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The South-South and the National Conference of 2014

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Abstract

In 2014, the Goodluck Jonathan-led federal government convened a constitutional conference. The government charged the delegates to discuss every conceivable constitutional issue except the breakup of Nigeria. Delegates at the conference represented states and interest groups. But the most controversial issues at the conference were those that pitted groups organized on geo-political basis against one another. It is in this context that we can discuss proceedings and decisions of the conference on the basis of the conflicting interests of the regions and geopolitical zones of the country. This essay discusses the positions of the South-South on the conference. It begins with a definition of the South-South. This is followed by a discussion of the zone's position on the convocation of the conference. Finally, it discusses three issues that were of special concern to South-South delegates at the conference.

Key words and Phrases: Goodluck Jonathan, federal government, south-south, and national conference.

Introduction

The South-South Zone

The 1999 Constitution of the Federal Republic of Nigeria contains lists of the states and local government areas (LGAs) of the country. It does not mention or contain lists of any geopolitical zones. However, the idea of dividing the country into geopolitical units had been canvassed from the late 1980s and was adopted at the 1994-95 Constitutional Conference convened by the military regime of General Sani Abacha (1993-98). This conference proposed the division of the country into six geopolitical units: North-West, North-Central, North-East, South-West, South-South, and South-East. The Abacha regime adopted the proposal and listed the zones in the 1995 Constitution (National Conference 2014 Report, 2014, pp.40-41).

Abacha died in June 1998 and his successor, Abdusalami Abubakar, started another transition programme. After consulting with political leaders in the country, the Abubakar regime made some changes to the 1979 Constitution and proclaimed it the 1999 Constitution. As stated above, there is no mention of six geopolitical zones in the 1999 Constitution. However, the idea of six zones had been established in the minds of Nigerians and, since then, it has been used in the allocation of political offices and amenities, especially those that are too few to be shared among the states.

The South-South geopolitical zone is made up areas that were two separate regions of the country in the period before the civil war. Edo and Delta States were in Western Region, and formed the Mid-Western Region from 1963. Akwa Ibom, Rivers, Bayelsa and Cross River were in Eastern Region. What united them was that the ethnic groups of the zone were among the so-called minority groups of Nigeria. The zone is a contiguous territory stretching from east of Yorubaland through the south of Igboland to the east of Igboland. It is made up of many ethnic groups, including the Bini, Urhobo, Ijaw, Ibibio, Ogoni, and Itsekiri. They also include the Igbo of Delta State and several Igboid (Igbo-related) groups in Rivers State, the most populous of which are the Ikwerre. Within Cross River State, the ethnic groups include the Efik (who are related to the Ibibio) and several Bantu-related linguistic groups, like the Ishibori, Bekwara, and Ekoi. The South-South states (except Cross River, especially since the ceding of Bakasi Peninsula to Cameroon) are oil-producing states. The leading oil-producing states are Akwa Ibom, Bayelsa, Delta and Rivers. Edo is a marginal oil-producing state (see Wikipedia, 2014, "Niger Delta", retrieved on 3 January 2015 en.wikipedia.org/wiki/Niger_Delta).

Since the early 1970s, the main focus of political agitation in the South-South has been revenue allocation. Individuals, associations and governments of the oil-producing states have been campaigning for a greater share of the country's oil wealth. Derivation (allocating revenue in a way that returns a high proportion of

revenue to the region or state where it is derived) was a major principle of both vertical and horizontal revenue allocation in Nigeria before the 1970s. During the period, too, the continental shelf was regarded as part of the adjoining regions for the purpose of revenue allocation. This was the period when solid minerals (mainly tin and coal) and export crops were the leading sources of revenue. About 50% of federally collected revenue was shared on the basis of derivation (see Whisky, 2014, “The South South Position: A stitch in time saves nine”, *The Vanguard*, 5 June 2014).

