

Stop Trafficking!

Awareness Advocacy Action

Anti-Human Trafficking Newsletter • November 2023 • Vol. 21 • No. 11

FOCUS: This month's newsletter focuses on forced labor among those incarcerated in the prison and detention systems in the United States.

Prison Labor in the United States

"[n]either slavery nor involuntary servitude, except as punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

-Thirteenth Amendment of the United States Constitution, ratified December 6, 1865

Prison labor is enabled in the United States by the 13th Amendment of the United States Constitution, which prohibits slavery "except as a punishment for crime." This exception clause, also called the Punishment clause, in the 13th Amendment disproportionately encouraged the criminalization and effective re-enslavement of Black people during the Jim Crow era, and the impacts of this systemic racism persist to this day in the disproportionate incarceration of members of the Black and brown community.

Courts have consistently held that prisoners have no constitutional right to be paid for their work in prison. Nationwide, the pay is minimal, and in several states, prisoners are not paid for their work.

Moreover, inmates cannot seek protection from traditional workers' rights statutes because they are not considered traditional "employees."

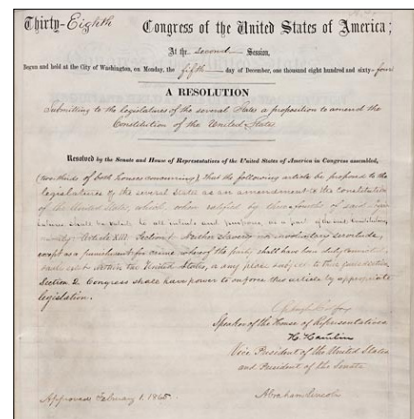
Over 2.2 million individuals in the United States are incarcerated in state, federal, and private prisons, and nearly all non-disabled inmates work similarly. The Bureau of Prisons considers "refusal to work or accept a program assignment" a moderate severity level violation.

Prisoners will receive "moderately serious sanctions," including solitary confinement, loss of privileges, and other consequences.

Prison labor started in the United States with convict leasing during slavery and has grown into a billion-dollar industry rooted in the racism prominent in the incarceration system. Rather than being challenged by legislators, prison labor has been monetized through the sale of cheap labor to companies and state-funded entities. This leads to the ever-expanding prison system providing a slave labor force. No centralized regulation of labor exists in state, federal, and private prisons. The extent to which prison labor is used to supply American corporations with goods and services is masked in secrecy.

Polaris points out that formerly incarcerated people speak out about their experiences and ask the anti-trafficking movement to join the fight to improve working conditions and pay and end forced labor in prisons and detention centers.

The U.S. State Department's annual Trafficking in Persons Report considers state-sanctioned forced labor and prison labor within its grading of anti-trafficking efforts. The United States demonstrates its leadership by condemning regimes and nations that condone or perpetuate forced labor. Moreover, the Department of Homeland Security refuses to allow the import of products into the United States that result from forced labor. As we hold other countries to these standards, we should also look at our own actions and make the necessary changes.



Categories of Prison Labor

In the United States, there are four types of prison labor.

The first and largest category comprises work that supports the operations and maintenance of prisons, with jobs such as cleaning, preparing and serving food, delivering commissary, and other prison upkeep and operations duties. It is believed that most of the 1.4 million people incarcerated in federal and state prisons and some people in jails, including immigration jails (where those detained usually have NOT committed a crime), work in jobs that help maintain the prisons where they are incarcerated.

Most of this work is for low pay, on average \$0.14-\$0.63 an hour, or without payment. In many of these jobs, without using this free or heavily discounted labor, the facility would need to hire a civilian employee to do the work at market rate. This difference in pay translates into a profit for the state or private company that is incarcerating individuals, creating an incentive to continue incarcerating more and more people.

The second category of prison labor constitutes state-run "correctional industries." Correctional work industries are designed to provide work experiences for inmates while incarcerated. Every state except Alaska features some correctional enterprise, where inmates make goods like license plates, desk chairs, uniforms, or apparel.

Each state has its own regulations that dictate what people or entities can buy prisoner-made products. In many states, the sale of inmate-made products is limited to state, federal, and local government agencies, nonprofit organizations such as state universities and religious organizations, and other state-funded agencies. In many states, specific agencies, such as state universities, must buy various products from the state correctional agency. Anyone may purchase agricultural goods, including directly to consumers. The concern is that some correctional industries may circumvent regulations to sell to private companies for more significant profit.

