

INNOVATIONS

Fighting corruption in Nigerian civil service under the fourth republic: the role of EFCC and ICPC

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Abstract

Corrupt practices are common phenomenon in Nigerian civil service. One can hardly enter an office and get his work done without financial or other forms of inducement. Hence, bribe is openly demanded by government officials before any assistance is render. In spite of civil service rule, the scourge continued unabated. This institutional decadence has greatly affected the overall operations of Nigerian public service. Therefore, given this disturbing trend, this study aimed at examining the impact of EFCC and ICPC in combating the malignant effects of corruption in Nigerian civil service. In achieving the stated objective, the study employed a qualitative technique of data collection through the content analysis of official records, policy pronouncements and a considerable review of related literatures. Hence, the findings from the study reveals that the ICPC and EFCC have recorded a commendable success in fighting corruption in public service but both anti-graft institutions are confronted with some challenges such as outdated penal and criminal codes legal system, slow pace of the judiciary in handling corruption-related cases, the problem of underfunding, and among others. The study therefore concludes that sufficient funds should be made available to these agencies for effective and efficient performance in their operation.

Key word: 1. Corruption 2. Nepotism 3. Favouritism 4. Bribery 5. Civil Service

Introduction

Nigeria is Africa's largest economy, with an estimated 2019 gross domestic product (GDP) of \$448.10 billion. South Africa, the continent's next largest economy, has a GDP of \$317 billion. Nigeria constitutes 71 percent of West Africa's GDP and 27 percent of the continent's GDP (Trading Economics, 2020; Okonjo-Iweala, 2018). Nigeria is passing through a critical phase of development, in this process of development; the nation is faced with many challenges which are social, economic and political problems. One of the serious problems that this study has interrogated that is confronting Nigeria at this moment is the growing rate of bribery and corruption in the civic services. It has thrived, progress and deep-rooted in the system. Corruption remain is one of many unresolved problems that have critically hinder development (Adeyemi 2012:190; Adeyemi 2021:1).

Nigeria got her independence in 1960, with a great hope of becoming the best African democratic state, it had a large and diverse population, a constitution that protects human and civil rights as well as the right of ethnic majorities and minorities through parliamentary democracy and federal system of government that ensured constitutional division of power between the levels of

governance. Also the country is endowed with both human and natural resources. These combined with the large potential market were thought to make her a promising black nation hope (Olowu et al, 1997) unfortunately, these hope have been painfully dashed due to the corruption on the part of the civil services and politician who continues to perpetuates corrupt practices.

In the recent times, there has been startling revelation of the way people in government agencies in Nigeria have been manipulating bureaucratic rules and state policies for purely personal gains. Examples of cases of corruption in the Fourth Republic include the trial and conviction of former Inspector General of Police; Tafa Balogun, former Nigerian Port Authority Board Chairman; Bode George, former governor of Bayelsa State; D.S.P Alamieyeseigha, former governor of Delta state; James Ibori, former governor of Plateau State; Joshua Dariye, former governor of Edo State; Mr Lucky Igbinedion, the suspension of Chief Justice of the Federation; Justice Walter Onnoghen on the allegation of false and non-declaration of assets and host of others. The Economic and Financial Crimes Commission (EFCC), is prosecuting the former chairman of Pension Reform Task Team Abdulrasheed A. Maina and his cohorts for allegedly stealing and laundering pension fund to the tune of N14, 374,236,846.09 (Sun, 2017). In similar vein, The Economic and Financial Crimes Commission (EFCC) is also prosecuting six persons who were accused of N20 billion frauds in the Police Pension Scheme. The accused are: Atiku Kigo, Ahmed Wada, Veronica Onyegbula, Sani Zira, Uzoma Attang, Christian Madubuke and Esai Dangabar (now deceased). Mrs Attang, a former chief accountant in the police pension office, is standing trial for theft and abuse of office. She was initially arraigned in 2013 with five others – Esai Dangabar, Atiku Abubakar Kigo, Uzoma Cyril Attang, Ahmed Inuwa Wada, Mrs. Veronica Ulonma Onyegbula, Sani Habila Zira, and Christian Madubuke. The EFCC believes the accused persons used their offices to divert the said amount sourced from the Nigeria Police Pension funds in the account domiciled at First Bank of Nigeria Plc for personal use (Premium Times, 2020). In another development the House of Senate has unraveled how Ministry of Petroleum Resources allegedly spent N14.5 million for supply of Biro, N46 million for ministry letter-headed and N56 million for the supply of toner (Umoru, 2020).

