

# On “shrinking space”

*a framing paper*



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# On “shrinking space”: a framing paper<sup>1</sup>

Across the world, in both democratic and non-democratic states, many activists and social justice organizations face an increasingly repressive and securitized environment as well as unprecedented attacks on their legitimacy and security. From the attempts to suppress Black Lives Matter to the assassination of Berta Cáceres, the criminalization of the Boycott, Divestment, Sanctions (BDS) movement to the micro-tyranny of Bangladesh’s new Voluntary Activities Regulation Act, individual and collective activism is facing a global pushback from states, corporations and the Far Right.

The current emergency has been a long time in the making. But only recently has it galvanized a concerted response by organized ‘civil society’, which is now mobilizing to understand and counter what is termed ‘shrinking space,’ a metaphor that has been widely embraced as a way of describing a new generation of restrictions on political struggle. The concept of space itself has different definitions depending on who you talk to. Some understand it as limited to space to influence policy (a seat at the table) while others understand its meaning as political space to organize, to operate, to have a legitimate voice, to protest and to dissent. The former tends to depoliticize contestations while the latter is empowering them. These distinctions concerning how ‘space’ is conceived will shape the type of response warranted, with important implications for who engages in that space and how.

This paper attempts to deconstruct the ‘shrinking space’ narrative by explaining what it means and unpacks some of the problems inherent in the concept. It also considers who is most affected by ‘shrinking space’, and why; where the trend is headed; how it relates to the other dominant paradigms of the 21st century; and how progressive social movements may respond.

## 1. What is ‘shrinking space’?

The term ‘shrinking space’ can be understood as a concept or framework that captures the dynamic relationship between repressive methods and political struggle, including the ways in which political struggle responds to these methods to reclaim space, and the impact this response has upon how political struggles relate to one another. Its value as a framework is that it helps us to think through common trends of repression, including their sources, effects, and mechanisms, which political actors are faced with.

Within the ‘shrinking space’ discourse, there are at least nine, often interrelated trends that constrain the political space in which civil society organizations (CSOs) operate:

- (i) ‘philanthropic protectionism’, which encompasses a raft of government-imposed constraints on the ability of domestic CSOs to receive international funding (as seen most prominently in states such as India, Russia, Ethiopia and Egypt<sup>1</sup>, but now found in dozens of national laws globally);
- (ii) domestic laws regulating the activities of non-profits more broadly (for example by imposing onerous registration, licensing, reporting and accounting obligations on NGOs and allowing states to have limitless discretion in sanctioning organizations for ‘compliance’ failures);

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<sup>1</sup> This paper has been produced by the Transnational Institute following a workshop on shrinking space involving representatives of its partners, networks and like-minded organizations that took place in Berlin towards the end of 2016.

<sup>2</sup> One case in particular that illustrates ‘philanthropic protectionism’ is that of Case No. 173 in Egypt, in which independent human rights NGOs were investigated and targeted for receiving foreign funding without registration under a repressive law, Law 84. Thirty-seven Egyptian human rights organizations have been charged and sentenced to between one and five years imprisonment, as well as subject to asset freezes and travel bans.

- (iii) policies and practices imposing restrictions on the rights to freedom of assembly and association (for example by banning demonstrations outright, using national security laws to restrict mobilization, cracking down on unions or militarizing police forces in the name of 'public order');
- (iv) the criminalization, stigmatization and de-legitimization of so-called 'Human Rights Defenders' (HRDs) (a term that encompasses all actors engaged in non-violent advocacy for human rights and social justice) as well as the criminalization of refugees' solidarity;
- (v) the restriction of freedom of expression in general as well as online, directly through censorship and intimidation, and indirectly through 'mass surveillance';
- (vi) intimidation and violent attacks against civil society by religious conservatives, corporations, the Far Right or non-state actors;<sup>3</sup>
- (vii) the decreasing space for online activism due to the repression and intimidation faced by activists, particularly women HRDs, for their work (including being subject to blackmail, slander, online harassment and stalking, as well as threats from both public/government-affiliated and private sources);
- (viii) risk aversion and securitization on the part of public and private civil society donors resulting in the limiting or withdrawal of funding available for both grassroots activism and marginalized causes (such as Palestinian self-determination and counter-terrorism and human rights) in favour of larger, less politicized organizations and 'safer', less 'controversial' issues;
- (ix) the capture of spaces traditionally inhabited by CSOs by private interest groups, lobbyists, GONGOs (government-oriented NGOs) and corporate social responsibility initiatives as well as attempts to discredit CSOs;
- (x) the exclusion of civil society organizations from the banking system under the guise of counterterrorism measures, which is a relatively new but escalating phenomenon in the discourse on 'shrinking space'.