Federal Prison Industries functions under the trade name "UNICOR." [UNICOR inmates](#) manufacture various products, including apparel, awards, linens, and office furniture, and provide many services, including distribution, 3D modeling, and call centers. Most of the products are sold to dozens of other federal and state agencies, such as other prisons, the postal service, the Department of Agriculture, and even the Smithsonian Institution. Some items, such as solar panels, are produced for private sector companies. News reports have shown that prisoners have built military products such as

anti-tank missile components, body armor, and land mine sweepers sold to defense contractors or foreign governments.

The third type of labor incarcerated individuals perform affects only about one percent of incarcerated individuals, approximately 5,000 nationwide, who work for private companies through a program called the Prison Industry Enhancement Certification Program (PIECP). This program allows private companies to contract with state governments to hire incarcerated individuals to work for them. Large companies such as Victoria's Secret, Walmart, Microsoft, Starbucks, and Whole Foods have or had products produced with prison labor in their supply chains, typically through subcontractors' use of incarcerated individuals' work. PIECP has specific requirements, including payment of a minimum wage. For PIECP workers, deductions cannot exceed 80% of their gross wages. However, the remaining 20% can still be directed to expense and savings accounts or legal fees.

Through such programs, incarcerated workers also perform critical work preparing for and responding to natural disasters, including sandbagging, supporting evacuations, clearing debris, and assisting with recovery and reconstruction after hurricanes, tornadoes, mudslides, or floods.

Incarcerated firefighters fight wildfires in Arizona, California, Colorado, Georgia, Idaho, Montana, Nevada, New Mexico, North Carolina, Oregon, South Dakota, Tennessee, Washington, and Wyoming, sometimes for zero pay.

A fourth category includes several thousand more people working for private companies in agriculture and service jobs not regulated by PIECP. Goods and services in this category can only be sold within the state in which they are produced.

These four prison labor programs operate at state and federal levels, governed by varying rules and regulations.

For more information, please click [here](#).



ojoel/Shutterstock.com

“Again, we have deluded ourselves into believing the myth that capitalism grew and prospered out of the Protestant ethic of hard work and sacrifice. The fact is that capitalism was built on the exploitation and suffering of black slaves and continues to thrive on the exploitation of the poor – both black and white, both here and abroad..”

-Martin Luther King, Jr.

Prison Labor in For-Profit Prisons

“The companies that build and run private prisons have a financial interest in the continued growth of mass incarceration.”

(Time Magazine)

The beginning of for-profit prisons in the United States is up for debate. Some reports indicate that for-profit prisons started around 1825 in Kentucky when the local government leased its prisons to an entrepreneur in exchange for a set fee and half of his profits. Louisiana and Tennessee followed similar paths in the decades to follow. Other reports point to the construction of San Quentin State Prison in the 1850s as the first privately owned prison since the state of California agreed that a large contractor build and run the prison.

With the "war on drugs," the 1980s saw a resurgence of for-profit prisons.

GEO Group and CoreCivic (formerly Corrections Corporation of America or CCA) are the two largest publicly traded for-profit prisons in the United States. As of July 2023, more than 90 percent of the average 30,000 people held daily in Immigration and Custom Enforcement (ICE) detention were housed in private facilities as private corporation revenues from immigrant detention soar. Most of these detainees do not have a criminal record and should not fall under the "punishment clause" contained in the 13th Amendment.

Click [here](#) to learn more.

“Most of my lockdown came from refusing to be a slave... working in fields of corn, etc. Free people riding horses with guns telling you to pick this, do that, and/or write you up for disciplinary just because he or she can.”

-Anonymous, incarcerated in Louisiana

(Captive Labor: Exploitation of Incarcerated Workers)

Threats and Coercion Tactics in Prison Labor

"Human trafficking involves the use of force, fraud, or coercion to obtain some type of labor or commercial sex act."

(DHS.gov)

Incarcerated people are often coerced through the threat of punishment, such as solitary confinement, to labor within the prison system. This form of sanctions for refusing to work has been upheld in state and federal courts.