Oil became the major source of revenue in the 1970s. The decline in the importance of solid minerals and export crops was both relative and absolute: tin production stopped, there was no market for coal, and local consumption of palm products absorbed all that could be produced. There was also a major rise in the importation of food products. Partly because of the absolute decline in the value of solid minerals and export crops, and partly because oil became the major source of revenue, the gaps in revenue between the oil-producing states and other states widened considerably. Efforts had been made before the mid-1970s to reduce the weight of derivation in revenue allocation. The Petroleum Decree of 1969 and a decree of 1971 that denied littoral states derivation revenue from offshore production were some of the measures taken with this aim in mind. Despite these measures, the gaps in revenue allocation continued to widen, and the federal government enacted several decrees and acts of parliament that further reduced the weight of derivation in revenue allocation. From about 45% in 1974, the proportion of revenue shared on the basis of derivation fell to 20% (1975), about 5% (1982) and 1% (1987). Different regimes reduced the weight of derivation with the support of office holders and opinion leaders from the area of the former Northern Region and with the support of Yoruba technocrats and, in 1976-79, a Yoruba head of the federal government (Olusegun Obasanjo). Until 1994-95, the Igbo neither clearly supported nor opposed derivation. But at Abacha’s Constitutional Conference in 1994-95 they gave unflinching support to the South-South on derivation (Oyovbaire, 1975; Okeke, 1998, 2014; & Ifowodo, 2014).

As the main oil-producing region of Nigeria, the South-South has consistently opposed policies that de-emphasized derivation. In the early 1990s, the Ogoni of Rivers State led the agitation for “resource control” (communities or states having full control over oil resources in their area). Their activities resulted in conflicts among the Ogoni and the use of force by the federal government to bring peace to Ogoniland. The Ogoni succeeded however in stopping oil production in Ogoniland. The Ijaw started militant agitations for resource control in 1998 (see Wikipedia, 2014, “Ijaw people”, retrieved on 2 January 2015 www.en.wikipedia.org/wiki/Ijaw_people; & Wikipedia, 2015, “Ogoni people”, retrieved on 27 January 2015 en.wikipedia.org/wiki/Ogoni_people).

Things began to change for the South-South from 1992, when the Babangida regime (1985-93) restored the rights of littoral states to *derivation revenue* from offshore oil production. Abacha's constitutional conference proposed an increase in derivation revenue to "at least" 13%. This was adopted by the Abubakar regime and became a provision of the 1999 Constitution (Section 162: 2). The Obasanjo regime began to implement the 13% derivation provision in February 2000. Subsequently, the leading oil-producing states (Akwa Ibom, Bayelsa, Delta and Rivers) began to earn more revenue than all other states. However, despite the fiscal boom in the oil-producing states, the militancy escalated. In response, the federal government carried out a bloody military operation at Odi, Bayelsa State in November 1999 and deployed a combined team of the armed forces and police called the Joint Task Force (JTF) to suppress militancy. In the Political Reform Conference of 2005, delegates from the South-South staged a walk-out towards the end over the derivation question. They insisted on raising the proportion of derivation revenue to 25%. The other zones offered 17%. This became the recommendation of the conference (see Wikipedia, 2013, "Odi massacre", retrieved on 12 January 2015 http://en.wikipedia.org/wiki/Odi_massacre, 2013; & University of Texas, 2005, "No. 893: Nigerian National Conference Archives", retrieved on 27 January 2015, www.utexas.edu/~893.html)

In 2006, Obasanjo adopted some measures to appease the militants, like amnesty and purchase of their arms. But the truce made in mid-2006 did not last and full-blown militancy escalated in the last quarter of 2006. It is reasonable to assume that the concern to appease the Ijaw and by extension the non-Igbo South-South made Obasanjo influence presidential candidate Yar'Adua to pick Goodluck Jonathan as his running mate in the 2007 presidential election. When he became President, Yar'Adua used the JTF to wage war against Ijaw militants. After weakening them considerably, Yar'Adua offered them amnesty and rehabilitation if they would stop militancy. Most militant organizations accepted the amnesty, and peace returned to the creeks of the Niger Delta. Meanwhile, in Abuja, Yar'Adua got terminally ill. His illness enabled Jonathan to become Acting President (February 2010) and President in succession to Yar'Adua (May 2010). He was elected President in 2011.

