because the police restrict their movement, especially at night. In the village of Rai-Halik, the people report that most recently at night they are very afraid of police movement, walking and circling people’s homes from 8:00 at night to 6:00 in the morning, saying that they are looking for “ninja”. When the police are unsuccessful in finding “ninja”, they get angry with the population and claim that the people are hiding “ninja” or that some of the population are acting as *intelligence* (spies) for “ninja”.

According to what the Beco village chief, Zumalai Sub-district, told HAK's team, in general the situation in his village is normal, however recently he heard from the population about the "ninja" issue and some said that at night there is rock throwing on some people's homes. But he has not personally seen "ninja" and has not received any specific complaints from the population.

Even more ironically, some of the population in these two places said that they were previously not as afraid as they now, although there were some criminal incidents and the groups CPD-RDTL or "bua-malus" are present. However, with the PNTL Commando Operation in their midst, they are more afraid and cannot sleep well at night because they constantly hear movement of the "special" police walking among their houses. Now they feel as if there is about to be a "big war" due to the police in green military style uniforms with heavy weaponry moving up and down night and day; it disrupts their sleep. The Tas-Hilin village chief complained that after the PNTL "special" commando operation started (22 January 2010) two people's houses were burned in the middle of the day on 25 and 27 January 2010, at approximately 10:00 or 11:00. The police investigated the incidents but have not reached any conclusion.

According to a woman with the initials MJ, more than 35 years old, living in Salele, Tilomar Sub-district, on 1 February 2010 at about 1 a.m. PNTL members of the operation knocked on her door asking if there were "ninja" inside. Because she was afraid these police would return, at 4:00 in the morning she ran to another family member's home to sleep. Similarly, a married man with the initials CS, also more than 35 years old and living in Salele, said that on the same day about 1:00 in the middle of the night, police in the operation ordered him to open his door and called him outside to ask about "ninja". Because CS said that he did not know, the police punched him several times in the stomach and chest, and threw him to the ground. Finally the police just walked off.

The attitude of some of the police in the operation also causes people to be afraid to move around during the day. According to some people in Suai Town, the police sometimes create *check-points* to request people's electoral cards. If someone does not show their electoral card, the police suspect them as "ninja" or being a member of a political organization opposed to the state (CPD-RDTL or "bua-malus"). If the police find an "illegal" card, they immediately detain or arrest the person carrying it. The latest information HAK's team received from some people last Thursday, 11 February, is that PNTL was setting up *check-points* to inquire who were supporters of the deceased former Major Alfredo Reinaldo.

In Salele, some people said that in addition to requesting to see people's electoral cards during the day, members of the PNTL operation were engaged in "an operation against people with long hair." Police required men with long hair to cut their hair short and used sharp words like, "you have long hair because you still hide in the jungle and want to continue the war, hey? Are you ninja? etc." One older man in Salele sadly told to HAK's team, "this behavior (cutting someone's long hair) is what the Laksaur Militia and TNI [Indonesian National Military] used to do when they cut young people's hair at the Mota Masin Bridge. Why are we now repeating this behavior with our own people? When will our poor people be able to live in security?"

These PNTL *check-points* are beginning to generate other abuses of power from some community authorities. The Matai village chief, Suai Town Sub-district, proudly told HAK's team that he sent the

police to detain someone living illegally in his village last week. The person, Ernesto, 45-50 years old, fled from Oecusse in 2009 and settled in Suai. The village chief said that he sent the police to detain the man because he did not report himself to the village chief, and thus considered him to reside illegally in the village.

The more serious situation relates to the suspects detained by the police. HAK's team unsuccessfully attempted to assess their situation in the police detention facilities because they had all been freed. The team was not given access to the "urgent" detention cell of the PNTL Commando Operation in Salele, Covalima District. HAK's team was only able to meet one of the suspects in the murder case of the 15 year old girl from Atus, Lolotoe in Becora Prison; and from the other suspects the team only managed to find three people at their homes in Covalima.