A second form of coercion is through deprivation—whereby incarcerated people work because it is the only way to pay for necessities or because it is the only alternative to being confined in their cells. Some states threaten the loss of basic "privileges," like family visitation and access to the commissary to buy food and other necessities. Others use subtler but still coercive methods, such as the promise of earning "good time," a reduction in sentence, if the individual engages in work.

For example, inmates in Oregon state prisons who refused to work shifts at the height of the COVID-19 pandemic reported they were threatened with transfer to more crowded, higher-security units and loss of honor housing, benefits, and privileges.

Cases have emerged from immigrant detention centers where detainees who have not been convicted of crimes have been forced to work to support the detention center's operations.

Under the threat of solitary confinement, relocation into more violent dormitories, withholding food or essential supplies like sanitary pads, or other coercive tactics, detainees consent to "voluntary" work.

Click [here](#) to learn more.



Awareness

What Companies Use Prison Labor in 2023?

Major corporations benefiting today from prison labor, as reported by the [Malta Justice Initiative](#), include:

- McDonald's uses inmates to produce frozen foods.
- Wal-Mart. The company uses inmates for manufacturing purposes. The company "hires" inmates to clean products of UPC bar codes so that products can be resold.
- Wendy's has been identified as relying on prison labor to reduce its cost of operations. Inmates also process beef for patties.
- Sprint. Inmates provide telecommunication services. Inmates are used in call centers.
- Verizon. Inmates provide telecommunication services.
- Victoria's Secret. The company uses inmates to cut production costs. In South Carolina, female inmates were used to sew products. Also, inmates reportedly have been used to replace "made in" tags with "Made in USA" labels.
- Fidelity Investments. ... 401(K) or other investments are held by Fidelity, and, in some cases, some of your money invested by Fidelity is used for prison labor or in additional operations related to the prison industrial complex. The investment firm funds the American Legislative Exchange Council (ALEC), which has created laws authorizing and increasing the use of inmates in manufacturing.
- J.C Penney and Kmart. Both sell jeans made by inmates in Tennessee prisons.
- American Airlines and the car rental company Avis use inmates to take reservations.

Companies are urged to develop and adopt a company Prison Labor Policy and a standard process for identifying incidences of prison labor. If they discover that prison labor is used in producing their products, they are encouraged to address them with a transparent plan.



Advocacy

Working Conditions

Aside from not being covered by minimum wage laws or overtime protections, incarcerated workers are not permitted to unionize and not guaranteed workplace safety measures. Since incarcerated workers and the setting in which they labor is not primarily economic in nature; they are not considered "employees" in the traditional or legal sense and therefore are not protected by the Fair Labor Standards Act (FLSA), the Equal Pay Act, the National Labor Relations Act, or the U.S. Occupational Safety and Health Administration (OSHA). Incarcerated workers with minimal experience or training are assigned work in unsafe conditions and without protective gear that would be standard in workplaces outside prisons, leading to many cases of injuries, and even death.

Given the vast power disparity between prisoners and their employers, incarcerated workers are an exceptionally vulnerable labor force.

Working conditions have become even more dangerous due to the widespread failure to administer basic COVID-19 safety precautions and protocol in prisons, despite being hotbeds of infection. During the height of the pandemic, incarcerated workers were made to launder bed sheets from hospitals treating COVID-19 patients, transport bodies, and even dig graves — all while producing masks, hand sanitizer, and other personal protective equipment for people outside. Attempts to refuse working were met with threats to push back parole dates.

Click [here](#) to learn more.

California Private Prisons

A court recently ruled that migrant detainees in California who have committed no crimes but are awaiting the outcome of immigration hearings can sue the private prison company, CoreCivic, the largest private prison corporation in the United States, that operates the detention center they were held in over allegations of forced labor. Undocumented immigrants held by federal authorities face administrative detention, which is civil—not criminal—in nature. Therefore, they do not fall within the Thirteenth Amendment’s carve-out for people convicted of crimes.

In six federal civil cases, plaintiffs have alleged forced labor and other abuses in immigration detention facilities owned by GEO Group or CoreCivic, the two largest private correctional corporations in the United States. The suit against CoreCivic claims violations of California laws against forced labor and federal laws against human trafficking and was filed on behalf of immigrants held in California as early as 2006.

