# Interrogating Injustice Institutional and Personal Contexts

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"We need justice, we need liberty, and we need as much solidarity as can be reconciled with justice and liberty. But we also need, as much as anything else, language adequate to the times we live in.... We need words to keep us human. Being human is an accomplishment like playing an instrument. It takes practice. The keys must be mastered. The old scores must be committed to memory. It is a skill we can forget.... Being human is a second nature which history taught us, and which terror and deprivation can batter us into forgetting."

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The seemingly intractable conceptual issues, that we face in constructing or appraising "theories of justice", can perhaps be somewhat untangled by recognising that the notion of "justice" starts making sense to us only when instances of "injustice" or "injury" to human dignity and well-being become our concern. A demand for justice is invariably a call for correction of injustice. Justice is sought when we notice or experience injustice. For this very reason, a capacity for indignation against any perceived wrong can be regarded as a primary virtue, perhaps the source and goal of all morality. There are occasions when we feel that some individuals are beneficiaries or victims of some unmerited discrimination—a discrimination for which no justification can be offered. Whenever we find that we are not getting what we deserve, our legitimate claim is not respected, and some others are being given more than what they deserve, we strongly feel that something is wrong and requires correction. Finding ourselves on the receiving end of an apparently unjust treatment, we definitely resent the wrong being done to us. However, when we are beneficiaries of unmerited privileges in terms of some advantageous opportunities and status, perhaps made possible through denial or violation of the legitimate claims of others, we often fail to notice the wrong being done to others. Having been enabled to perform socially approved

and assigned roles, we could be so used to the accompanying privileges that these may seem to us as our natural right. Any one seeking a reconsideration of our privileges and status may seem to be making an unfair and unjust demand. Many of us merely wait and long for justice while some of us are courageous to take the initiative and strive to fight against injustice. Such lived experiences of injustice are discomforting to the victims. The sources of such discomforts are sometimes questioned but often evaded. Our concerted struggles to get what is our legitimate due often result in bitter disappointments when we fail to get the requisite support from others for want of an agreement on our plea for a fair consideration. A reflection on such lived experiences make us aware of the need to draw out clear-cut or sharp lines of demarcation between the spheres of right and wrong, good and evil, or just and unjust. The questions of justice and injustice arise for us whenever we care to engage ourselves in a moral and/or legal evaluation of our choices and actions, the results of institutional practices, and our place and prospects in social situations in which we and others are located. From our discomfort with particular instances of injustice which we find wrong, unfair and evil, we move on to ask more general questions. In an important sense, the questions of justice and injustice can be answered through an identification or articulation of standards and norms which we must respect in our inter-personal interactions and institutional arrangements to pursue the opportunities for human excellence in an environment of security, equality and freedom.

An understanding of human excellence and its pursuit demand from us that we recognise the common features of human condition howsoever indeterminate they may seem to be. Human condition is fundamentally problematic. Living in the world as sensing, feeling, remembering, learning, thinking, imagining, hoping, wishing, intending and active beings, we experience ourselves as finite beings. As human beings, we are capable of self-consciousness, self-definition, self-appraisal, self-regulation and self-transformation. Our real lives, as we actually live them, are neither a result of our genetic endowment nor of environmental conditioning nor merely an effect of their combination. In living our lives, we make our choices limited, in terms of our perceptions and understanding of our situations, apprehensions, hopes and goals. Our social being is reflected in received practices, institutions, rules and roles through which we find meaning in our lives. While learning to participate in the practices of the community

in which we are born and live, we also learn to evaluate, transform and reconstitute the pre-given structures of practices, institutions, meanings and actions. This critical reconstituting capacity is the very source of our freedom and human dignity. The sources of injustice may be traced in such social structures of power, domination, oppression and exploitation that either obstruct the realisation of our human potentials or enable some individuals or communities to treat other individuals and/or communities as less than being human.