Campaign for National Conference

The individuals and organizations that campaigned for a constitutional conference were mainly southern Nigerians or associations formed by southern Nigerians. Prominent among them was the Igbo constitutional lawyer B. O. Nwabueze. On many occasions, Nwabueze held that Nigeria could not survive on its present constitution, and that a conference of ethnic nationalities was needed to fashion a new constitution that would reflect the wishes of Nigerians. Like other advocates of a sovereign national conference, he held that the 1999 Constitution was an imposition of the

military government, and, thus, not a true constitution of the Nigerian people (Nwadike, 2014, “Confab: The Ben Nwabueze Challenge”, retrieved 8 November 2014 <http://dailyindependentnig.com/2014/04/confab-ben-nwabueze-challenge/>). The Afenifere, a South-West organization of associates of the late Obafemi Awolowo, also supported the holding of a national conference. Indeed, they had long been campaigning for a sovereign national conference. South-South advocates of a national conference included militants (Ikari, 2013, “The Coming Nigerian Civil War between Ijaws and Nigeria”, *The Nigerian Voice*, 17 September 2013; & National Conference Report, 2014, pp. 2-23).

Opponents of the call for a conference were mainly northerners. They included Dr. Junaid Muhammed, a federal legislator in 1979-83. He was the most vociferous Northern opponents of a national conference. In an interview in April 2012, he alleged that advocates “of the so-called Sovereign National Conference ... have [a] hidden agenda”. The “hidden agenda”, he added, was a constitution that would give more oil revenue to the South or, failing that, the breakup of Nigeria (onlinenigeria.com, 2014, “Junaid Muhammed: North ready for Nigeria breakup”, retrieved on 11 October 2014, <http://news2.onlinenigeria.com/news/top-stories/144477-junaid-mohammed%3A-north-ready-for-nigeria%E2%80%99s-breakup.html>).

Initially, the executive arm of the federal government did not support the idea. It just refrained from saying anything about it. The legislative arm of the government did not issue any statement on the campaign for a constitutional conference. Rather it wanted to amend the constitution itself. Indeed, in 2013, the National Assembly embarked upon a rather frenzied effort to amend the 1999 Constitution. It held consultations all over the country and collated them for the purpose of amending the constitution. As of the time of writing this article (November 2014), the National Assembly is still promising to effect fundamental amendments to the constitution before its tenure would expire in June 2105.

President Jonathan Reacts

In mid-2013, the Presidency issued a statement that it was in support of a National Conference and promised to organize one. It proceeded without delay to appoint a committee called Presidential Advisory Committee to consult with governments and opinion leaders in all states in the country for the purpose of determining how the conference would be organized. Headed by Dr. Femi Okunroumu, a prominent member of Afenifere and former Senator, the committee carried out its assignment from late 2013 to early 2014. The President proceeded then to convene the conference. The delegates were nominees of the federal and state governments, and of organizations like the bar association, labour unions and the press. The President

opened the conference on 17 March 2104 (National Conference Report, 2014, section 1.7.3, 24).

Futile Objection by Opposition Party and Edo State Governor

When the federal government announced its intention to convene a conference, opinion leaders of the South-South geopolitical zone welcomed it. Opinion leaders and organizations of the North said they would participate. The strongest opposition came from leaders of the All Progressives Congress (APC) from the South-West zone. Curiously, political leaders of this region that had long been a strong advocate of a sovereign national conference. The Yoruba APC leaders alleged that the President had a hidden agenda—that he wanted to use the conference to extend his tenure. The only South-South state under an APC government is Edo State. Either because of this or because of genuine personal convictions or both, Adams Oshiomhole, the Edo State governor, was the only South-South governor that opposed the conference. He did not impute negative motives to Jonathan. He held simply that it holding a constitutional conference would be a waste of time and money. He predicted that it would not achieve anything (nigerianbestforum.com, 2013, “Oshiomhole to Jonathan: Forget about National Conference”, retrieved 2 January 2015 www.nigerianbestforum. nigerianbestforum.com). However, when it became clear that the conference would be held, Oshiomhole, as well as other APC governors sent delegates to it.

Prominent South-South Delegates

Most of the delegates from the South-South were appointed by the South-South governors to represent their various states at the conference. The other delegates from the South-South were appointed by the federal government and interest groups. The delegates included several well-known persons. They included three former governors, Victor Atta (Akwa Ibom), Diepreye Alamiyeseigha (Bayelsa) and Peter Odili (Rivers). Others include Kimse Okoko (a former President of the Ijaw National Congress), and Raymond Dokpesi (founder of African Independent Television, AIT). The most prominent female delegate was Mrs. Annkio-Briggs - a Kalabari woman, who had made a name for herself as a gender activist and as a champion of Ijaw interests (see Nwabughio, 2014).

