

Redistributive Land Policies for Inclusive Growth and Poverty Eradication

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Introduction

Policies concerning access to and effective control over land and other natural resources are crucial for inclusive growth and poverty eradication. Despite global trends of rural-urban migration, poverty and hunger remain disproportionately rural problems. Over 70% of the estimated 1.4 billion people living in extreme poverty worldwide reside in the countryside and the vast majority (86%) depend on agriculture – and land – for their primary source of livelihood (World Bank 2007; IFAD 2010). Small-scale farms provide a livelihood for 2.5 billion people and produce the majority of the world’s food supply including up to 80% in Asia and sub-Saharan Africa (IFAD, 2016). Their access to land and other productive resources is vital for an inclusive and sustainable development model. Yet in the current global context, land access for small farmers – and particularly the rural poor – is increasingly threatened by agro-industrial and extractivist expansion as well as what the World Bank refers to as the ‘rising global interest in farmland’ otherwise known as ‘global land grabbing’ (Deininger and Byerlee 2011; Borras et al. 2012).

The convergence of several factors on a global scale has contributed to this land rush and presents new challenges which require a re-thinking and re-working of redistributive land policies if they are to alleviate poverty and foster inclusive growth. First, a commodity price boom that was ‘unprecedented in its magnitude and duration’ doubled real prices of energy and metals from 2003 to 2008, while food commodity prices increased 75% (Erten and Ocampo 2013, 14). Second, emerging economies such as Brazil, Russia, India, China and South Africa (BRICS) and some Middle-Income Countries have exacerbated this boom, replacing the ‘old hubs’ of capital from the industrialized North as leading producers and consumers of global commodities. In particular, the rapid pace of industrialization and urbanization of China and India has created new sources of demand for energy, metals, and agricultural commodities, while Brazil and Argentina have become leading agricultural commodity producers. Third, the recent financialization of food and agriculture has been characterized by growing numbers of financial actors speculating on agro-commodity derivatives, the introduction of farmland funds that have become increasingly sought after as a safe yet profitable investment in the aftermath of the 2007-08 financial crisis, and conventional agri-food enterprises deriving a growing share of their revenues from financial activities (Murphy, Burch, and Clapp 2012; Fairbairn 2014;

Isakson 2014). Fourth, increasing energy demands in the context of peak oil and the need to transition to a 'green economy' for climate change mitigation has led to heightened demands for agro-industrial flex crops such as soybeans, sugarcane, maize, and oil palm which have multiple and flexible uses as food, feed, fuel and industrial material (Borras et al., 2016).¹ Biofuels policies have also contributed to expanding monoculture plantations, reproducing similar processes of agro-industrial expansion which exclude small farmers and leads to land-use change away from food production (Oliveira et al., 2017; White & Dasgupta, 2010). The convergence of these multiple and inter-related factors has led to a 'resource rush' as nation-states, corporations, and investors seek to increase their control over scarce resources for energy, food, and financial security. This 'rush' led to various reports attempting to quantify large-scale land deals around the world, ranging from 56 million hectares between 2008 and 2009 (Deininger and Byerlee 2011) to 71 million hectares (Anseeuw et al. 2011) and 227 million hectares between 2000 and 2010 (Oxfam 2011). Evidently, the increased land investments present both opportunities and threats for rural livelihoods, inclusive growth and poverty eradication. The increased demand for land on a global scale requires a set of comprehensive land policies which address these new and emerging challenges around the world.

Redistributive land policies generally refer to a type of land reform which seeks to directly transfer land from the land-rich to the landless and land-poor in order to alleviate poverty and inequality while simultaneously appeasing the possibility of political threats or revolts among the rural poor and peasantry. How, the extent to which, and by whom this is carried out remains contested primarily among proponents of the market-led and state-led approaches to land reform. While these debates remain relevant for redistributive land policies, they have been extensively covered in the literature and need not be repeated here (see Deininger 1999; Deininger and Binswanger 1999; Borras 2003; Lahiff, Borras, and Kay 2007). Moreover, in the current global context it is urgent and necessary to not only focus on redistributive land policies but a more comprehensive set of land policies which explicitly focus on the most marginalized and vulnerable populations. These include: (1) the need to **protect existing tenure rights and land access** for the most vulnerable and marginalized people; (2) the need to **promote equitable and democratic redistributive reforms**; and (3) the need to **restore tenure rights and land access to the displaced** (Franco, Monsalve, and Borras 2015). These three key and inter-related components of land policy (*protect*, *promote* and *restore*) must be designed and implemented with an explicit pro-poor bias in order to ensure the most marginalized and vulnerable benefit with the aim to "leave no one behind" and "reach the furthest behind first" as pledged in the 2030 Agenda for Sustainable Development. Rather than leaving land access and control to the whims of the market, land policies need to have a pro-poor design with participation from both the state and civil society in order to democratize land control and enable rural people to have an adequate standard of living free from impoverishment and injustices.