#### II

Many of us are well aware that a large number of people have constantly struggled to meet their bare minimal needs for shelter, food, education, health care, work and security for their sheer survival. The same facilities, for which these unlucky people have to fight back all their lives, often without much success, are easily available to many of us, and in abundance to many others. However, it does not occur to all of us that these unfortunate people, poorest of the poor, could be victims of unreasonable and arbitrary discriminations perpetuated and legitimised for the last so many centuries. Is it just that millions of infants starve for no fault of their own while many of us indulge in conspicuous and wasteful consumption? Is it just that some suspected criminals always manage to move freely on bail whereas other suspects of similar crimes (simply for the lack of resources which others have) are forced to remain behind the bars for indefinitely long periods till they are finally convicted or acquitted? Is it just to restrict the choices of individuals pertaining to their vocation and career, life-partner, religious convictions or other important pursuits simply on the basis of their heredity, gender or caste and other similar but irrelevant considerations? Is it just for the only child in a family to be burdened with the demands against pursuing a preferred career (suitable for her/his interests and aptitude but monetarily less rewarding) as it may eventually result in the neglect of the care of the parents during their old age? Should it not be the responsibility of the state to provide support for the care and well-being of its old citizens? Some one may also ask whether in making selections for appointments, and promotions, in educational or public health institutions, is it just to select or reject candidates on the basis of considerations other than merit and competence for doing the relevant job well? It makes sense to ask whether it is just to deny a person a chance of a fair, impartial

consideration of the claims she/he makes for her/his well-being. From these few illustrations, it can be seen that the questions of justice and injustice arise in such diverse circumstances that it may not be easy to bring to light any universal characteristic or feature the presence or absence of which would make each an instance of justice or injustice.

Three types of questions concerning justice, and injustice, have to be faced in some form or the other whenever we try to think about the possibility of a good society, a good human being, and a good human life. These three types may be characterised as substantive/ definitional, justificatory/legitimate, and procedural respectively. The first type includes questions such as: What is justice/injustice? What is a just/unjust action? What is it to be a just/unjust human being? What is a just/unjust society? The second type includes questions such as: Why should we/I be just? and Why a just society or a just individual is better than an unjust society or a just individual? The third type includes question; such as, How justice can/should be done/realised?— These are questions that we have to answer in any attempt to formulate the principles of policy planning at the social level and norms for decisions/choices at the individual level. These are interrelated but distinct questions. Therefore, attending to them involves considerations at different levels regarding formal and material, substantive and procedural issues.

Amongst the ancient Greeks, one of the prevalent view was that a just man is one who has gained self-knowledge by exercising his abilities, and a just society is one that makes available to its members the material conditions of self-knowledge and self-development. The basic meaning of dikaiosyne, the Greek term for "justice", concerns proper conduct and reciprocal relations among individuals based on mutual recognition of obligations and rights. The Greek term dike covered a wide range of meanings, from "justice" to that which is "right" and "proper". A quest for justice signifies a resolve that wrong will not be allowed to persist. The wicked shall not be encouraged to damage or injure the innocent by going unpunished. As an attribute or virtue of persons, a quality of the human soul, justice was underlined as one of the four cardinal virtues in Plato's Republic. According to the Concise Oxford Dictionary, "adjective 'just' means 'equitable' with respect to persons or conduct, 'fair' and 'deserved' treatment. The noun 'justice' refers to 'fairness' or the exercise of authority in the maintenance of the 'right'. Thus justice involves treating people fairly or in a right manner appropriate to their merit and desert."

The ancient Indian thinking about good society and righteous individuals is indicative of concerns and considerations similar to the ones mentioned above. But the metaphysical doctrine of rebirth, in conjunction with the intricate guna-karma typology of sātvika, rājasika and tāmasika to provide the foundations for the "varna-aśramadharma", make the ancient Indian views on justice far denser to unpack as compared to the ancient Western thought. Interestingly, we find very close family resemblance in the various illustrations or instances of injustice in the discussions of moral life across diverse traditions of moral thinking. Nevertheless, there are sharp differences of opinion among various thinkers in the Western as well as Indian tradition regarding the ways in which the vital goals of justice may be realised. Disagreements over the legitimate ways for correcting the actual instances of injustices, avoiding the possible injustices that may be incurred in the task of removing the existing injustices are a major source of moral perplexity. Perhaps, it is for this reason that the questions of the second and the third types are no less significant and puzzling than the primary question: What is justice?