In practice, many of these trends overlap and are experienced simultaneously, which compound the potency of their effects. For example, if an organization faces increased barriers to funding and/or loses access to funds due to their controversial work, whilst simultaneously facing greater overhead spending to respond to lawsuits and/or increased procedural scrutiny to report their activities, then the combination of these forces could be enough to shut the organization down altogether.

<sup>3</sup> The rise and expansion of fundamentalism beyond religion has been noted and categorized by the Special Rapporteur on the Freedom of Association and Assembly. See <http://freeassembly.net/news/fundamentalism-hrc32/>

**Table 1: Summary of the ten interrelated trends that constrain civil society today**

<b>Constraint</b>	<b>By whom?</b>	<b>Mechanism</b>	<b>Effect on civil society</b>
Philanthropic protectionism	Governments, funding agencies	Laws and other government-imposed restrictions	Limits domestic CSO's international funding options
Broad laws regulating CSO operations, including registration, licensing, reporting, and accountability	Governments, funding agencies	Laws, policies and procedural mechanisms	Creates more work/overhead for CSOs and increases barriers for compliance, enabling operations to be shut down for non-compliance
Rights to freedom of assembly and association constrained	Governments often through police and/or military enforcement	Laws, policies and practices, often in the name of 'public order' and 'security', intimidation	Limits civil society's ability to openly gather, mobilize, and protest
HRDs and refugee solidarity groups criminalized, stigmatized, and de-legitimized	Governments, media companies, Far Right groups	Laws, propaganda, media outlets, intimidation	Limits the nonviolent means by which HRDs and refugee groups engage politically, and undermines human rights protection
Freedom of expression restricted, including online repression	Governments and private security agencies,	Laws and policies that induce censorship, mass surveillance, as well as intimidation	Reduces the ability of CSOs to spread information and raise awareness within society, with a range of repercussions
Intimidation and violent attacks upon civil society actors	Religious conservatives, corporations, Far Right groups, other non-state actors	Direct threats, blackmail, harassment, slander, violence, and intimidation, through in-person confrontations, lawsuits, and the internet	Presents existential threats to CSO actors and their operations, endangering their right to be free from fear
Funding withdrawn and/or limited by donors due to risk aversion and securitization	Public and private donors, (and indirectly through government policies)	Stricter funding requirements that favour less politicized organizations and issues	Limits the sources of funding for CSOs, which in turn creates greater competition amongst CSOs for funds, and threatens their operations
Spaces for CSOs reduced as they are captured and co-opted by other actors	Private interest groups, lobbyists, GONGOs, and CSR initiatives	Discrediting and legitimizing certain CSOs through media and other sources	Impedes the financial lifelines of CSOs as well as their spaces for political engagement
CSOs excluded from the banking system, due to rising counterterrorism measures	Banks (and indirectly through government policies)	Government definitions on terrorism and stricter banking requirements that block certain CSOs	Limits the sources of financing for CSOs, in turn threatening their operations



## 2. Space for whom?

If we understand the key features of 'shrinking space' to include this new wave of methods to repress political struggle, then inherent within this concept are the actors who engage in political struggle. Therefore, central to understanding and evaluating the usefulness of the 'shrinking space' framework/discourse, is understanding how 'civil society' is defined in the first place. Governments and philanthro-capitalists tend to view civil society through the narrow lens of incorporated/registered non-profit organizations, think-tanks and 'social entrepreneurs' – to the exclusion of all others, such as social movements, informal collectives, grass-roots/community-based groups, practitioners of 'direct action', refugee and stateless peoples, and indigenous peoples. A much wider array of activists, initiatives and organizations self-identify as 'civil society', either because they genuinely believe that they are part of a community of common interests and collective activity for social and political change, or to fit the definitions that policy-makers and funders have instituted.

