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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on freedom of religion or belief; the Independent Expert on minority issues; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

REFERENCE: UA Housing (2000-9) G/SO 214 (67-17) G/SO 214 (56-23) Minorities (2005-4) G/SO 214 (33-27) Truth (2011)
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22 March 2013

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on freedom of religion or belief; Independent Expert on minority issues; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence pursuant to Human Rights Council resolutions 15/8, 16/4, 14/11, 16/6, 17/5, and 18/7.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the **increasing climate of violence, large-scale protests and ensuing casualties, including unlawful killings, that are occurring in the context of the proceedings undertaken and sentences pronounced by the Bangladesh International Crimes Tribunal.**

We draw the attention of your Excellency's Government to previous communications sent on 5 February 2013, 16 November and 3 October 2012, on the trials before the Bangladesh International Crimes Tribunal. In the communication sent on 5 February 2013, concerns were expressed regarding the pronouncement by the Bangladesh International Crimes Tribunal of the death sentence against Mr. Abdul Kalam Azad, and the sentence of life imprisonment against Mr. Abdul Kader Molla, after serious allegations of unfair trial and lack of due process in both cases. In the other two communications of 2012, serious concerns were expressed regarding the independence and impartiality of both judges and prosecutorial services of the Bangladesh International

Crimes Tribunal, as well as the allegations of unfair trial and lack of due process in the cases of the following defendants before the Bangladesh International Crimes Tribunal: Messrs. Delawar Hossain Sayedee, Salauddin Quader Chowdhury, Motiur Rahman Nizami, Ghulam Azam, Muhammad Kamaruzzaman, Ali Ahsan Mohammad Mujahid, Abdul Kader Molla, Mir Quasem Ali, and Islam Azharul.

We are grateful for the response received from Your Excellency's Government to the urgent appeal dated 16 November 2012. Substantive replies to the communications dated 3 October 2012 and 5 February 2013 are still awaited from your Excellency's Government.

According to the new information received:

Large-scale protests have been held in various parts of Bangladesh since 5 February 2013. It is reported that the protests are caused by the pronouncement of current and past verdicts against the leaders of the opposition Party Jamaat-e-Islami before the Bangladesh International Crimes Tribunal, including the pronouncement of death penalty sentences following unfair trials, and related developments. The protests have been allegedly organised both by those who support the trials before the Tribunal, including supporters of the current ruling Awami League Party, as well as the representatives of the Jamaat-e-Islami Party and its youth wing Chhatra Shibir.

While the protests allegedly started in a peaceful way, they reportedly developed into violent clashes and attacks perpetrated by State authorities, as well as by non-State actors. It is reported that, in the period from 5 February to 5 March 2013, at least 88 persons, including political activists, women and children, were indiscriminately killed in violent clashes between the security officers and the protesters. During the same period, five police officers were reportedly killed and a large number of individuals were injured. Some of those who died or were injured allegedly were not involved in any violent protests. We are informed that the protests and the ensuing violence, including lethal, are on-going.

It is alleged that a large number of deaths were caused by the police and other security forces, who reportedly used excessive force while policing the protests. The security forces allegedly used tear gas, rubber bullets and live ammunitions against protesters, resulting in preventable loss of life. It is reported that video footage on television channels showed law enforcement forces shooting fatally at unarmed civilians.

Members and supporters of the Jamaat-e-Islami Party and its youth group Chhatra Shibir have also allegedly been engaged in a series of attacks, including lethal, despite the fact that the Party publicly denied responsibility for lethal violence. The violence was reportedly directed against police officers as well. It is reported

that in one incident persons allegedly belonging to the Chhatra Shibir group took guns from police officers and beat the officers to death.

It is further alleged that the supporters of the ruling Awami League Party have also been involved in acts of vandalism and violence.