A search for an a priori theory of justice, with a comprehensive package of solutions to all the problems (whether substantive or procedural, analytical or justificatory, institutional or personal) that can ever arise in the human quest for a good life, is unlikely to yield the results aspired for. In articulating the features of a good society, and finding ways of realising a good life in a good society, history teaches us to admit and respect the permanent possibility of conflict of interests, diversity of value-orientations and differential skills amongst human beings. It would be unreasonable to impose an imaginary or contrived commonality in all spheres of human pursuits and interactions. Therefore, it would be unjust if a society ever tries to identify and enforce a pyramidal structure of values to be uniformly accepted and followed by all its members. Value-conflicts are inherent in human condition and living with intractable moral dilemmas is an integral part of our social being. Even if a minimal agreement on the ideals of a good society and a good human life ever becomes possible, there are bound to remain serious disagreements on the justness and unjustness of the possible and available means for realising these minimal common ends of justice. The abstract goals of justice, we must remember, are to be pursued not in a vacuum but from the vantage points available within the given concrete socio-historic situations and circumstances. Victims and beneficiaries of injustices,

from the differential vantage points at which they are located, can not find it easy to reach a consensus on the immediate and long term measures required to remove the perceived (and imagined) injustices from the given social-historical context. The very logic of social transformation, aimed at eliminating or reducing the evils of the structuralinstitutional injustices of the past, puts serious constraints on the availability and identification of effective just choices. Transformational policies have to be identified in terms of the perception and projection of the immediate situation and the long-term futuristic goals. Demands of expediency of action and immediacy of decision may constrain the policy planners to give a lower priority to what either the beneficiaries or the victims of injustice may consider very vital. In our quest for justice, we have to inevitably confront the paradox rooted in the nonconvergence of the projective and retrospective evaluations of the same action plans as the unforeseen dawns on us only when we are face to face with it.

### III

The contingent fact of being born to whom, when, where and as what, has not only a crucial bearing on our life chances as individuals but also on the kind of life that we are likely to lead as capable or mutilated individuals. The possibility of being born may be aborted if the foetus is discovered to be a female. The new-born female may become a victim of infanticide, or may be forced to live with a stigmatised identity of being an unwanted burden in the family or may suffer, if she still survives, a life of bondage, dependence, insecurity and fear of being assaulted. Many of us do not even notice the constant apprehensions of insecurity with which many of the females have to live and move, either because of their own past experiences or what they constantly hear around them, when alone or with strangers, both within and outside their homes. It may be instructive to note the ways in which we transform our adversaries into beasts, by reducing them to the status of something less than normal human beings. The human history is full of instances when our ancestors, Asians, Europeans or others, felt no hesitation in declaring and treating their adversaries as nothing but fit for dispossession and slaughter. Some of the most horrible manifestations of human incapacity to remain human can be found in almost all cultures and communities in the different practices that are morally indefensible. Slavery, untouchability, female infanticide, satī (forced immolation by a widow at the husband's pyre), apartheid on racial biasis, Nazi and Stalinist concentration camps, pogroms for ethnic and sectarian cleansing in the former Yugoslavia and many parts of Africa, dictatorial regimes in Latin America and south-east Asia can be cited as a few illustrations. Despite our claims to be rational animals, we are the only animals who can become so cruel when we become unjust towards our fellow beings. All of us may not be molested, raped, attacked, hit, kidnapped, flogged, arrested, imprisoned, denied a job or a promotion for being what we are; but the horrors of poverty, starvation, torture, crime and deception are all around us. These enormously burdensome and differential consequences of this accidental fact of birth are indefensible in moral terms as these involve victimising or favouring/ privileging individuals for a chance happening over which neither they have any control nor they are responsible.

In the process of growing up, we do come to learn what it feels like to be treated unjustly. On the basis of his detailed empirical studies investigating the development of the sense of "right" and "wrong" amongst young children, Jean Piaget concluded that

the sense of justice, though naturally capable of being reinforced by the precepts and practical examples of the adult, is largely independent of these influences, and requires nothing more for its development than the mutual respect and solidarity which holds among children themselves. It is often at the expanse of the adult and not because of him that the notions of just and unjust find their way in to the youthful mind ... the rule of justice is a sort of immanent condition of social relationships or a law governing their equilibrium. And as the solidarity between children grows we shall find this notion of justice gradually emerging in almost complete autonomy.<sup>2</sup>