Accordingly, civil society cannot be reduced to a monolithic or homogenous entity. In recognizing the range of actors and the complexity of defining civil society, it becomes clear that within this complexity are shades of shrinking space: not everyone's space is shrinking in the same way. While those engaged in the kind of highly professionalized NGO activism that is entertained and supported by the Davos class may suffer the occasional crisis of relevance, legitimacy or funding, their space does not appear to be 'shrinking'. Indeed many NGOs enjoy bigger platforms than ever as they increasingly become preferred partners for donors because they can swallow (due to their large size, heavy bureaucratic set-up and strong "branding") all the requirements and still have strong negotiating power.

Meanwhile, it is grass-roots, community-based, and issue-based social, economic, political and environmental justice movements that appear to be bearing the brunt of the crackdowns by authoritarian governments, violent non-state actors, and even now by democratic governments who have long since dispensed with their commitment to universal human rights and aped the clampdowns of their repressive counterparts.

Therefore when evaluating the shrinking space framework we should at the very least begin by acknowledging that there is not and never has been one single space in which everyone participates on an equal footing. To suggest otherwise is liberal democratic fantasy that ignores the politics and institutional biases of the public and private arenas in which different actors jostle for space, and in which a diverse range of political spaces are constantly being closed down and opened-up.

## 3. Why can the concept be problematic?

In many respects, 'shrinking space' is simply a more nuanced and convenient way of talking about the problems of exclusion and repression that many social, political and civil rights movements have long faced. As a contemporary discourse, it clearly responds to quite novel and often sophisticated political, legal and corporate methods of containing activists and campaigners.

But the effects of the shrinking space discourse are problematic and directly harmful to certain segments of civil society. Bringing the techniques discussed above under the twin rubrics of 'shrinking space' and 'civil society' massively de-politicizes what is actually political policing of the highest order, shifting the focus away from the tangible repression of one kind of politics in the service of another, to something more palatable and less discomfiting. Further, the concept tends to flatten the differences in the struggles faced by social movements versus larger NGOs, inferring that all civil society actors experience the same type and degree of shrinking space, whilst simultaneously upholding the idea that the Global South is where the 'real' space is shrinking.

This, in turn, has enabled the shrinking space discourse to be integrated into dominant geopolitical narratives around development and philanthropy in problematic ways. Governments of the Global North, for example, have been able to profess support for 'civic space' and human rights defender initiatives in the Global South while adopting domestic policies and promoting collusion with corporations that contribute to 'shrinking space', and wilfully ignoring the abuses meted out by their

client states and multinational corporations. This is made possible by the discourse's overemphasis on the three key freedoms of the International Covenant on Civil and Political Rights (ICCPR), namely freedom of association, assembly and expression – a narrow conceptualization that masks the intersecting dynamics that limit an individual or collective's ability to organize around pertinent matters and express themselves, such as gender, race, sexual orientation, age and others – and allows governments to selectively prioritize certain types of shrinking spaces whilst ignoring others.

Moreover, framing the repression and de-legitimization of certain quarters of civil society as some kind of vice-like device that can easily be turned in one direction or the other, carries a significant risk of both oversimplifying the problem and misidentifying the potential solutions, and also erasure and appropriation of racial and gender justice struggles.

## 4. One door closes...

The 'shrinking space' dilemma is by its very nature characterized by groups which in practice face little more than 'first world problems' speaking on behalf of those activists who never had any space to begin with – groups whose very existence has always been premised on carving out that space in the face of tremendous adversity and repression.<sup>4</sup>

In the struggle for space itself by the diverse array of actors, political spaces are continuously rearranged, opened up and closed down. There can be no better example of this than the burgeoning space that 'shrinking space' occupies today – as evidenced by the groundswell of initiatives, conferences and funding now dedicated to it. Perversely, these new political spaces, which primarily offer large and professional International NGOs the chance to mobilize and advocate, are predicated on the very closure of more-and-more political spaces for social movements and political activists.

This framing matters a great deal. If we are to understand, and more importantly, respond in a meaningful way to the multiple problems that the concept of 'shrinking space' engenders, the focus surely has to be on the spaces that are closing – so as to understand why they are closing, for whom they are narrowing, and how to reopen them.