Reports have been received particularly on the following developments:

- On 5 February 2013, following the sentencing of Mr. Abdul Kader Molla to life imprisonment by the Bangladesh International Crimes Tribunal, large-scale protests took place against this verdict. While the protests allegedly started in a peaceful way, violent clashes reportedly occurred between the supporters of the Jamaat-e-Islami Party and the security forces. Allegedly, at least three people were killed and over 100 individuals, including policemen, were wounded. Clashes were reported in various parts of the country, including in the capital Dhaka. The police allegedly resorted to the use of batons, teargas, rubber bullets, but also live ammunitions to disperse protesters. Reportedly, a number of protesters used sharp objects and petrol bombs, as well as burnt down vehicles, shops and automobiles.

- On 15 February 2013, security forces and protesters reportedly resorted to firearms, which resulted in the killing of four persons and led to the injuries of over 50 persons. Mr. **Tofayel Ahmed**, a student, was reportedly shot by the police in Cox's Bazar district town.

- Between 22 and 24 February 2013, over 15 persons were reportedly killed in clashes between security forces and protesters across the country. Seven persons were allegedly killed on 22 February 2013, three persons on 23 February 2013, and five other individuals on 24 February 2013 respectively. Hundreds of persons, mostly hit by rubber bullets and firearms, were also injured. The security forces reportedly resorted to excessive use of force and used live ammunitions to police the protests. The protesters are also alleged to have resorted to violence.

- On 28 February 2013, supporters of the Jamaat-e-Islami Party reportedly protested against the death sentence imposed on that day against Mr. Delwar Hossain Sayedee. The protests were apparently violent. The police allegedly used force excessively, and resorted to lethal weapons to police the assembly, which resulted in the killing of at least 44 individuals, including students, farmers, and ordinary individuals. Television channels reportedly depicted instances of police opening fire at unarmed people. It is further alleged that, as a consequence of police's action, local administrative offices and police stations were attacked.

- On 1 March 2013, Mr. **Saju Mia**, aged 30, and Mr. **Nurunnata Sapu**, aged 22, both supporters of the ruling Awami League, were allegedly killed by supporters of the Jamaat-e-Islami Party, following reported vandalism against

Jamaat-e-Islami businesses by a group of Awami League supporters. The following day, 20 persons were reported wounded in similar clashes between the supporters of the ruling Awami League and those of the Bangladesh National Party in the town of Mymensingh.

- On 3 March 2013, at least 20 persons including three women and a child were reportedly killed in clashes that occurred during the protests. Of the 20 persons killed, at least nine persons were reportedly killed in Bogra district, where supporters of the Jamaat-e-Islami Party allegedly attacked security forces with crude bombs, swords and sticks, and set houses on fire. The police officers reportedly resorted to the use of firearms to disperse the protesters. In addition, hundreds of people were allegedly wounded in these clashes. It is reported that, following the clashes, the Bangladeshi authorities implemented the provisions of section 144 of the Code of Criminal Procedure, which prohibits assembly of four or more people.

Attacks reported against the Hindu community

In the context of the violence, attacks on the temples and property belonging to the Hindu community have also been reported, in particular under the form of arson and looting. The attacks have allegedly occurred across the country, and in particular in remote areas. More than 40 Hindu temples were reportedly vandalised across Bangladesh. A number of shops and homes belonging to the Hindu community were burnt down, leaving people homeless. It is alleged that those who attacked the Hindu community were taking part in the protests organised by the Jamaat-e-Islami Party, although the Party publicly denied any involvement in attacks against the Hindu community.

Reports have been received particularly on the following incidents:

- On 28 February 2013, the village of Rajganj Bazar, in the south-eastern Noakhali district, was set on fire allegedly by people participating in the protests against the sentences of the Bangladesh International Crimes Tribunal. The alleged perpetrators entered the village's homes, stole personal belongings and set 30 houses on fire, leaving seventy-six families homeless. The alleged perpetrators also set fire to the village's temples, resulting in their total destruction. Authorities reportedly provided temporary accommodation to the affected families.