In the process of our socialisation, our home is the first place where during our early childhood we learn to acquire our initial understanding of asymmetries of power and hierarchies in human relations. They are writ large in terms of internal divisions of labour and structures of authority amongst our own kin and neighbourhood. The dictates of "who has to do what and for whom" and "who need not do what" and "what is obligatory/prohibited/permitted for whom" are taught to each one of us as an integral part of our learning to grow. It is also here that we acquire a sense of justice, as well as injustice, participating in a process of sharing activities and things (equally or otherwise), of being cared for or not, and of being expected to care (or not to care) for others. Gradually, we start comparing our familial situation with other families in the neighbourhood, with other com-

munities in the city and so on. Failing to get (or denied to do) what, we believe, we should be getting (or permitted to do) like our other fellow beings, we also learn to differentiate between consequences of lesser or greater concern in comparison with what we suffer but others do not. With some effort, we can also learn to notice the difference it makes when others suffer what we do not. In the process, we start raising questions about the legitimacy or illegitimacy of differential treatment. We start thinking about the criteria for identifying the differences among people, which are relevant and justifiable for treating them differently. To be a beneficiary or a victim of unjust discrimination, domination or oppression, by virtue of gender, caste, class, race, religion or language for example, would generate differential capacities for leading a good human life. The questions of 'justice' and 'injustice' arise whenever we attempt to envisage a good life in a good society, the ideal state of affairs in human interactions that we ought to seek and try to achieve.

#### IV

Justice represents an ideal form of order, which we seek to create through the whole complex of social and legal institutions in order to ensure that we can live our lives without being exploited, dominated, oppressed, marginalized and made powerless. The fabric and framework of the human condition is such that despite changed physical, cultural and moral situations over the millennia, diversity of human interests, aptitude and skills, we continue to share a common nature as human beings. Irrespective of the location and time, it is a part of our human nature that we are curious about our surroundings. We try to control the happenings around us, we are sensitive towards our fellow human beings and responsive to demand and pressures from the members of the group to which we belong. This common human nature manifests itself in diverse novel forms in different circumstances. This novelty and diversity itself demands from us that we review our received roles and activities which are defined and regulated by a complex and pervasive web of inherited relationships. The permanent human potentiality of each new infant becoming a distinct individual, capable of self-determination and participating actively in the determination of group decisions and affairs is realised or frustrated in a unique way.

Maintenance of good health through adequate nutrition, health-

care and proper housing is critical for our survival. Acquisition of minimal critical autonomy through basic education, autonomy of agency through physical and economic security, and advanced vocational or educational opportunities for an appropriate vocation are what each one of us needs to develop our capabilities to function in ways that may promote our well-being. Our perceptions of 'injustice' are intimately related to our experiences of a deliberate or unwitting lack of acknowledgement or recognition of our being human. When we notice ourselves as victims of arbitrary discrimination, i.e. some one being given a privileged treatment for availing of chances denied to us, we feel the hurt of not being recognised as a fullfledged human being. We feel that we are being treated as less than human. If we are sensitive and perceptive enough, the sight of others getting a similar raw deal can also be disturbing enough to be a matter of concern and indignation. Experiences of injustices are concealed in everyday life. Social world is constituted and regulated by relations of power in such a manner that depending upon our position in terms of gender, caste, class, race, religion, language, region etc., we are invariably enmeshed within multiple, and often conflicting, roles and power relationships. Our everyday life fabricates for us our routine duties and expectations from our everyday work. The deep surface of everyday social reality is so structured that advantages/disadvantages, gains/losses, rewards/ punishments, unmerited privileges and undeserved injuries are concealed in a very subtle manner. Till these structures are exposed and demystified, most of us invariably fail to notice as to how we are participating in the degradation of others by being unwitting or deliberate accomplices in or beneficiaries of some injustice or the other. It is not easy to identify and articulate the structural sources of the injustices that we suffer or inflict. We often fail to notice that the unjust hierarchies, of which we are sometimes beneficiaries and sometimes victims, are direct or indirect products of the past and present state policies sustained by legal order. Any concern with questions of justice and injustice, therefore, requires from us that we consider the role that state plays, can play and has played in generating as well as dismantling various types of injustices. In matters of justice, willingness and an ability to make the relevant and appropriate distinctions between people are crucial for giving them their due. We must learn to distinguish between the deserving and the undeserving, the capable and the incapable, the responsible and the irresponsible, the caring and the careless, the innocent and the guilty to be able to

avoid being unjust.

