

Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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FUNDAMENTAL VIOLATIONS

Authorities Raid Community Radio Associations

(From an article in Cultural Survival) On the morning of March 2, Guatemalan authorities illegally raided the offices of La Asociación de Medios Comunitarios y Comunicadores Sociales (AMECOS) in Sololá, and La Asociación de Radios Comunitarias de Guatemala (ARCG) in Palin, Escuintla. The raids happened just hours after three leaders of the country's community radio movement arrived in the United States to seek support for the protection of community radio in Guatemala.

Police seized documents and computer equipment, allegedly in search of evidence that the associations have been illegally selling bandwidth to their member stations. None of the associations are actually engaged in this practice.

Guatemala's public prosecutor's office has issued an order to raid the offices of all of the country's unauthorized radio associations (those that have not legally been assigned frequencies by the telecommunications ministry) as well as for the capture of the associations' residents. The order is illegal because the public prosecutor's office does not have the authority to issue warrants without the signature of a judge. The seizures at ARCG's offices additionally violated the parliamentary immunity of the association's president, Congressman Marcelino Nicolas Moscut, who is a leading proponent of legislative reforms to Guatemala's telecommunications law. ARCG's office is located in the basement of Moscut's home; Moscut's entire home is covered under the immunity.

So far only AMECOS and ARCG have been raided, but the names of all six of Guatemala's community radio associations, along with several evangelical radio associations, appear on the order.

The importance of preserving community radio was recognized in the 1996 Peace Accords that ended Guatemala's 36-year civil war. Under the accords, the government promised to legalize community radio and protect its bandwidth. Instead, bowing to pressure from the country's monopolistic media magnates, which control all five of the country's television channels and approximately 40 percent of its radio waves, community radio operators and associations have faced frequent threats, arrests for illegal broadcasting, and confiscation of equipment. This harassment discriminatorily impacts indigenous community radio stations.

In 2001, the country's associations of community radio stations formed an umbrella organization, Consejo Guatemalteco de Comunicación Comunitaria (CGCC) to press for reforms to Guatemala's communication laws to protect community radio. Those reforms are currently stalled in the Guatemalan legislature.

In 2002, the Inter-American Commission on Human Rights Special Rapporteur on Freedom of Expression cited Guatemala for failing to protect the freedom of expression and human rights of indigenous and other community radio operators. He called upon Guatemala to institute legal protection for community radio. Last year, after receiving a follow up report from a successor Special Rapporteur and hearing testimony from CGCC representatives, the Inter-American Commission called on Guatemala to convene a process that would ensure the legalization and freedom of expression protection of community radio. But progress has still not been made.

The protection of community radio is particularly crucial in Guatemala, as 60 percent of the country's 14 million citizens are indigenous-and many do not read or understand Spanish. Guatemala's 250 community radio stations, which broad-

cast in indigenous languages, are the sole source of news and information about health, human rights, development, the environment, and other critical issues that reliably reaches Guatemala's indigenous populace.

CGTG Reports Threats and Eviction Orders

The General Confederation of Guatemalan Workers (CGTG) denounced new threats against agricultural workers. According to the CGTG, the threats affect not only individual laborers, but also aim to eradicate union organizing in the Guatemalan agricultural sector said Victoriano Zacarías, director of the confederation. Zacarías said that the CGTG is concerned, alert, and prepared for actions corresponding to these threats.

In particular, the group is concerned about an eviction order for Los Angeles *finca* that is currently pending execution. Zacarías stated that workers on the *finca*, located in Mazatenango, Suchitepéquez, were pressured by the military after forming a union and the company tried to break up the union for a number of years. Three years ago the employers fired and settled with the workers under the pretext of a drop in coffee prices, according to the union leader. An employment court recently ruled in favor of the *finca* owners and notified the campesinos that they would be evicted.

Zacarías also expressed concern regarding death threats against Daniel Elias Ixcol Chunux, secretary general of the Popular Campesino Federation (FEDECAMPO) and a council member in the CGTG. Ixcol Cinux was reportedly threatened with death by Julio Eduardo de Jesús Salazar Turton, after he recorded formal complaints from workers of El Arco *finca* in Chicacao, Suchitepéquez.