- On 2 March 2013, a group of approximately 100 individuals who were participating in a protest in Satkania, near Chittagong, reportedly vandalised a Hindu temple in the village, and looted and damaged four shops.

- On 6 March 2013, a Hindu temple was reportedly vandalised and burnt down in Daudkandi village, south-eastern Comilla district.

According to the information, the Bangladesh's Hindu minority, which constitutes approximately eight per cent of the country's population, has historically been at risk of violence from the Muslim population, including during the conflict in 1971 and after the elections held in 2001.

Attacks reported against journalists and other media workers

In the context of the protests and ensuing violence, reports were received on attacks against journalists and media workers, in particular during the clashes between the security officers and protesters. Over 25 media practitioners were reportedly attacked while covering the protests, in particular by supporters of the Jamaat-e-Islami Party. A considerable number of journalists and media workers were reportedly seriously injured, including by firearms. It is further alleged that equally at risk are journalists and bloggers critical of the Bangladesh International Crimes Tribunal, some of whom have received threats.

On 15 February 2013, Mr. **Ahmed Rajib Haider**, a blogger known under the name of Thaba Baba, and for his criticism of the Jamaat-e-Islami Party, was reportedly attacked with machetes and beaten to death in his home in Dhaka.

On 22 February 2013, at least 23 journalists reportedly sustained injuries during confrontation between supporters of the Jamaat-e-Islami Party and security forces. Photographers Mr. **Kutub Uddin Chodhury** of Dainik Inquilab, Mr. **Rajesh Chakrabarty** of Dainik Jugantor and Mr. **Miah Altaf** of Dainik Purkabone; reporters for the ATN Bangla television network Mr. **Farid Uddin** and Mr. **Amit Das**; and Mr. **Rabiul Hossain Tipu** and Mr. **Sanjeeb Babu**, journalists with Machranga Television, were all injured when supporters of Islamic organisations allegedly attacked the headquarters of the Chittagong Union of Journalists.

Other journalists wounded include Mr. **Abdullah Tuhin**, a correspondent for Machranga Television; Mr. **Imran Tuhin**, a reporter for ATN Bangla; Mr. **Ferdous**, a reporter for ATN News; Mr. **Mir Ahmed Miru**, a photographer with Dainik Azmar Desh; Mr. **Aminul Islam Bhuiyan**, elected member of the executive committee of Dhaka Reporters Unity (DRU); Mr. **Masadur Rahman**, reporter for Gazi TV; Mr. **Nurul Islam** of the Independent Television network and Bangladesh Television (BTV); Mr. **Arifuzzaman Pias** of Ekattor TV; Mr. **Sayeed Bablu** of Dainik Sangbad; Mr. **Shafiq Ahmed Sofi** of Channel 24; Mr. **Shihabuddin Shihab**, a reporter for Boishaki Television; Mr. **Alauddin** of Channel S; Mr. **Nurul Islam**, a photographer for Dainik Uttorporbo; Mr. **Sohar Ahmad** of Machranga Television; Mr. **Nazmul Kabir Pavel** of Bangladesh Pratidin; and Mr. **Sheikh Abdul Majid** of Sylhet Sanglap.

On 8 March 2013, Mr. **Saniur Rahman**, a blogger critical of the Jamaat-e-Islami Party, was reportedly stabbed in Dhaka by an unknown assailant. The incident

allegedly took place in his way home. Following the injuries suffered, Mr. Rahman was reportedly taken to hospital.

On 11 March 2013, the car of Mr. **Nayeemul Islam Khan**, editor of the Bengali-language national daily Amader Orthoneet, was allegedly attacked with explosive devices. It is reported that Mr. Khan and his wife, who were driving back home from a party in a car marked with a press sign, suffered face and chest injuries.

On 12 March 2013, unidentified assailants allegedly threw three homemade explosives at the office of the Chittagong Press Club. The incident reportedly left one person injured. Although no group has claimed responsibility for the attack, it is alleged that the supporters of the Jamaat-e-Islami Party might have committed it.

