انتهاكات التنظيمات الإرهابية لحقوق الإنسان باسم الإسلام: تنظيم الدولة الإسلامية في العراق والشام

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ملخص:

هدف الدراسة: تسعى الدراسة إلى تعريف مستوى انتهاكات التنظيمات الإرهابية لحقوق الإنسان، وخاصة تنظيم الدولة الإسلامية في العراق والشام (داعش)، والوقوف على حقيقة معارضة تعاليم الشريعة الإسلامية تلك الانتهاكات المنهجية لحقوق الإنسان. استخدمت الدراسة أساليب دراسة الحالة من خلال عرض بعض الانتهاكات المنهجية التي يرتكبها تنظيم داعش لحقوق الإنسان خلافاً بذلك القانون الدولي لحقوق الإنسان. كما استخدم أساليب التحليل النقدي للخطاب لتوضيح تلك الانتهاكات المنهجية التي يرتكبها تنظيم داعش باسم الإسلام، باستخدام استراتيجية قووية خاصة عند التعامل مع التصووص والمعتقدات الدينية. النتائج: بينت نتائج الدراسة انغماس التنظيم في انتهاكات حقوق الإنسان بشكل ممنهج بما يخالف تعاليم الشريعة الإسلامية ونصوص القانون الدولي لحقوق الإنسان. إضافة إلى استكشاف أهمية تنظيم وإبراز أدلة شرعية وقانونية تدعم الجهود الدولية في مواجهته وتحقيقه المباشرة. كما بنيت الدراسة من خلال التحليل النقدي ل الخطاب داعش أن التصووص الشرعية المؤثرة تدين أيديولوجيا تنظيم داعش في النصوص الافتراضية الموجهة له. الخلاصة: فيما يتعلق بتفسير تنظيم داعش من الأتهامات الباطنة المتدرجة له، أظهرت الدراسة مدى تعريه للطبيعة الإسلامية الجيدة واعتباره دخلياً على الإسلام. المصطلحات الأساسية: انتهاكات حقوق الإنسان، تنظيم الدولة الإسلامية في العراق والشام (داعش)، المجتمع الدولي، الحق في الخaudi.
Human Rights Violations in the Name of Islam by Terrorist Organizations: ISIS in Iraq and Syria

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Abstract

Objective: This study aims to highlight the violations of human rights by ISIS in Iraq and Syria. The study addresses the following question: How does ISIS get by with its systematic human rights violation in the name of Islam when Islamic Law (Shari’ah) itself opposes its ideology and actions? Methods: The case study was used to provide an example of ISIS’s human rights violation within the framework of International Human Rights Law. Critical Discourse Analysis (CDA) is then implemented to illustrate that ISIS can get by with its systematic violation of human rights in the name of Islam by using a particular linguistic strategy when engaging religious texts and beliefs. Results: the study has illustrated how ISIS is engaged in systematic and widespread human rights violations and thus legitimizes the condemnation of ISIS’s actions. This evidence also helps the international community in its current efforts to build a strong case against ISIS concerning its individual criminal responsibility for its crimes against humanity. Through CDA, this study demonstrates exactly how authentic Islamic texts condemn the ideology and actions of ISIS. It thus vindicates the Islamic faith from the false accusations with which it has been victimized because of ISIS’s human rights violation. Moreover, by addressing this critical conflict between ISIS and Islamic Law, this study legitimizes the denouncement of ISIS as un-Islamic and thereby aids the International Muslim Community in reclaiming its Islamic identity from ISIS by helping it to further distance itself from ISIS’s actions. Conclusion: Regarding ISIS’s selective usage of the Qur’an, this study demonstrated that with ISIS’s use of any passage, its proper contextualization revealed a different scriptural intention. By carefully contextualizing ISIS’s human rights abuse within the framework of the UDHR, this study illustrated precisely how ISIS is discursively engaged in systematic and widespread human rights abuse in the name of Islam. Furthermore, by addressing the critical conflict between ISIS and Islamic Law regarding ISIS’s ideology and actions, this study legitimizes the denouncement of ISIS as un-Islamic.