Community Members Opposed to Mining Threatened

Campesinos opposed to mining exploitation in the Valley of Polochic, Alta Verapaz have reportedly received death threats from people working for the mining company. Genaro Tzalam, president of the Community Development Council (COCODE) in Santa María Cahaboncito, Panzós, has reported acts of intimidation against him. Tzalam also accused Francisco Choc, an employee of the Guatemalan Nickel Company, and Pablo Tzalam, of offering loans, potable water projects, and chickens to one hundred people as a strategy to win over the local population and force them to act against

those opposing mining in the area. According to Tzalam, employees of the two men, as well as a number of campesinos, broke the locks on the local government office on March 9. Tzalam said that he continues to oppose mining because it destroys the mountains, contaminates the water, and kills plants and animals, all of which negatively impacts human life.

Campesinos Disappear While Cutting Xate in Belize

As of February 28, four campesinos from Zacul Arriba in Petén had been missing since February 10, when they crossed the border into Belize to cut xate, a palm leaf used in flower arrangements. Originally ten campesinos had been reported missing to the National Civil Police (PNC) when they failed to return from El Guacamayo, Belize. The Guatemalan consul in Belize confirmed that six of the disappeared, ranging in age from thirteen to thirty-two years old, had been detained in a Belize prison for illegal entry into the country. Residents of Zacul Arriba told the police that the bodies of the other four campesinos from the Petén lie in an area known as Las Cuevas in Belize. This has not yet been confirmed. Representatives from a branch office of the Organization of American States (OAS) traveled to the border area to verify whether or not the campesinos were killed in Belize.

WOMEN'S RIGHTS

Femicides Unchecked in Guatemala

According to the National Civil Police (PNC), seventy-one murders of women had already been reported in 2006 as of February 16. The rising number of femicides continues to worry various sectors of the population, including women's organizations and human rights activists. Representative Alba Estela Maldonado, of the Guatemalan National Revolutionary Union (URNG), pointed out that women in Guatemala live in a male-dominated country and women are at a disadvantage in all spheres of society. This contributes to the proliferation of violence against women in the country. The legislator expressed concern regarding the repetitive patterns being reported and the cruelty with which the women have been murdered, as well as the apparent disinterest of the authorities. Maldonado said that the difference between the murders of men and the murders of women is the method in which they are

killed. Many of the female bodies have been dismembered or mutilated and sexual violence is reported in a majority of femicide cases.

Judiciary Confronts Domestic Violence

The current president of the judiciary and the Supreme Court of Justice, Beatriz de León de Barreda, has announced that her agenda includes raising awareness and providing training with respect to domestic violence and violence against women. According to Barreda, the training will consist of twelve workshops with approximately 360 participants over a period of six months.

Barreda said that the National Commission for the Prevention of Domestic Violence (CONAPREVI) has also discussed the creation of a registry on violence against women, as a means of providing accurate statistics on the violence (physical, sexual, psychological, and other). This information could then be used in implementing public policies to prevent, punish, and eradicate violence against women. They have met a number of times with the UN Special Rapporteur, Susana Villarán, to discuss women's rights, as well as to improve coordination between various institutions and organizations working on the issue.

In 2005, the number of reported incidents of domestic violence grew by twenty-eight percent, as compared to 2004. The departments of San Marcos, Huehuetenango, and Suchitepéquez have the highest rates of domestic violence and violence against women, with rape as the most commonly reported case.

SOCIAL, ECONOMIC, AND CULTURAL RIGHTS

Organizations Oppose Rural Development Policies

Nine organizations participating in the Multi-Sector Dialogue on rural development announced that the government has not taken their proposals into account. For this reason, certain groups, including the Agrarian Platform (PA), the National Coordinating Committee of Campesino Organizations (CNOO), and the Guatemalan National Revolutionary Union (URNG), have withdrawn from the dialogue in protest. The withdrawing organizations said that the participating members have discussed rural development policy in the past year, but none of the agreements reached have been respected or carried out. Úrsula Roldán, leader of the PA, argued that the current administration has weakened the institutions set up to address agrarian issues. In her opinion this has meant that development programs have been designed to benefit

large and medium-sized businesses. Aparicio Pérez, a campesino leader, said that the outcome of the negotiations shows that this administration implements neoliberal policies that do not respond to the needs of small producers. Roldán said that they negotiated settlements for a number of contested *fincas* but now everything has been transferred to the Supreme Court of Justice (CSJ) and the agrarian tribunals.

