

Imagining the Future of Lumads in Bangsamoro

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ABSTRACT. In the midst of the peace process and the creation of the Bangsamoro, the voice of the Lumads as a "second-order minority" that has begun to reimagine themselves as Filipino citizens has not been given enough attention. The Bangsamoro Basic Law (BBL) draft initially reviewed in 2015 did not contain language that explicitly refers to the Lumads nor contain any guarantee of protection of their rights under the Indigenous Peoples' Rights Act (IPRA) of 1997. A subsequent BBL draft does little to address these problems. "Indigenous peoples" as used in the second draft refers to the Moros while the term "non-Moro indigenous peoples" is used to refer to the Lumads. The draft also cites the United Nations Declaration on the Rights of Indigenous Peoples but does not mention the Philippines's IPRA. In the end, Lumads must still decide between assimilating as Bangsamoros and losing their cultural identity or remain noncitizens and be treated as outsiders. It is possible that the Lumads may have a better future with the Bangsamoro considering that the Moros have a history and experience similar to the Lumads, with both being considered minority groups by mainstream Filipinos. Reimagining the Bangsamoro as a place not only for Moros or Muslims but for all groups indigenous to the southern Philippines is a step in the right direction. In the end, however, only the Lumads can decide what they are willing to compromise in order to retain their rights as indigenous peoples, either under the national government or under the Moros in the future Bangsamoro.

KEYWORDS. Lumads \cdot Bangsamoro \cdot Indigenous Peoples' Rights Act \cdot indigenous peoples \cdot second-order minority \cdot Bangsamoro Basic Law

Introduction

At an Asian studies conference in 2013, I chaired a panel titled "Complicating the Nation" with fellow Philippine scholars Leloy Claudio and Rommel Curaming, during which we sought to introduce new perspectives on Philippine studies as an academic research area, as well as the way we conceptualize the nation. As part of this panel, I presented on how Lumads, as indigenous ethnic minorities of Mindanao, were beginning to consciously reimagine themselves not as

isolated minorities but as Filipino citizens who should be taken seriously as such. I argued that their active assertion of citizenship and claiming of their rights as citizens were not just a matter of selfempowerment or political calculation but a genuine sentiment that must be acknowledged properly. The divide between indigenous peoples and mainstream Filipinos² is not only material and geographic but also a matter of how both "the nation" and the idea of what is a "real" Filipino are imagined. My ongoing research has only further confirmed this observation. I note further that a parallel phenomenon of asserting Filipino citizenship seems to be taking place among the Moro³ peoples of the Philippines. In other words, our extant imagining of "Filipino" as an identity is rapidly growing obsolete. This is evidenced indirectly by the persistence of ethnic conflicts between ethnic minorities and the government that are ultimately about rights to ancestral lands but expressed as conflicts over citizenship and governance.

At the end of the panel, I was asked by a scholar from the European Union about my thoughts on the future Bangsamoro homeland—which, by the way, is a project I support wholeheartedly as a social scientist, a Mindanaoan, and a Filipino—and about the fate of Lumads within its borders. He asked my opinion: were the Lumads better off under the Moros or the national government? My answer, which seemed a surprise to most in the audience, was that both choices involved major risks, but ultimately the Lumads of western Mindanao may have a better future with the Bangsamoro than the national government. For one, the national government has had over half a century to do right by the Lumads and other indigenous peoples, and serious problems still remain despite the passage of groundbreaking legislation to protect the rights of indigenous peoples, the Indigenous Peoples' Rights Act (IPRA) of 1997.

This goes back to issues of identity and belonging, and I reasoned that Lumads have a better chance at being taken seriously by the Moros than by the national government, or the mainstream Filipinos who are its majority constituency. Moros have had complex and traumatic experiences quite similar to Lumads vis-à-vis both the national government and settlers from Luzon and the Visayas. Despite the contestations of land, resources, and power between Moros and Lumads, at the end of the day the Moros do have a profound understanding of what it is like to be excluded from "the nation" of which they are citizens; they understand the impulse toward autonomy;

they understand the importance of protecting heritage and ancestral land. Even if they may not understand fully what it is to be Lumad, Moros do understand what it means to be a minority—in political, economic, social, cultural, and material terms. And this is something that mainstream Filipinos will never be able to appreciate fully.

