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Accounting and the second enclosure movement: A question of justice, equality of opportunities and freedom!

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The recent debate at the American Accounting Association Annual Congress concerning the “privatisation” of AAA journals served as a springboard for considering the “freedom” of accounting knowledge, research and thought more generally. The production of knowledge in the 21st century is now intricately linked with intellectual property² rights and consequently the latest moves by (in particular) the World Trade Organisation in support of new laws on intellectual property. The economic ideology underpinning the expansion of Intellectual Property is “trickle-down” economics.

Intellectual property laws come in the form of copyrights, trademarks, patents, and related rights. Concern has been expressed about intellectual property laws by the legal profession and various social movements sometimes described as the “commons movement”, the “CopyLeft” and the “dot communists”. In this paper we will draw upon the emerging literature of the “commons movement” as a framework for our analysis of accounting knowledge.

Intellectual Property and enclosure movements

Historically, the idea of enclosure³ emanated from intellectual sources who presented enclosure as a progressive, socially beneficial reform. The supporters of enclosure believed that “commons” operated against “sacred private property rights” (the basis of the individualistic doctrine and the spirit of liberal economics) (Rozental, 1956). The first enclosure movement was presented as entirely beneficial and many arguments were developed to promote its nationwide adoption.

The first enclosure movement

The first enclosure movement took place in England mainly in the seventeenth and eighteenth centuries⁴. Enclosure entailed fencing off common land and turning it into private property. In effect rich landowners used their control of state processes to appropriate public land for their private benefit. This meant that many feudal peasants were robbed of a means of survival. While historians disagree about the

² Historically patents have served to protect the lone inventor from being ripped-off by big business, though whether he can afford to establish his right in law is another matter. Patents, intellectual property rights, exist to award intellectual endeavour 'any new and useful process, machine, manufacture, or composition of matter, or or any new and useful improvement thereof' they were never meant to award mere discovery. On the basis of the current granting of patents Newton could have patented the Laws of Gravity, Einstein the Theory of Relativity, the elements could have been patented, new planets could be patented a royalty charged for anyone who chose to look at them etc. (<http://home.clara.net/heureka/gaia/genetix.htm>, 8th Feb., 2008)

³ The idea of enclosure was also fundamental to justify colonialism ideology and in dissociable of the indigenous people extermination processes. Those people were not actually considered as human beings, they were considered as belonging to fauna. That's how the concept of “Terra Nullius” justified the progressive privatization and divisibility of what was commonly held land.

⁴ There were in fact many “enclosures” beginning in the 15th century and ending in 19th century

level of hardship caused by enclosure, there seems to be little doubt that it imposed terrible costs on some of the most vulnerable sections of society.

However, some social groups benefitted from enclosure. Marx (in *Capital*) argued that the forcible expropriation of the people from the soil produced a new wage earning class desperate for even the lowest wages in order to prevent their families from starving to death. Although the Physiocrats advocated “laissez faire, laissez passer”, for those who lost their rights to use the land, freedom was only a chimera. Enclosure supplied the labour market with people who had no alternative. Moreover, these people had no chance to develop their own talent and initiative. They were forced to move to urban districts in search of work (Neilson, 1950). Thus the emerging capitalist class benefitted from enclosure in that it produced many “willing” workers.

Others have argued that enclosure allowed for an unparalleled expansion of the productive possibilities of the land (Boyle 2003, Polanyi, 1957) since before the enclosure movement, feudal lords would not invest in drainage systems, sheep purchases, crop rotation and so on. Whereas enclosure meant that more grain could be grown (using the technically advanced crop rotation systems), more sheep raised, and perhaps in the long run fewer people would starve. Boyle (2003 pp 35 – 36) states that

If the price of this social gain is a greater concentration of economic power, or the introduction of market forces into areas where they previously had not been so obvious, or the disruption of a *modus vivendi* with the environment – then, enclosure’s defenders say, so be it.... Those who weep tears about the terrible effects of private property should realize that it literally saves lives.

Consistent with the age many moral arguments were brought to bear to support enclosure. Besides the argument that open lands were highly inefficient, commons were considered to be “a major source of social evils, harboring ‘a base encroaching crew’ of thieves and idlers whose activities robbed the rest of the local population of their livelihood” (Kain & all, 1995). As, the young shepherds who led the animals along the common grazing grounds were deprived of proper schooling, they became depraved, debauched and vile (Rozenal, 1956).