Keywords: Human Rights Violations, ISIS, International Muslim Community, Critical Discourse Analysis (CDA)

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Introduction

ISIS has systematically abused human rights in the name of Islam even though the Islamic Law (Shari’ah) is against its ideology and actions. Little has been done academically to illustrate this critical conflict, and this failure makes any response to ISIS’s abuses of human rights in the name of Islam uninformed. The study uses case study to provide an example of ISIS’s human rights violation within the framework of International Human Rights Law (Donnelly & Whelan, 2020; Dutse et al., 2017). ISIS Recruitment and Utilization of Child Soldiers: A Case of Syria and Iraq. Asian Journal of Multidisciplinary Studies, 5, 12.). By this means, it illustrates precisely how ISIS is engaged in an extensive systematic human rights violation and thus legitimizes the condemnation of its actions. This evidence, moreover, helps the current efforts of the international community to build a strong case against ISIS concerning its individual criminal responsibility for its crimes against humanity. In addition, this study uses critical discourse analysis to illustrate that ISIS can get by with its systematic human rights abuse in the name of Islam by using a particular linguistic strategy when engaging religious texts and beliefs. In doing so, this study demonstrates exactly how authoritative Islamic texts condemn ISIS’s ideology and actions. It thus vindicates the Islamic faith from the false accusations with which it has been victimized because of ISIS’s human rights abuse. Moreover, by addressing this critical conflict between ISIS and the Islamic tradition, this study legitimizes the denouncement of ISIS as un-Islamic and thereby aids the international Muslim community in reclaiming its Islamic identity from ISIS by helping it to further distance itself from ISIS’s actions.

The problem of the study underlies the fact that ISIS is systematically abusing human rights in the name of Islam even though the Islamic tradition is against its ideology and actions. A review of the literature on this theme reveals that there is a lack of studies that particularly deal with critical discourse analysis as an intrinsic case study that attempt to illustrate this critical conflict, and this failure makes any response to ISIS’s human rights abuses in the name of Islam uninformed. This is exactly what justifies the researcher to carry out this study. This study addresses this critical conflict by answering the following question: How does ISIS get by with its systematic violation of human rights in the name of Islam when the Islamic tradition itself is against its ideology and actions?
The significance of this study emerges from its careful contextualization of ISIS’s human rights abuse within the framework of the UDHR, and from its focus on the critical conflict between ISIS and the Islamic tradition regarding ISIS’s ideology and actions. The study’s importance also stems from its role in supporting the international Muslim community in reclaiming its Islamic identity from ISIS by helping it to further distance itself from ISIS’s actions. The purpose of this study is to highlight that Islamic tradition opposes human rights abuse and humanitarian law violations. It is also aimed to illustrate precisely how ISIS is engaged in systematic and widespread human rights abuse and thus legitimize the condemnation of ISIS’s actions.

Methodology

The study used case study to provide an example of ISIS’s human rights violation within the framework of international human rights law. Critical discourse analysis is then used to illustrate that ISIS can get by with its systematic human rights violation in the name of Islam by using a particular linguistic strategy when engaging religious texts and beliefs in addition to investigating ISIS’s strategy in using Islamic language to promote its ideology and justify its actions. The study also attempts to define the Islamic tradition’s actual stance towards ISIS’s ideology and actions. Discourse analysis was selected in this study as a methodology because it allows language to be studied in connection with both ideologies and social practices.

Literature Review

The systematic violation of human rights in the name of Islam by ISIS is considered one of the most important topics, and in fact it is not simple to provide an integrated analysis of the danger of ISIS’s ideology and actions. Uddin’s (2017) study aimed to understand the extremism and fundamental terrorists’ recurrent murders of ISIS that has statistically increased daily, its cruelty and more notably creating a phobia of Islam with their inhuman activities. Besides, it aims to lay out a content of Islam as religion and where it stands today under Shari’ah”. Uddin’s (2017) study revealed that ISIS misjudges the basics of Islam and distorts them to the world.

El-Nashar and Nayef’s (2019) study examines terrorist discursive strategies planned to control recipients’ minds into embracing and accepting certain ideologies. Mantilla (2016) conducted a study that
focused on ISIS’s violations of human rights of the Assyrian people. The study concluded that crimes against humanity are related to international human rights law. The study recommends to have a normative language, which addresses inhumane actions properly in the 21st century.