The Minister of Agriculture, Álvaro Aguilar, commented that the dialogue was meant to facilitate discussion, while certain organizations insisted that everything discussed should be implemented. Businesspersons, environmentalists, university representatives, campesino organizations, political parties, and state institutions were among those participating in the negotiations.

Communities in Huehuetenango Reject Mining

Community members from Santa Eulalia and San Mateo Barillas announced that residents from a number of municipalities in Huehuetenango oppose mining activity in the area. According to a representative of the campesinos, Juan Pascual, they have presented their complaints to Minister of Energy and Mines in the past year, explaining the residents' opposition to mining exploration. Given the lack of response and political will on the part of government officials, the residents plan to adopt more active measures if permits for exploitation are not revoked. One of these measures is to hold a community consultation so that people can voice their opinion and officially decide whether or not they support mining activity. The community members said they hope that the president will respect their decision without manipulating the results, as was done in Sipacapa. Pascual emphasized that they want to avoid confrontations among the residents. For this reason, they are trying to resolve the issue through peaceful, legal means.

Constitutionality of DR-CAFTA Challenged

On February 24, the National Front for the Struggle to Defend Public Services and Natural Resources (FNL) presented a case challenging the constitutionality of the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR). One of the lawyers that presented the case, Ramón Cadena, said they are challenging both the process for negotiating the agreement and the essence of the agreement itself based on procedural errors. Cadena emphasized that the agreement violates articles 118 and 119 of the Constitution. Cadena specified that the violations are in four key areas: agriculture, labor rights, the environment, and the right to health.

Before lawsuit was filed at the Constitutional Court (CC), members of organizations representing women, people with disabilities, indigenous peoples, campesinos, students, university professionals, laborers, informal vendors, and the elderly participated in a march to protest DR-CAFTA. The demonstration ended in front of the CC, stopping in front of the US embassy, government buildings, and the Congress. Guatemalan authorities have said that DR-CAFTA could go into effect as early as March, although a US official said that it could be postponed until June of 2006.

MIGRANT RIGHTS

Stein Rules Out TPS for Guatemalan Immigrants

Vice President Eduardo Stein said that the possibility that the US Senate could pass an enforcement-only immigration bill is “severe,” as it would negatively affect some 600,000 undocumented Guatemalans living in the US who were denied Temporary Protected Status (TPS). The US Department of Homeland Security recently announced that TPS would be extended for one more year for immigrants from Nicaragua, Honduras, and El Salvador. According to Stein, Guatemalans in the US now have little possibility of obtaining TPS. When Nicaragua and Honduras were granted TPS in 1998 after Hurricane Mitch, there were less than 60,000 Guatemalan immigrants living in the US. The number of undocumented Guatemalans in the US now exceeds 600,000. Priest Mauro Verzeletti, of the Human Mobility Pastoral, criticized the government’s strategy on this issue as very weak.

LEGAL CASE UPDATES

CC Rules Against Priest in Gerardi Case

On February 27, the Constitutional Court (CC) dismissed an injunction requested by priest Mario Orantes Nájera, one of the three men sentenced to prison for involvement in the murder of Monsignor Juan José Gerardi Conedera. Orantes argued that his rights had been violated by the Supreme Court of Justice (CSJ) when it ruled to uphold his prison sentence.

Monsignor Gerardi, coordinator of the Guatemalan Archbishop’s Human Rights Office (ODHAG), was assassinated in 1998 just two days

after presenting a report documenting human rights abuses committed during the internal armed conflict. The priest and military officials, Byron Lima Oliva and Byron Lima Estrada, were convicted of covering up the bishop’s assassination.

Police Accused in Murder of Transvestite

Human Rights Procurator Sergio Morales recently announced the results of an investigation into the murder of Juan Pablo Méndez Cartagena. The investigation points to the involvement of four National Civil Police (PNC) agents in the extrajudicial execution. On December 17, 2005, four men dressed in police uniforms and driving by on motorcycles shot Méndez, who later died in the hospital. According to the report, the four agents, whose names have not been released, are still working at the police station. Morales said that the report has been turned in to the Public Prosecutor’s Office, so that they will investigate it further.