In May 2016, President Buhari openly admitted before the Queen of England the allegation made by the former British Prime Minister, David Cameron that 'Nigeria is fantastically corrupt (Adeyemi, 2018). On October 8, 2016, the agents of Department of State Security (DSS) raided the homes of two Supreme Court judges and five other judges overnight, arrested them and recovered large sum of money. The DSS revealed that a total of 15 judges were under investigation over allegation of corruption and also had recovered various sums of money from those arrested including over N93 million and \$530, 000 in cash. A judge of a High Court and his wife were alleged to have collected N597 million bribes between February 20014 and June 2016 (Okotoni, 2017).

The Chairman of Independent Corrupt Practices and Other Related Offences Commission(ICPC), Bolaji Owosanoye disclosed that N2.6 billion funds for school feeding programme have been allegedly diverted to personal accounts. It was discovered that this money was paid to some federal colleges for school feeding during lockdown when children were not in school, and some of the money ended up in personal accounts. In another development, the commission discovered over N2.5 billion appropriated by a deceased senior civil servant in the Ministry of Agriculture for himself while in office. And while conducting its 2020 constituency tracking programme for 722 projects with a threshold of N100 million across 16 states, a number of projects described as “on-going” in the budget were found to be new projects that ought to have been excluded so as to enable the government to complete existing projects (Guardian 2020)

This development has earned Nigeria a stigma in the international community as foreign investors become reluctant to invest in the country for fear of fraud. Also, most of these countries tend to

deny Nigerians travelling documents like visa, while Nigerians living overseas are perpetually harassed by security agents, closely watched and overly discriminated against (Folarin 2009).

Various attempt to fight this menace in public service among other are the purge of civil service of 1975; Jaji Declaration in 1977 by Olusegun Obasanjo; the Ethical Revolution of Shagari in 1981-83; War Against Indiscipline by Buhari- Idiagbon in 1984; National Orientation Movement in 1986 and Mass Mobilization For Justice by Babangida in 1987; to the War Against Indiscipline and Corruption by Abacha in 1996; the Independent Corrupt Practices and other Related Offences Commission(ICPC) and Economic and Financial Crimes Commission (EFCC) by Obasanjo's administration, which is the major focus of this study.

This paper is divided into four parts. The first part is introduction. The second part attempts to clarify conceptual definitions of corruption and public administration. The second part examines the roles and challenges of ICPC and EFCC in fighting corruption in public service. The third part highlight the success recorded so by these anti-graft agencies in the fight against corruption. The final part is the concluding section and recommendations.

Conceptual Framework

The Concept of Corruption

The phenomenon broadly referred to as corruption has attracted a great deal of attention in the recent times. Both in developed and developing countries there has been accusation of corruption, which has led to the fall of governments and, politicians (including presidents of countries and prime ministers) have lost their respective positions and, in some cases, whole political classes have been replaced due to the menace of corruption.

The term corruption is not a new phenomenon; Tanzi (1998) provided the origin of corruption as thus:

Two thousand years ago, Kautilya, the prime minister of Indian king had already written a book, Arthashastra, discussing it. Seven centuries ago, Dante placed bribers in the deepest parts of Hell, reflecting the medieval distaste for corrupt behavior. Shakespeare gave a prominent role in some of his plays; and the American Constitution made bribery one of two explicitly mention crimes which could lead to impeachment of president. However, the degree of attention currently paid to corruption is unprecedented and nothing short of extraordinary. For example, in its end of the year editorial on December 31, 1995, The Financial Time characterized 1995 as a year of corruption. The following two years could have earned the same title.