According to the suspects, or victims (of criminal behavior by the PNTL) that HAK's team spoke to, they were mistreated by members of the police when they were arrested and when the police detained them in the cell – particularly in the "urgent" detention cell of the PNTL Commando Operation in Salele. According to the three victims with the initials CP, RP and AB who reside in a village belonging to Zumalai, the police arrested them in the middle of the day, between 11:00 and 12:00 on 25 January 2010. The police went to their homes and sent their wives to call them from the fields where they were working. When they arrived home the police immediately took them to the police station, without showing them an arrest warrant from the court. The three victims were first detained at the "special" Commando Operation in Salele for one night. While in the "urgent" cell there they were mistreated or tortured by police; beaten, kicked in the chest and back and rammed in the back with the butt of a rifle. On 26 January 2010 the police moved them to the detention cell at the police station in Suai, and only on 28 January 2010 took them to court. The judge applied restrictive measures, TIR or conditional release, and they have to appear at the Suai police station three times a week for five months. They still suffer heavily from the mistreatment or torture they experienced from the police, and had to seek medical treatment at the hospital. All three are still not well, and thus unable to work their fields.

The suspect in the "Atus-Lolotoe" case (homicide of a young woman of 15 years) told HAK's team that when he was arrested on 29 January 2010, the Bobonaro PNTL handed him over to the PNTL Commando Operation in Suai. He was detained in the police cell in Suai, and while he was there he was mistreated by the police. In addition to the mistreatment in the police cell, he received other treatment in a cell outside. He informed us that the police took him from the cell to a place in Suai Loro and put him in a hole in the ground; the police pointed a gun at him to threaten him, and forced him to declare that he was a "ninja" and that he killed the girl. Because he refused, the police took him and made him stand in the sea for several hours.

HAK's Concerns

Based on the information HAK's team has gathered, we are very concerned about the current situation in Bobonaro and Covalima Districts, including:

1. The PNTL Operation to combat "ninja" in Bobonaro and Covalima Districts, begun on 22 January 2010 and continuing to today, has a militaristic approach not one of policing (to maintain law and order). In addition it has no legal basis (does not follow constitutional rules

and laws that govern the PNTL), and has already produced human rights violations and had negative effects on the community. According to the law, PNTL is responsible to enforce the law to keep public order not to engage in extended military style operations without authorization of the proper authorities. According to Article 9 of the Constitution of the Democratic Republic of Timor-Leste (RDTL) and Law No. 3/2008 (Regulation for State of Siege and Emergency) the security and defense forces can only engage in an operation involving the mobilization of large numbers of their members in extraordinary circumstances. When PNTL began the operation to combat “ninja”, led directly by General Commander Mr. Longuinhos Monteiro, the proper sovereign organs had not declared a *State of Exception* (emergency or state of siege). We consider the PNTL action in violation of the constitution and law. It sets a bad precedent for the future, in that the authorities may again engage in mobilizations according to their desires or interests without adhering to the legal mechanisms they are required to follow. This PNTL Operation does not contribute to the process of strengthening the principle of the rule of law consecrated in Article 1 of the RDTL Constitution.

