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A Cool Hand on My Feverish Forehead: An *Even Better*Samaritan and the Ethics of Abortion

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The debate concerning abortion abounds in miraculous narratives. Judith Jarvis Thomson has contrived the most celebrated set among related ones, to wit the "violinist analogy," the "Good Samaritan" narrative, and the "Henry Fonda" allegory, by virtue of which, she intends, on the one hand, to argue that women's right to autonomy outweighs the alleged fetus's right to life, and on the other, to prove that no *positive* moral duties can be derived towards other persons alone from the fact that a moral agent is ascribed certain rights. What this short paper endeavors to prove is that Thomson's argumentation by analogy is a weak one, since neither the number nor the relevance of similarities invoked is adequate or satisfactory, while crucial parameters concerning the morality of abortion are being totally overlooked.

Keywords: abortion, fetus, rape, violinist analogy, Good Samaritan, duty, right, morality

1. Introduction

Anybody who has taken even a quick glance at the field of applied ethics can only admit that it more or less deals with considerable, sometimes stiff, and even grave issues. If one, however, decides to probe a little further into the relevant literature, in many cases, one may experience the bizarre feeling that has unexpectedly visited some peculiar playground designed especially for the recreation of philosophers, who once in a while feel the urge to leave aside their solemn demeanor and give in to a merrily hopping around carefully chosen maypoles. This is true of many issues that fall under the domain of applied ethics, but never truer than when it comes to abortion, regarding which one could read about space explorers who encounter aliens (Warren 1973, 54), chocolate boxes (Thomson 1971, 56), people seeds that drift about in the air like pollen and make them pregnant (Thomson 1971, 59), transparent wombs (Wertheimer 1971, 91), monster-missiles (Thomson 1986, 26-27), miraculous injections to kitten brains (Tooley 2006, 36), and rapidly growing giant-kids trapped within tiny houses (Thomson 1971, 52). When it comes to abortion, many philosophers seem reluctant to deal with the human condition directly, moving thus into a world of fantasy (Abbott 1978, 318). However, there is nothing wrong with that. As a matter of fact, ever since the celebrated Platonic myths and Zeno's paradoxes, philosophy takes an overt fancy to indirect approaches concerning crucial issues, either by necessity—due to lack of appropriate and clear terms—or by choice. Therefore, as far as the ethics of abortion is concerned, philosophers' propensity for turning to imaginative allegories on purpose of clarifying notions and presenting their case stands for nothing more than tagging along with a long lasting and vivid tradition in philosophical

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meditation. In this paper I intend to critically examine one of the most influential—as well as challenging—approaches concerning the ethics of abortion, namely, Judith Jarvis Thomson's set of celebrated analogies, by virtue of which she argues in favor of the moral admissibility of abortion on grounds of the pregnant woman's right to autonomy and self-determination. I will argue that, although Thomson sheds light on previously uncharted aspects of the issue and promotes the moral debate, her argument by analogy is not an irrefutable one.

2. Thomson's Argument by Analogy

The main axes for the contemporary abortion debate are two: on the one hand, the right to unlimited autonomy and self determination that every woman as a human being should maintain despite of her condition (cf. English 1988, 140-48); on the other, the concept of personhood and whether—and if yes, to what degree—the fetus can be considered as a person (Harman 1999, 310-24). Concerning personhood, there are three main positions: (1) The fetus is a human person from conception (Lee 2004, 250); (2) It becomes a person at—or right after—birth (Callahan 1995, 287); (3) Neither conception nor birth can mark the threshold to personhood, but rather personified criteria such as self-awareness (Tooley 1972, 40 ff), viability (Roe 1973), sensibility (Warren 1973, 57-59), etc.. Thomson clearly focuses on the first branch of the debate, to wit, on women's right to unlimited autonomy and unrestricted self-determination during pregnancy; her approach is a pro-choice one. Views as such grosso modo suggest that every pregnant woman, exactly as each man, retains the inalienable moral right to dispose of her body in accordance with her will, irrespective of what actually her will implies as to the sustaining of her condition. Pregnancy is a physical state just like every other, hence, the pregnant woman may maintain it, if she wishes to; however, if she does not, she has the moral right to interrupt her pregnancy and abort the fetus. Thomson's contribution in the debate is the celebrated "violinist analogy" (Thomson 1971, 47-66), the mostly cited argument as far as the abortion debate is concerned (Parent 1986, vii). The analogy goes like this:

You wake up in the morning and find yourself back to back in bed with an unconscious violinist. A famous unconscious violinist. He has been found to have a fatal kidney ailment, and ... you alone have the right blood type to help. They have therefore kidnapped you, and last night the violinist's circulatory system was plugged into yours, so that your kidneys can be used to extract poisons from his blood as well as your own ... for nine months.... Is it morally incumbent on you to accede to this situation? No doubt it would be very nice of you if you did, a great kindness. But do you have to accede to it? What if it were not nine months, but nine years? Or longer still? ... Because remember this. All persons have a right to life, and violinists are persons. Granted you have a right to decide what happens in and to your body, but a person's right to life outweighs your right to decide what happens in and to your body. So you cannot ever be unplugged from him. (Thomson 1971, 48-49)

The moral principle Thomson argues against is a dominant one in ethics: The moral value of human life outweighs any other value in case of conflict, even freedom, autonomy, and self determination. This is because life is of inherent or intrinsic moral value, since it is the prerequisite of every other value or interest; being logically prior to everything else, it is also morally superior. On the contrary, all other conditions, attributes, or properties can only be ascribed relative or instrumental moral value, since they are depended on life (cf. Kagan 1998). If this is so, any pregnant woman ought to suspend her moral right to autonomy for nine months, given that the renouncement of the specific right for a limited period of time is an inconsiderable loss when compared to the moral value of the human life which is at stake, exactly as the kidnapped woman of the analogy ought to

stay connected to the unconscious violinist. Nevertheless, would any moral agent feel morally obliged to remain connected for nine months to an unknown violinist? Thomson believes that one neither would nor should think of such an option as a moral duty. If this is true in the case of the violinist and the kidnapped woman, it is also applicable in the case of the pregnant woman and the fetus she carries. The right to life, Thomson argues, does not imply—neither justifies—the right to use another human being's body. The moral value the unconscious violinist's life has can by no means outweigh—not even temporarily—the moral right another human being has to autonomy and self determination; neither might it compel any moral agent to become a means to an end, even if another person's life is at stake. Abortion, therefore, *mutantis mutandis* deprives the fetus of the benefits of utilizing something—in this case its mother's body—over which, though, the fetus can have no moral claim (cf. Davis 1984).

In general, Thomson proceeds that no moral agent ought to do anything to somebody else's benefit unless one has already explicitly and voluntarily committed one's self in doing so. Thomson argues:

If I am sick unto death, and the only thing that will save my life is the touch of Henry Fonda's cool hand on my fevered brow, then all the same, I have no right to be given the touch of Henry Fonda's cool hand on my fevered brow. It would be frightfully nice of him to fly in from the West Coast to provide it. It would be less nice, though no doubt well meant, if my friends flew out to the West Coast and carried Henry Fonda back with them. But I have no right at all against any-body that he should do this for me. (1971, 55)

Whether one does something in the interest of another person or not solely rests upon one's benevolence; moral agents have no obligation to respond to one's demand or meet one's need, no matter how pressing or urgent the latter might be—unless, of course, one has somehow entered in some kind of moral agreement with the person concerned (Thomson 1971, 56). Likewise, pregnancy imposes no moral obligation on the woman towards her fetus, at least on grounds of responding to an unuttered demand (or request) on the fetus's behalf, nor due to an alleged moral responsibility to meet the fetus's fundamental need to preserve its life. Thus we need to accept exactly on the same grounds that a woman would not be morally obliged to disclaim her autonomy for nine months on purpose of assigning her kidney function to the filtering of the violinist's blood, or for the same reasons Henry Fonda would not be morally bound to undergo even the slightest discomfort in order to save a stranger's life.