Issues Discussed and South-South Positions

Several issues were discussed at the Constitutional Conference. They include revenue allocation, state police, immunity clause, and religion. Many of these issues did not divide delegates across regional lines. So there was no South-South position on any of them. The issues discussed here are three. Two necessitated the adoption of a common position by the delegates of the South-South. These were revenue allocation and the Land Use Act. The other issue was one that pitted the Ijaw against

some other groups within the South-South. This was the question of creation of new states.

1. Revenue Allocation

As in the conferences of 1994-45 and 2005, revenue allocation was the most contentious issue in the conference of 2014. As we have seen, delegates from other zones had accepted an increase of the proportion of derivation revenue to 17% at the conference of 2005. However, after the election of 2011 and the escalation of the Boko Haram insurgency, the North, particularly the “Far” North, turned against derivation. For instance, the Governor of the Central Bank at the time, Lamido Sanusi Lammido, blamed the insurgency in the North on poverty caused by inequitable distribution of revenue between the oil-producing states and the North (Awoyemi, 2012). He stated that the population of the North was far higher than that of the Niger Delta, yet far more money was being allocated to the latter. Other opinion leaders from the North pointed out that the country had given enough to compensate the Niger Delta—13%, NDDC, the Ministry of the Niger Delta, and the Amnesty Programme. Thus, they held that it did not make sense to increase derivation revenue at all. As the Conference approached, some opinion leaders in the North began a campaign to either take derivation off the revenue allocation formula or considerably reduce it. Leading the attack was Junaid Muhammed. Among other things, Muhammed called for the restoration of the onshore-offshore dichotomy and for reduced weight for derivation. He boasted that “resource control is not going to happen as long as we (northerners) are part of Nigeria”. Besides, Muhammed infuriated Niger Deltans by personal abuses of President Jonathan (Fani-Kayode, 2014).

Just before the conference started, the governors of the Northern states, the Arewa Consultative Forum and the Sir Ahmadu Bello Memorial Foundation constituted a “think tank” to produce a working document to guide Northern delegates. Entitled “National Confab: Key Issues before Northern Delegates”, the authors of the document hoped that that it would “help the Northern Delegates assist the Conference move Nigeria forward not backwards”. “Key Issues” started by asserting that Jonathan had a hidden agenda, to wit: “to push through certain agenda that [he] fear[s] cannot possibly pass through the National Assembly” (North’s Think Tank, 2014).

It then dwelt on several issues. However, its main focus was on oil revenue. The authors gave a twisted account of revenue allocation before 1946, and asserted that revenue derived from the North had been used to subsidize government expenditure in the south. It also claimed that revenue derived from the North had been used to finance oil exploration in the Niger Delta. It also claimed that the North had shed blood to secure the Niger Delta from Biafran domination. Concerning the

current revenue allocation formula, the Northern “Think Tank” held that it “negated the principles of justice and equity to the entire federating units, clearly threatening the balanced development of the country for the common good of all”. The Think Tank further made the dubious assertion that “[t]he history of revenue sharing between the regions and the centre was 50:50, but limited to revenue derived from activities that involved human effort”. Thus, they implied that since labour of Niger Deltans is not used to produce oil, the principle of derivation should not be used in allocating revenue from oil. The document elaborated on the points made above by Junaid Muhammed and recommended, among other things, the reintroduction of the onshore-offshore dichotomy, the abolition of the NDDC and the Ministry of the Niger Delta Affairs, and the reduction of derivation payments to 5%. In respect of vertical and horizontal allocation, the Think Tank stated as follows:

[We] recommend a vertical revenue sharing formula as follow: Federal Government, 26 per cent; States 39 per cent; Local Government Areas, 35 per cent. Also we recommend a horizontal revenue sharing formula for the states and local government areas as follows: equality 35 per cent; population 30 per cent; population density two per cent; land mass 20 per cent; terrain five per cent; internal revenue generation effort five per cent; and social development factor three per cent.

This was clearly so self serving. If adopted, the North would have had an undue advantage over the south, especially through equality and land mass.