Of course, the relationship between Moros and Lumads is complicated on several levels, not least because of the demographic dominance of Moros, and the resulting power imbalance, in general, between the peoples belonging to these two ethnic categories. However, there is at least a historical and cultural relationship, one that is validated by the legendary pact between Mamalu and Tabunaway, the "brothers" who are symbolic ancestors of the Lumads and the Moros, respectively (McKenna 1998, 48–50). Over the decades and centuries, there have also been significant intermarriages such that in some cases the ethnic boundary between "Lumad" and "Moro" is not so easy to define. Lumads have also been known to lend support at times to the Moro rebellion, while Lumads in northern and eastern Mindanao have fought their own battles for territorial autonomy. In western Mindanao, like it or not, the fates of Lumads and Moros are definitely intertwined.

This is the complex dynamic that I explored in my article "Indigenous vs. Native: Negotiating the Place of Lumads in the Bangsamoro Homeland" (2015), which was part of the journal Asian Ethnicity's special issue on "second-order minorities" in Asia. The final text of the article was submitted before the Bangsamoro Basic Law (BBL) was finalized and delivered to the Senate (on 10 September 2014) for deliberation, and published immediately before the Mamasapano incident (25 January 2015) that altered radically the national sentiment about both Moro and Bangsamoro autonomy. As such, the article in question is rendered incomplete by important events, and this research note is intended as a coda to what would otherwise have been an outdated article had the BBL been simply passed without further controversy.

SUMMARY OF MAIN CONCERNS

Some of the main points of the aforementioned article may be worth reiterating here. I contextualized the overall situation of Lumads in the future Bangsamoro by describing their status as what the authors of the special issue decided to call "second-order minorities" (Barter 2015). This term refers to people who are, in every sense, the minorities of

another minority group—which is the peculiar place of Lumads in western Mindanao today. As second-order minorities, the Lumads within the Moro-majority areas of Mindanao, within the existing Autonomous Region in Muslim Mindanao (ARMM), and within the future Bangsamoro already delineated, are caught in the crossfire, sometimes literally, between Moro secessionists and government forces.

With regard to the Framework Agreement on the Bangsamoro, Lumads were squeezed politically, and their voices and concerns as rightful stakeholders were largely ignored. In this regard, their treatment throughout the peace process—during which they were granted token "consultant" status—was simply a continuation of the disregard and discrimination many Lumads within the ARMM had long complained of vis-à-vis their Moro compatriots. The article basically describes this situation in detail and outlines the political consequences for the Lumads, especially the difficult choices they would have to make if the BBL moved forward "as is." I also cautioned that it was in the best political and moral interests of the future Bangsamoro to heed the Lumads and not make the same mistakes against the Lumads that the mainstream Filipinos had made in the past century with regard to their treatment of the Moros. I reiterate this statement in slightly different form here.

With regard to the BBL draft I had reviewed at the time, the key issue affecting Lumads was the absence of any language guaranteeing that their rights already enshrined in the IPRA national law would be respected and enforced. Instead, they were presented with the option to join the Bangsamoro as full citizens—a right granted to anyone who can prove that their ancestors were in the southern Philippines prior to the colonial period—with all the ensuing rights and responsibilities but also with the new Bangsamoro identity. Otherwise, they could in essence cling to their current status and identity—that is, have their IPRA rights. Ironically, the IPRA law had not been enforced under the ARMM; and despite nearly two decades since the passage of the IPRA law, not a single ancestral domain claim has been recognized or processed within the boundaries of the ARMM, as explained in the article.

Furthermore, Lumads have reported being pressured in various ways to convert to Islam and otherwise assimilate to Moro cultural norms, of being treated as second-class citizens by Moros. More tangibly, there have been noted cases of the seizure of Lumad ancestral

lands—including sacred sites shared by several Lumad groups—by Moros, as well as settlers. Before anyone gets the idea that this is driven somehow by Islam, it is vitally important to note that in other parts of Mindanao, the Lumads also experience identical problems—but under Christians rather than Muslims. In fact, almost all the outright violence directed against Lumads has occurred under Christian domination, a serious human rights problem that continues to this day.

