

## ***Property, Possession and Conflict in Re/Building Settlement***

### ***Relevance***

In a world in which there is an increasing need as a result of both local and regional conflicts both to rebuild or build anew settlements torn apart by conflict and build new settlements, settlements that often are beset by significant poverty also as a result of conflict, it is vital to create the basis for durable development by providing a sustainable physical place and a socially and economically viable community. To do this, it is critical to provide the basis for creating social relations that provide access to resources, to social assets, strong community organization and the ability to involve oneself in and become committed to one's settlement. This implies that there are appropriate forms of access to shelter, to land and to other critical resources.

(Satterthwaite) Access to shelter and land in turn requires that that various forms of ownership and use rights be allocated to members of the settlement. This of course means that access is based on appropriate forms of possession that assures that account is taken of the many and varied meanings and ways of constituting property. Without this, building and rebuilding settlements may create little in the way of a sustainable economy, may foster a sense of ennui and lack of involvement in and commitment to the community and even create or exacerbate conflict. (Cf. Davis) In essence, appropriate forms of property relations are crucial to the remediation of vulnerabilities that is fundamental to successful poverty alleviation and critical in post-conflict interventions. *Thus, we propose to examine the meanings and forms of property and to explore their implications for and impacts on the physical and social development and making of settlements particularly in situations of post-conflict*

Development, particularly that related to settlement, is often immersed in or a response to conflict<sup>1</sup> (Hasic 2004, Skotte 2004) This conflict can take many forms: it can be a local difference over land claims; it may result from the demands of resettlement that results from the politics that are associated with the development process itself; and it may be the result of the need for development as a result of regional and international conflicts among other possibilities.<sup>2</sup>

The challenges involved with rebuilding settlements and in turn the communities associated with these settlements in situations of ongoing conflicts and more critically in post-conflict situations have become a critical component of development in many countries and, indeed, regions of the world e.g. the Balkans, and much of Africa, among others. Yet, as is clear from recent reports that have emanated from post-conflict resettlement efforts, the process can aptly be described as "a mess." (Skotte 2004) In material terms this is often obvious. Less obvious is the effect of conflict on the web of social contracts; contracts that centrally involve claims about property. It is these claims that make resettlement such a complex challenge.

For international donors, national governments (particularly Norway deeply involved in helping to fund the rebuilding of settlements and resettling refugees & IDP's) and local communities the problem is not only how to overcome conflict but how to reduce the economic, social and cultural vulnerabilities that threaten the process of rebuilding and in turn development particularly when dealing with poverty. Such vulnerabilities refer to challenges associated with providing the appropriate forms of housing and sustainable settlement design; distributing land and buildings in a manner that will not lead to further conflicts as a result of competing claims or as a result of undercutting or destroying the social relationships within the settlement; and,

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<sup>1</sup> Although our study focuses on the developing world, these issues even have significance in Norway see for example Swensen 1998.

<sup>2</sup> For a discussion of different types of conflicts see Feierabend 1972, Hoffman in press

dealing with the potential for competing claims of legitimacy and authority for making decisions about settlement rebuilding among others.

Without addressing such vulnerabilities it is more than conceivable that conflicts and instability may once again become destructive aspects of settlement life. At the same time, those attempting to rebuild settlements need to address how to best find ways to secure the social relationships and social capital so crucial to erecting secure economic and political institutions and practices without which the settlement will degenerate into various states of poverty. Rebuilding, it has been known for many years is not fully encompassed in the physical output – houses, infrastructure etc. – but is very much a product of “the ways and means by which they are sponsored, designed, built, used and maintained.” (Turner 1972:161) And notions of use, sponsorship, maintenance and design are very profoundly shaped by how we understand and deploy various notions of property. It is of great importance in our case because today the formalization of property rights advocated by de Soto (1989, 2000) and others (Sachs) is an important influence on current development policies in Norway and elsewhere and is a position that advocates one fetishized social relation, one definition of property and argues that this should universally guide development practice. This notion is questionable at best because of its potential overall effects on social and spatial practices.

Notions about property encompass a whole potential range of understandings and claims about who is a legitimate stakeholder, the nature of claims to resources and land as well as assertions about who may enter into the decision making process and even discussion. Thus if we are to design particular policies that effectively and sustainably rebuild and resettle people in post-conflict situations it is crucial that we understand just how property relations work, and the effects that different forms of property shape social relations and the building of community.