The term "corruption" seems to be an ambiguous and ubiquitous concept, as it tends to possess a dual nature. This ambiguity is embedded in the societal reaction to corruption. Evidently, not all kinds of corruption are censured, or equally censured by the society. There are some corrupt behaviours or practices that a community is prepared to condone and usually condone and others that it does not are strongly censured (Olurode 2005; see Adeyemi 2015). Corruption as a term do not have a widely acceptable definition like other terms in social sciences but the explanation of the concept depends on who is defining it, from what perspective and for what purpose (Adeyemi and Adeoye 2019). This has therefore made the attainment of acceptable definition of the concept difficult. The work of Amunsdsen (2000) provides a starting point to unravel what corruption is. According to him:

Corruption has recently been the subject of substantial theorizing and empirical research, and this has produced a bewildering array of alternative approaches, explanations, typologies and remedies.

Corruption is understood as everything from the paying of bribes to civil servants and the simple theft of public purses, to a wide range of dubious economic and political practices in which businesspeople, politicians and bureaucrats enrich themselves. The issue of corruption is an old one that has re-entered the current political and economic debate from the new interest in the role of the state in the developing world, and from the assumption that the state is an indispensable instrument for economic development, redistribution and welfare. In contrast to the largely rejected “state-dominated” and “state-less” development models, there is now much consensus on the need for an efficient medium-sized state apparatus with a political will and adequate economic policies to ensure economic development. Corruption is seen as counter-productive to the needed economic and political reforms, accountability, transparency, and good governance.

The word corruption according to Stefan (2018) is derived from the Latin word “corruptus,” which means “corrupted” and in legal terms, the abused of a trusted position in one of the branches of power (executive, legislative and judiciary) or in political or other organizations with the intention of obtaining material benefit which is not legally justified for itself or for others. Bayley (1977) gave added fillip to the general approach to the definition of corruption when he noted that it refers to “a general term covering misuse of authority as a result of considerations of personal gains which need not to be monetary” this definition sees corruption as the selfish enrichment of someone at the expense of the general public.

The working definition of the World Bank is that corruption is the abuse of public power for private benefit. In Nye’s classical and most widely used definition, corruption is “behaviour which deviates from the formal duties of a public role because of private regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence” (Nye 1967). In a similar vein, Khan (1996:12) defines it as “behaviour that deviates from the formal rules of conduct governing the actions of someone in a position of public authority because of private-regarding motives such as wealth, power, or status”.

Nwabueze (2002:128) in his own contribution adopted a sociological approach to the definition of corruption. He conceptualized corruption in the following way:

A form of social deviance in some cases, of criminal deviances, the result of failure, or lack of will to respect the norms of social interactions. It is an extra-legal or normative approach to gaining access. It is a form of mal-adaptation involving the acceptance of society’s cultural goals and the rejection of the socially approved means of attaining the goals. It is an indictment on the ineffectiveness of society’s socialization function; a sign of some defects in the development of citizen’s personality system. It indicates the existence of weakness in agencies of social control which should punish rather than reward the perpetrator of corruption.

Corruptions, according to him take several forms. On one hand, if a public officer embezzles public funds kept in his trust that is corruption. In the same view, if he does unauthorized spending or exceeds approved limits for dubious ends, this is corruption. If he, in defiance of the rules, allocates government land to himself, his wife, his child or friends or otherwise appropriates his position to his or other person’s unfair advantage it is corruption. If he

over values a contract so that he could earn a kick-back, this is corruption. In this connection corruption is synonymous with the abuse of office (Nwabueze, 2002).

The pervasive nature of corruption has created a problem of a universally accepted definition. Heidenheimer (1978:18) classified corruption into three categories. There is the *Public Office Centred* type which deals with abuse of public trust and official positions and responsibilities for self-serving objectives. At times, this may not result in monetary gains only, for instance showing undue favour to close friends, family and kinship relations in the discharge of public functions.

The second variant is the *Market Centred Corruption* in which public office is converted to an avenue for the maximization of income and/or property (Heidenheimer 1978). As in the case of former Nigeria's President Obasanjo who used his position as the incumbent president to organize fund raising for his private presidential library in Abeokuta where billion of naira was collected from Politicians, Businessmen and private Companies (Soyinka, 2015)

The third variant is the *Public Interest Centred Corruption*, which emphasizes the abuse of public trust to serve cliental cleavages, communal and other group interests. For instance the citing of government projects in an unviable town because it favours the political leader. This is a common phenomenon in Nigeria.