Our quest for justice is the quest for identifying and reconciling competing modes of achieving human well-being at the collective as well as individual level. In seeking justice, we address ourselves the question: What we should do, and not to do? We should ensure that in pursuing our well-being we do not harm or damage the chances of the well-being of others. In any human community, the achievement or lack of well-being can be identified in terms of what its members can do, can have, and can aspire for. These aspects of human wellbeing are closely linked with the availability of proper opportunities for (i) survival, (ii) proper education, and (iii) choice of a vocation or career. A society that deliberately treats relevantly similar groups of people differently in providing or denying access to human well-being, i.e. opportunities/capacities for living a flourishing human life, is an unjust society. It is practising injustice against those who are victims of its arbitrary and unfair policies of discrimination. Identification of human well-being in terms of availability of essential goods and services has encouraged recent thinkers to focus on the issues relating to 'distributive justice'.

Distributive justice has been a subject of attention in political thinking ever since Plato and Aristotle in the West and Kautilyā in India. However, it must be admitted that with the publication of Rawl's seminal work A Theory of Justice, 3 followed by Nozick's Anarchy, State and Utopia,4 the discussion of 'distributive justice' has emerged as a central theme in the recent social and political philosophy. An exclusive concern with the issues of 'distributive justice' has gained primacy over discussion of other dimensions of justice in the Anglo-American liberal political thinking. The contractarian paradigm of distributive justice rests upon the concealed axiom that all considerations of social policies in pursuit of justice have to be primarily and solely directed towards what persons have or do not have, how much and what they have in comparison to the possessions of others. This close focus on possessions tends to avoid a consideration of what can be possible for people to learn to do, and how well can they do if they get the requisite training at the right time and appropriate incentives for doing their work better. An exclusive concern with wealth and its rational redistribution also neglects the manner in which our capacities to perform different tasks and activities are deeply entrenched in the institutional rules and practices. It does not care to find out as to how our activities and possessions are regulated by the social structures of roles and relations constitute that our different positions. The ways in which the combined effects of our deeds (intended or unintended, anticipated or unanticipated) fashion our (and others') lives in either short or long terms is not a matter of significance for consideration in this agenda for fair and just redistribution. Luce Irigaray has illustrated this dimension of injustice in *Sexes and Genealogies* in a very sharp manner:

The law has a sex, justice has a sex, but by default: 1) The law was written by a race of men acting almost like slave-holders in regard to sexual difference: the woman will leave her family, will live with her husband, will take his name, will allow herself to be possessed by him physically, will bear his children and bring them up . . . which means nursing, cooking, washing, doing housework, all boring and repetitive jobs such as arouse contempt or pity when performed by working men. Are we to say that woman finds advantages in this system because her husband is working for her? My answer would be that this division of labour not only treats woman as a child (children also are provided by their parents and the State while they work in what amounts to an educational apprenticeship) but also corrupts her mind far more deeply than is the case with the workers who are employed in capitalist industry and commerce. The fact of being paid by their husbands makes women forget the respect and right due to their sex, to their mothers, to all women, and even makes them, today, careless of life itself.<sup>5</sup>

#### V

Our comprehension of injustices that we live with is partly based on the insights that we develop by noticing them embedded in the institutional practices. These insights are gained through a critical scrutiny of the ideological legitimations and rationalisations of the structures of social exploitation, oppression and domination. Structures of exploitation determine the relative social and economic value of work. What counts or does not count as significant or useful work? Is everyone permitted to try to acquire the skills for any work available? Who works for whom and for what? What is the nature and content of the paid and unpaid work? Who does not have to work at all (there are others to do the dirty work for him!)? Answers to such questions can provide significant indicators to ascertain the degrees and levels of exploitation prevalent in a society.