However, while there are studies (Ward, Baross& Linden) that look at the issue of property in terms of the overall ethnography of various communities, there is little that examines the specific relationship between forms of property to the making and rebuilding of settlements. And, while there is research on the morphology and form of shelter and settlements and how this can affect rebuilding (Hamdi, Skotte), there is however little on the way property relations affect and are affected form and morphology; particularly in settlements housing the poor. This is why the exploration of the forms that property takes and its implications for the success of rebuilding or resettling those affected by conflict is so critical.

### **Approach**

The project has developed as a result of long involvement of the key researchers with issues relating to resettlement that result from conflict especially in areas where this has resulted in significant poverty. Our concern emanates from our frustration at the debates about how to best formulate a strategy for allocating shelter and land to those who have been resettled or who have had to find ways to rebuild their settlements. The debates have more often than not ignored the nuanced realities of those affected by the changes in settlement patterns especially in regard to issues of property and possession. More often than not, as pointed out below, a one size fits all approach to property allocation has been used by local, regional and international authorities and donors using broad sweeping economic analyses.

Our research will be based on three cases; each case will examine the effects of various forms of property and their effects on the social relationships, community morphology, sustainability, community involvement, and issues that relate to potential conflict. The three cases were chosen to examine different aspects of property relations and their impact on sustainable settlement in both conflict and post-conflict situations at a number of settlement scales and at different

moments of settlement rebuilding. From this research we hope to both document the influences of property allocation on settlement social life and to create lessons learned with which to guide future action. The cases are:

*Kenya* – Deals with an ongoing conflict that is rooted in ideas about and uses of property forms. It examines a situation where squatters had invaded the Muoroto area next to the Country Bus Station about 1km from Nairobi's CBD. As a result the Provincial Commissioner of Nairobi ordered the District Officer to move the 2,500 inhabitants elsewhere, since the land on which they were squatting was required by those the government considered to be the legal owners. The squatters were moved and promised new homes by the government. But different and competing property claims and low levels of community participation that resulted led to only 350 former residents settling the new land. This represents a case of low-level conflict that resulted from development pressures on land, different property claims and resulting resettlement in Nairobi, Kenya.

*Bosnia-Herzegovina* – Deals with the complex issues of property, settlement and social practices in a recent post-conflict context. The forced displacement of about two million people during the war in Bosnia-Herzegovina resulted in permanent demographic shifts. While many were offered international support in returning to their former home ground, perhaps as many as 300.000 ended up somewhere else, mainly in urban areas. (Cuker et al) This forced urbanization took place during a period of economic transition, and opened up for a massive semi-official permanent housing construction, squatting by any other name, on the urban fringe, on public land and through 'densification'. Most of the house owners have now through the ensuing privatization and the ensuing 'property amnesty' acquired deeds to their plots. But at the same time there have been differences about just what property is and how it entitles. This debate has had implications for whom and how different groups are allowed to participate or have a voice in decisions about resettlement. We will examine the urban development consequences of this massive shift in property relations and its impacts on participation and the rebuilding of settlements in the major urban centres in Bosnia in the wake of war.

*South Africa* – The South African case will examine the changing conceptions and practices of property and participation, over a decade after the succession of conflict in South Africa, in one of the largest urban informal settlements in the country: Durban's Cato Manor. The different property and participatory regimes at work in this area directly reflects the country's history of long term conflict and now resettlement: from the top-down dictates and forced removal of the colonial and apartheid years, to experiments in participation and housing allocation through individual property rights post-1994. In the last decade only, the area has experienced a wide range of political and hence property and participatory regimes: from the old apartheid structures, to a huge development organization, and finally being handed over to a new democratic municipality. The case study will build on in-depth studies already done on the local informal political and ownership forms (Nustad 1999) to examine how different notions of property affect social interactions and settlement stability.

The research will involve morphological and property mapping of each settlement, qualitative open-ended interviews and questionnaires, observations of local practices and archival research where available. Each case will be guided by the same series of general and individual questions in order to draw more general lessons from the case studies.