For the purposes of this paper it is interesting to note that while earlier scholarship extolled enclosure’s beneficial effects, (Ernle, 1961), some more recent work has indicated that it had few, if any, effects in increasing agricultural production (Allen, 1982; Boyle, 2003). Indeed the commons may have been, on the whole, well-run before enclosure. In short, the enclosure movement certainly produced significant changes in the distribution of wealth, although there remain significant questions about whether it led to greater efficiency or innovation.

The parallels between the arguments surrounding land enclosure and contemporary “trickle-down” economic theory are profound. Competing communitarian ideologies would counter that systems which allow people to survive can only be shared; if they are privately owned or exploited for profit then there can be no social justice! As Mahatma Gandhi said “the land provides enough for the needs of all, but not for the cupidity of each one”. This is why the enclosure of the commons was called the

revolution of the rich against the poor, or “a plain enough case of class robbery” (Kain & all, 1995).

The second enclosure movement

It has been argued that we are in the middle of a “second enclosure movement” (Boyle 2003). This second movement is concerned with state-created property rights; but this time the property in question is mainly “intellectual” rather than physical land (although we have also seen the enclosure of land happening in the 21st century). Once again, things that were formerly thought of as either common property or uncommodifiable are being covered with new, or newly extended, property rights.

One commonly cited example is the production and sale of seeds⁵. Traditionally farmers kept the seeds from a part of their crop for the following year’s planting. Different farmers had their own “favourite varieties” some of which were passed through several generations. Their seeds were also swapped or shared with neighbours. This swapping, sharing and maintenance of many varieties helped to promote genetic diversity. It would have been unthinkable to suggest that farmers’ seeds did not belong to them in that same way that it would be unimaginable that it would be illegal for a child to attempt to plant an acorn found in the park in a small pot at home.

However, we now have legally patented seeds. Farmers who use these seeds will have to pay royalties to plant them and are forbidden to save seeds. Unsatisfied with this legal protection, following their \$1.6 billion buy-out of Delta and Pine Land, Monsanto acquired the patent rights to the “Terminator Technology” which will ensure that farmers will be unable to reuse their seeds. Terminator Technology introduces a “suicide gene” into plants so that they are unable to produce viable seeds.

It has been argued that terminator technology will bring about a loss in biodiversity alongside the genuine fear that the terminator gene may spread causing the world’s crops to fail.

Similar private property arguments are used in terms of the second enclosure movements as they were in the first. It has been argued that agri-businesses have spent much money developing new plant varieties which will lead to more efficient farming. The crops which they produce can be used to feed the world’s hungry. But genetic engineering is not about feeding the hungry. Corporations do not make money selling products to people who cannot pay for them. Genetic engineering is about corporate ownership of the food chain, and catching farmers in the snare of the intellectual property laws.

Thus in the case of seeds, intellectual property laws have “enclosed” (taken away) the rights to use one’s own seeds. Another example which is frequently quoted in the literature relates to gene technology. It has been argued that global corporations are scouring the world, extracting genetic material, then patenting these finds as 'their

⁵ This literature has been used in other fields of enquiry intellectual property and information and communications technology (Benkler, 2000; Evans, 2005), copyright (Travis, 2000), land (Bromley, 1994) and the sea (Lewis, 1983).

discoveries'. Paradoxically, no intellectual endeavour is involved in the automated (or soon to be) cataloguing of genes. In Cambridge, a bank of automated DNA sequencers are busy sequencing human DNA as part of the Human Genome Project⁶. Aligned to gene technology, the literature is concerned with intellectual property and the development of medicine. The discovery of genetic links to diseases are being patented. This means that anyone offering a diagnosis or cure based upon the patent will be obliged to pay royalties.

With regards to the development of drugs, patents are considered as the stimulator of the basic research. The dominant argument is that the products of drug companies need to be protected or else they wouldn't bother to develop new drugs. However, in the case of drugs, intellectual property rights introduce two essential biases which make it impossible for private property and public interest to cohere. The first is due to the fact that capitalist medical research develops only in the fields where there is a solvent demand. That is why there is a tragic dearth of research relating to pathologies specific to the developing countries. The second is due to the fact that patents increase the cost of drugs considerably, making them prohibitively expensive to those in desperate need of them in developing countries.