FRG Members Appeal Black Thursday Decision

Members of the Guatemalan Republican Front (FRG) convicted for their involvement in the riots of July 24 and 25, 2003 appealed the sentence of Judge Víctor Herrera. They asked the Third Court of Appeals to annul the ruling and acquit them for the crime of illegal protests. On July 24 and 25, 2003, FRG supporters demonstrated in the streets of the capital city demanding that former dictator Ríos Montt be allowed to run for president. Armed with rocks and sticks, they attacked public buildings and ran after journalists covering the protests. One journalist, Héctor Ramírez, suffered a cardiac arrest when he tried to flee armed protestors.

Spanish Court Could Rule on Guatemalan Genocide

The Constitutional Court in Spain recently ruled that Spain has the jurisdiction to investigate and rule on crimes committed in Guatemala from 1978 to 1986, even if the victims were not Spanish. In 1999, Nobel Peace Prize winner Rigoberta Menchú filed a petition with the national court. One year later, the court dismissed the case, arguing that the crimes should be tried in Guatemalan courts. Menchú appealed this decision before the Supreme Court, which ruled that Spanish courts could only judge crimes committed against Spanish citizens. The original case filed by Menchú focused on the bombing of the Spanish embassy in 1981, in which thirty-seven people

were killed. Menchú also accused eight former high-ranking military officials with crimes of genocide, torture, terrorism and illegal detention, among them Fernando Romeo Lucas García, Efraín Ríos Montt, and Oscar Humberto Mejías. The Constitutional Court's recent decision established that the principle of universal jurisdiction prevails over the existence of national interests.

JUSTICE AND RECONCILIATION

Reparation Payments Begin in Plan de Sánchez

In early February, survivors of the 1982 massacre in Plan de Sánchez, Rabinal began receiving reparations payments. In a precedent-setting 2004 decision, the Inter-American Court of Human Rights ordered the Guatemalan government to formally apologize and pay approximately \$25,000 to each beneficiary. While the original sentence declared that the payment should be made in full in December 2005, the government proposed dividing the reparations into three payments of approximately \$8,000 each to be paid out in February 2006, December 2006, and December 2007. The community has agreed to this proposal, although there have already been some concerns regarding the first payments in February, including delays and mistrust of the government. In order to fully comply with the Inter-American Court's sentence, the government must also provide the community with health care, mental health services, multicultural education, water systems, roads and dignified housing, as well as thorough investigations and trials to hold the intellectual and material authors of the massacre accountable.

Groups Mark Day of Dignity for the Victims

On February 24, on the eve of the day designated to honor the victims of the civil war, representatives of three human rights organizations presented cases before the Supreme Court of Justice (CSJ) on behalf of over seventy unionists and student leaders who were abducted by the military in the 1960s and 1980s.

"We want the Human Rights Procurator's Office (PDH), the Public Prosecutor's Office (MP), and the judiciary to investigate these forced disappearances. Even though it is known that they were committed by the military, these cases have yet to

be investigated," emphasized Mario Polanco, of the Mutual Support Group (GAM). The presentation of these cases also has the support of the Association of Families of the Detained and Disappeared of Guatemala (FAMDEGUA) and the Search Commission for children disappeared during the war. Polanco said that they have tried for four months to negotiate the establishment of a search commission for the disappeared with justice officials. Polanco hopes that presenting the cases before the court could speed up the investigation process.

On February 25, the National Day for the Dignity of the Victims, The Consultative Assembly of Displaced Peoples (ACPD) honored the memory of the victims of massacres, tortures, disappearances, and displacement during the internal armed conflict. The group expressed concern that the state has still not recognized its responsibility to compensate the survivors or carried out the recommendations of the Historical Clarification Commission (CEH). The ACPD criticized the delays and manipulation involved in the National Reparations Program (PNR) and urged the government to reform and readopt the true intent of the PNR as laid out by the National Reparations Commission before the government intervened

Reburials Held in Quiché and Huehuetenango

The remains of twenty-one people who were killed during the internal armed conflict were buried by their families in a cemetery in Joyabaj, Quiché. Felicitana Macaria, of the National Coordinating Committee of Guatemalan Widows (CONAVIGUA), said that some of the victims were buried in a common grave in El Boquerón and the rest were buried in a separate grave on February 21. Macaria said that the community held a religious ceremony, a candlelight vigil, and a march to honor the victims.