It also suggests that one-size-fits-all solutions, such as the new Civic Charter, may be symbolically important, but are unlikely to provide any relief to those organizations and movements who face systematic repression, exclusion or annihilation.

## 5. 'Shrinking space' as political managerialism

An alternative to the structural abstractionism that 'shrinking space' engenders is to view it as part of a wider struggle within contemporary neoliberalism to marketize the state, hollow-out democracy and reduce opposition by (re)defining the contours of legitimate, extra-parliamentary, political activity and redefining space for policy as multi-stakeholder spaces, where CSOs have to negotiate both with the state and corporations as the new mode of governance.

It has long been clear that the gatekeepers of mainstream political spaces have simultaneously co-opted and instrumentalized key civil society organizations while pushing more critical and radical civil society actors into a shadow realm where they face de-legitimization, persecution, prosecution and excessive control – with the precise aim of countering their appeal. This is reflected daily in the exclusion of many political activists and social movements from contemporary conversations with or about 'civil society'.

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<sup>4</sup> Social movements – ranging from Black Lives Matter challenging systemic racism in the US to Chinese women's rights organizations countering gender-based discrimination to indigenous rights groups in South Africa struggling to defend their lands from agribusiness and extractive industries – are finding creative and persistent ways to reassert their rights and carve out democratic spaces of engagement and resistance. For more information, see <https://www.opendemocracy.net/5050/semanur-karaman-ana-cernov/our-movements-and-collective-struggles-thrive-despite-backlash>

A broader process of de-legitimization is a prerequisite for the techniques of repression described above. It allows 'enlightened rulers' to simultaneously claim to recognize the importance and uphold the freedom of a diverse civil society sector within their borders, while carefully managing and defining civil society from above and on their terms. This use of 'shrinking space' as a political tool is classic divide-and-rule and it pits different forms of civil society organizing against one another while seeking to break the bonds of solidarity that form the backbone of struggles for fundamental rights and social justice.

## 6. Degrees of separation

In terms of 'shrinking space', the contemporary difference between liberal democracies and authoritarian states is not one of unbridled freedom in the former and absolute restriction in the latter, but rather is the extent to which the various constraints on civil society identified above are enforced, and against whom they are enforced. The crucial differences that do endure are found in the extent of justifications provided as freedoms are stripped and the level of meaningful protection for groups and individuals from acts of state violence that the law provides, for example in respect to physical assault, extrajudicial killing and the torture of activists and defenders. But even here the lines are constantly blurred by the introduction of more subtle techniques of repression, such as the use of 'less-lethal weapons' and police tactics like 'kettling'.<sup>5</sup>

Even in countries where new, restrictive civil society laws have caused most concern – India and Israel, for example – it is not civil society writ large that is suffering, but CSOs with particular aims and objectives. Only where civil society faces complete subjugation under the law, as is the direction of travel in the likes of Egypt and Russia, can we identify something approaching an apolitical form of 'shrinking space'.

Elsewhere, and without exception, the means of 'shrinking space' in the government toolbox are applied selectively to suit political ends. Restrictions on foreign-funding, for example – which represent a genuine crisis of legitimacy for the funding of pro-democracy and rights-based organizations by western donors in many parts of the world – are being ruthlessly exploited by populist politicians who have taken the opportunity to bankrupt those CSOs they see as political opponents while maintaining foreign funding for uncontentious actors and programmes.

Consider also the plethora of domestic laws regulating the non-profit sector whose very *raison d'être* is to draw a line between bona fide and thus legitimate organizations on the one hand, and those whose activities may be called into question and thus restricted on the other. Attacks on freedom of expression and association operate in much the same way, and are invariably justified on the grounds that certain political activities may be legitimately curtailed by the state, whether under the banner of protecting the 'public interest', 'social cohesion', 'national security' or 'counter-terrorism'.

Surveillance and censorship online is also predicated on the claim that those targeted have illegitimate or unlawful aims. Even the recent spate of CSO bank account closures and blocked financial transactions is predicated on legitimacy, with financial institutions claiming that the affected organizations are no longer within their 'risk appetite', while they continue to provide financial services to 'legitimate' actors. Ultimately, even conversations about 'shrinking space' boil down to whom and what is included – and thus legitimate – whom and what is excluded.