The detainees reported being forced to clean toilets and kitchens for little pay. Former detainees allege being paid up to \$1, and if they refused to work, they risked solitary confinement. This goes against ICE’s policies that detainees should not be required to carry out work except for maintaining their personal space. Those choosing to participate in voluntary work programs should be paid at least \$1 a day.

Multiple reports from detainees on conditions amounting to forced labor in detention centers prompted California’s Governor Newsom to authorize legislation in 2019 to phase out the state’s contracts with private prisons by 2028.

Click [here](#) to learn more.

With a few exceptions, regular prison jobs such as cleaning, groundskeeping, kitchen and clerical work, remain unpaid in the U.S. states of Florida, South Carolina, Georgia, Texas, Alabama and Arkansas.



Prison Labor Masks the True Costs of Mass Incarceration

Incarcerated workers’ labor partially offsets the staggering costs of the prison system in the United States. The cost-savings of unpaid and grossly underpaid prison maintenance labor and the revenues from commodities and services generated by imprisoned laborers prevent policymakers and the public from reckoning with the actual fiscal costs of mass incarceration.

According to the Bureau of Justice Statistics, state governments spend nearly \$50 billion annually to keep over 1 million people in prisons. Meanwhile, the United States spends over \$81 billion to run its corrections system—including prisons, jails, parole, and probation—that keeps nearly 2 million people behind bars.

While less than 1 percent of state correctional budgets go to wages for incarcerated workers, more than two-thirds of state prison expenditures are spent on salaries and benefits for the public sector staff who operate prisons and jails. Payroll for state correctional staff alone totals over \$2 billion each month. The actual costs to run our prisons are much higher.

Some government officials have even voiced opposition to efforts to reduce prison and jail populations precisely because it would reduce the incarcerated workforce.

Click [here](#) to learn more.



Advocacy

Prison Labor is Profitable

Despite rights violations, prison labor continues flourishing because it is profitable and an integral component of the mass incarceration system. In 2021, incarcerated workers produced more than \$2 billion per year in goods and more than \$9 billion per year in services for maintaining the prisons where they are housed. Only 1 percent of state correctional budgets goes to their wages.

Some may wonder if prison labor is partly driving mass incarceration in the United States.

The primary beneficiaries of the labor of incarcerated workers are federal, state, and local governments. Federal and state governments offset budget shortfalls by forcing incarcerated laborers to work to maintain the very prisons that confine them and rely on unpaid and low-paid incarcerated workers for various public works projects. State governments also rely on incarcerated workers as a low-wage labor force to respond to multiple disasters and emergencies throughout the country.

As the prison population has swelled mainly due to the “War on Drugs,” so have available prison workers. This increase has enabled a parallel growth in commodities and services produced by incarcerated people.

Click [here](#) to learn more.

Racism

[In an April 2023 article](#) in the University of St. Thomas Law Journal, Megan Massie writes on the War on Drugs, started in the 1970s, as less about controlling the drug problem in the United States than controlling minorities living there.

Massie explains that almost every legislative and administrative policy was directed at people of color, specifically black men. African Americans were, and still are, consistently investigated and arrested more often than their white counterparts and receive longer prison terms. In 12 states, more than half the prison population is Black despite constituting 13 percent of the nationwide general population.

Moreover, younger inmates of color end up housed in private prisons at higher rates than their white counterparts in public facilities. Black men are often limited in their work assignments, preventing them from obtaining specific skills that may be useful upon release.

[American Civil Liberties Union in Captive Labor: Exploitation of Incarcerated Workers](#) concurs with Massie’s findings. Many workers report discrimination in how jobs are assigned with higher-paying jobs that provide skills and experience to white inmates.

Although the Federal Bureau of Prisons and nearly all state departments of corrections refused to provide data on the number and race of people in prisons with work assignments, the incarcerated labor force is unquestionably disproportionately made up of people who are Black, relative to their overall representation in the general population in the community.

Wages

The average wage for incarcerated individuals is typically less than a dollar an hour, and in seven states, inmates are not paid at all and are still required to work.

A 2022 ACLU and Global Human Rights Clinic report found that people incarcerated in state and federal prisons produce approximately \$11 billion in goods and services for the U.S. economy while being paid pennies for their labor. Some states allow garnishing these meager prison wages to pay for child support, court fees, restitution, institutional debt incurred when prisoners cannot afford hygiene items or medical copays, and even room and board costs.