Other reports indicate to an arson attack on the offices of Naya Diganta, a media company politically affiliated with the Jamaat-e-Islami Party; the severe injury on 12 February 2013 of the editor of the newspaper Prothom Alo by rubber bullets; and threats against the editor and staff of Amar Desh newspaper, which published articles critical of the ruling Awami League Party.

Finally, it is reported that a number of pro-Islamist websites have been shut down by the authorities in Bangladesh. On 17 February 2013, the pro-Jamaat-e-Islami website Sonar Bangla was allegedly shut down. On 20 February 2013, the Bangladesh Telecommunication Regulatory Commission reportedly blocked 12 bloggers sites and several Facebook pages belonging to individuals and entities supporting the Jamaat-e-Islami Party.

In light of the information received, we are gravely concerned about the reported increasing climate of violence, including killings committed by both State authorities and non-State actors, occurring in the context of the protests related to the trials undertaken and sentences pronounced by the Bangladesh International Crimes Tribunal. We are particularly concerned that the majority of deaths may have occurred as a consequence of excessive use of force by the security officers. There is concern also that the attacks against the Hindu community may be the result of their choice and practice of religion. Further concern is expressed for the safety and security of person of the members of the Hindu community, as well as for the safety of their homes, temples and sources of livelihood. Finally, serious concern is expressed with regard to the safety of journalists and media workers in the context of the ensuing violence.

While we do not wish to prejudge the accuracy of the allegations, we wish to appeal to your Excellency's Government to seek clarification of the circumstances of the present cases as described and wish to recall the relevant international principles and norms applicable to the present cases.

Under article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), which Bangladesh has acceded to on 6 September 2000, the Government of Bangladesh has the obligation to protect every individual's right to life and to ensure that no individual on its territory or subject to its jurisdiction is arbitrarily deprived of his or her life. Such protection should apply to all individuals without discrimination on any grounds whatsoever in accordance with article 2(1) of the ICCPR.

In its General Comment on article 6, the Human Rights Committee stated that “[t]he protection against arbitrary deprivation of life which is explicitly required by the third sentence of article 6(1) is of paramount importance. The Committee considers that States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity. Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his [or her] life by such authorities.” (HRI/GEN/1/Rev.9, Vol. I, p. 177, para. 3).

The use of lethal force by law enforcement officials is strictly regulated under international law. In this regard, we would like to draw the attention of your Excellency's Government to the Code of Conduct for Law Enforcement Officials (adopted by General Assembly resolution 34/169) and the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, principle 4 which provides that, “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” Furthermore, principle 5 provides that, “Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.” (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990). Principle 14 further states that “In the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary.” The principle of necessity under international human rights law is interpreted to mean that lethal force may be used as a last resort, with the sole objective of saving life.

In addition, in its General Comment No. 31, the Human Rights Committee observed that the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights. There may be circumstances in which a failure to ensure Covenant rights would give rise to violations by States Parties of those rights, as a result of States Parties permitting or failing to take

appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.

We would like to further draw the attention of your Excellency's Government to the duty to investigate, prosecute and punish all violations of the right to life by any State or non-State actor, in line with the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (adopted by the Economic and Social Council resolution 1989/65). In particular, principle 9 provides that "[t]here shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances". Principle 18 further requires Governments to "ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice." We wish to recall also that the families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time pursuant to principle 20.

We would also like to appeal to your Excellency's Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Furthermore, we appeal to your Excellency's Government to ensure the right to freedom of religion or belief in accordance with the principles set forth in article 18 of the Universal Declaration of Human Rights and the ICCPR.

We would also like to recall the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief, which in its article 2(1) states that "No one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief".

In addition, we would like to refer to Human Rights Council resolution 6/37, article 9 (e), which urges States to "exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction".