DEVELOPMENTS

Post-publication, I reviewed the version of the BBL that was sent to Congress for approval.⁵ While there have been amendments proposed, they have yet to be incorporated permanently; therefore, my comments are reserved for what we do have in writing at present, which is available for review on the website of the Office of the Presidential Adviser on the Peace Process.⁶

Thanks perhaps to the determined public lobbying of various leaders of and advocates for Lumads in the affected areas, as well as the efforts of the Bangsamoro Transition Commission itself which, I note, has two indigenous people members, the current draft BBL does contain substantial additional language addressing a cross section of Lumad concerns. Primarily, the language has been expanded and made more explicit, showing an increased awareness of the concerns of Lumads, as well as what seems to me a clear intent toward fostering inclusiveness—or at least a sense of inclusiveness. In addition, there was added a new section in Article V (Powers of Government), Section 3 (Exclusive Powers), Item 30:

Protection of the rights of the indigenous people in the Bangsmoro in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, and taking into account in addition to economic and geographical criteria, their individual and communal property rights, cultural integrity, customary beliefs, historical and community traditions. The Bangsamoro Parliament shall create an appropriate office or ministry for the Indigenous Peoples, which shall be part of the Bangsamoro Cabinet to develop and implement the Bangsamoro programs for the indigenous peoples in accordance with a law passed by the Parliament ...

The Office of the Presidential Adviser on the Peace Process's frequently asked questions page on the draft BBL outlines all the key language pertaining to the rights of indigenous peoples:⁷

- (a) Right to native titles and/or *fusaka inged* [Teduray for ancestral domain] (Article IX, Section 5).
- (b) Preferential right to explore, develop, and utilize natural resources within areas covered by their native titles. In case these activities are to be undertaken by the Bangsamoro Government, or by an authorized concessionaire, the free and prior informed consent of the holder of the native title is required (Article XIII, Section 12).
- (c) Right to an equitable share in revenues from the exploration, development, and utilization of natural resources within areas covered by their native titles. The Bangsamoro Parliament shall enact a law for this purpose (Article XII, Section 34; Article XIII, Section 12).
- (d) Right to political participation, including to reserved seats for non-Moro indigenous peoples/indigenous cultural communities in the Bangsamoro Parliament. The seats shall be filled pursuant to their customary laws and indigenous processes (Article VII, Section 6).
- (e) Right to education through the establishment of a tribal university system that will address the higher educational needs of the indigenous cultural communities in the region (Article IX, Section 14).
- (f) Recognition of a traditional/tribal justice system. The Bangsamoro Parliament shall enact laws for this purpose, and an Office for Traditional/Tribal Justice System shall also be created (Article X, Sections 23, 24).
- (g) Recognition of indigenous structures, or systems which promote peace, law, and order (Article XI, Section 18).
- (h) Other rights provided in the United Nations Declaration on the Rights of Indigenous Peoples (Article IX, Section 5).

The draft BBL also mandates the creation of an office for the indigenous peoples/indigenous cultural communities in the Bangsamoro, the head of which shall automatically become a member of the cabinet (Article V, Section 3, No. 30).

Much of this language parallels the language of the IPRA, without actually mentioning IPRA.⁸ Indeed, it is quite impressive and admirably generous, until we take note of a few realities in the current draft of the BBL.

The first concern is that the term "indigenous peoples," as used throughout the draft BBL, clearly refers primarily to the indigenous Moros, rather than the Lumads. While it is implied that the Lumads do fall within this term, the word "Lumad" does not actually appear anywhere in the draft BBL. However, in the sections of the proposed law where the framers wanted specifically to refer to the Lumad, the term "non-Moro indigenous peoples" is used, as is the case when the number of reserved seats in government is specified for the Lumads and "settler communities." A more cynical person might regard this use of "indigenous peoples" in the BBL as deliberately misleading, because Moros in general do not refer to themselves as indigenous peoples, and the term in common use in the Philippines refers only to the Lumads, Cordillerans, Mangyans, Aetas, and other minorities, and never to the Moros. Even the use of the term "non-Moro" tells us that the indigenous peoples recognized by default are the Moros. It would be as problematic as referring to our Muslim citizens in legal documents as "non-Christian" Filipinos.