In the same vein, Vasiliauskiené’s (2016) study discussed the framework of international law for the fight against a terrorist group the so-called Islamic State. The results of the study indicated that different types of armed conflict – international and non-international – were discussed to find out if the fight against ISIS falls within one of those categories. Furthermore, armed conflicts have witnessed a rise in the deliberate violations of international humanitarian law committed by some non-State armed groups. As such, they used media to publicize those violations. The study concluded that there is sometimes a rejection of international humanitarian law regarding these terrorist groups, which some parties do not feel bound by.

**ISIS’s Violation of Human Rights**

The occupation of Mosul, Iraq in June 2014 by ISIS steered in a new era of human rights violation by catalyzing ISIS’s systematic and widespread violence in the name of Islam. These acts of violence committed by ISIS in the occupied Mosul were stark violations of the universally recognized human rights enshrined in the Universal Declaration of Human Rights. The study’s identification of the specific human rights violated by ISIS during this period helped delineating between those violations and ISIS’s humanitarian law violations. This identification, in turn, lends support to the international community’s current efforts to build a strong case against ISIS concerning its individual criminal responsibility for the crimes against humanity committed against the individuals living in a territory that exercises “de facto control” (UNAMI, 2014a). Prior to identifying the specific human rights that ISIS violated, it is important to provide a comparative overview of the two parts of International Law in order to delineate ISIS’s abuses, as abuses are often convoluted.

**Humanitarian Law and Human Rights Law**

International law comprises rules that govern the relations between states. The Humanitarian Law and Human Rights Law are two of its primary components. While both laws seek to preserve human dignity, they vary with
regard to their rules, sources and conditions of applicability. Humanitarian law, on the one hand, is a set of rules regulating the methods and means of land, air and naval warfare that seek to protect civilians from harm caused by war. Its sources include The Hague Law and the Geneva Law. The Hague Law is concerned with the regulation of weaponry and military targets and thus limits violence to the amount required to achieve the aim of the conflict. On the other hand, the Geneva Law is concerned with the protection of civilians, humanitarian aid workers, detainees and prisoners of war (POWs), and thus protects those who no longer participate in hostilities. Accordingly, humanitarian law only applies during times of war (ICRC, 2015).

Human rights law seeks to further protect individual development and individuals from arbitrary government behavior. Its sources include non-legally binding declarations (such as the UDHR), legally binding treaties, for instance the International Covenant on Civil and Political Rights (ICCPR) 1976, and Customary Law (i.e., rules of law developed out of generally recognized practice by State parties) (ICRC, 2015). Unlike humanitarian law, however, human rights law applies at all times, with the exception of certain protections, which may be suspended during emergency situations, such as that of freedom of expression. The UDHR’s authoritativeness among sources of human rights law is examined in the next sub-section of this study.

Despite their different rules, sources and conditions of applicability, both laws tend to overlap. In fact, as observed by the International Committee of the Red Cross (ICRC), some provisions of human rights treaty actually spring from humanitarian law. Examples of such humanitarian law sources include the Convention on Enforced Disappearance, the Convention on the Rights of the Child and the Optional Protocol concerning the involvement of children in armed conflict (ICRC, 2015). This intricate reflexivity among these two bodies of law makes it more pressing, in attempting to illustrate how ISIS has introduced a new era of human rights abuse, to evaluate what ISIS has done strictly in terms of specific UDHR-based human rights. Therefore, instead of identifying how ISIS has failed to respect rules of engagement, as the existing literature has already shown, this section documents precisely which basic economic, social, cultural, political and civil rights that were ignored or denied by ISIS during the immediate post-occupation period of Mosul. It is worth mentioning that these basic human rights were first enshrined and promulgated by the UDHR in 1948.
The Universal Declaration of Human Rights (UDHR)

The International Bill of Human Rights (IBHR) refers to the universally recognized human rights law that primarily consists of the International Covenant on Economic, Social and Cultural Rights 1976 (ICESCR), ICCPR, UDHR. The UDHR itself was the first expression of the international community’s collective understanding of the principles that constitute basic human rights, and covers themes including justice, dignity, prohibition of slavery, individual rights (e.g., the right to life), remedies in case of violation, civil and political rights, public, political and spiritual freedoms (such as freedom of religion) and social, economic and cultural rights. It was signed in Paris in after the World War II in response to the dire human rights situation the world had witnessed at that time. More specifically, it sprang in the immediate aftermath of the Nazi holocaust (which ended in 1945) from a pressing need to codify, in text and among nations, a universal and objective moral understanding of the specific rights, which must be promoted and protected in order for individuals to live in dignity. It also aimed to prevent disasters such as the Nazi holocaust from happening again (Hussain et al., 2021; Teacher, 2013).