One of the widows, Tomasa Ximón Zavala, remembered that in 1981, a group of civil patrols burst into the government offices and kidnapped eighteen people while community members were celebrating a festival. Other community members managed to flee and hide in the forest. Her husband, Juan Ventura Lux, and two other men were overtaken by the paramilitaries and shot. The eighteen abducted people were tortured, had their arms and legs bound, and were stabbed or shot to death.

Two separate reburials were also held in Nentón, Huehuetenango and Ixcán, Quiché.

Gabriel Carmelo Tomás, Pascual Pérez Domingo, Juan Pérez Tadeo II, Baltazar Carmelo Torres, and Francisco López were all victims of the armed conflict. According to Juan Pérez Tadeo, son and brother of two of the victims, the members of the traveling military police committed the murders between February 16 and 17, 1980, in Salamay, Nentón. The victims were exhumed in April 2005 by experts of the Center for Forensic Analysis and Applied Science (CAFCA).

OTHER INFORMATION

Police Records Show Average of 18 Murders Per Day

According to the official records of the Analysis Service of the National Civil Police (PNC), an average of eighteen people were murdered per day in Guatemala in 2005. In total, 6,400 people were killed in acts of violence last year. The murders were committed with firearms (4,284 cases), bladed weapons (628 cases), and strangulation (214 cases). The rising rates of violence were also reflected in robberies, assaults, extortion, rapes, and injuries. The number of stolen cars rose to 4,460 and there were 1,489 house break-ins.

Luis Ramírez, of the Institute for Comparative Studies, said that the police records are evidence that the past year has been perhaps the most violent of the last ten years. Ramírez attributes the increase to impunity and the excessive use of firearms. The probability that someone will be arrested for murder remains low. He said that those who commit crimes should be brought to trial to send a message to the population. He added that the government should adopt a policy of disarmament and education. Adela Torrebiarte, of the Security Advisory Council (CAS), said that many factors influence the levels of violence, among them the proliferation of gangs. She said that people begin to take security matters into their own hands when they do not receive support from the authorities. She hopes that the purging of the police will improve the situation, as previously there were officers involved in crimes, assaults, and drug trafficking in the armed forces.

PDH Reports on Extrajudicial Executions

On February 20, the Human Rights Procurator's Office (PDH) presented evidence to the interna-

tional community suggesting that certain members of the security forces participate in extrajudicial executions. As evidence of the participation of PNC agents, the PDH cited disappeared or arbitrarily detained persons who were last seen by members of the National Civil Police (PNC), as well as the use of unlicensed vehicles. Although the PDH cannot verify that there is a direct order from superiors to systematically eliminate certain members of society, the report does give evidence of a link between the security forces and arbitrary deaths. Morales said it is now the responsibility of the security forces to clear themselves of any connection to these deaths.

In some cases, family members or acquaintances of the victims told the PDH that they had identified cars without license plates. In others cases, individuals wearing PNC uniforms captured people who had previously been assumed dead. The PDH received reports of a specific location where torture was practiced, as well as reports of deaths resulting from opposition to police extortion. The PDH report also found that there are no results in investigations of social cleansing cases.

Morales also presented a report to the Ministry of the Interior and human rights groups with data indicating that 305 bodies showing signs of torture were found during 2005. This number surpasses the twenty-two bodies found with signs of torture in 2004. There were 403 distinct types of torture used on the 305 bodies found. Strangulation and the binding of legs and arms were the most common means of torture. 648 bodies, out of a total of 5,338 found in 2005, were discovered in locations other than their place of death, which has led the PDH to suspect a process of social cleansing. The PDH recorded twenty-eight extrajudicial executions in 2005, compared to twenty-one in 2004. According to the PDH, there were 5,338 murders in 2005, a fifteen per cent increase from the 4,507 registered in 2004. The murder rate in Guatemala is forty-two per one hundred thousand inhabitants, higher than the average rate in Latin America of thirty murders per one hundred thousand inhabitants.