All this may seem superficial and merely a matter of semantics, but it is critically important to recognize that referring generically to "indigenous peoples" here can result in serious legal problems for Lumads. Within this context, for example, the section of the BBL quoted above can be read clearly as referring not to Lumads but instead to Moro indigenous peoples. While others will no doubt choose to interpret the same section more generously as referring to both Moro and "non-Moro" indigenous peoples, let us bear in mind that legal arguments often come down to a narrow and literal interpretation of the words that constitute a law on the books. As such, there is still no language specifying what protections the Lumads will have, as the powerless minorities-of-another-minority, if there is ever any dispute about land or other issues between Moro and non-Moro indigenous people.

Last but not least, despite the notable mention of the United Nations Declaration on the Rights of Indigenous Peoples, the country's own national law, the Indigenous Peoples' Rights Act of 1997, is not mentioned anywhere in the document. Instead, the draft BBL places it in the exclusive powers of the future Bangsamoro government to create an office or ministry or agency, as well as to formulate and pass laws, to attend to these specific concerns. Again, there is nothing in the BBL that specifies these provisions as referring to Lumads, only to "indigenous peoples" generically. The term could be interpreted very easily to refer only to the different indigenous Moro ethnic groups such that, for example, only the Tausug can determine what happens on Tausug land, rather than a majority of Moros telling individual ethnic groups what to do on their own land, or how to run their own communities. In fact, it is much more likely that this kind of situation protecting against a future Bangsamoro hegemony, rather than protecting the rights of the Lumad—is actually what all the language on indigenous peoples is intended to address.

At the end of the day, what this means is that, despite all the new language, Lumads are still faced with the same impossible choice I identified in my original article—to assimilate as Bangsamoros, which will result in a legal loss of their cultural distinctiveness, or else cling to their IPRA rights and be treated as outsiders and legally as noncitizens in the future Bangsamoro. Each option is highly problematic on many levels, and each option leaves the Lumads vulnerable to the discriminatory practices of majority ethnic groups who have treated them deplorably in recent and historical memory. That said, it does not actually matter what I or any outside observer might think of the merits of either option. Lumads are the only ones who can know what they are willing to live with, much less decide whether they would be better off under the rule of Moros or the national government.

However, if either the national government or the future rulers of the future Bangsamoro want to make this right, all they need to do is allow the full implementation of the national IPRA laws for the protection of their Lumad brothers. While I recognize that the Moros may consider it against their own interests to give non-Moros too many rights when they are still struggling to establish their own territorial autonomy, they in fact lose nothing and gain everything by showing other Filipinos how to properly treat those whom they dominate politically and demographically. It is an unfair burden, but the onus is on Moros to show the other Filipinos how minorities should be

treated—how the Moros *should* have been treated by the Filipinos in the first place. What this requires, however, is a reimagination of Bangsamoro not as a homeland exclusively for Moros, or for Muslims, for that matter, but for all those indigenous to the southern Philippines. Just as Filipinos truly need to reimagine their country to encompass all Filipinos—Bangsamoro also needs to be reimagined as the future of the indigenous peoples of Mindanao and Sulu, not of Moros or Muslims alone.

This is not so far-fetched a proposal. In fact the BBL itself introduces this very possibility from the very beginning, by defining Bangsamoro citizenship solely according to indigeneity relative to Mindanao and Sulu. Article II, Section 1, of the BBL draft defines the "Bangsamoro people" as follows:

Those who at the time of conquest and colonization were considered natives or original inhabitants of Mindanao and the Sulu archipelago and its adjacent islands including Palawan, and their descendants, whether of mixed or of full blood, shall have the right to identify themselves as Bangsamoro by ascription or self-ascription. Spouses and their descendants are classified as Bangsamoro.

Despite the use of the term non-Moro indigenous peoples, as well as the normative association of being Moro with being Muslim, there is absolutely no mention of Islam in the definition of Bangsamoro. There is in fact no religious test for Bangsamoro citizenship, because Bangsamoro autonomy is not about creating a Muslim state. The organic definition of Bangsamoro is rooted in indigeneity—it has nothing to do with being Muslim. The significance of this is surprisingly underappreciated.

Just as Filipinos really need to stop thinking of the ethnic minorities as "non-Catholic" Filipinos, Moros also need to be able to imagine a Bangsamoro within which Lumads are embraced fully as indigenous to the land—with rights and voices equal to Moros—rather than as "non-Moro" indigenous peoples who are stumbling blocks to a Moro homeland. Without this, the problems that we hope to solve by securing territorial autonomy will only be replicated in the new entity. Lumads are such a small minority within the Moro territories, perhaps as small as 4 percent (Paredes 2015). But it is the right thing to do.