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Independent Corrupt Practices and Other Related Offences Commission (ICPC) was inaugurate on September 29th, 2000 as the institutional mechanism for fighting corruption in Nigeria. Section 3(14) of the Act ensures the independence of the Commission as it is not subject to the direction or control of any person or authority.

The Act contains in-built mechanism and institutional framework for fighting corruption. The establishment of ICPC to implement the provisions of the Act is of great significance. The duties of the commission have been spelt out under Section 6(a) to (f) of the Act and summarized thus:

- (a) **Enforcement:** To receive and investigate reports of the conspiracy to commit, attempt to commit, or actual commission of offences as created by the Act and in appropriate cases and prosecute the offenders(s).
- (b) **Prevention:** To study the procedures, system, and practices of public bodies, ministers, parastatals, departments and government agencies with a view to identifying areas that are open or prone to corruption and/ or facilitate same and offer advice, direct or give suggestion on ways and means of preventing likely incidence of corruption and related offences.
- (c) **Public Enlightenment and Education:** To educate and enlighten the public on and against corruption and related offences with a view to enlisting and fostering public support for the fight against corruption. (Akanbi, 2005:130-131).

The Economic and Financial Crimes Control Act 2002 enacted, provided the establishment the Economic and Financial Crimes Commission (EFCC). In brief, the Act is divided into seven main parts: Part one establishes the Commission and spells out the composition and tenure of office for members; part two spells out the main functions of the Commission and the special power conferred upon it to tackle the problem of economic and financial crimes.

Part three contains administrative regulations, such as criteria for appointment and other terms and conditions of service for staff, and the establishment of special units for the effective work of the Commission. The offences of financial crimes are defined in part four. These include offences in relation to financial malpractice, terrorism, possession of foreign assets and the retention of the proceeds of crime. It also contains provisions for the seizure or freezing of assets

during investigation and forfeiture of such assets after conviction. The jurisdiction for the trial of offences under the EFCC Act is conferred on the Federal High Court or High Court of a State (section 13-25).

Investigative and prosecutor procedures under the Act are determined in part five. These include procedures for the investigation of assets of a person arrested under this Act, the obligation to disclose assets and property by the arrested person, freezing order and banks/financial institutions obligation to comply with such orders, as well the disposal of forfeited property (sections 26-33). Part six contains financial regulations such as the administration of the funds, maintenance of accounts and auditing, as well as annual reports of the Commission in discharging its duties and interpretation of the Acts are contained in part seven (Shehu, 2008).

Challenges of ICPC and EFCC

The ICPC itself is faced at least with two potential challenges which became increasingly obvious as time went on. The first problem was that the ICPC was excluded from investigating cases that occurred before 13 June 2000. In other words, because the anti-corruption Act was signed into law on 13 June 2000, any offence of corruption that was committed before that date cannot be prosecuted by commission. The commission's inability to investigate and prosecute former officials became one of major problem confronting the agency (Adeyemi and Adeoye 2019).

The second shortcoming was that the ICPC jurisdiction is limited by the fact that, its excluded several criminal acts taking place outside the public sector such as bank frauds, money laundering, tax fraud, etc. this which most Nigerians considered to be corruption.

Third, there is also weak underfunding and insufficient manpower. The lack of human resources, which define the capacity and effectiveness of all bureaucratic organisations, were a major source of constraints for the ICPC (Adeyemi and Adeoye 2019).

There are also constitutional constraints. First, the number of the convicted by the courts is quite small in comparison to the allegations. Both the ICPC and EFCC have been tinted that they have prima facie evidence of wrong-doing against a majority of state governors, but have been unable to prosecute them because of restraining legal frameworks. The EFCC claims that the state governors, altogether, hold asserts worth \$175 billion in foreign accounts. Under the current law, serving governors cannot be the subject of criminal action until they cease to hold public office (Folarin, 2014). According to the 1999 Federal Constitution, immunity is conferred on 74 public office holders, including the President, Vice-President, 36 state governors, and 36 deputy governors, who can neither have criminal proceedings instituted against them or be arrested or imprisoned while in office. These provisions have been blamed for hindering anti-corruption because it is mainly top public office holders that commit heinous economic and financial crimes who yet hide under immunity throughout their tenure 19 spanning four years or eight years if they get a second term. For instance, Nigeria's Former Finance Minister, Okonjo-Iweala claimed that most governors embark on foreign trips immediately after allocations from the Federal Government and yet cannot be arrested or prosecuted nation (Folarin, 2014).