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<sup>5</sup> **Kettling** (also known as **containment** or **corralling**)[1] is a police tactic for controlling large crowds during demonstrations or protests. It involves the formation of large cordons of police officers who then move to contain a crowd within a limited area. Protesters are left only one choice of exit controlled by the police – or are completely prevented from leaving, with the effect of denying the protesters access to food, water and toilet facilities for an arbitrary period determined by the police forces.



## 7. Talking about a revolution

Marxist theories of the state hold that the repressive state apparatus and the ideological state apparatus work in tandem to suppress threats to the hegemonic order, first through benign forms of social repression involving the governance of individual and collective behaviour and norms, then through more violent interventions.

Yet, despite appearing more relevant than ever, notions of hegemony, repression and ideology are all but entirely absent from debates about 'shrinking space'. In their place is a stated concern for 'democratization' and 'securitization'. The former attempts to defend the legitimacy of civil society in the face of shrinking space, the latter attempts to critique the direction that state policy and practice has taken with reference to culture (i.e. a culture of security predicated on a politics of fear) rather than ideology (i.e. a belief in superiority and entitlement predicated on a politics of Othering).

However, it is only by recognizing and linking the two concepts of democratization and securitization that we approach anything like a theory of 'shrinking space', with securitization predicated on a 'net-war' approach that includes (or others) certain civil society groups in a continuum; encompassing social movements, political activists, resistance groups and terrorist organizations, and reaching the point that it threatens the development or practice of democracy.

But this is by no means a mainstream view of 'shrinking space'; nor does it explain its uneven development and impact.

## 8. The business of civil society

To understand 'shrinking space' we should also consider trends within the 'civil society' sector. In 2003, the Heritage Foundation and others started writing about the 'non-profit industrial complex' and the 'growing power of the unelected few'. It did so, of course, with the aim of delegitimizing civil society in defence of the Bush administration, the free market and unfettered corporate profit.

And so it is with the enduring critique of the 'non-profit industrial complex'. The marketization of NGO activism; the counter-productive business model, at times pushed upon the sector, which favours competition over cooperation and solidarity among civil society; the focus on the individual rather than the struggle (c.f. the 'human rights defenders' discourse; the idea of civil society champions; talking about 'women and girls' in place of women's rights and gender equality, etc.); the transformation of peoples' struggles into transaction-based funder-grantee relations; the corporate governance and securitization of many donors – all of this has divided civil society in ways that have expanded the space for some activities while radically restricting the space for others.

We should be mindful of whose interests we serve when we reflect on the shortcomings of civil society, but we should keep in mind the fact that all of the most fundamental social and political changes of the past 100 years, like mobilizing against exploitation, oppression and for an emancipatory vision, have come from not from development-oriented initiatives or top-down philanthropy but the grassroots; from people collectively organizing and mobilizing their communities to assert or claim rights.

## 9. A crisis of solidarity

If attempts to define 'civil society' as legitimate 'professionalized' organizations have always been accompanied by deliberate moves to exclude certain voices and de-legitimize other forms of political activism, then the failure to refute these definitions and resist the cosy establishment relations created when big NGOs try to distinguish themselves from smaller activist groups should be seen as part of the problem. This is because the lack of solidarity with those individual activists and political campaigns that have been exposed to demonization and criminalization, and a growing disconnect between the

concerns of many mainstream NGOs and the victims of these tactics, appears to have contributed to shrinking space in a very real way.

Rather than simply looking up to the powerful to understand and counter 'shrinking space' then, we should be looking to the voices and experiences of those on the margins whose political space is being obviously and radically restricted.

We should look, for example, at what is happening to the Boycott, Divestment, Sanctions (BDS) movement, launched in July 2005 by Palestinian civil society. Regardless of what you think about the merits or motivation of the campaign or its wider context, the legality and democratic legitimacy of BDS as a non-violent strategy to achieve change is irrefutable. Yet across much of the democratic world we are witnessing flagrant and relentless attempts to delegitimize and criminalize BDS. Crucially, some of these attempts have failed due to the tenacity and creativity of the resistance to adapt. It follows then that if we want to counter the criminalization of civil society in other arenas, we would do well to try to understand and build upon these successes. In other words, we should not only look at how space is 'shrinking', but how that space is being defended, and by whom.