Pharmaceutical companies have used intellectual property laws against several countries such as South Africa which saw its policy to fight against AIDS blocked by the prohibitive price of therapies leading to many deaths. This was a direct consequence of patents. The recourse to the production of generic medicines as a solution was not possible without the intervention of international agencies evoking the requirements of public health recognized by the agreements of Trips. In summary, if enclosure was described to be necessary to avoid the overuse of the commonly held resources, in order to protect them and indirectly to save lives, it is never argued that the risk of enclosure is the under-use of the world's resources and this in itself could lead to a moral crisis!

These examples further highlight the similarities between the rhetoric's of the first enclosure movement and those of the second. Both are concerned to demonstrate how they can harvest new technologies for the benefit of "society", the first movement in terms of new farming technologies; the second in terms of genetic and communications' technologies. They both argue that enclosure is the sole way to encourage greater efficiency/innovation that will lead directly to increases in food production to save lives. Furthermore, both are based on the premise that enclosure encourages lazy indolent people to work harder. While there are strong ideological parallels, materially, both serve to enhance the wealth of the owners of the land and the means of production.

It is beyond the scope of this paper to debate the strong contention that enclosure, rather than enhancing the development of science, in fact does the opposite. A short example will suffice here. Linus Torvalds started a revolution of sorts in the computer industry when he created the Linux operating system and decided to share it with fellow programmers on the Internet. Linux could then be enhanced by programmers and their work shared with others on the internet, who will in turn

⁶ But even if intellectual effort were involved, it is not intellectual invention, it is basic research, the results of which have always been shared to the benefit of all.

develop it further. The outcome is a more efficient, computer operating system than those developed by large capitalist companies.

While there may be strong arguments made for (for example) the “unenclosing” of certain technologies (especially in medicine, food production and computer technology), how can these insights be used to inform our understanding of accounting? It is all too easy to forget the importance of accounting knowledge in the functioning of our economic and political systems. If it were not so important, then perhaps the world bank, IMF and other lending institutions would not insist upon the introduction of IFRS as a condition of their loans. In the next section, we consider the debate about AAA journals in order to highlight some of the ideas surrounding intellectual property and freedom, and then we will discuss accounting knowledge more generally.

AAA academic journals and the sphere of public knowledge

To be considered as “public knowledge”, two conditions need to be fulfilled by AAA academic journals. They should be available for all users who can take advantage from their use no matter how many they are. And they should be available for all: no rivalry and no exclusion. To fulfil these two conditions, not only there should be free access to AAA journals and on the internet but also the academic knowledge production should be a common enterprise.

But what about the production of the academic knowledge which is reproduced in AAA journals? How does this relate to the sphere of public knowledge? Arguably, in recent decades, the content of the journals has very much been restricted to the narrow methodological commitment of a small group of researchers. While describing their research as mainstream, it serves to support the contemporary neo-liberal political, social and economical order. The perpetuation of the idea that the market is the only possible social order was the ultimate knowledge production in the majority of AAA journals. Therefore, academic enterprise in the U.S. is ideologically orientated. To become public knowledge, an idea should experience a biased process by which it is validated, disseminated, and endorsed by the public process of review and publication (Paul Williams).

If this argument illustrates the non-common character of the knowledge production in AAA journals, why did the AAA community consider privatizing its journals when this could lead to the loss of control over knowledge? One answer to this may be financial. The elitist orientation and sectarian attitude of some AAA academic journals editors is in part responsible for AAA’s declining membership. It is mainly for this reason that AAA journals could not be considered to be in the sphere of public knowledge. Exclusion is carried out upstream; Academics experience an implicit exclusion process that ultimately consecrates the tribal logic of some editors. Thus, the question of the privatization should be analyzed within the context of an organisation with a declining membership. Faced with this dilemma, the market-commodification of AAA journals, using an international publisher, would provide a global production and distribution platform – potentially bringing the AAA to the desktops of millions. In the longer term, such an internationalization of the AAA

community, might reverse the AAA's declining membership and potentially could bring about a transformation of the content of journals designed to serve its members.