2. The IV Constitutional Government of RDTL declared that in reforming the PNTL, after it fell apart in the 2006 crisis, it would prioritize the development of community policing (not just a community police unit but a national police force that works with the community to prevent and combat crime) so that the PNTL could gain or win back public confidence. Thus the various special units (UIR, UPF and URP) established by the previous government were transformed into the Public Order Battalion based on the concept that they are the last recourse of any police intervention with a specific mission as a *rescue team*. From a human rights perspective, a *rescue team* operation or rapid intervention can be effective in some circumstances when regular police units are unable to resolve the situation, and when force is used as a last resort to maintain law and order to protect the human rights of another person in the scope of an incident. The mobilization of the unit should only be for quick actions or for a short time, not a long operation – dominated by a military character or that of an infantry operation. In reality, there has not been significant development of community police, thus PNTL capacity in the districts remains unchanged. Efforts to prevent crime are not advancing; similarly, efforts to detain actual perpetrators are weak. That is why the suspects the PNTL detains and brings before the court most often receive only restrictive measures categorized by insufficient evidence (TIR). The PNTL operation in the two districts, with members of the Public Order Battalion, demonstrates a lack of conformity or consistency with government policy on PNTL reform. The consequence, besides creating confusion between the role of the military and the role of the police (to maintain law and order), is human rights violations and other social problems such as those that are currently occurring in the two districts.
3. The extended PNTL operation of the “special unit” in the two districts demonstrates ongoing legal infractions by PNTL members in which they also commit the human rights violations described above. The human rights violations are not just violations *by commission* (incidents in violation of the law or abuse of power) but also acts *of omission* (abandoning or acts neglecting to follow the law). According to HAK’s team, local PNTL members did not react quickly to the two criminal cases of homicide or immediately investigate or detain the suspects, with the intention of leaving the population to develop suspicions that finally evolved into rumors of “ninja”. The “ninja” rumors were then used to justify the “special” PNTL operation led by the General Commander Mr. Longuinhos Monteiro. The consequence is human rights violations resulting from actions taken *by commission* such as detaining people without a court order, torture or ill treatment, forcing people to cut their hair, and persecuting members of some organizations, etc.

4. Special police units for the use of force in quick interventions exist in many countries around the world. For example, the unit Detachment 88 in Indonesia conceptually intervenes with a character very different from the special police units during the Soeharto Regime, that of a special police unit that must follow the doctrine that it serves a democratic regime, not with the doctrine of a military dictatorship. This special police unit must function with a mission to maintain law and public order, not like what is currently occurring in Bobonaro and Covalima Districts which is a special police operation that doesn't enforce the law, but violates the law and consequently provokes public disorder not public order (people not respecting the law). Behavior such as forcing people to cut their hair, detaining people without electoral cards, forcing members of political organizations to "surrender" and detaining people who don't report to the village chief are incidents of public disorder. Unfortunately, these attitudes and behaviors repeat what occurred during the Indonesian occupation and further traumatize the population, who then begin to question the significance and meaning of self-determination, and ask "what is the difference from life under Indonesian occupation?"
5. As well as physically injuring some people (torture, mistreatment, etc.), abuse of power (criminal acts) by some members of the "special" PNTL in Bobonaro and Covalima Districts as described above also provokes people (accusing people of being "ninja", swearing, using abusive language or reprimanding people). The situation is very counter-productive to the government's intention to reform PNTL to gain the confidence of people. When the police cause people to suffer or endure hardship, it makes it difficult for them to gain people's confidence and trust that the PNTL as an institution can guarantee their rights to security and justice. Therefore to regain confidence of the people, it is necessary for the Timor-Leste State to take steps to remedy the situation for the victims of violations who:
 - o Feel afraid or have shut themselves in their homes due to "ninja" rumors, and are not sleeping peacefully; who during the day limit their activities such tending to their crops, marketing and collecting water; and, for children, going to school. The PNTL operation is causing people to be more afraid and stay at home.
 - o In addition to physical suffering from torture or mistreatment by police, face discrimination from the "ninja" stigmatization. People who are suspected of being "ninja" face discrimination that limits their ability to enjoy their economic, social and cultural rights. They find it difficult to access social services because of the perception that "ninja" is a group of "bad people".
 - o Suffered torture or intimidation. Some victims still suffer physically such that they are not able to work or seek their livelihoods. The families of the victims thus live under even poorer circumstances because the husband cannot farm or trade. Additionally they may go into debt to pay for medical treatment.
 - o Apart from all of this, some people associated with a few groups or some opposition political parties have been defamed through *trail by the press*. As regulated by law, only a judge has the competency to decide if someone has committed a crime or not. All entities must respect the presumption of innocence as consecrated in Article 34 of the Constitution, until a judge issues a verdict. However, what is happening in the two districts is that although the people received only the restrictive measure TIR from the court (insufficient evidence for the charges), when they return to their communities they are confronted with suspicion from others. Some people said that the operation to combat "ninja" is a means to intimidate members or sympathizers of some parties from affiliating with it, in relation to the upcoming municipal elections. While there is not

strong evidence to back this up, it merits attention from the authorities if we want to develop a real democracy in Timor-Leste.