Most people who get out of prison owe the government money for their incarceration, making imprisonment a revenue generator.

Click [here](#) to learn more.

Prison Labor Worldwide

Worldwide, prisoners have been put to work for centuries, dredging waterways in 18th-century England, making arms in Soviet gulags, or forced into countless mining and manufacturing schemes that still operate today. United Nations guidelines on how to treat inmates, known as “The Nelson Mandela Rules,” say prisoners should not be held in “slavery” and deserve a fair wage and decent work conditions.

The United States has the world’s largest prison population, with an estimated 2.1 million, followed by China, with an estimated 1.65 million. Both countries house some of the most extensive jail labor systems. Meanwhile, an estimated 200,000 people are in prison camps in North Korea, where some inmates have been forced to dig their own graves, as reported by Amnesty International.

According to a U.S. government report, China runs a network of prison facilities that use forced labor to produce goods for export - ranging from Christmas decorations to footwear. Many of these products are banned from entry into the United States because they are made by forced labor.

Some innovative projects include British initiatives to train inmates as chefs and a plan in Ethiopia to help inmates form independent cooperatives offering work even after release.

[Thomson Reuters Foundation](#)

M. still dreams about Cancun.

The white beaches, the coral reefs, and the fascinating history of the Mayan empire, whose ancient stories of grandeur and conquest are told by the pyramids lining the lush jungle. M. spent his days weaving stories of trips to this Mexican paradise, hoping that the listener at the other end of the phone would buy a vacation package to experience this bliss for themselves.

A key detail: M. had never been to Cancun. Instead, he made these calls from within a prison call center. He was instructed to make hundreds of calls a week to unsuspecting customers on behalf of a private company that contracted to use incarcerated labor to sell vacation packages over the phone.

All that M. knew about Cancun had come from pictures and pamphlets. If a customer ever asked M. who they were or if they had traveled to Cancun, M. was instructed to lie.

M.’s employer made a point to ensure customers never knew that the person whom they were talking to was behind bars.

Click [here](#) to learn more.

Colorado became the first state in recent years to revise its constitution in 2018 to ban slavery and involuntary servitude as a punishment for crime, followed by Utah and Nebraska in 2020. In 2022, voters in Alabama, Oregon, Tennessee, and Vermont approved measures to curtail the use of prison labor.



Action

What Can Be Done

Reimagining the Fair Labor Standards Act

Removing work requirements and protecting prisoners against forced labor is only one step in preventing the exploitation of inmate labor. The government must ensure workers' protections are in place for the prison workforce. Like any other laborer, incarcerated workers deserve to be adequately compensated for their work and to work under safe and reasonable conditions.

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting private and Federal, State, and local government employees. Congress must pass legislation recognizing prisoners under the FLSA. Click [here](#) to learn more.

Take Action: Tell Congress to end Forced Labor in Prisons

Please click [here](#) to sign a petition to end slavery in the prison and detention industries in the United States.

Support the Abolition of the Exception Clause

Please click [here](#) to tell Congress to pass the Abolition Amendment immediately. This legislation could end the "exception clause" regarding forced labor in prisons.

The American Civil Liberties Union report *Captive Labor: Exploitation of Incarcerated Workers* outlines the following recommendations to improve prison labor conditions and to protect the rights of prison workers:

- Ensuring all prison labor is voluntary by eliminating laws and policies that punish people unable or unwilling to work.
- Instituting comprehensive safety and training programs for all prison jobs.
- Investing in programs that provide incarcerated workers with marketable skills and training to help them find jobs after release.
- Providing speedy access to redress to workers whose rights have been violated.
- Eliminating licensing restrictions and other forms of discrimination against formerly incarcerated people in hiring and employment.

Click [here](#) to learn more.

Finally, as [Polaris](#) points out, the United States demonstrates its leadership by condemning regimes and nations that condone or perpetuate forced labor. The U.S. State Department's annual *Trafficking in Persons Report* considers state-sanctioned forced and prison labor within its grading of anti-trafficking efforts. Also, the Department of Homeland Security refuses to allow the import of products into the United States that result from forced labor. As we hold other countries to these standards, we should also look to our actions and make the changes we need to at home.