Thomson's line of reasoning is clear and well-targeted. At the time she presented her case, her argument also proved to be quite effective in outlining the proper moral status of pregnant women and eradicating many deeply-rooted erroneous beliefs. In particular, she successfully underpinned the major fallacy some pro-life approaches were suffering from: the fact that life may indeed be ontologically *prior* to autonomy does not necessarily imply that it is also morally *superior* to it. Such a view can only be pray to the so called *naturalistic fallacy*, to wit, the tendency to infer one's moral duty from actual circumstances. Thomson, in my opinion, is right in suggesting that *being* alive is not necessarily *having the right* to be alive, and, furthermore, in insisting that having the right to life does not imply that others ought to do anything on purpose of securing one's ability to enjoy or exercise that right. After all, common practice bears witness for the exactly opposite view: The right to life is not an unconditioned one, nor is it duty-imposing to moral agents. It more or less outlines a *negative* duty, to wit, not to deliberately and actively threaten one's life; but by no means could this be taken to imply a *positive* duty, especially the duty to guarantee another person's right to life in expense of one's own rights. Furthermore, Thomson's argument sheds new light on a till then not that seriously considered moral parameter

of the issue: a pregnant woman is not just a functional womb, nor is she merely the means for the deliverance of a baby. Being pregnant is by no means a reason for lessening neither her moral status nor her agency; she partakes no less than before in the covenant of ethics; her condition calls not for less moral rights, but for more. Suggesting that a pregnant woman ought to maintain her pregnancy irrespective of the circumstances and even against her will is to take a woman as a mere means to an end (cf. Denis 2008, 118). This, however, apart from being outrageous, is a quite unsound—and extremely dangerous—way to morally assess a person (cf. Feldman 1998, 270). It is extremely surprising that even philosophers who belong to the Kantian tradition in some degree indulged in approaches as such. Given that the Kantian tradition has been a dominant one in Western ethics for more than two centuries, it is also annoying how one-sidedly the "niemals bloβ als Mittel" (Kant 1996, 80) imperative had been applied with regard to the abortion debate (cf. Gensler 1986). Thomson's argument succeeded in offering a much more detailed and precise account of the—till then partly overlooked—moral status of the pregnant woman.

3. Objections

Although imaginative, stimulating, and fertile, Thomson's argument by analogy in many scholars' view could not boast for being equally convincing (Hare 1975, 201). An argument by analogy has no deductive validity; it can only be sufficiently instructive. Its strength depends on the relevance and the adequacy of the similarities invoked between an uncontroversial case and a controversial one. In particular, the more the similarities are between the abducted woman's case and the pregnant woman's one, the more we have good reasons to believe that what is morally permissible for the former is also for the latter. However, if the analogy leaves out important elements of similarity, or major relevant disanalogies exist between the two cases employed, the instructive strength of the argument is weakened. Concerning Thomson's analogy, it is often being stressed that it lacks the soundness of a proper argument of the kind, since neither the number nor the relevance of similarities invoked is adequate or satisfactory (Wiland 2000, 467 ff). In my opinion, many of the objections raised are not unsubstantiated, since there are some morally relevant differences between Thomson's scenario and typical cases of abortion.

First of all, it is not that often for a woman to conceive against her will. This applies mainly in cases of rape (Warren 1973), or when contraception techniques fail. However, pregnancy due to rape or faulty contraception is extremely rare compared to other much more common scenarios, which Thomson's analogy seems unfit to deal with. The violinist analogy, Warren argues, leaves out cases such as intentionally becoming pregnant and then deciding not to maintain pregnancy, or conceiving as a result of one's carelessness (Warren 1973). I would like to focus a bit more on the similarities invoked between becoming pregnant as a result of rape and being kidnapped and forced to remain plugged to a complete stranger for nine months. For the sake of the discussion, I will examine both cases not on a cause-and-effect basis, but as consisting of individual, isolated events. Kidnapping a person is always a morally reprehensible deed *as such*, and forcing one to stay connected with a complete stranger is no morally different. Both deeds are morally wrong per se, irrespective of whether they are causally connected to each other or not. On the other hand, rape is always a morally abominable deed *as such*, but being pregnant is not *always* a morally reprehensible situation per se (Carless 2008). Pregnancy could possibly be considered morally regrettable if causally connected to rape, but, again, this does not necessarily follow. This means, although any woman would reasonably regret the fact that she was