For the cases studies we would undertake both field and desk studies which will involve the following: An historical description of the case; An analysis of the process as it unfolded and the outcomes that resulted; An overview and mapping of project and site development over time in regard to property claims, forms of participation, types and allocation of housing, infrastructure and land and social networks will be undertaken.

The outcomes will be analyzed along the following lines:

- In regard to property we will examine among others: How were property claims allocated, in what form (title, use right etc.) and on what basis? How was this decided? What social relationships are defined or define property forms and relations?; What does ownership mean?; Is it based on individual or collective claims?; Is it based on absolute, residual or use rights? What means; legal and formal title, informal agreements, local memory, collective rule, and/or custom among others, are used to substantiate claims?; Who decides and in what form are competing claims mediated or adjudicated?; What means are used to secure a property claim (police powers, community consensus); Who is held to act as a legitimate property holder (everyone, men only, adults only)?
- We will look at the answers to these questions in light of the following: How do various forms of property titling and property claims affect a settlement as a social community—how does it affect individual participation in group social practices, does it create cooperation and stability or enmity and conflict; how does it affect individual involvement in the settlement and commitment to it – how might this vary with types of property – are all critical to building durable communities and settlements among others.

#### *Methods -*

##### *Spatial Practices*

We will set out the spatial practices of each settlement in the following manner:

Allocation of spatial forms and practices: 1) We will make use of maps both to document to identity features of settlement form, building patterns and building types, and land parcels among other things; 2) We will also make use of maps to establish the patterns of property allocation; i.e., who claims what rights to possess, occupy or use what shelters, land parcels and other buildings and land parcels both civic and commercial. This mapping will be accompanied by a charting of the uses to which land parcels and /or buildings are put and who among the settlements residents are likely to occupy and/or use it; 3) Observation combined with photography will be used to enrich our record of and accentuate and visualize contexts and connections that cannot be represented otherwise; and, finally we will use where available archival material.

*Property Claims and Forms of Possession* Property claims and occupational claims and uses will be measured along the following lines: 1) Owning either in a formal or an informal market or situation: owning refers to group (tribe, clan, cooperative) or individual possession, absolute right, residual right (the right to alienate land sale or gift etc.), and /or usufruct right (the right to use but not alienate). Various forms of ownership can exist in both informal and formal markets (cf. Davis); 2) Renting or payment for the use of some particular parcel, shelter or building in part or whole - this can exist in both the formal and informal markets; 3) Informal shelter without renting ; 4) Squatting, which can be authorized or unauthorized occupation, recognized but not authorized occupation, or unrecognized occupation of a site; and, 5) Patronage – where individuals and/or groups are provided shelter or land by powerful figures in a client relation.

*Analyzing Socio-spatial practices* In order to assess the effects of property relations and forms, we will address a number of critical questions. We will examine settlement residents controlling for ethnic background, gender and age as to:

*Dispositions and Expectations:* We will examine settlement residents as to dispositions and intentions about resettlement/rebuilding. Specifically we will look at whether they see themselves as members of the community, whether they feel that their claims are recognized and in what ways, the problems they see with the resettlement or rebuilding process and what they expect in the short and long term with the resettlement of rebuilding. We will also look at the reasons they give

for their dispositions and expectations and their sense of their and their settlements sustainability and future.

*Involvement and Commitment:* The nature and extent of the involvement and commitment of settlers with their settlement and how this varies with the claims they make about their possession or ownership of their shelter or other structures like businesses and how and in what way these claims are recognized by the settlement, the local and regional government and other agencies or groups working in the settlement. Involvement is the measure of active engagement with the community by such means as participation in local governance, local self-help or other types of organizations or activities: Commitment is measured by statements of concern for, and loyalty to the settlement and the desire to remain living there.

*Co-operation / Conflict:* We will analyze along what lines and in what ways settlement residents: 1) integrate, cooperate and share civic space and amenities; 2) segregate, compete and conflict; and, 3) see themselves as part of a shared, a parallel or a contested social and perceptual domains.