Thus, the consequences of the market-commodification of AAA journals are multiple and should be analyzed on the economical, political and social levels.

The concept of Intellectual Property is partially about the relationship between authors and editors. The implicit content of the concept "IP" is different from its explicit one. Explicitly, it is based on the recognition of the rights of the author which are the pivot of the legislation. Implicitly, however, it denigrates them. The intellectual work is actually nothing without its "material support". The IP is consequently the base of that of the "material support" from which authors are to a large extent excluded. The author has one choice -- to yield the commercial property of his intellectual work to the owner of the "material support", the editor and on acceptance, the publisher. As a result, the concept of academic intellectual property becomes primarily commercial.

Within the new enclosure movement, relinquishing control to a publisher inevitably subordinates "public access" to profit and intellectual work is endangered by the editors, who become the managers and even the guards. Academic intellectual property becomes subsequently the object of political stake. Intellectual property rights aim to integrate creative enterprise into the capitalistic production system. Journal content is continuously transcended and designed to serve the interests of the new lords of knowledge (the dominant schools and editors) to the detriment of the researchers who become their labourers. IP is basic for the control and the regulation of a "market of the intelligence". It leads to capital and power accumulation. Besides the expansion of their profits, capitalists increase their power to shape the political processes which are at the origin of the rules of the global economic and social game. Knowledge is produced in accordance with their agenda. They transform it into private property by all the means at their disposal (legal and economical restrictions) and enforce protection over it. Then, the ability to pay will become a selection criteria dictating access to accounting knowledge and excluding those who cannot pay from using it. IP becomes hence a source of social inequalities, a stake of social struggles.

Thus, the privatization of AAA academic journals could be considered within the wave of the new enclosure movement or the second enclosure movement (Boyle, 2003). It could be the introduction to a global monopoly, a "property rights imperialism" (Weber and Bussell, 2005) that influences the course of growth by increasing the gap between the north and the south, inequalities within the north and within the south in the globalization context. It would also accentuate exclusion rather than distribution and the rights to "commons" and of knowledge sharing (Evans, 2005). It allows the control of ideas more than the protection of any freedom! It would lead to more concentration of wealth, which could lead to a "New Dark Ages" (Evans, 2005).

The following section considers accounting knowledge in its broader social context. There is a paradox with accounting knowledge in that at first sight much of it appears to be common. Anyone with access to the internet has access to international accounting standards, alongside a plethora of accounting information including annual reports as well as the research of the big 4 accounting firms and so on. However,

accounting techniques and standards production is not a common enterprise. The only “common” about accounting knowledge is its ideology which serves to enclose what is acceptable in terms of financial measurement, the performance of organisations and indeed what *counts* as important. Moreover, access to international accounting standards is not the same as access to (say) computer software. Developing countries for example are not allowed to take the accounting standards of the north and develop them for their own purposes and needs. Accounting knowledge serves also to ossify the development of accounting. Moreover, only certain “legitimate” accounting practitioners can “use” the seemingly common accounting knowledge, which perpetuate the legitimacy of the profession and its role to maintain the system. These issues will be dealt with in the following sections and conclusions and recommendations set out in the final section.

International accounting standards and enclosure

Accounting’s relationship with the state

Bookkeeping is a very old practice which appeared initially in Mesopotamia (Iraq) about 3500 BC. This was possible thanks to the existence of "writing" and "enumeration" systems. Thus, any civilization that has developed their alphabet and numbers improved bookkeeping. We can find traces from the old Egyptian period, the Phoenician one (Carthage), ancient Greece, Rome, the middle ages and the order of the knights of the temple, the Italian cities in the 13th and 14th centuries (Florence and Venice). In parallel with the evolution of the practice of accounting, sometimes there were articulated legal connections. For example, in ancient Egypt law was not very important with respect to accounting whereas in ancient Rome it was consequential. This is why, today, we talk about the legal substance of accounting.

Baker and Barbu (2007) argue that accounting is a complex form of socio-economic activity whose historical evolution is co-extensive with that of human civilization. Moreover, that the rise of capitalism and the current hegemony of global capital would not have been possible without the existence of an institutionalized set of organized accounting practices. Articulated to globalisation there have been increasing calls for the “internationalisation” of accounting.