raped, that not every woman might feel the same about being pregnant with a child. Rape is a traumatic event in a woman's life, and every woman would have avoided it if she had the chance; not every woman, however, that becomes pregnant due to rape, decides to abort her fetus (Wilkinson 2004). Furthermore, in my opinion, a woman's options in both cases are not morally equivalent. Let me employ a thought experiment: Consider two women that became pregnant due to rape: one of them eventually decides to carry on with her pregnancy and delivers the child; the other decides to terminate her pregnancy and aborts the fetus. The first is not a saint, and the second is surely not a monster. Now consider two women that were kidnapped and plugged to two unconscious violinists: one of them decides to disconnect herself from the stranger, and the other willingly remains plugged. She who disconnects herself is surely not a monster, as Thomson correctly suggests; however, the other *is* a saint, at least in the eyes of the violinist—and not only. In my opinion, even in cases of rape, the violinist analogy is not entirely analogous to unwanted pregnancy, because it ignores morally significant elements of dissimilarity.

As to unexpected—and unwanted—pregnancy due to defective contraception, here again in my opinion, the argument Thomson employs is not directly analogous to common experience. In real life there is no chance that a woman wakes up and finds herself kidnapped and plugged to a stranger. On the contrary, there is always an actual possibility—however slight that might be—that contraception proves deficient and the woman that employs it becomes pregnant. Even one percent possibility of failure means that if a hundred women at the same time employ the same contraception method, at least in one of these cases the method will prove faulty. In my opinion, one would be justified to think that a woman—given, of course, that she is a mature adult—that decides to terminate her unexpected and unwanted pregnancy does so on grounds of a pre-existing and already consolidated moral attitude towards the very possibility of becoming pregnant. On the contrary, no woman is expected to have taken into consideration the chance that she might be asked—or forced—to stay connected to a violinist for nine months. Therefore, it is almost impossible that she has an already preset moral attitude towards this possibility. Being abducted and plugged to another person is absurd; becoming pregnant due to contraception failure is neither usual nor typical, but it is possible. No one goes to sleep fearing that when one wakes up she will have been kidnapped and plugged to an unconscious violinist. Fearing that contraception fails, however, is not an absurd possibility. To conclude, while a woman could by no means have a preset moral attitude towards the possibility of being kidnapped and plugged into an unconscious violinist, she may well be expected to have one towards unforeseen pregnancy. It seems that concerning this parameter there is also a relevant disanalogy between Thomson's argument and real life.

Furthermore, in my opinion, Thomson's analogy fails to cope with the moral sentiments a pregnant woman is reasonably expected to have towards her fetus, sentiments that are a far cry from those one is expected to have towards a perfect stranger, even if the latter is a famous violinist. When it comes to saving the violinist's life in our expense, for instance, we could possibly bluntly refuse to do so, and still *feel certain* that we have done nothing morally wrong or indecent. This, however, is never the case when it comes to abortion, towards which the pregnant woman can well be expected, if not justified, to suffer *moral ambivalence* and entertain *moral doubts* (Scott 1989, 320). A very obvious reason for that is the fact that the fetus is partly flesh of the woman's and *vi naturae* depended on her, while the violinist is just a complete stranger to her, attached to the kidnapped woman only due to untoward circumstances (Parks 2006). The fetus, even if the mother decides to abort it, is still *her fetus*, and under no circumstances could it belong to another woman. On the contrary, the

violinist is not her violinist; he is only related to her due to extremely bad fortune (Schwarz 1990). The violinist could well be any other woman's burden; that fetus, on the contrary, could not be any other woman's fetus. In addition, being pregnant for a woman is a normal and common state of being; pregnancy constitutes no extreme circumstances. On the contrary, being plugged to an unconscious violinist is far from either a normal or common condition. As to pregnancy, one can in many cases be content, as to abduction and coercion, one can never feel joy. However, reluctant or skeptic a woman may be regarding the fact that she is pregnant with a child, she is not—prima facie, at least—justified to feel angry or deceived, or hate the fetus she carries. On the contrary, regarding one's having involuntarily been plugged to a stranger, one would be justified to entertain feelings as such. In addition to these, Thomson's argument, I believe, fails to take into consideration the nexus that exists between the woman and her fetus, one that is totally missing when it comes to a kidnapped woman and an unconscious violinist. A pregnant woman's relation to her fetus is as direct, actual, and tangible as a relation can be: the fetus grows inside the woman's womb; actually it is flesh of hers. On the contrary, the kidnapped woman is related to the unconscious violinist only ideally and in abstracto; the only connection between them is the fact that they both belong to the species *Homo sapiens*. This, however, is hardly a relation. The way I see things, immediate interaction and actual relation cannot imply on moral agents the same moral duties as one that only exists in abstracto. Thomson's approach, however, seems to regard both cases as directly analogous.