#### *Techniques*

*Qualitative open-ended interviews* with a small number of selected settlement residents of the areas under study will be undertaken. Each settlement will be divided into spatial clusters; interviews will be gathered from residents in each cluster. Initially, if possible, we will make the selection random based on possession of a space or shelter in the settlement but if this, as is likely the case, proves impossible we will strive to find respondents who represent different demographic and ownership aspects of each cluster. The definition of clusters will be based on the mapping of the settlement under study. Demographic and social descriptions of such things as place of birth, last place in which respondent resided, age, gender, education level, where work, property relationship to respondents shelter and land parcel will be gathered. The interview will also assess: property claims, reasons for and expectations and dispositions about settlement; the challenges residents face; the extent to which they see the settlement as sustainable; problems and potential conflicts with others in the settlement, with local and regional authorities and with NGO's; reasons for conflict or potential conflicts; the nature of their interaction with other settlement residents; use of local area public areas and amenities (shops, clinics, cultural venues, etc.); patterns of social relationships; formal and informal contacts, membership in local groups and associations, participation in local events and activities, perceptions about the settlement among other things. These interviews will be undertaken to provide more qualitative information on the socio-spatial practices of the groups under review and will also serve as a pre-test for the use of questionnaires later in the research cycle. These interviews will be done in years one and early in year two.

A *closed questionnaire* will be based on the open interview, of residents in the various clusters. These are to be done in year two and early in year three along the same lines as the open interview

*Qualitative interviews* with key government representatives, NGO's, and others working in the process of rebuilding or resettlement asking about the challenges and opportunities, patterns of ownership and other property claims, potential for future conflicts, view of potential changes in the area and plans for the future.

The results from the data and analysis of the mapping of property relations and spatial practices and forms will be overlapped and cross-checked with the data from and analysis of the practices and attitudes of residents. This will provide a documentary and theoretical understanding of the relation of property and possession to settlement relations and the potential for creating sustainable settlement without significant potential for conflict.

*Theory and Literature Review*

*Property, Settlement and Conflict* - Over the last 40 years or so there has been much written about the role of settlement design and community action in development. From the early work on sites and services (Caminos & Goethert) to the work on engendering community involvement in building (Turner) and later works on action planning for settlement design in developing societies (Hamdi) the challenge of settlement building in the developing world has been addressed through a range of approaches and debates. Of note, those most concerned with the issues of settlement design in developing countries has of yet to address the problem in post-conflict contexts in any systematic way.

There is a large literature on peace building in general (Lederach 2005, Hoffman in press) which deals mostly with lessons learned and methods to build peaceful outcomes and resolve conflicts. While these discussions are important they do not address the everyday problems of the physical and social reconstruction of communities torn apart by conflict. In turn there is a growing literature on the role of peace building in post-conflict contexts (Jeong, Junne & Verkoren) but this literature again focuses on more general and structural problems such as security, governance the environment, large scale infrastructural rebuilding and general economic policy and finance.

More specifically there is a small literature which has in a number of instances looked at the challenges posed by postwar reconstruction (Hasic, Skotte, Barakat & Hoffman, as well as a series of Case Studies put out by the World Bank) and has provided interesting insights to the problems one faces in the actual physical and social reconstruction of communities after significant conflict. Yet as important as these are they are case studies of a singular area or instance and do not actually examine in detail the process of decision making specifically as it pertains to issues of property as a social entitlement and set of claims and its relation to participation in decision making.

The literature on property is broad and cannot be dealt with in a single project formulation including everything as it does from anthropology to law, economics to psychology. Broadly stated, in modern capitalist societies, property is often understood as a relationship between a person and a thing, i.e. an owner and the property owned. (de Soto, Sachs) Anthropologists and other social scientists working in societies where capitalist relations are less predominant, tend to see property as a social relation and a set of social claims about rights over things; i.e., as a relationship between people, and see this as true of modern capitalist societies as well. (Hann, Polanyi) People's approaches toward ownership of or claims to objects including houses, land, tools and even institutional spaces are the result of meanings that are culturally and historically variable.<sup>3</sup> The actual maintenance of property (be it land, homes, etc.) are routinely embedded in social relations and are inseparable from the wider social context. (Sahlins, Gibling, Kinsey) including at times legal relations (Munzer). This leads us to agree with C.M. Hann (1998) that property can best be defined as the distribution of social entitlements that vary in form and substance.