Though non-legally binding itself, the UDHR served as the basis for both the ICCPR and the ICESCR. Both of which are legally-binding treaties. The ICCPR, on the one hand, requires its signatories to protect and promote civil and political rights including the right to a fair trial, freedom of assembly, freedom of speech, freedom of religion and the right to life. The ICESR, on the other hand, requires its signatories to promote and protect cultural economic, and social rights including the right to education, health, social security, sanitation and water, food, housing and an acceptable standard of living (US Human Rights Network, 2017).

The ICCPR and the ICESR, however, were not the only two human rights instruments to spring from the UDHR. In fact, the UDHR influenced the creation of regional human rights instruments such as “European Convention on Human Rights” (ECHR) 1953, “American Convention on Human Rights” (ACHR) 1978, and “African Charter on Human and Peoples’ Rights” (ACHPR) 1986. Unlike the UDHR, which aims to ensure universal human rights protection, these regional human rights instruments aim to protect and promote fundamental freedoms and human rights within their respective jurisdictions (United Nations, n.d. ‘b’, United for Human
Rights, n.d.; OHCHR, n.d.). In fact, it is precise because of the UDHR’s universal approach and influence that it is the best measure, the yardstick for this chapter’s human rights analysis.

More practically, treaty-specific conventions such as the ICCPR and the ICESCR will not be used in the analysis of this section because a requisite to violating these treaties’ articles is being a signatory to them. ISIS, being a non-State actor, can thus not become a formal party to these conventions. Moreover, ISIS solely advocates its takfiri (dogmatically excommunication-based) version of Shari’ah and therefore does not subscribe to human rights law. Similarly, regional human rights instruments would serve no purpose in the analysis of this section because it is not concerned with the specific human rights interests of regional organizations. Rather, it is concerned with the basic, universal human rights that ISIS violated and the methods that it used to do so. Accordingly, the UDHR offers a sound basis for the analysis of this section in that it allows for clear inquiry, through systematic, cross comparisons of documentation on ISIS’s violations and UDHR articles, into ISIS’s human rights abuses. Furthermore, the UDHR is best placed for this analysis because, as UNAMI notes, although ISIS cannot become a formal party to human rights conventions, it is bound, as a non-State actor, by human rights commitments (such as those outlined in the UDHR) to the people living within its territory (UNAMI, 2014b, 6-7).

A New Era of Human Rights Abuse

The specific UDHR human rights violations committed by ISIS during the immediate post-occupation period of Mosul included the following: freedom from discrimination; the right to life, liberty, personal security; the freedom from torture and degrading treatment; the freedom from arbitrary arrest and exile; the freedom from interference with privacy, home, family and correspondence; the right to free movement in and out of the country, the freedom of religion and belief; the freedom of opinion and information; the right of peaceful assembly and association; the right to desirable work and to join trade unions; the right to adequate living standard; and the right to participate in the cultural life of community. Moreover, these violations were all committed in just one month, from June 5 to July 5, 2014. It is worth mentioning that although these violations took place on Iraqi territory, they were perpetrated, additionally, against non-Iraqis. Other individuals whose rights were violated during this period
included Bangladeshi, Egyptian, Nepalese, Turkmenistani and Turkish citizens. Identifying these rights helps us to explore the particular linguistic strategy that ISIS used to justify its violations. Outlining ISIS’s strategy thus help us to identify the Islamic tradition’s opposition to ISIS’s actions (UNAMI, 2014a).