Thomson's argument, furthermore, seems to disregard a morally crucial fact concerning abortion, namely, that not only the pregnant woman but also the father of the fetus is justified to be a part of the moral consideration. It is not rare for philosophers that primarily focus on women's right to self determination to argue like they are endorsing an immaculate conception theory regarding pregnancy. To some of them gestation seems to be a moral issue only as far as the mother and the fetus are concerned, as if pregnancy were an unprecedented condition and occurred in vacuum. According to that line of reasoning, since the woman is the one who conceives and carries the fetus, she alone is to decide whether to deliver or to terminate her pregnancy. She is held morally responsible either towards herself, or towards the fetus she carries (if, of course, the fetus is considered to be a rights bearer), but to nobody else. However, this is hardly the case, since Immaculate Conception is only possible in fiction; in real life, parthenogenesis exists only with regard to few plants and serpents. A child is not just a spontaneous molecular unit in the woman's body; it is not a tumor, nor a syndrome. Hence, being pregnant with a child is a much more complicated situation and, consequently, a multilateral moral issue. The pregnant woman—although she is still the one primarily involved and, therefore, the one that bears the final burden of deciding whether she maintains her pregnancy or not—has to take into consideration her partner's moral attitude towards the possibility of having aborted a fetus which is partly due to his genetic material as well. The father of the fetus cannot be deprived of his moral rights on the fetus on grounds of the woman's right to autonomy, and his moral sentiments towards it cannot be deemed a morally irrelevant matter concerning the abortion issue. In my point of view, at least, the pregnant woman is actually morally responsible towards her partner in some degree; therefore, the abortion decision ideally should be a joint one and incorporate the man's views as well (Hershenov 2001). If this is so, then Thomson's analogy overlooks a morally significant dissimilarity: in the pictures she draws, there are always two persons, namely, the violinist and the kidnapped woman, or Henry Fonda and the dying patient. Concerning abortion, though, there is always a third person, the father of the fetus, towards whom the pregnant woman is in some way morally responsible, provided, of course, that the father claims his rights over the fetus (Wesley 1975).