The Forced Prison Labor that Made Companies Rich

After the Civil War, a new form of slavery -- called "convict leasing" -- took place in the United States. For 60 years, Southern states imprisoned Black men, often for minor crimes, and forced them to work for private companies.

On this episode of *Washington Week Recommends*, Yamiche Alcindor speaks to *The Associated Press'* Margie Mason about how companies profited from this system of forced prison labor at the expense of prisoners' lives.

Is this still occurring today? Please click [here](#) to view this short and very informative YouTube video.

Starbucks Adopts Zero Tolerance Policy

Starbucks indirectly used prison labor for years by contracting Signature Packaging Solutions to package roasted coffee beans.

In June 2020, Starbucks announced its zero tolerance policy on prison labor which reads:

Starbucks does not use prison or forced labor of any kind and has a zero-tolerance policy on the use of child, prison or forced labor from suppliers.

Forced Labor Legislation

Voters in many states have approved ballot initiatives banning slavery or involuntary servitude as a form of criminal punishment to restrict a prison labor system that pays inmates less than \$1 per hour or nothing at all.

During the November 2022 midterm elections, voters in Alabama, Oregon, Tennessee, and Vermont agreed to amend their state constitutions to outlaw these practices. The four states join Colorado, Nebraska, and Utah, which previously approved similar ballot initiatives to abolish slavery and involuntary servitude.

A similar measure failed in Louisiana after supporters later concluded that its ambiguous language would not prohibit involuntary servitude in the state's prison system.

However, prisoners will have to invoke the new amendments in lawsuits challenging the constitutionality of prison labor practices, which will take time. The four states' ballot measures are expected to invite litigation that ultimately will end the practice. None of the states that have adopted an anti-slavery constitutional amendment has yet changed its prison work rules. But advocates maintain that lawsuits invoking those amendments will help usher in changes.

Click [here](#) to learn more.

As elections approach, voters should research candidates' stances on prison labor and mass incarceration and urge them to commit to reform.

The Great Escape: Saket Soni on Forced Immigrant Labor

Read

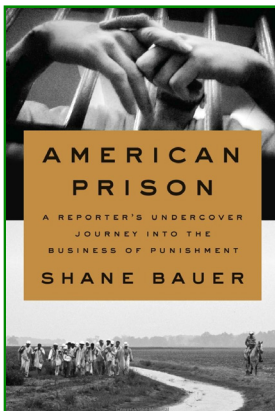
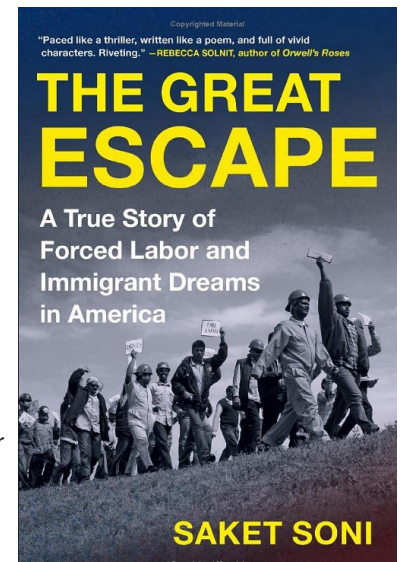
The astonishing story of immigrants lured to the United States from India and trapped in forced labor—told by the visionary labor leader Saket Soni, who engineered their escape and set them on a path to citizenship

Watch

The Great Escape: Saket Soni on Forced Immigrant Labor Used to Clean Up Climate Disasters in the U.S.

On Labor Day 2023, *Democracy Now* rebroadcasted an interview with author and organizer Saket Soni, who discusses the plight of workers who are hired by corporations to clean up after hurricanes, floods, blizzards and wildfires.

Please click [here](#) to view this unbelievable story of abuse of immigrant workers.



American Prison: A Reporter's Undercover Journey into the Business of Punishment by Shane Bauer

In 2014, Shane Bauer was hired for \$9 an hour to work as an entry-level prison guard at a private prison in Winnfield, Louisiana. An award-winning investigative journalist, he used his real name; there was no meaningful background check. Four months later, his employment came to an abrupt end. But he had seen enough, and in short order he wrote an exposé about his experiences.



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