Results

ISIS’s Ideological Promotion

During the immediate post-occupation period of Mosul, ISIS used the linguistic strategy of vocabulary reinforcement to promote its ideology. Vocabulary reinforcement is the repeated use of specific word choices to reinforce a message, and ISIS’s message advocated conformity to early Islamic social structures and promoted violent jihad (i.e., holy war). In fact, violent jihad itself is the spearhead of ISIS’s Minhaj (i.e., doctrine). Thus, ISIS’s usage of generic Islamic terms systematically reinforced violent jihad as the spearhead of its minhaj. The terms used by ISIS, in order of their frequency, were khilafah (i.e., leader of Caliphate), imamah (i.e., leadership), jihad (i.e., holy war) and hijrah (i.e., migration). Importantly, these terms coincide perfectly with ISIS’s strategies in (mis)using the Qur’an and hadith to justify its actions. Thus, analysis of ISIS’s use of vocabulary reinforcement to promote its ideology provides a framework for illuminating the priorities in-built in ISIS’s discourse. This framework, in turn, allows for a more robust understanding of precisely how ISIS is discursively engaged in systematic and widespread human rights abuse in the name of Islam. The following is an example of ISIS’s use of vocabulary reinforcement using the first issue of its monthly propaganda magazine (Dabiq) as a resource (Harris, 2014, p. 9).

Khilafah (Caliphate) [29 occurrences] The Qur’anic usage of this term refers to humankind’s authority and responsibility as vice-regents of Allah on Earth. A vice-regent is one that acts on behalf of an authority/higher power (in this case, Allah). For example, Al-Baqarah: 30 reads: “Remember” when your Lord said to the angels, “I am going to place a successive human authority on earth.” Accordingly, humankind is charged with serving as vessels of Allah (i.e., exhibiting godliness) during its time on Earth, and will thus be accountable to Allah on the Day of Judgment for either having done so or having failed to do so. In addition to this spiritual meaning, the term khilafah also traditionally refers to the
political rule of a caliph (leader of the umma “nation”) from the time of the Prophet’s death (632 CE) until the thirteenth century (Kadi & Shahin, 2013). Indeed, khilafah, as a political institution, experienced a “Golden Age” under the Khulafa’ al-Rashidun [the Rightly Guided Caliphs]. It then took on a more symbolic meaning until becoming formally abolished in 1924 through Ataturk’s secularizing reforms.

ISIS, however, uses this term to refer to its own organizational structure. It does this by systematically laying out religious argument for, and celebrating, its role of the revival of the Caliphate. This is evident from Dabiq, Issue 1’s subtitle, The Return of Khilafah. This is also evident from the title of Dabiq Issue 1’s second section, Khilafah Declared. This section covers two topics: 1) the announcement of the caliphate by Adnani and 2) Baghdadi’s first speech. Adnani describes the institution of ISIS’s caliphate as a revival for the umma.

Thus, Adnani portrays ISIS’s caliphate as a vanguard for the umma, having liberated it from secular oppression and empowered it as a victor in the wake of dishonor. Importantly, Adnani designates “the sun of jihad” as the vehicle for this empowerment. Baghdadi, similarly, discusses the caliphate as a revivalist institution. However, he vehemently capitalizes on the concept of violent jihad throughout the process.

Thus, ISIS’s transposition of the term khilafah from an early Islamic context onto its own organizational structure coincides with its advocacy of strict conformity to early Islamic social structures. It also coincides with its promotion of violent jihad. More specifically, Adnani’s designation of jihad as the caliphate’s vehicle for change, combined with Baghdadi’s vehement capitalization on the concept of violent jihad in discussing the caliphate as a revivalist institution, mutually reinforce violent jihad as the spearhead of ISIS’s minhaj.

ISIS’s Self-Justification of its Actions

During the immediate post-occupation period of Mosul, ISIS drew on the Qur’an and hadith in a piece-meal manner to justify its actions. The term piece-meal is used in this study to refer to the selective use and deliberate mis-contextualization of particular Qur’anic passages and hadiths for the pursuit of ISIS’s own ends. In illustrating ISIS’s selectivity of these critical Islamic sources, the Islamic tradition’s actual stance towards ISIS’s ideology and actions is revealed. This becomes
especially clear when situating specific Qur’anic passages that ISIS uses within the wider Qur’anic passages / chapters in which they originate. This contextualization allows for a better interpretation of the issues and themes that these passages actually reference, thus highlighting the discrepancies between the original contexts of these passages and their mis-contextualization by ISIS (Harris, 2014).