Apart from whether the similarities invoked between the violinist and the fetus on the one hand and the kidnapped woman and the pregnant one on the other are relevant and adequate, in my opinion, Thomson's argument in favor of women's right to terminate pregnancy in order to maintain their autonomy leads to a parallel issue: if women in general have no moral duty towards either the fetus or their partner, then a woman who chooses to give birth to her child is one who acts on mere benevolence beyond moral responsibility. Actually, in Thomson's view, such a woman is more like the Good Samaritan of the parable, to wit, a moral agent that has moved to a higher level of agency, where notions such as duty and right are not even necessary (Boonin 2003, 133-34). The Good Samaritan, according to the biblical narrative, came to the aid of the half dead Jew not because he *ought to* but only because he thought he *should*, acting in full accordance with his consciousness. If he had left his fellow human to die, he would not have violated any moral law, since Jews and Samaritans were supposed to be mortal enemies at the time, and the ethics of the era held no person responsible for benefiting his foe. What the Samaritan opted for was not a dutiful but a dignified deed. As to pregnancy, however, in my opinion, a woman need not supersede any duties in order to maintain her condition; she just has to be up to them, not to go beyond. She only has to maintain her current condition stable, and by no means to exceed her limits in any way. This is why, when our focus moves from Samaritans to pregnant women, we cannot qualify them as good, at least not with regard to the way they are being pregnant; nor can we rate the goodness of two or more pregnant women on the sole basis of the way they are dealing with their pregnancy. On the contrary, the Good Samaritan—in order to become worthy of his reputation—had to act beyond the framework of conventional morality. To aid his wounded fellow human, he had to supersede his moral duties; his moral supremacy is being utterly determined by the degree to which he eventually surpassed the boundaries of conventional morality. To make my case clearer, allow me to employ an analogy: Imagine there were three traveling Samaritans instead of one (and, respectively, three wounded Jews), in this case, we would be able to morally rate their goodness on the basis of the degree to which they managed to surpass their conventionally determined moral duties towards each of the lethally wounded Jews. Let the first one be the Good Samaritan of the parable, who attended to the wounded Jew and carried him on horseback to the nearest inn, where he paid for the injured man's cure. The fact that though he ought not to, he chose to act that way is exactly the reason we think of him as being good. Let us now suppose that there is a second Samaritan that runs into a dying Jew, but, unlike the Samaritan of the parable, this one is actually traveling on foot. He attends to the injured man, he gives him water, food, does whatever he can to dress his wounds; he even gives him some money to pay for transportation in case a caravan passes by. He would like to do more for his fellow human, but time is pressing him; it is getting dark; his life might be in danger in a dessert crawling with bandits; he has no brute to transport him and he is not strong enough to carry him on his back. Thus, heavy hearted he leaves him as was, making sure that he has done everything he could to comfort him. Does the fact that he is unable to do anything else but leave render him a bad Samaritan? Certainly not. Now let us suppose that shortly after another Samaritan, the third one of the analogy passes by. He is also on foot, scared by the fact that he is traveling at dusk in the dessert. He notices the injured Jew and sees that someone has already attended to him. However, it is quite obvious to him that, in spite of the nursing the Jew has been given, the injured man will soon expire unless he is transferred elsewhere and given proper care. Therefore, he takes the Jew on his back and, disregarding the fact that he will be risking his own life, carries him to the nearest inn. This third Samaritan is no doubt better than the other two for he put at stake his own life to benefit his fellow man. He surpassed in a higher degree than his conventionally determined moral duty towards the Jew. However, while that kind of moral rating is applicable to the three Samaritans of the analogy, it cannot equally apply when it comes to three pregnant women, for there are no good pregnant women as such. It is nonsensical to argue that this one is a better pregnant woman than the other, or that another one is morally unrivalled as to the way she is dealing with her pregnancy. On the contrary, we can always insist that a pregnant woman is misfit as such if, for instance, she remains a heavy smoker during pregnancy, or in case she is on drugs or addicted to alcohol. This is due to the fact that pregnant women that act thus fail in meeting the duties their condition imposes on them. If, however, a pregnant woman abides by what her condition implies, she is by no means a good pregnant woman as such. She is just a normal pregnant woman. Unlike the Samaritan, she does not surpass her moral duties to achieve something, she only acts the way any other pregnant woman does, or she is supposed to do. The Samaritan of the parable, on the contrary, actually does a lot more in comparison to what any other Samaritan would do, or was supposed to do, according to Thomson's account. In my opinion, in suggesting that maintaining pregnancy is acting like a Good Samaritan, Thomson's analogy seems to exceed the limits of its own potential (Wiland 2000, 466-68).

4. Conclusion

Discussing arguments influential as such is always a heavy burden. This burden can only become heavier when one chooses to focus on the argument's weak points. In this short paper, I tried to prove that Thomson's well known "violinist analogy" is unsound for it fails to overcome the burden of proof appropriate to any pro-choice argument. In particular, Thomson tries to establish her claim that women have the right to abort their fetus in order to maintain their autonomy on a less controversial fictional case, which she claims to be analogous to pregnancy. In my opinion, however, the analogy Thomson employs provides no legitimate evidence or support for her claim because neither the number nor the relevance of the similarities invoked is adequate. Furthermore, some morally significant disanalogies between the fictional and the actual cases are being disregarded. In specific, I argued that, even in cases of rape or faulty contraception, Thomson's analogy is not fully functional, that the moral sentiments a pregnant woman may have towards her fetus are being overlooked, that the father of the fetus is being deprived of any moral right and totally excluded from moral consideration, and finally that—unlike what Thomson suggests—the Good Samaritan view is not applicable to women that decide not to abort their fetus. There is no doubt that Thomson's approach, however, has been extremely beneficial for the ethics of abortion. Apart from revitalizing the relevant debate, Thomson's views-steadily fixed on women's right to autonomy and self-determination regardless of their condition—contributed to establish a much more plausible moral status for women during pregnancy. However, what makes Thomson's argument still valuable for the abortion debate is its being imaginative, resourceful, and controversial, just like any fertile philosophical approach is supposed to be.

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