¹ See the *Journal of Peasant Studies* special forum on flex crops and commodities with papers on soybean (Oliveira and Schneider 2016), sugarcane (McKay et al. 2016), corn (Gillon 2016) and oil palm (Alonso-Fradejas et al. 2016).

There is a strong argument for ‘the right to land’ to be established under international human rights law as many rural people are unable to fulfill their other basic human rights without access and control over land. It is argued here that redistributive land policies need to be part of a much broader set of comprehensive pro-poor land policies and in order to make these rights real and enforceable innovative accountability mechanisms are necessary which involve linking land rights to human rights. The United Nations can play a key role in influencing policy agendas as well as promoting the right to land as an internationally recognized human right and contribute to democratizing land control around the world. In the remainder of this paper, I will outline four principle forms of exclusion which are often neglected in land policies and which are crucial to alleviate poverty and foster inclusive growth. I then present three broad land policy currents necessary for a comprehensive land policy and which can facilitate democratic land control. In the final section, I discuss some innovative accountability mechanisms which can help make rights real and enforceable and the role of the United Nations as an international monitoring body and defender of human rights.

Land policies for inclusive growth: recognizing and addressing forms of exclusion

There are several principles to a multi-dimensional approach to comprehensive pro-poor land policies that must be addressed. If land policies are to foster inclusive growth and eradicate poverty, we must identify those groups who are, or have historically been, excluded as well as those living in poverty in order to make sure land policies target their needs first. Exclusion can take many forms, but here I want to highlight four fundamental forms of exclusion which are common in many rural societies: (1) socio-economic or ‘productive’ exclusion; (2) gender exclusion; (3) generational exclusion; and (4) ethnic exclusion. Pro-poor land policies must recognize the plurality of the marginalized and most vulnerable peoples and address these principal forms of exclusion.

Socio-economic or ‘productive’ exclusion

The rural poor are often excluded from accessing land and other necessary productive resources due to the very nature of their impoverishment: they cannot afford land, do not have sufficient access to credit, and cannot make the necessary capital investments for production. In this regard, land policies need to have an explicit ‘pro-poor’ character, that is, they must transfer land-based wealth and power to the poor. Rather than understanding landed property rights as tradeable commodities to be allocated most efficiently, we need to understand that they in fact represent social relations between people (Tsing 2002). Redistributive land policies are therefore not about simply redistributing the physical paper land title to the landless, but fundamentally transforming the unequal land-based social relations in rural society. This entails ensuring the poor have both access to and control over the land and other productive resources in order to put that land into production. This includes access to payable credit, technical assistance, markets, infrastructure, education, and capital as well as representation and participation in the institutions that govern. Land is undoubtedly important, but as McKay and Colque (2016) reveal in Bolivia, Bolivian smallholders in the soybean expansion zone are excluded from accessing the necessary factors to put land into production and have become

smallholder rentiers – renting their land to medium and large-scale producers with access to capital. This form of ‘productive’ exclusion remains hidden in official discourses and government data since the smallholders remain the formal land title holders.