The North’s position was published when the conference started and the views contained in it were canvassed at opening speeches by some delegates from the North. The South-South reacted without delay. Kimse Okoko issued a personal report that refuted some of the positions of the North. Besides, a South-South think tank also hurriedly met and produced what they called “The South South Position: A stitch in time saves nine” (Whiskey, 2014). It is a more factual account than “National Confab: Key Issues before Northern delegates”. Among other things, “A stitch in time” easily refuted the claim by the Northern Think Tank that derivation did not apply to mineral resources in the pre-oil boom era. They further showed that, in 2009-2013, total revenue derived from the Northern states amounted to just about 1% of total national revenue. They called the northern states “parasites” and “ingrates”, and told them that “Debtors don’t dictate, they plead for understanding and help”. In their recommendations, they called, among other things, for increasing the weight of derivation to 50% or “grant rights over mineral resources to the respective regions and states and let them pay taxes to the Federal Government”. Several individual Niger Deltans and Niger Delta organizations issued threats of militancy and even secession if their area did not get a fair deal on derivation.

The debate was heated at the committee stage and even more so at plenary sessions. Before the conference adjourned temporarily in July, a shaky agreement by “elders” at the conference raised the proportion of derivation revenue to 18%. But this 5% recommended increase was counterbalanced by a recommended to use 5% of federally collected revenue to rehabilitate the North-East zone (the zone most affected by the activities of the Boko Haram sect). However, the conference took no decision on the matter, partly due to opposition by South-West delegates who felt that there was nothing in it for their zone and delegates from the Middle Belt who felt the proposed 5% allocation for the North-East was going to be a reward for terrorism. It was decided that it would be dealt with when the conference reconvened in August.

The conference again failed to reach firm agreements in August. In other words, the agreements it reached were did not specify clearly how changes are to be made in the revenue allocation formula. As stated in the Conference’s report, it was resolved to “Review the percentage of revenue allocation to States producing oil (and other resources)”. Although the word “upwards” was not added to this resolution, the context of the report indicates that “review” simply means increasing the proportion of federally collected revenue that would be allocated on the basis of derivation to the oil-producing states. This was meant to satisfy the oil-producing states. But the North insisted on the adoption of two counterbalancing resolutions: “[to] reconstruct and rehabilitate areas affected by problems of insurgency and internal conflicts; and [to] diversify the Nigerian economy by fast tracking the development of the solid minerals sector” (National Conference 2014 Report, August 2014, Section 5.4.6, p.154). The assigning of percentages to derivation, rehabilitation and solid minerals would have determined which of the contending sides would have gained from the conference. The Conference could not agree on this. Rather, it pushed the responsibility to the executive arm of the federal government. This was the excuse and final recommendation of the Conference on this matter:

The Conference also notes that assigning percentages for the increase in derivation principle, and setting up Special Intervention Funds to address issues of reconstruction and rehabilitation of areas ravaged by insurgency and internal conflicts as well as solid minerals development, require some technical details and considerations; and

Conference therefore recommends that Government should set up a Technical Committee to determine the appropriate percentages on the three (3) issues and advise government accordingly (National Conference 2014 Report, August 2014, Section 5.4.6 , p.155).

Thus, on this critical issue, neither the South-South nor the North made any gains at the expense of the other.

2. Creation of States

The conference recommended the creation of new states, with an equal number in each geo-political zone. It was decided to create nine states in each zone, which would raise the total number of states in the country to fifty-four. The states recommended were listed in the Conference's report. Anioma State and Ogoja are listed as proposed state in the South-South zone. The third one could not be listed because of disagreements among the peoples of the delta region of the zone. The Ijaw wanted a Toru-Ebe State that would cover the Ijaw of the littoral areas of Ondo, Delta and Edo states. The other ethnic groups in this area—the Itsekiri, Isoko and Urhobo—objected to the creation of the state, as it would embrace their own areas too (Eriyamremu, 2014, “Delta, Edo, Ondo Ijaws urge NASS to create Toru-Ebe state”, retrieved on 3 November 2014 <http://nigerianpilot.com/delta-edo-ondo-ijaws-urge-nass-to-create-toru-ebe-state/>). Another proposal by the Ijaw was to create an Oil Rivers State that would bring the Ijaw of Rivers and Akwa Ibom together. This was strongly opposed by Akwa Ibom delegates at the conference. In their view, no part of Akwa Ibom belongs to the Ijaw and none would be ceded to the proposed state (Nairaland.com, 2014). As there was no agreement between the Ijaw and their neighbours on this issue, the Conference recommended as follows: “That the third State to be created in the South –South Zone will be named later, along with its State Capital” (National Conference 2014 Report, p.282). This issue is discussed further in the Conclusion.