We also wish to draw the attention of your Excellency's Government to international standards relevant to the protection and promotion of the rights of minorities. Article 27 of the ICCPR establishes that "In those States in which ethnic,

religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.”

In addition, we wish to draw the attention of your Excellency's Government to the provisions of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 1.1 of the Declaration provides that “*States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity*”. This provision should be understood to require the prevention of any acts of violence and the protection of minorities from any form of physical attack against individuals, communities, their property and places of worship. Article 1.2 also provides that “States shall adopt appropriate legislative and other measures to achieve those ends.”

When it comes to destruction of property and forced evictions of people from their homes, we wish to remind your Excellency’s Government of article 11.1 of the International Covenant on Economic, Social and Cultural Rights, to which Bangladesh is a party, which states that “the States Parties to present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including housing (...)”. In its General Comment No. 4 on article 11.1. (adequate housing), the Committee on Economic, Social and Cultural Rights (CESCR) observed that all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. As repeatedly stated, including in resolutions 1993/77 and 2004/28 of the Commission on Human Rights, forced evictions constitute gross violations of a wide range of internationally recognized human rights.

In General Comment No.7 (forced evictions), the CESCR stressed that "the State... must... ensure that the law is enforced against its agents or third parties who carry out forced evictions" (paragraph 8). Moreover, "States parties must ensure that legislative and other measures are adequate to prevent and, if appropriate, punish forced evictions carried out, without appropriate safeguards, by private persons or bodies" (paragraph 9). Finally, when eviction and destruction of property take place, the CESCR noted in the same General Comment:

"13. States parties shall also see to it that all the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected. In this respect, it is pertinent to recall article 2.3 of the International Covenant on Civil and Political Rights, which requires States parties to ensure "an effective remedy" for persons whose rights have been violated and the obligation upon the "competent authorities (to) enforce such remedies when granted". (...)

16. Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to

the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

Finally, we wish to recall that in order for transitional justice measures to contribute to the strengthening of the rule of law, non-recurrence of rights violations and potential reconciliation it is crucial that these measures themselves are compliant with the rule of law (see report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, A/67368). Criminal prosecutions, which aim to redress past human rights violations experienced by victims, as well as to restore trust in state institutions, cannot ignore questions of legality.

It is in this context that the 2005 Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law proclaim that prosecutions should abide by "international standards of due process, fairness and impartiality" (art. 23.b). The contribution of criminal prosecutions to advancing the rule of law depends on the meticulous adherence to the requirements of due process, showing that even those suspected of the worst violations are treated fairly by courts. In reverse, criminal trials that are alleged to lack due process and which subsequently impose the death penalty may risk reigniting the initial sources of conflict. Instead of contributing to reconciliation, which at a minimum can be understood as the condition under which individuals can trust one another as equal rights holders again, transitional justice measures that are not fully compliant with the rule of law may result in the entrenchment of old patterns of distrust and the triggering of renewed violence.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. When relevant, please indicate which branches of the security forces were involved in the alleged incidents and what instructions they have received or issued in relation to the aforementioned incidents. Kindly specify how these comply with international standards set forth inter alia in the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

3. Has a complaint been lodged on behalf of those killed, injured or attacked during the protests and the ensuing violence, including of the members of the Hindu Community, and the journalists and media workers who have been affected by the mentioned attacks?

4. Please provide the details, and where available the results, of any judicial investigation, or any criminal charges, prosecution, medical examinations, and other inquiries carried out in relation to these incidents. Please specify the proceedings undertaken to bring both State and non-State actors to accountability. Please also indicate whether compensation has been provided to the victims or their families.

5. Please indicate what measures have been taken by your Excellency's Government to stop the violence from all sides, and ensure the safety and protection of all those at risk, including of the members of the Hindu community, and of journalists and media workers.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to put an end to the current level of violence in the country, by means which are conform to international human rights law, as well as to guarantee that the rights and freedoms of the persons and entities mentioned are respected. In the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

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