Gender exclusion

Historically, land reform programmes were often gender-blind, assuming that the household would distributive resources equitably. Men were often identified as the ‘heads of household’ and the land title was often solely under the husband’s name, ignoring the well-being of women not only regarding intra-household relations, but also their lack of rights in the event of divorce or widowhood (see Razavi 2007). Presently, across many countries in Latin America, land policies have changed to a dual-headed household system, recognizing and giving rights both the husband and wife as the heads of household and land title owners. However, women still disproportionately bear the tasks of unpaid domestic labour which go unrecognized in the formal economy, including child care, meal preparation and cooking, household work, elderly care, etc. Furthermore, the mechanization and modernization of agriculture has rendered it much more patriarchal as it is men who operate heavy machinery in the field or often assume the wage-receiving productive activity in the formal economy, giving them more power in the intra-household and the community in general. Comprehensive land policies must pro-actively target these gender injustices and provide women with not only access and rights to land, but also other economic opportunities and direct resource transfers, political voice and representation and other forms of empowerment in society.

Generational exclusion

For the rural youth, access to land and employment opportunities has become increasingly difficult. In many regions throughout the world, land has become increasingly scarce and expensive as new actors have emerged eager to invest in land. For small-scale farms, land is often insufficient to divide among the children, while the highly-mechanized trajectory of agro-industrial development has decreased the need for labour. The youth cannot wait for many years in order to take over the farm, much less if the conditions for small-scale farmers remain poor. If this trajectory continues, the majority of the rural youth will likely be forced to migrate elsewhere. This brings us to some fundamental questions posed by Ben White:

will young men and women still have the option, and the necessary support, to engage in environmentally sound, small-scale, mixed farming, providing food and other needs for themselves, their own society and others in distant places? Or will they face only the choice to become poorly paid wage workers or contract farmers, in an endless landscape of monocrop food or fuel feedstock plantations, on land which used to belong to their parents, or to move to an uncertain existence in the informal sector of already crowded cities?’ (2012, 16).

In other words, ‘who will own the countryside?’ (White 2011; 2012) and what will be the socio-economic, environmental and political implications? Comprehensive land policies must also

recognize and address the needs of the rural youth and the future of family farming including the need for education, infrastructure, and technologies – as well as land.

Ethnic exclusion

Since the 1990s ethnic groups started to receive special territorial rights and autonomy to their ancestral lands. The rights of indigenous and tribal peoples were recognized internationally with ILO 169 in 1991 and many nation-states have since granted – to various extents – territorial rights to indigenous groups. Comprehensive land policies should include territorial rights, recognizing the social, cultural and spiritual value of land, and not just its economic or use-value. Often rich in natural resources, Indigenous territories have frequently been threatened by extractivist projects – whether for hydrocarbons, mining, or agro-industrial expansion – and therefore require real and enforceable rights which include free, prior and informed consent (FPIC).

By recognizing and addressing these forms of exclusion, land policies can target the most marginalized and vulnerable populations and foster an inclusive development model for poverty eradication. The following section outlines a set of comprehensive land policies necessary for the democratization of land control.

Land policies for democratic land control

In many countries, it is not only land reform that is important, but also protection of existing land rights and land restitution for those who have been displaced internally. In Colombia, for example, nearly 70% of the land is not titled, while Bolivia has been undergoing a ‘formalization’ (*saneamiento*) process since 1994 which remains incomplete (see Colque et al., 2016). Furthermore, countries that have undergone violent conflict internally, such as Colombia, South Africa and Myanmar, must also implement land restitution policies to ensure internally displaced persons are able to safely and securely return to their original parcel. Poverty alleviation and inclusive growth will therefore require more than redistributive land policies. They require comprehensive land policies which *protect, promote* and *restore*.

Protect: Existing land tenure rights and access for the poor/marginalized

In the current context of the ‘global resource rush’ or ‘land grabbing’ as previously mentioned, existing access to land for the most marginalized and vulnerable groups in society is increasingly threatened. Agricultural and extractivist frontiers are expanding, often disproportionately threatening existing land rights of minority ethnic groups, women and the rural youth. Protecting existing tenure rights refers not only to private property rights, but to collective territorial rights such as those granted to various ethnic groups and in some cases peasants. In Colombia, for example, indigenous peoples were granted special territorial jurisdictions, safeguards and the right to self-governance in the 1991 Constitution. The Colombian state has also ratified ILO 169 in 1991 and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2009. Despite this promising legislation, the UN High Commission for Human Rights