Interior Minister Carlos Vielmann said that social cleansing is not institutional, and stressed that they would seek international help to investigate and determine the causes of these deaths. Carmen Aída Ibarra, of the Myrna Mack Foundation, said that, in her opinion, there is not a state policy of ex-

trajudicial executions, although by not acting, the authorities are guilty by omission.

Military Budget Increases

In comparison with 2005, the military budget for this year includes increases for food and permanent military personnel. The budget also includes increases for military training and education, electricity, maintenance, telephones, vehicle repairs, and fuel. The budget economically strengthens the armed forces and the navy, but not the air force. The mission of these forces now includes the establishment of a military presence and military patrols in border zones. The general defense budget for this year rose to 852 million *quetzales*, 5.9 percent more than in 2005.

Organizations Push for Approval of Crime Law

Civil society organizations continued pressuring the Guatemalan state to adopt a law to combat organized crime. During a press conference, Nery Rodenas, of the Guatemalan Archbishop's Human Rights Office (ODHAG), emphasized that security institutions, the justice system, and the legislature must adopt urgent measures to combat the violence. The Center for Forensic Analysis and Applied Science, the Rigoberta Menchú Foundation, and the Institute for Comparative Studies in Criminal Science, together with ODHAG, urged Congress to approve the legislation to combat organized crime. The groups, however, also urged Congress to modify the law, as some of the articles now included would weaken fundamental human rights. Rodenas specifically said that articles three and four, which define the crimes of conspiracy and illicit association, should be eliminated because they violate constitutional principles. Furthermore, the groups asked that the legislation include judicial controls over under cover agents.

Group Denounces Interference in Court Selection

The Pro Justice Movement denounced that political parties and powerful actors are manipulating the election process for magistrates and substitutes on the Constitutional Court (CC). Carmen Aída Ibarra, a member of the coalition, said that there are strong indications that the process has been contaminated by partisan interests. Some political actors are working in favor of certain candidates, trying to stack the court with people over whom they have influence. The coalition specifically denounced the Guatemalan Republican Front (FRG), persons connected to former-

president Alfonso Portillo, and the Institute for Public Penal Defense (IDPP), among others. The coalition specifically rejected the candidacy of lawyer Héctor Efraín Trujillo Aldana, who allegedly faces a criminal investigation for corruption. They also oppose the candidacy of jurist Rolando Segura, who has contributed to impunity and the denial of justice through his involvement in blocking the judicial process against military officials accused in the assassination of anthropologist Myrna Mack.

Recent Changes in the Ministry of Education

On February 18, political analysts and representatives of civil society expressed concern over the lack of negotiation between teachers and the Minister of Education María del Carmen Acena in educational reform. According to political scientist Alvaro Pop, the consensus necessary to move forward with educational reform does not exist. Meanwhile, the needs of the rural, indigenous, and handicapped populations have not been addressed in recent proposals. Experts agree that it is necessary to disclose educational policies and proposals for reform. Many argue that all sectors of society should be represented in discussions about educational reforms.

On February 22, the Congress passed a vote of no confidence for María del Carmen Acena, who later that day presented her resignation to President Berger. President Berger announced the next day that he did not accept the vote and he rejected Acena's resignation. The President said that the Minister of Education had made notable progress in the strengthening of public education, the introduction of transparent systems of evaluation for alumni and teachers, the participation of families and communities in the improvement of schools, and access to intercultural, bilingual education.

The Supreme Court of Justice (CSJ) also rejected a petition for preliminary proceedings against María del Carmen Acena charging her with abuse of authority. The CSJ ruled that her acts did not constitute a crime.

On February 26, in order to avoid further politicization of the issue, Vice President Eduardo Stein invited the teachers' association to meet with the executive branch to discuss education reform. The meetings were scheduled to take place March 2 and 3.



GHRC/USA is a nonprofit, nonpartisan, humanitarian organization committed to monitoring, documenting, and reporting on the human rights situation in Guatemala while advocating for survivors of human rights violations.

Information in the *UPDATE* that is not gathered directly is culled from various sources, including the Comisión de Derechos Humanos de Guatemala, Casa Alianza, Albedrío, Amnesty International, Associated Press, Reuters, and Guatemalan news sources, such as Cerigua Centro de Estudios de Guatemala, Incidencia Democrática, Prensa Libre, El Periódico, La Hora, and Siglo Veintiuno.

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