Celebrating Khilafah

ISIS uses At-Tawbah (i.e., repentance): 15 to celebrate its role in the revival of the khilafah: “And remove the fury in the believers’ hearts. And Allah turns in forgiveness to whom He wills; and Allah is Knowing and Wise”. In its original context, At-Tawbah describes the annulment of a treaty between the Prophet and the mushrikin (polytheists) as a result of the Battle of Hunayn. Specifically, this sura (Qur’anic chapter) attributes this annulment to the Hawazin Bedouin tribe’s initiation of battle against the Prophet and his followers. Hawazin tribal elders-initiated battle against the Prophet and his followers out of fear that Islamic sociopolitical and military gains would threaten the Hawazin’s established trade routes to the east of Mecca (Qur’an Tafsir ibn Kathir, n.d.). Importantly, much of the passage surrounding Verse 15 illustrates Allah’s command to the Prophet to show mercy upon those mushrikin who did not engage in battle – for example, by granting them amnesty, as in Verse 6: “And if anyone of the idolaters seeks thy protection (O Muhammad), then protect him so that he may hear the Word of Allah, and afterward convey him to his place of safety. That is because they are a folk who know no”. Interestingly, however, Verse 15 itself does not explicitly refer to mushrikin. Rather, it is ambiguous in that it does not denote one group only. This is not to say that this sura does not broadly illustrate Allah’s extension of mercy to non-believers; in fact, it does. This is evident from Verse 6, as illustrated above. It is to say, however, that Verse 15 does not explicitly refer to Allah’s extension of mercy to mushrikin.

Ironically, however, ISIS mis-contextualizes Verse 15 to refer to Allah’s mercy towards non-believers. Specifically, it uses this verse to attribute its military successes in taking over Iraqi territory to the help of Allah. More specifically, it uses this verse to argue that Allah’s help during this takeover not only led to the destruction of ISIS’s enemies (or, as ISIS would have it, the enemies of Islam), but also to the tawbah (repentance)
of murtaddin (apostates), thus saving them from nifaq (hypocrisy) and kufr (disbelief). Importantly, ISIS equates tawbah with the surrender of its enemies to ISIS itself. Thus, it uses this verse to celebrate its direct facilitation of tawbah in reviving the khilafah (Harris, 2014, p. 48-49).

It is not meant here that ISIS’s mis-contextualization of Verse 15 to refer to Allah’s mercy towards non-believers is problematic in terms of human rights itself. In fact, illustrating Allah’s extension of mercy towards non-believers would demonstrate Islam’s respect for human rights. It is meant, however, that ISIS’s mis-contextualization of Verse 15 is problematic because this deliberate mis-contextualization is meant to portray ISIS itself as a vehicle of Allah’s mercy, and thereby justify its takeover of Iraqi territory as divinely ordained.

Conclusions

The Islamic tradition’s actual stance towards ISIS’s ideology and actions is illustrated through both proper contextualization of the Qur’anic passages that ISIS uses. Regarding ISIS’s selective usage of the Qur’an, this study demonstrated that with ISIS’s use of any particular passage, its proper contextualization revealed a different scriptural intention. For example, ISIS uses Al-A’raf: 128 to call for hijrah to its territories. More specifically, Baghdadi uses this verse as a call-to-arms for recruits to occupy Iraq and Syria. However, in its original context, this verse symbolizes Allah’s protection of the Children of Israel’s rights as opposed to referring specifically to physical territory.

By carefully contextualizing ISIS’s human rights abuse within the framework of the UDHR, this study illustrated precisely how ISIS is discursively engaged in systematic and widespread human rights abuse in the name of Islam. It thus legitimizes the condemnation of ISIS’s actions. This discursive evidence, moreover, helps the international community’s current efforts to build a strong case against ISIS concerning its individual criminal responsibility for its crimes against humanity.

Furthermore, by addressing the critical tension between ISIS and the Islamic tradition regarding ISIS’s ideology and actions, this study legitimizes the denouncement of ISIS as un-Islamic. More specifically, by demonstrating exactly how authoritative Islamic texts condemn ISIS’s ideology and actions, this study vindicates the Islamic faith from the false accusations with which it has been victimized because of ISIS’s
human rights abuse. In doing so, this study aids the international Muslim community in reclaiming its Islamic identity from ISIS by helping it to further distance itself from ISIS’s actions.

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