reports that the 1.37 million indigenous in Colombia live in ‘structural poverty’ with 7 out of every 10 indigenous children suffering from undernourishment (HCHR 2014). Fifty percent of the country’s 102 indigenous communities are at risk of disappearing, and the most threatened are those richest in natural resources due to expanding extractivist frontiers (HCHR 2014). In Bolivia, despite granting a record number of autonomous Native Community Lands (*Tierra Comunitaria de Origen, TCO*), the state has simultaneously opened up protected areas for hydrocarbon extraction and infrastructure development through Supreme Decree 2366 of 2015. The heightened demand for natural resources – including minerals, hydrocarbons and agro-industrial crops – has put the most marginalized and vulnerable populations at risk of losing their land rights. In Mozambique, where all land is owned by the state, concessions for large-scale agro-industrial plantations threaten the rights of those small-scale and peasant farmers working the land. In these settings, there is an urgent need to strengthen the protection of existing land rights in order to reduce poverty and foster inclusive growth.

Promote: Redistributive land policies

Many developing countries are plagued with a highly unequal landholding structure. In these settings, it is crucial to transfer not only land titles but also effective access and control over land and its natural resources. Redistributive land policies which aim to alleviate poverty and facilitate inclusive growth must take into account the imbalanced relations which exist between the land-rich and the land poor. Land reform policies which rely principally on the workings of the market presume that ‘rational’ individuals will enable land markets to work efficiently and thus facilitate a voluntarist ‘willing-seller, willing-buyer’ competitive market environment, lowering land prices and transaction costs through quick and non-contentious land transactions. However, in many settings these market-led policies have only exacerbated land-based inequalities since those without access to capital, credit, technical assistance, authority, legal-aid, etc., are often excluded, subordinated, or cannot prosper in competitive land market and therefore are often forced to sell and become indebted (see Deininger 1999; Borras 2003; Lahiff, Borras Jr., and Kay 2007 for some examples).

Land reform in Colombia, for example, has been in effect since 1994 (Law 160), yet the Gini Coefficient of landownership countrywide has increased since 2000 from 0.877 to 0.885² (IGAC 2012). In Bolivia, despite announcing an ‘Agrarian Revolution’ in 2006, the government has pursued a tenure reform (*saneamiento*) rather than land reform, which has only solidified and increased the land-based wealth inequalities that exist. Land reform policies cannot solely rely on the market nor the state, but will be most successful when decision-making and participation is carried out at the local level and state-society synergies prevail (Borras, 2008; Fox 1993). Loopholes in land ceiling policies and policies to avoid land-based speculation by absentee landowners are important in order to redistribute land to the poor.

² Gini Coefficient is a statistical measurement between 0 and 1, whereby 0 = perfect equality and 1 = perfect inequality.

Agrarian reform must not only reform land for economic reasons, but must reform the social relationships that exist in rural areas. The social and political relationships between different classes are part of the agrarian structure and, just like the land, must be reformed in order for land reform to be effective and increase equality in the countryside. Land policies cannot only redistribute land to the land poor but also provide key extension services such as access to markets, access to productive resources, access to social, health, education and technical services, agricultural inputs, low-interest credit, marketing assistance and distribution channels, agro-ecology education and cooperative education.

Restore: Land restitution for displaced populations

In many developing countries, violent conflict has resulted in widespread displacement of rural populations. Land restitution must be part of a comprehensive set of land policies in order to eradicate poverty and lead to inclusive growth. In Colombia, for example, an estimated 5,921,924 people (13% of the total population) were forcibly displaced between 1985 and 2013 due to armed conflict principally between the FARC and the state (CODHES 2014). In terms of Internally Displaced People (IDP) worldwide, only Syria has a higher number of IDPs at 6.5 million. As a result of such rampant forced displacement, the National Centre for Historic Memory estimates that 8.3 million hectares of land (14% of the country's territory) have changed hands illegally (Centro Nacional de Memoria Histórica 2013). It is the rural poor, peasant farmers and particularly minority ethnic groups such as afro-descendants and indigenous that disproportionately bear these costs, as 102 indigenous communities are at risk of disappearing; 32 of which have less than 500 people (Centro Nacional de Memoria Histórica 2013, 278). The United Nations Human Development Report found that in 2007, 43,630 afro-descendants were forcibly displaced, while in 2010, 20,542 lost access to their land (UNDP 2011). In 2011, President Santos passed the 'Victims and Land Restitution Law' (Victims' Law), which came into effect in 2012 – the same year in which the peace negotiations began. This law is designed to return illegally acquired land to their rightful occupants – those who have been forcibly displaced since 1991 – granting them legal tenure rights and providing them with other forms of reparation and support. Special Decrees were also established 2012 to restore territorial access and control to indigenous peoples (Decree 4633) and afro-descendants (Decree 4635) who were displaced due to armed conflict.