Also, outdated laws within Nigeria have not been helpful to the anti-corruption fight. Nigeria's evidence Act was enacted in 1945 and is out of touch with modern day commercial realities. Furthermore, the Penal and Criminal Codes of Nigeria are over 50 years old and probably drafted for an age when the country faced lesser crimes such as simple theft, house breaking, etc. The legislation envisage the arrival of new technologies: computers, internet, fax, mobile telephone, credit cards, etc. which is widely used in carry out of financial frauds. However, the world of commerce and society has grown more sophisticated. It would have been unimaginable to the draftsmen of Criminal and Penal Code that anyone could steal in billions of Naira. The sanctions contained in these two pieces of legislation are insufficient and this leads to

public outcry when a convict who steals billions of naira is convicted and sentenced to jail terms of two year.

Anti-Corruption Crusade in Nigeria: The Gains So Far

Despite the above challenges, the anti-corruption agency under the administration of Buhari recorded some success in the area of recovery of looted funds and property,

Notably, the ICPC has recovered N16 billion from Ministry of Agriculture paid into individual accounts “for non-official purposes,” and the commission recovered 18 buildings, 12 business premises, and 25 plots of land ostensibly acquired from proceeds of corruption (Guardian, 2020).

Details of the recoveries, published by the Federal Ministry of Information, showed that the Nigerian government successfully retrieved total cash amount N78,325,354,631.82, \$185,119,584.61, £3,508,355.46 and €11, 250 between May 29, 2015 and May 25, 2016.

Also released were recoveries under interim forfeiture, which were a combination of cash and assets, during the same period: N126,563,481,095.43, \$9,090,243,920.15, £2,484,447.55 and €303,399.17. Anticipated repatriation from foreign countries total: \$321,316,726.1, £6,900,000 and €11,826.11. The ministry also announced that 239 non-cash recoveries were made during the one-year period. The non-cash recoveries are – farmlands, plots of land, uncompleted buildings, completed buildings, vehicles and maritime vessel. The following is the breakdown of the recovered cash and assets (FMI, 2017).

Interim report on financial and asset recoveries made by the federal government of nigeria from 29 May 2015 to 25 May 2016

Cash Recoveries

Serial	Items	Naira	US Dollar	GB Pounds	Euro
1	EFCC Cash at hand	39,169,911,023.00	128,494,076.66	2,355	11,250
2	Royalty/tax/payment to FGN account in JP Morgan account New York	4,642,958,711.48	40,727,253.65		
3	ONSA Funds Recovery Account in CBN	5,665,305,527.41	8,000,000.00		
4	VAT recovered from companies by ONSA	529,588,293.47			
5	EFCC Recovered Funds Account in CBN	19,267,730,359.36	455,253.80		
6	ICPC Revenue Collection Recovery in CBN	869,957,444.89			
7	Office of the Attorney General	5,500,000,000	5,500,000		
8	DSS Recoveries	47,707,000.5	1,943,000.5	3,506,000.46	
9	ICPC Cash Asset Recovery	2,632,196,271.71			
	Total	78,325,354,631.82	185,119,584.61	3,508,355.46	11,250

Source: FMI (2017) www.premiumtimesng.com.

Recoveries under Interim Forfeiture

Serial	Items	Naira	US Dollar	GB Pounds	Euro
1	Cash in bank under interim forfeiture	8,281,577,243.92	1,819,866,364.73	3,800.00	113,399.17
2	Amount frozen in bank	48,159,179,518.90	7,131,369,498.49	605,647.55	
3	Value of properties under interim forfeiture	41,534,605,998.00	77,844,600.00	1,875,000.00	190,000.00
4	Value of cars under interim forfeiture	52,500,000.00			
5	ONSA Funds under interim forfeiture	27,001,464,125.20	43,771,433.73		
6	Value of Assets Recovered by ONSA	512,000,000.00			
7	ONSA Assets under interim forfeiture	260,000,000.00			
8	DSS Recoveries Frozen in Banks	658,929,000.00	226,476.20		
9	EFCC Cash in Bank under final forfeiture	103,225,209.41	17,165,547.00		
	Total	126,563,481,095.43	9,090,243,920.15	2,484,447.55	303,399.17
	Grand Total	204,888,835,727.25	9,275,363,504.76	5,992,803.01	314,649.17