REALISTIC PROSPECTS

On 21 January 2015, the BBL hearings in Congress, led by Rep. Rufus Rodriguez, came to a close, with majority support in the Senate. Then, on 25 January 2015, the anti-terrorist fiasco now known by the place where the deadliest encounter of the operation took place. Mamasapano. threw a monkey wrench into what had been until that point a quietly successful peace process. Overnight, the progress of the BBL through the congressional system came to a screeching halt. Throughout the country, people who had never given the Bangsamoro issue a second thought grew newly opinionated, arguing that passing the BBL would mean, in effect, the dismemberment of the nation, that we would be "giving it away" to "the Muslims." I note that in this scenario the citizenship of "the Muslims" was also being called into question—such that supporters of the peace process were regarded as possible "traitors" for wanting to "give away" Philippine land to people who, it was strongly implied, were not "real" Filipinos. The public response was so overwhelming, and over mass media and social media it seemed that every latent hateful anti-Muslim prejudice and sentiment emerged. In this Catholic majority country, the conflation of Filipino citizenship with Christianity took a particularly ugly turn, with calls to "pulverize" Muslim Mindanao to avenge the death of the forty-four members of the special action force of the Philippine National Police. It is notable that the Muslim casualties, including the innocent civilians, were largely ignored by the general public.

Of course, the irony in all this is that, in reality, the creation of Bangsamoro was actually a way of guaranteeing that the nation retains its territorial integrity. By committing their stake in the nation so profoundly, the Moros were in fact showing that secession was no longer a desired outcome. All they were asking was for the government to acknowledge that stake in a tangible way.

In the fallout from Mamasapano, two co-sponsors of the BBL withdrew support on 26 January 2015, and everything came to a standstill as investigations and hearings were conducted in response to the carnage. All discussion of the place of Lumads in the future Bangsamoro, and the protection of their legal rights under IPRA, also came to a standstill. A month after Mamasapano, a national survey by Pulse Asia Research, Inc., revealed that awareness of the BBL was at an all-time high (88 percent), and that a majority of Filipinos either disagreed with it (44 percent) or were undecided (36 percent) nationally,

with an outright majority in Metro Manila and Mindanao itself objecting to the BBL (52 percent and 62 percent, respectively). Overall, a mere 21 percent of Filipinos supported the passage of the BBL. Meanwhile, nearly all Filipinos surveyed knew about the Mamasapano incident (99 percent).¹⁰

As with the other violent incidents of the past few years involving Moros—including the attempted invasion of Sabah by men claiming to represent the defunct Sulu Sultanate, and the occupation of Zamboanga by the Moro National Liberation Front, both in 2013—the outrage and spectacle of Mamasapano have meant that the Lumads have been forgotten once again. The debate has been narrowed, rhetorically, to a choice between passing the "full" BBL or junking it altogether, rather than "diluting" it with changes. What is easily forgotten is that the BBL is not only about the Moros but about the Lumads who live among them, too. Any decisions made will affect the lives of Lumads just as profoundly as the Moros. In fact, due to their inherent disadvantages, and their precarious position as second-order minorities, Lumads within Bangsamoro will be affected even more so.

Sadly, in February 2016, the Congress adjourned without even bringing the BBL to a vote. Meanwhile, general elections are taking place in May, and a new president and a new Congress will be voted in. Legislatively, the BBL is dead, and at present there is no way to predict what impact the general elections will mean for the BBL—whether it will be revived and actually voted on, or it will be shelved indefinitely. It should be a surprise to no one that the individuals and sectors of society who worked so hard on the Bangsamoro peace process, and to make the BBL a reality—including Lumads, I should add—all feel cheated. There is a deep sense of betrayal there that is likely to linger for a long time, and we should not be surprised if some permanent damage has already been done.