Recent data from the Land Restitution Unit (URT) reveals that only a small fraction of those who apply for land restitution are actually considered. As of the end of 2014, for example, there were 72,623 applications for land restitution of which just 25,215 (34.7%) were located in the 'micro-focalized'³ (eligible) zones. Of these 25,215 applications, only 9,695 passed the requirements, meaning that just 13.3% of the initial 72,623 applications were formally registered for the restitution process (personal communication, 2015). With nearly 90% of applicants rejected, it seems very unlikely that people will continue to have faith in the process, potentially leading to its demise unless radical changes are made to help the millions of IDPs in Colombia (Restrepo Salazar 2012).

³ 'Micro-focalized' zones are those specific municipalities, villages, or even individual parcels eligible for land restitution.

Making land rights real: new accountability mechanisms

When legislation and policies concerning land tenure leave much to be decided by market forces, imbalanced negotiations and ambiguous legal frameworks ridden with loopholes often fail to redistribute effective access and control over land and other productive resources to the poor, thus failing to alleviate poverty and reduce inequalities in the countryside. Land policies often lack robust, multi-level accountability mechanisms which empower marginalized groups and strengthen the enforceability of their rights. The question, therefore, is how to make rights real and enforceable. The problems of democratic land access and control often have less to do with the recognition of rights than with the enforceability (and extension) of those rights. As Fox puts it:

“Institutions may nominally recognize rights that actors, because of imbalances in power relations, are not able to exercise in practice. Conversely, actors may be empowered in the sense of having the experience and capacity to exercise rights, while lacking institutionally recognized opportunities to do so. Formal institutions can help establish rights that challenge informal power relations, while those informal structures can also undermine formal institutions” (2007, 335).

The increasing pressure on land, natural resources, and most importantly rural working people who depend on the land for their livelihood has prompted international organizations to establish global governance instruments as guidelines for dealing with land-tenure related issues and conflicts. The FAO-CFS Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (hereafter Tenure Guidelines or TGs) is one such instrument. This global governance instrument was negotiated over several years with participation and endorsement of the 125 member countries of the UN Committee on Food Security (CFS) as well as actors from the private sector, civil society organizations, and academia and is thought to be “one of the most democratic institutional frameworks for global decision-making for international agreements ever” (Seufert 2013, 184). The main objectives of the TGs are to “improve governance of tenure of land, fisheries and forest... with an emphasis on vulnerable and marginalized people, with the goals of food security and progressive realization of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development” (FAO 2012, 1). Though ‘voluntary’ in nature, the Tenure Guidelines are based on binding international human rights obligations related to land and natural resources, equipping them with more political weight and thus leverage in the context of international law (Seufert 2013, 182).

Franco, Monsalve and Borrás have argued that democratic land control is inseparable from human rights and “is a political economy way of saying ‘human right to land’” (2015, 66). As they explain,

While the human right to land has not been internationally recognized yet, land is inextricably connected to the enjoyment of a whole series of already recognized human rights. These include, inter alia, the right to an adequate standard of living, including the

right to adequate food and housing, the right to work and the right/principle of self-determination (2015, 68).