Source: FMI (2017) www.premiumtimesng.com

Funds Awaiting Return From Foreign Jurisdictions

	Jurisdiction	US Dollar	GB Pounds	Euro
1	Switzerland	321000000		
2	UK		6900000	
3	UAE	310501		11826.11
4	USA	6225.1		
	Total	321,316,726.1	6,900,000	11,826.11

Non Cash Recoveries

Serial	Items	Quantity		
		ICPC	EFCC	ONSA
1	Farmland	22		
2	Plot of Land	4		
3	Uncompleted Building	1		
4	Completed Building	33	145	4
5	Vehicles	22	3	
6	Maritime Vessels		5	
	Total	82	153	4

Source: FMI (2017) www.premiumtimesng.com

Policy recommendations for curbing corruption in Nigerian civil services

This work examines the role of anti- corruption agencies in the fight against corruption in Nigerian public administration. The culture corruption has been the major problem to development in Nigeria. The study therefore provided the following policy recommendations as a way of curbing the menace of corruption in Nigeria

1. Lessons must be taken from the Japanese model the secret of the Japanese ascendancy has been found in moral discipline and absolute dedication to hard work and excellence of its civil service and the mass of the population. The culture of honesty as the best policy must be encouraged among all Nigerians and there should be re-orientation of Nigerians about the evil of unethical behaviour in churches, mosques, schools and all social gathering. Nigerians must encourage a society where those who have integrity and live honest life are allowed and supported to occupy positions of authority in the country.
2. Another measure should consist in government guarantee of job security among the civil servants. The current wage and salary structure must be review and increase to meet the present economic circumstances.
3. This study also recommends that Nigeria's Criminal Laws should be reviewed to meet up with recent circumstances. The outdated laws have not been helpful to the anti-corruption crusade. The Penal and Criminal Code of Nigeria are over 60 years and probably drafted when the country was faced with minimal and lesser crimes such simple theft, house and shop breaking, smuggling, etc. No one could have imagined then, that the likes of Sanni Abacha, Tafa Balogun, James Ibori, Bode George, etc. who looted government money in billions of naira could still be born into this generation. The sanctions contained in these two pieces of legislation are not commensurate to the offences they committed and this has sometimes led to public outcry, especially when a convict who stole in billions of naira is convicted and sentenced to jails terms of two years or even less. In combating corruption at all levels of government and institutions. These laws must be amended in line with the Chinese legal system which lay emphasis on stiffer sanction on corrupt practices. Life imprisonment should melted out on any official who steal above N15 million naira and death penalty for N100 million above. In China where this model is used, seven thousand and seventy (7070) senior officials were prosecuted from 1992 to 2008, eighteen (18) were executed and another eighteen (18) had their death sentences suspended, while twenty (20) received life sentences. The death penalty law enjoyed overwhelming support by the Chinese as 73 percent of

its citizens supported the death penalty in cases of corruption, according to a survey (see Adeyemi 2018; Okotoni 2017; Kech, 2014).

There is urgent need to remove section 308 from the constitution which confers immunity on the President, Vice-President, Governors and their deputies. The section has shielded these set of political office holders from being prosecuted for corrupt practices while in office. Hence, the anti-corruption crusade is worthless and meaningless if the custodians of State resources, that is, President, Vice- President, Governors and their deputies could not be prosecuted if found guilty of stealing government fund while in office. This study therefore recommends that section 308 (immunity clause) should be removed totally from the constitution and should be replaced or amended with serious penalty or punishment for abuse of office and corruption in form of life sentence, death penalty, forfeiting of property and ill-gotten wealth, and ban from holding any political office and chieftaincy title.

4. There must be aggressive anti-corruption campaign by the electorate and member of civil society. The leaders at all levels must be made accountable to the people. The people should see good governance as their right. Therefore there is need for civil society to demand for transparency and accountability from all government officials. Any incidence of misappropriation of funds by the official of council must be reported to appropriate anti-corruption agency for prosecution (Adeyemi and Oyeleye, 2014). This will promote and encourage accountability and transparency on the part of political office holders

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