HAK's Recommendations

According to the RDTL Constitution, PNTL, as an institution of the state, is responsible for security. This security is consecrated as a human right in Article 30 of the constitution. The law also gives PNTL the competency to use force to make people comply with the law in order maintain public order. It regulates the use of force through procedures and requires it be proportional; the law does not permit arbitrary use of force. Because the use of force is the last recourse, the intention is to protect human rights not to violate human rights.

Current policy on the use of force in circumstances or operations of the security and defense forces requires transparency to assure accountability. Transparency means clearly defining the deployment of force in a manner consistent with the law, who will be involved, the limits or approach to be employed, the coordination and decision making mechanisms during the deployment, etc. The operational policy must be clear in order to assure accountability. If the operational policy is unclear, individuals may take advantage of the situation to abuse their power and there is no accountability.

Therefore, to avoid a worsening human rights situation or increased suffering of the people in Bobonaro and Covalima Districts, and at the same to prevent a similar occurrence in the future, HAK recommends:

1. The responsible organs for the security sector quickly examine the policy for the “special PNTL” operation to combat “ninja” currently underway in Bobonaro and Covalima Districts. Is it necessary to undertake an operation with police force characteristic of the military, and particularly an operation extended for six months that includes Falintil-Defense Force of Timor-Leste (F-FDTL)? Does the situation in the two districts meet the criteria for it to be declared a *State of Exception*? Who authorized it and who is responsible for it? If there are irregularities or illegalities, the authorities who authorized the operation must receive some sanction (administrative, criminal or political), because there are already victims.
2. The responsible organs quickly revise the Plan for PNTL Reform in order to assure conformity and consistency between the plan and its implementation, including addressing the establishment of a “special” PNTL unit with a military character or attributes.
3. National Parliament uses its competency of legislative supervision according to Article 92 of the RDTL Constitution to supervise the executive organs, especially how the PNTL enforces the laws that the National Parliament has passed and the decree laws authorized by the government. As a state that has adopted the rule of law, oversight of the implementation of the laws is crucial to prevent executive abuse of power.
4. The responsible bodies (PNTL Justice Unit or Prosecutor) take measures as required by law to strengthen the integrity of PNTL as an institution, and use appropriate means (administrative and criminal) to hold individual members of the PNTL “special” commando operation responsible for their violations of human rights or criminal behavior in handling suspects or people in Bobonaro and Covalima Districts. PNTL members who committed acts of omission (abandoning their duties), which resulted in the “ninja” rumors spreading in the two districts must also be held accountable. These measures are important not just to consolidate public confidence, but also to demonstrate to the people that the mission of the institution is to

maintain and implement the law, not to violate it. Individual PNTL members committed crimes or abused their power; the whole institution is not responsible. These measures are important to separate individual responsibility (criminal) from administrative responsibility or institutional policy.

5. The Ministry of Social Solidarity (MSS) provides assistance to the people who suffered as a result of the “special” PNTL operation in the two districts. These measures are important to help the population that has been impoverished as a result of the operation because they couldn’t work or were mistreated.
6. Future government or state implementation of extraordinary operations by the security and defense forces requires increased investigative capacity in the Prosecutor’s Office so that they have the capacity to handle the suspects that are detained by the security forces and thus avoid human rights violations.
7. All entities reflect on our history and long suffering during the Indonesian occupation, so that the fundamental spirit for the development policy for the institutions of PNTL and F-FDTL can truly be that these entities serve the people, not the power interests of a few individuals.

That is the extent of our concerns and suggestions about the situation resulting from the “special” PNTL operation in Bobonaro and Covalima Districts. We await your positive reply, measures to save and to guarantee the PNTL will be an institution that Timorese citizens can be proud of! We thank you for your attention to this matter.

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