3. Land Use Act

The Land Use Act was enacted as Land Use Decree in 1978 by the military regime led by Olusegun Obasanjo. In the following year, it was included in the 1979 Constitution. The Act vests “all land comprised in the territory of each State in the Federation ... in the Governor of that State” and “such land shall be held in trust and administered for the use and common benefit of all Nigerians” (nigerialaw.org. nd. “Land Use Act”, retrieved 12 November 2014 <http://www.nigeria-law.org/Land%20Use%20Act.htm>.). The law was made to facilitate access to land for development purposes, for individuals, enterprises, and the federal and state governments. A similar law had existed in the northern states since the early colonial period. The Land Use Act extended it to the South. The Act had long been condemned in southern Nigeria, especially in the oil-producing states. Its South-South enemies, as it were, are of the view that the federal government used it to dispossess them of their oil-bearing lands without paying mining rents (as in the pre-Act period).

The Land Use Act was controversial at the Constitutional Conference. The Committee on Land Tenure Matters and National Boundaries recommended its abrogation. However, when the matter was presented at the plenary session of the

conference, it was put to vote and a majority of the delegates voted to expunge it from the Constitution. However, after the vote, delegates from the upper North insisted on the retention of the Act in the Constitution. A heated debate followed, in which the upper North delegates were ranged against southern delegates. Subsequently, decision on the matter was referred to a group of elders to forge a consensus on the matter. Based on the elders work, the matter was resolved on 9 July. It was agreed that the Act be retained in the Constitution. However, to appease the aggrieved southern delegates, the conference added that the Act be “amended to take care of those concerns, particularly on compensation in Section 29(4) of the Act to read; land owners should determine the price and value of their land based on open market value” (see Okocha & Ezigbo 2014, Ehi, 2014 & National Conference Report, 2014, p. 674).

Conclusion

The 2014 Constitutional Conference enabled different geo-political sections in the country to seek to advance their interests. The South-South’s main interest was to get more revenue from the region’s oil resources. The northern states were united to oppose this. With the rival interests of the North and South-South moderated by the South-West, South-East and some delegates from the Middle Belt, a compromise was reached. As we have seen, the Conference did not make specific recommendations. But the climate created will ensure that the gains made by the South-South since 1999 will not be reversed.

Two other issues that were of special interest to the South-South were the creation of states and the Land Use Act. There was a consensus among the delegates to create new states. The special problem that arose in the zone was which state to create in the littoral areas. The Ijaw could not agree with other littoral ethnic groups on which state to create. It is clear that the Ijaw cannot get an exclusively Ijaw state that is made up of territories from more than one state. It seems that if the Ijaw must get another Ijaw-dominated state, those of Rivers State should have it. The Ijaw cannot but remain minorities in Ondo, Delta and Akwa Ibom States. We might add that it is most unlikely that new states will be created in the near future. In making the recommendation for new states, the conference acknowledged that it is fiscally inappropriate but added that it is necessary to meet the yearnings of Nigerians. This decision was taken just before the rapid fall in petroleum prices that has adversely affected Nigeria’s finances. It would be obtuse to create new states today, and none is likely to be created. Thus, it unlikely that, in the near future, the Ijaw would be in conflict with their South-South neighbours over this matter.

The South-South struggle for the abolition of the Land Use Act was part of the struggle for increased benefits from its oil resources. If abolished, the Act would enable the owners of the lands where oil is located to get more money through rents

and compensation. As we seen, the conference recommended that the land use act retained in our law books. It is to the credit of South-South delegates that they were able to persuade the Conference to recommend the payment of commercial value for lands taken by government. If adopted and implemented, this recommendation will benefit oil-bearing communities significantly.

We sum up by saying that, in terms of the conflicting agendas of the different geopolitical groups in the country, the conference ended in a stalemate. No zone got what it wanted. The conference might still be useful to Nigeria if the other useful recommendations are implemented.

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