In doing so, we should look to the hard state and Far Right responses to Black Lives Matter, an entirely legitimate movement against institutionally racist police forces that has been met by increased securitization, militarization and de-legitimization. We should look at what is happening under the ongoing 'state of emergency' to long-demonized Muslim communities in France post-Islamic State terrorism, and the treatment of those who speak out against the fascist turn of 'laïcité'. We should look at gender justice movements worldwide, which are increasingly squeezed between conservative and extremist forces on the one hand, and the paternalism of civil society regulations on the other. We should look at the criminalization of environmental activists throughout the world who believe the Paris agreement is useless without radical action against extractivism, and the fate of indigenous and other marginalized communities who are forced to make way for 'development'. And we should look at the fate of our most celebrated whistle-blowers and the agents of 'radical transparency'.

It is only from examining these stories that we can weave together a coherent and alternative narrative about shrinking space and provide the tools of resistance to those who need them most.

## 10. Pacification, rising fascism and beyond

Tragically, the failure to resist the criminalization and demonization of causes that address the very heart of established power, and many other perfectly legitimate forms of political activism, has paved the way for a much wider attack on individual activists, civil society, workers' unions, migrant communities and movements, by the populists and racist demagogues of the resurgent Far Right.

As a result, academics, mainstream NGOs, development organizations, independent expertise, 'political correctness', multiculturalism and even the 'liberal elite' are beginning to experience the kind of delegitimization that those at the margins and radical fringes have long been subject to, and who continue to bear the brunt of the new authoritarianism.

If we are to tackle the problem of 'shrinking space' and its effects on civil society, we need a better response: one that recognizes that these problems cannot be solved by lip-service to human rights or some kind of 'enabling environment'.

We need to understand the distinct politics of the clampdown and its relationship to neoliberalism, authoritarianism, insecure bastions of power trying to regain control, and the global economic crisis (how does civil society relate to systems of power, or the 1%, or the 99%). We need to better define the problem in a way that speaks to the political, legal, physical and ideological battles at the heart of the 'shrinking space' dilemma.

We need to focus on the actors mobilizing collectively, who are genuinely challenging power and who face the most serious threats – and understand their ‘shrinking space’ with respect to those whose space is increasing. And we need to do so within a framework that recognizes that activists, and the wider social movements that they are part of, experience different levels of oppression and violence as a result of their particular identities and the wider struggles which they represent, such as combating white supremacy or violent misogyny. We also need to take seriously the proposition that ‘civil society’ may not be the appropriate lens to look at the wider repression of social movements, and that securitization instrumentalizes CSOs to such an extent that it may one day permanently close the door on the spaces where real change is made.

We need to put the complicity of governments and corporations front-and-centre of the fight-back by not letting them claim that they support civil society and human rights defenders while they are flagrantly repressing them at home; or subcontracting them in an effort to appear engaged in legitimate civil society activism on the ground.

Most of all we need to rediscover genuine solidarity that resurrects the principle that injustice anywhere is a threat to justice everywhere, and give visibility to those whose struggles are being repressed to the ultimate detriment of us all.

Across the world, in both democratic and non-democratic states, many activists and social justice organizations face an increasingly repressive and securitized environment as well as unprecedented attacks on their legitimacy and security. From the attempts to suppress Black Lives Matter to the assassination of Berta Cáceres, the criminalization of the Boycott, Divestment, Sanctions (BDS) movement to the micro-tyranny of Bangladesh's new Voluntary Activities Regulation Act, individual and collective activism is facing a global pushback from states, corporations and the Far Right.

The current emergency has been a long time in the making. But only recently has it galvanized a concerted response by organized 'civil society', which is now mobilizing to understand and counter what is termed 'shrinking space,' a metaphor that has been widely embraced as a way of describing a new generation of restrictions on political struggle. The concept of space itself has different definitions depending on who you talk to. Some understand it as limited to space to influence policy (a seat at the table) while others understand its meaning as political space to organize, to operate, to have a legitimate voice, to protest and to dissent. The former tends to depoliticize contestations while the latter is empowering them. These distinctions concerning how 'space' is conceived will shape the type of response warranted, with important implications for who engages in that space and how.

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