Moves towards international accounting “harmonisation” accelerated in March 2001, when the International Accounting Standards Committee (IASC) Foundation was formed as a not-for-profit corporation incorporated in the State of Delaware, US. The IASC Foundation is the parent entity of the International Accounting Standards Board, an independent accounting standard-setter based in London, UK. On 1 April 2001, the International Accounting Standards Board (IASB) assumed accounting standard-setting responsibilities from its predecessor body, the International Accounting Standards Committee.⁷

⁷ <http://www.iasb.org/About+Us/International+Accounting+Standards+Board+-+About+Us.htm> (14th March, 2008)

International Accounting Standards

[Diagram 1 about here]

While the US based IASC Foundation does not directly set International Accounting Standards, its Trustees appoint the IASB members who set the standards. Additionally it exercises oversight and raises the funds needed. The IASC Foundation Constitution provides that the Trustees shall:

select members of the IASB so that it will comprise a group of people representing, within that group, the best available combination of technical skills and background experience of relevant international business and market conditions in order to contribute to the development of high quality, global accounting standards. [Paragraph 20]

Thus the IASC has immense power.

The International Accounting Standards Board is therefore privately-funded and its members are selected by a privately funded unelected body based in the US. Of the 14 board members all but one appear to have an accounting qualification. Thus accountants dominate the standard setting process. This could be contrasted with the prior situation in France where the standards setting body was characterized by the presence of multiple actors. The ideological differences between the IASB and its French counterpart can be seen by comparing the PCG (Plan Comptable Général) the equivalent of the conceptual framework, and the conceptual framework of the IASC. In the former, there is no specification about who are the major users of accounting information whereas in the latter the dominant concern is to meet the needs of the providers of capital.

Williams (2002) suggests that academics and professionals, at least in the United States, were led to consider accounting problems in a binary way, in which there are only two parties: managers and shareholders. So any accounting developments must be considered in so far as they contribute to the information of the principal about the actions of the agent. In France, this conception was frankly not present until the introduction of international standards and its consequences on the accounting regulation process (Collette and Richard, 2005)⁸. Until now, the standard setting process was always a field of democracy which is enforced by the bicephalous organization of the accounting profession and of the standard setting process. The accounting information is not conceived to meet the interests of one part. It is the result of power and counter-power game. Since the introduction of international standards, the situation in France is changing and everywhere in the world, the shareholder perspective continues to disguise its interest by driving accountants to act in the interests of capital (Aglietta and Rebérious, 2004).

⁸ Germany was the similar. Codetermination (worker participation), has forced companies since 1951 (especially in Coal and steel industry where labour unions were strongest) to recognise the interests of labour. Hence the difficulties in adopting the new international standards there.

IASB accounting standards are called International Financial Reporting Standards. At the time of writing there are 8 IFRSs currently in use. These supplement about 30 International Accounting Standards (IASs) which were set by the IASB's predecessor body. The IASB states that it

is committed to developing, in the public interest, a single set of high quality, understandable and enforceable global accounting standards that require transparent and comparable information in general purpose financial statements. In addition, the IASB co-operates with national accounting standard-setters to achieve convergence in accounting standards around the world.⁹

It is interesting to note that the IASB clearly claims that it is acting in the public interest. As we have seen earlier, this claim is one which is frequently made by "those adopting common property" for their own. Moreover, the IASB states that its standards are "enforceable" (see diagram 1). As we shall see, in many countries, this is indeed the case. Yet, the average person has no say whatsoever on who can set the standards, what they contain, or how they will impact upon their everyday lives (although they do in a myriad of ways).

The legal enforcement of IFRS came as of 1 January 2005, when, all companies domiciled in the European Union with publicly traded securities had to prepare their consolidated accounts in accordance with International Financial Reporting Standards. The alliance between The International Organization of Securities Commissions (IOSCO) and the International Federation of Accountants were important drivers behind that European commission giving the IASB the role of European accounting harmonization.

Many countries that are aligned with Europe have followed the EU lead in adopting IFRS including Australia, New Zealand and Hong Kong. Canada and Japan are moving towards full adoption while many third-world countries in the Asia Pacific Region and Latin America have either adopted part or all of the International Accounting Standards (Nino, 2007). The adoption by developing countries may seem surprising. The adoption of IFRS is a condition of developing countries being given aid. The relations between the Federal Reserve System in US and the international monetary fund ensure this.