In this context, it is important to recognize the intersections between existing human rights law and the human right to land or democratic land control. The former UN Special Rapporteur on the Right to Food, Olivier de Schutter, and the former UN Special Rapporteur on the Right to Housing, Miloon Kothari, have both called for the recognition of land as a human right (De Schutter 2010; Kothari 2007). For those who depend on land and other natural resources for their subsistence, being deprived of this access would restrict their enjoyment of the right to food (De Schutter 2010, 334). Further, where land ownership is highly concentrated with widespread landlessness and poverty, as is the case many developing countries, the need for land redistribution in order to provide people with an adequate standard of living can also be considered a human rights obligation. The Right to Adequate Housing includes land as a necessary entitlement, stating that “Access to land can constitute a fundamental element of the realization of the right to adequate housing, notably in rural areas or for indigenous peoples” (OHCHR 2009, 8). Currently, a draft Declaration on the rights of peasants and other people working in rural areas is in negotiation, which includes the right to land and would certainly be a great advance for the human right to land. As Gilbert puts it, “it is paradoxical, however, that notwithstanding the increasingly accepted perception that the realization of two fundamental human rights (food and housing) rely on the protection of the right to land, this right is not considered fundamental, as it is not to be found anywhere in international treaties...” (2013, 129). A human right to land would make it obligatory for states to “respect and not destroy this existing access to land; to protect existing access to land from interferences of third parties; and to fulfill and facilitate getting access to land for all those who do not have it and depend on it for their living” (Monsalve Suárez 2013, 241). Domestic legislation would therefore have to be in compliance with such a right, empowering and entitling landless people who depend on access to land for their livelihood, yet are continually excluded due to economic and extra-economic (coercive) forces which perpetuate inequalities, exclusion, and marginalization of the poor.

International monitoring bodies provide accountability mechanisms where international law and the TGs can be a crucial factor. The TGs can give leverage to rural civil society organizations by linking existing national legislation to the minimum standards of international human rights law. More than building alliances horizontally (among civil society) and vertically (with pro-reform state actors), diagonal alliances/relations with the research community and international monitoring bodies can strengthen accountability through increased transparency and help guarantee the implementation of comprehensive land policies which combat poverty and inequality. This strategy enables civil society to take a more pro-active approach to both implementation and accountability. As argued by Franco and Monsalve (2017), rather than waiting for the state to act on its commitments, the TGs can be used “‘from below’, as part of a larger arsenal of ‘weapons of the weak’ in efforts to push for change in the direction of more democratic natural resource control”. They show how the TGs are being used, to various degrees, in order to resist land grabs in Mali, Uganda, South Africa and Nigeria through forms of participatory action research. Hall and Scoones (2016), in their scoping review of the TG

implementation initiatives, highlight the need to increase the use of the TGs as an international benchmark against country-level laws and policies; to scale-up community mobilization to take up the TGs; increase cross-sectoral and multi-level partnerships from the local to the global; and build educational and technical capacity for recording land rights, participatory ethnographic research and institutionalizing land governance in education systems. Brent et al. (2017) also discuss the possibilities for TG implementation in Latin America, but caution that the interpretation of the TGs is highly contested and subject to various political tendencies which can both facilitate/legitimate and block tenure rights violations.⁴ As highlighted by Brent et al. (2017) the legitimacy of the TGs is based in their participatory spirit and commitment to human rights in order to protect the most vulnerable and marginalized people. Since the TGs are grounded in international human rights law and directly linked to land, fisheries and forest tenure, marginalized and vulnerable populations can use them as a tool of empowerment to hold actors accountable and defend their rights.

The commitment of the UN organizations to the TGs and their role in the implementation and monitoring of comprehensive land policies can encourage enabling environments for ‘transversal’ or diagonal accountability (Isunza Vera 2004) whereby public oversight agencies bring together state and societal actors in a cross-cutting ‘diagonal’ way that combines the horizontal and vertical accountability processes (Ackerman 2004; Fox 2007). These processes require very inclusive and participatory process within which existing legislation and a human rights-based approach via the TGs can offer a central reference point for accountability. As Ackerman argues, “the opening up of the core activities of the state to societal participation is one of the most effective ways to improve accountability and governance” (2004, 448). For this type of ‘co-governance’, it is essential that civil society actors participate in the initial stages of the design and reform process and are not simply included as ‘participants’ at a later stage of state-led initiatives (see Fung and Wright 2001; Fox 2007). The TGs, as a strategic instrument of accountability, can be used by diverse state and rural civil society actors for greater democratic land access and control, making explicit the link between human rights and land rights. The United Nations, as an organization which defends human rights with a high degree of legitimacy at the global level, can play a key role in not only encouraging governments to use the TGs in land policies going forward but to begin the process of establishing a human right to land. A human right to land will be an important step for the democratization of land control and to alleviate poverty and inequalities in the countryside.

⁴ These political tendencies draw from Borrás et al. (2013).

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