However, my own view of the situation is that the peace process that culminated in the crafting of the BBL should not be considered a failure but rather a remarkable success. The BBL was scuttled by fickle political partisans with their own selfish agendas and short-term concerns. It was not a failure of the people who actually participated in the peace process directly—including representatives from the Moro Islamic Liberation Front, the national government, the military, local government units, ARMM officials, civil society organizations, indigenous leaders, and others from every walk of life. Instead, the relationships and networks built, the material progress made, the

grander vision that was cultivated, and the feelings of solidarity and partnership that evolved over the years are very real gains at the ground level that are not so easily abandoned, despite bumps in the road. Even the cooperative arrangements between the Moro Islamic Liberation Front and the Philippine military were not destroyed by the blowback from Mamasapano.

As such, I am optimistic that, despite the shameful failure of the outgoing president and the Congress, all is not lost. Moreover, the BBL may not yet be a legal reality, but it is now a political and cultural reality for those who hope to see Bangsamoro come to fruition. In this hiatus, peace advocates in general and Lumad advocates in particular would do well to cultivate a future vision of Bangsamoro that would be a model for all Filipinos of what is authentically inclusive and democratic.

Notes

- "Complicating the Nation: New Perspectives on Philippine Studies," 8th International Convention of Asia Scholars, Macau, PRC, June 2013.
- 2. I use the term "mainstream" Filipinos here in reference to the lowland majority ethnic groups of the Philippines, who form the dominant culture base representing what is generally regarded as "Filipino." In contrast, the Lumad and Moro ethnic groups, as well as other groups classified as "indigenous peoples," are all minorities in both the cultural and demographic sense, and are differentiated for this reason.
- "Moro" refers to the indigenous peoples of Mindanao and Sulu whose ancestors had either converted to Islam or had a strong affiliation with Islam prior to the advent of Spanish colonization in the sixteenth century.
- 4. The incident was the result of a police operation in Maguindanao province undertaken by the Special Action Force of the Philippine National Police to capture international terrorists, but went wrong when the special action force mistakenly wandered into MILF territory. One wanted terrorist was indeed located and killed, but at the cost of the lives of forty-four special action force men, as well as eighteen MILF troops and five other combatants, and seven unarmed civilians, including a little girl. The operation was characterized by poor planning overall, including the failure to coordinate the operation with the Philippine military, which as part of the peace process strictly observed protocols in place specifically to prevent tragedies like this.
- 5. After the Mamasapano incident, Senate Bill 2894, popularly called the BL-BAR (Basic Law for the Bangsamoro Autonomous Region), was proposed by several senators in August 2015 as a so-called alternative to the BBL (see http://senate.gov.ph/lisdata/2192318640!.pdf). The BL-BAR was widely opposed because not only did it not grant the full autonomy that had been negotiated for Bangsamoro between the government and the MILF, but it actually reduced significantly the level of autonomy that Moros already have at present under the Autonomous Region in Muslim Mindanao. I do not give it much treatment here because I never considered it genuinely viable. See the statement by the Office of

- the Presidential Adviser on the Peace Process (http://www.opapp.gov.ph/features/blbar-unconstitutional-pass-bbl).
- 6. See http://www.opapp.gov.ph/milf/news/draft-bangsamoro-basic-law.
- See, in particular, pages 16-17 of http://www.opapp.gov.ph/sites/default/files/ Draft%20Bangsamoro%20Basic%20Law_FAQs.pdf
- 8. In contrast, the BL-BAR mentions the IPRA explicitly and multiple times. However, the BL-BAR language is vague and problematic in that it is possible to read Bangsamoro citizenship as a right designated for Muslims. Nor are the rights of non-Moro indigenous peoples necessarily improved in the BL-BAR, because the manner in which IPRA is referenced gives the impression that the rights of non-Moro indigenous peoples are defined and delimited by the IPRA itself, and that they might not have equal rights through Bangsamoro, as citizens.
- Following the language of the BBL, Muslims from elsewhere in the Philippines have absolutely no claim to Bangsamoro citizenship (unless they married an indigenous Bangsamoro citizen). However, a non-Moro indigenous people has clear grounds to claim Bangsamoro citizenship.
- 10. Pulse Asia Research, Nationwide Survey on the BBL, the Mamasapano Operation, and Presidential Resignation, conducted March 1–7, 2015. Summary at https://drive.google.com/file/d/0B3b9qPFV1cRDcHdKN3REZmUxcEU/view?pli=1.
- 11. The reference to a diluted BBL is about the aforementioned BLBAR.

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