*Thus, for our purposes, the critical literature, along with the literature discussed above, is that which debates the issue of land and shelter as forms of possession and property but as yet that literature has not been applied to the problems that have been set forth in our project proposal. There has been an important*

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<sup>3</sup> One of the most important and early statements about the embeddedness of not only property but the economy in general was in the classic work of Karl Polanyi.

ongoing debate that has raged in policy circles about the issue of property and possession especially regarding the issue of claims to shelter and land and the best way to encourage development and stability within slums, and new developing settlements. On the one side is a literature that emphasizes the critical importance of the market and the way it encourages the basis for market growth and individual wealth. This argument found in such works as the UN Millennium Report and that produced by UN Habitat (Sachs, UN) emphasizes a one size fits all solution to settlement tenure and argues for formal tenure as a necessary basis for alleviating poverty and creating settlement stability (de Soto).

On the other hand there is a literature that critiques the idea of formal tenure as the answer in a number of ways. At one end there are those who see informal tenure as an important constituent of developing urbanity (K. T. Hansen & M. Vaa ) At the other there are those directly critical of formal property relations arguing that titling may, by individualizing shelter ownership, break up community based organizations struggling politically or economically for a better life – it can divide communities. (Gilber & Varley, ) It can also create new hierarchies of ownership that create new informalities (Anyamba, Taschner) There are those who argue that the notion that land titling makes the urban poor wealthier, because they get legal ownership and turns their shelter into capital, is open to the serious question (unpublished paper by G. Payne 1989 quoted in Gilbert & Varley) that the formalization of property rights advocated by de Soto and others treats one specific example of a fetishized social relation as universal, when in fact it is not.

But as the authors in *The Transformations of Land Supply Systems in Third World Cities* argue, settlement in the developing world, especially among the poor are a complex quilt work of property relations, tenure systems, kin networks and tenant relationships, and may have profound effects on the forms of social interaction, participation and ultimately stability of the settlement. And as Peter Ward argues, the heterogeneity of settlement tenure systems may well undermine and divide settlements and lead to forms of internal and even external conflict.

Thus property practices should stand at the core of much development theory and action. It is the linchpin for issues of settlement design, social relationships and sustainability among others. Claims about and definitions of property is at the heart of any attempt at re/settlement and is central both to academic and policy debates. Property is a complex concept not always clearly reducible to one obvious and universally agreed upon set of attributes although there are those in the development arena who make this claim. It can, for example, refer to group vs. individual claims of ownership: it can be based on absolute, residual or use rights. Each has different implications for a settlement or community. As the literature makes clear, how one defines this concept can have important implications for different groups and individuals: most crucially for women, and children especially as it applies to debates about land and shelter allocation, possession and inheritance. Thus the critical importance both in terms of academic discussions and practical actions to look at the ways different forms and meanings of property affect socio/spatial practices and social relationships.

*The project plan* Using the approach outlined above the project will be divided into a series of phases; based on a seminar of all participants we will set out a similar field research prospectus for the project period. Field research will begin in the middle of year 1 and continue through the early part of year 3. Write ups will be provided each year for shared review by all participants so that necessary changes to the research protocol if required can be made. In year three there will be a final seminar with all participants to set out the program for the writing up of and dissemination of results.

The project will make extensive use of local experts and their students for joint research in each case with one Norwegian based faculty researcher. Through this work and the seminars, also including international experts on the subject form areas outside the case study areas, we will build strong ties of those with similar concerns from both an academic and practical perspective. This network will provide an important addition to the expanding discourse on the issue of settlement, and poverty alleviation in the context of the increasing challenges set as a result of worldwide local and regional conflicts – this discourse is well established but as we argue problematic (cf. Sachs, Habitat, World Bank).

*Project management, organisation and cooperation*

*Project Team* The project will be directed by Oslo School of Architecture, Department of Urbanism, which will co-ordinate the activities of both Norwegian and international research teams. Both for the morphological mapping and interviewing we plan to involve both the researchers from the participating Norwegian Universities and the project coordinators and graduate students in the case study country. Our team is interdisciplinary with 2 anthropologists (Knut Nustad and Edward Robbins) and 2 architect/planners (Hans Skotte & Sven Erik Svendsen from NTNU) from three Norwegian universities (AHO, NTNU, UMB) that have long experience working in the developing world both as researchers and as practitioners dealing with urban development and urban poverty; Skotte has worked in Bosnia and in Sri Lanka; Svendsen has long experience working in Sri Lanka and Africa on issues of settlement design and urban poverty; Nustad has written extensively on issues of development particularly in the context of post-independence and post-conflict South Africa, and Robbins has written and worked in the field on issues of low income settlement and issues of post-conflict emigration for the UNHCR among others. They have worked together previously teaching seminars, and in research enterprises both in Norway and in the developing world. Equally as critical all the researchers have significant field experience on the subject at hand. Further, AHO will support one PhD student to work on the project and from which a thesis will be developed.<sup>4</sup> Also, a recent graduate of AHO who has joined Habitat Norway and written on settlement in the South will join the team as a research assistant.