Structures of oppression are those institutional arrangements that constrain or obstruct the self-development of individuals by either immobilising or diminishing the group to which they belong. To oppress a group, its members must be seen and projected as inferior to the group of oppressors. The Indian caste-system can be seen as an

instance of the ways in which the lower caste of the śūdras was characterised as incapable of undertaking the vocations and activities meant for the so-called superior high caste (dvijas). Viewing society as a human organism, the Puruṣasūkta in the Rgveda declares that the brāhmins are its head, kṣatriyas its arms, the vaisyas its trunk and the śūdras its feet. The sudras were denied the possibility of self-development as equal members of the human community by positing the metaphysical doctrines of guṇa-karma vibhāga and varṇāśrama-dharma. A hierarchical ordering of the various vocations and the related privileges was done in such a manner that, in the name of a qualitative division of labour, the manual labour was assigned a place at the lowest ebb in the hierarchy. The suitability or unsuitability of individuals for pursuing various vocations was determined on the basis of their varnic position. The manner in which Ekalavya was disabled from exercising his self-taught skills in archery is a poignant and sad tale of the ways in

which unjust practices are legitimised by the oppressors.

Structures of domination deny the possibility of self-determination to individuals belonging to a targeted group by systematically excluding its members from participating in activities which would enable them to determine the conditions of their own actions. Women were confined to the domestic sphere making them dependent on the males for their survival and protection. The norm of excluding women from all such activities, which could contribute towards their autonomy, was followed in all patriarchal societies. Structures of oppression and domination result in the marginalisation and powerlessness of the affected people. The dominant classes in all societies try to legitimise these institutional structures of injustice by maintaining a cultural hegemony of the world-view of the ruling class, the main beneficiary of injustice. The only way to rectify these institutional injustices is to formulate policies of affirmative actions and reverse discrimination. These policies may seem to be unjust to individuals who advocate an exclusive reliance on the merito-cratic competitive procedures for the distribution of goods and services and do not favour any compensatory redistribution of positional goods as a rectificatory measure against centuries old institutionalised injustices. Any exclusive concern with the problems of distributive justice, whether in an idealised or in a relativised version, seems inadequate to deal with the asymmetries of powers and resources when it is viewed from the perspectives of the oppressed and exploited victims of injustice.

## If we ar IV or willing to face this

In our quest for human well-being and excellence, we need to look beyond the limiting perspective of distributive justice. This can be done by focussing on the enabling and empowering dimensions of human actions in rectifying the wrongs and setting institution right. For pursuing the desirable dimensions of the ideals of justice, specifically in the contemporary Indian context, we need to face the crucial questions: Does every child get the opportunities to learn to do various kinds of activities of his/her choice that are essential for her/his flourishing as a human being? Are some groups or individuals excluded from learning what others are offered on a platter or forced to learn against their wills? The answers to these questions do not require any empirical surveys. The unjust inequalities of education at the school level, despite the directive principles of state policy pronouncing education for every child, are known to all. Similarly, the gender discriminations in division of labour within the domestic sphere are so deeply entrenched in the Indian psyche that exceptions only prove the rule. It may be said that the rectification of such injustices requires fundamental reforms at the institutional level, within the institutions of education and the family. However, there are questions that require an urgent attention at the personal level. Despite all the institutional injustices of which we may be victims or beneficiaries, we need to ask ourselves: What is it to be just towards my/our work? Can we be just towards ourselves and others without being just towards our work?" "What are the obstacles in my being able to do justice to my work? Is it possible for me to work in collaboration with my colleagues or on my own to do justice to my work? Are some new institutional arrangements possible that may enable me to do more justice to my work? The answers to these questions may vary with the kind of work that we do. The answers may also vary from individual to individual and institution to institution. But once we start thinking together on these questions, start taking our tentative answers with the seriousness which they deserve, we would have taken the initiative to reduce at least some of the injustices that we either suffer or allow to continue. One of the major problems with our society is our work culture. The crisis of work culture can be traced to our reluctance to confront the question of our being just towards our work. Each one of us needs to face this question and to be prepared to take all the necessary steps to ensure that we are not unjust towards our own work, in the public

and the personal sphere. If we are not willing to face this issue to its logical conclusion, we have no business to clamour for justice. This demand may seem a call for engaging in a very personal dimension of self-criticism and self-exploration but it would definitely pave the way for much needed institutional reforms and personal transformation in pursuit of the ideals of justice. Questioning the prevalent modes of injustice and trying to effectively minimise them, if not abolish them altogether, is likely to serve the cause of justice better than constructing an impressive, grand, abstract, but ineffective, theory of justice.

# NOTES AND REFERENCES

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