Fair value

Biondi and Suzuki (p 585, 2007) argue that

Theoretically speaking, there should be many ways of doing "account-ing" — an act of explaining business realities to multiple stakeholders of socio-economies. Practically speaking, however, the current trend is to use "Fair

⁹ <http://www.iasb.org/About+Us/International+Accounting+Standards+Board+-+About+Us.htm> (14th March, 2008)

Value Accounting" which is considered to be useful particularly for investors, and this is now being globally standardized.

Embracing the "fair value" concept will serve to further hide the fact that value is created by labour. Moreover, the conflation of market values with fairness is extremely concerning.

The implantation and adoption of IFRS has not been without its detractors or problems. Aside from significant concerns surrounding the homogenisation of accounting, the new accounting standards are very complex. The complexities of the new standards of the IASB have made accountants irreplaceable. Some have even argued that the new standards could have dangerous consequences for the company and its creditors (Colasse and Casta, 2001). There have been specific difficulties of IFRS implementation within the banking and insurance sector.

One of the "complexities" introduced within the new accounting standards was their embracing of the "fair (market) value" paradigm. The IASB made the doctrine of the "fair value" its war-horse to demonstrate that equilibrium is possible only if we trust the financial markets (Aglietta and Rebérioux, 2004). The equivalence of the sign "fair" with the market is interesting. There is a presumption that market values are "fair" – or in other words, market values are correct.

Aside from its significant ideological associations, in practice, their adoption is problematic from a technical accounting perspective. If fair-value is applied to banks, an extra volatility may be created for example (Boyer, 2007).

The introduction of the fair value and even of the full fair value constitutes another step in the sophistication process of accounting knowledge and practice, which while claiming to guarantee the reliability of the financial communication, in a world dominated by financial debacles, is basically oriented to justify and legitimate the role of the accounting profession. It also allow the big accounting firms, which dominates the international standard setting process, to maintain a high level of turnover while observing the new Sox act rules. Tinker and Carter (?) state that the consulting branches of the Big firms grew typically from 20 – 40% per annual during the bull market. Auditing, in contrast, delivered typically around 5%. As accounting firms are market entities; their competitive market survival and expansion cannot be contained by invocations for individual restraint. Legislative rules for divorcing the joint provision audit and consulting services push them to find the way how to increase either the audit fees or the consulting offer. Thus the introduction of the international standards and their complexity could serve to enhance the profitability and longevity of the accounting profession. It is never a good idea for a profession to make their knowledge too easily accessible to others (Armstrong, 1985; 1987).

Elad (2007) disputes the claim that fair value accounting has the capacity to enhance the stewardship function by providing relevant information to stakeholders, thus alleviating social conflict Barlev and Haddad (2003). Looking at the agricultural sector Elad argues that far from reducing conflict and alienation, the fair value approach is underpinned by neoclassical economic ideals that are not conducive to emancipatory accounting.

Conclusions

Biondi and Suzuki (p 585, 2007) argue that many aspects of our lives may have been undemocratically administered without “being noticed” because of the use of accounting. The critical and social accounting literatures have had a tradition of highlighting both accounting’s standardisation (eg Gray 2002) and the hidden impact this standardisation has on state and private sector decision making (eg Cooper and Taylor, 2005). Accounting certainly “constructs” a reality (Hines, 1988) but the reality which it constructs has material implications. For example, privatised English water companies are legally allowed to make a “fair” rate of return on their investments. Regulators set water prices to ensure that this is the case. Returns are guaranteed on capital expenditure. This has the unfortunate material consequence that water companies tend to spend their money on capital (new infra-structure projects) rather than revenue items (repairs). While capital and revenue are social constructs, they have material implications. Accounting has a significant impact on our lives, yet on the whole, people who set accounting standards are unelected and the average person has no say whatsoever in the development of accounting.

The imposition of IFRS is worsening the situation. The citizens of countries with cultures far removed from those of Delaware and London are being forced to comply with IFRS. This means that they are having to legally sanction an ideological position which makes market values the correct and “fair” ones. IFRS are also self-consciously designed to meet the needs of the richest in society (investors and large creditors). The enclosure of what constitutes accounting knowledge is a sinister accompaniment to the neo-liberal project.

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