*The International Team*- The international team will consist of experts who have extensive experience working on issues of settlement design and process in their home countries. In the three case studies they will work in consort with the Norwegian team. They will also provide important overviews and analyses of the work in progress and provide reports and articles based on the final research. In the case study cases, the international team will consist of a local researcher actively engaged with the challenges that resettlement poses and expert on local conditions and issues. This of course will significantly aid in the process of overall project research. They are Tom Anyamba, a senior Lecturer in Architecture at the university of Nairobi who has worked and written extensively on issues of informality in the making of settlements in Nairobi; Nihad Cengic is a Professor at the University of Sarajevo who specializes in settlement planning and one of the new voices on planning for post-conflict contexts in Bosnia; Nabeel Hamdi, Professor of Architecture at Oxford Brookes University and a world renowned expert on issues relating to the creation and sustainability of low income settlement design; Kananke A. Jayaratne is a central figure in Sri Lankan development planning and poverty alleviation; Suzanne Leclerc-Madlala is Head of the Anthropology Department at KwaZulu-Natal and has worked extensively with urban communities. Students who are assisting with the case studies will as much as possible be selected on the basis of the graduate research they are doing and its applicability for a PhD in the area of post-conflict urban development.

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<sup>4</sup> The selection of PhD candidates is still in process.

**Organization** - The project is based on significant cooperation between the researchers at the three participating schools not only by advancing research but building a stronger and broader educational base at each school. At each school there is a concerted effort to build a cooperative program in urban development in the South of which the work on this proposal will be most relevant. Thus we propose three seminar exchanges two in Oslo, one in Trondheim between the schools with presentations of the issues and research findings and debates to be open to students and the wider university, NGO and government as well as interested members of the wider public. We will also develop a seminar in Oslo with the international partners in the first year to inaugurate the research and a seminar in Nairobi to conclude the research. These too will be open to the wider university and public.

As noted above, this project is of great relevance to policy makers at both national, international donors and to NGOs working in post-conflict contexts given the growing salience of the issues addressed and more critically the debates about policy based on research that has not addressed the nuances and issues of property and its affects on the potential social cohesion and ability for settlements to meet the vulnerabilities that in most instances of post-conflict contexts threaten the ability of these settlements to sustain themselves.

*Ethical Issues:* The research could provide significant benefits as described above. The only risk may be to human subjects but great care will be taken to provide potential respondents with the protections of informed consent. No economic incentives will be offered; and individuals will be told in their native language that all responses will be anonymous, kept under lock and key, and that they do not have to answer any question they choose not to and to terminate the interview or questionnaire at any time. Moreover, no names will be used on the interview and questionnaire schedules and all data will be used in block or anonymous form.

*Gender equality and gender perspectives* The research as noted in the proposal is of considerable significance for gender issues. Much of the debate about property especially in regard to land and titling takes little account of its potential effects on women and children Shifting to a 'one model' fits all form of shelter and land property allocation may well, in many instances, dispossess woman of possession of critical resources for their short and long term well-being and shift them into poverty.

*Communication* Overall, our research will further the understanding of development and settlement in general and post-conflict situations in particular and provide new lessons for both theoretical discourse and policy practices in these fields. To do this we will produce the following:

- A short monograph for each case study
- An edited book which presents our findings and sets out a series of lesson learned to foster a dialogue between theorists and practitioners.
- Scholarly articles in academic journals
- Articles for journals that are primarily addressed to practitioners (Habitat, etc.)
- A website to allow communities and others to access the materials we have produced

Workshops and seminars for NGO's, and other organizations involved with settlement and resettlement efforts

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