

E-Courts in Indonesia: Exploring the Opportunities and Challenges for Justice and Advancement to Judicial Efficiency

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E-Courts in Indonesia: Exploring the Opportunities and Challenges for Justice and Advancement to Judicial Efficiency

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Abstract

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Trials of civil cases based on HIR/RBG take months or even years, which sets a negative precedent for the judicial institution because it tends to be closed and convoluted. In response to these persistent issues, the Indonesian supreme court issued "PERMA Number 1 of 2019" regarding electronic court proceedings and case administration. Utilizing a qualitative normative judicial approach, this study investigates the application of electronic trials in Indonesia's civil procedures law and explores its benefits, opportunities, and challenges. According to the findings, E-trials are an effective method for those who previously had to wait a long time for justice. "PERMA No. 1 of 2019" has ensured the provision of several benefits for the internal judiciary and justice seekers, including eliminating the need to travel to court for case registration, which can now be completed electronically. The court expenses can be paid through a virtual account, and the summons of the parties is conducted electronically through an electronic domicile. To implement E-Trials and E-Litigation successfully, there are several obstacles and opportunities. In addition, the paper addresses the numerous practical and theoretical implications that the research has.

Keywords: E-trials, E-Litigation, Judicial efficiency, Justice Seekers, Indonesia, HIR/RBG

1. Introduction

In the modern information and technology (IT) world, integrating digital and advanced technology into various aspects of work and personal life has become indispensable. Governments are making similar efforts in various nations and other international organizations to implement e-technology in the execution of various legal procedures (Pratiwi, Steven, & Permatasari, 2020). In 2018, the Supreme Court of Indonesia also developed and implemented significant policies and work programs incorporating technology to accomplish various judicial duties. In this regard, the implementation of "Case Investigation Information System (SIPP) version 3.2.0" was shown to be effective in controlling the settlement process of a case, which is crucial

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for those seeking justice (Kharlie & Cholil, 2020). This technology has also proven effective in updating the defendants' case-related information status. However, the Supreme Court also launched an e-Court application, deemed essential for enhancing the implementation of court fee deposits, response processes, case registration, and notification of stipulation decisions. In addition, the incorporation of e-technology by the Supreme Court of Indonesia has effectively bridged Indonesia's extensive geographical boundaries. Therefore, the use of e-technology in Indonesian civil procedural law (ICPL) was encouraged by "Act No. 48 of 2009," which emphasized that the judiciary should be conducted in a timely, cost-effective, and straightforward manner (Kamello & Sastro, 2023).

Consequently, in this regard, the Supreme Court and other relevant parties paid attention to implementing electronic trials. However, under Article 2 of "Act No. 48 of 2009," trials must be conducted expeditiously and economically. In addition, "the Supreme Court Regulation (PERMA) Number 3 of 2018" emphasized the administration of justice in a simple, cost-effective, and expedient manner, even via an electronic trial, also known as an e-court (Kurniawan et al., 2022).

The Supreme Court of the Republic of Indonesia (MARI), therefore, revised this regulation and issued "PERMA Number 1 of 2019 concerning the Administration of Cases and Trials in Electronic Courts" (Berutu et al., 2022). Its primary objective was to regulate e-court, which is defined as a brief trial conducted electronically to reduce face-to-face litigation between parties. It also aids in minimizing the litigation process in Religious and District Courts. Even though the opportunity to implement e-trials is inevitable, it still possesses certain limitations that could harm the judiciary and lead to subpar results. However, in previous research, the challenges of e-trials within the ICPL context have not received much attention, generating a gap; therefore, the present study has effectively overcome this limitation. This study's primary objective is to determine the implementation of electronic trials in ICPL, focusing on the opportunities and obstacles for justice and advancing judicial efficiency.

Additionally, the current investigation has been effective in various ways. This study, for instance, has contributed to advancing the literature regarding implementing electronic trials in ICPL. This study has effectively filled gaps in previous research by emphasizing the opportunities and challenges for justice and the advancement of judicial efficiency, resulting in successful outcomes. At the same time, this study can effectively highlight the significance of electronic trials in performing judicial duties cost-effectively, which is essential for the judiciary and all other involved parties. In addition to its theoretical significance, this study effectively offers practical implications. This study, for instance, can effectively promote the implementation of electronic trials, which have become an urgent necessity. In addition, this study has the potential to increase public and other stakeholder understanding of the significance of electronic trials in safeguarding the data and privacy of associated individuals. This study's findings can also encourage future researchers to concentrate on other crucial aspects of electronic trials to achieve significant results.

2. Method

Electronic trials have also become prominent in the justice system as technology advances. Legal research has become increasingly interested in electronic trials over the past decades. Consequently, the present study also centers on incorporating

electronic trials into the Indonesian Civil Procedural Law (ICPL). In this regard, various opportunities and obstacles for justice and the advancement of judicial effectiveness have also been highlighted. To achieve these objectives, a qualitative research strategy was considered. Due to the exploratory character of the objectives, the interpretivism research philosophy has been incorporated into this study. In addition, this study concentrates on the legal implications of ICPL in the context of electronic trials, so a normative legal approach was employed.

Therefore, for this research, qualitative secondary data was gathered from various primary and secondary sources. The primary sources are various laws and regulations, legal documents, statutes, and legislations. Comparatively, secondary sources include journal articles, books, literature, book chapters, and research articles. Various online sources, including JSTOR, Wiley Online, Taylor & Francis, West Law, LexisNexis, and other associated online databases, were considered to acquire the necessary data. In addition to these sources, additional online and traditional sources were considered for data collection. Following data collection, qualitative analysis was conducted. This was accomplished through content analysis, which assisted in achieving the proposed research objectives. Consequently, the chosen research methodology for this study was effective, which contributed to the study's value.

3. Literature Review

There are numerous steps involved in resolving a case within the court. Therefore, different stages are considered for resolving civil disputes, including the filing of a lawsuit, verifying the identities of the parties involved, reconciling efforts, defendants' responses when mediation fails, duplicates, conclusions, evidentiary processes, and judges' decision drafts (Mangku, Yuliantini, & Suandita, 2022). In most cases, it takes six months for the District Court to implement all of these stages; however, sometimes, it can take longer. However, suppose a party is dissatisfied with the justices' decision. Depending on the severity of the associated case, various legal remedies, both ordinary and extraordinary, are available (Berutu et al., 2022). This demonstrates that conventional trial procedures are frequently time-consuming and lengthy, affecting the outcomes of the proceedings.

Furthermore, the costly, lengthy, and time-consuming process for case settlement undermines the public's faith in the judiciary, resulting in ineffective outcomes. Consequently, several civil cases involving business contract disputes are brought before the Court (Sugiyono & Shera, 2020). Therefore, optimizing civil procedural law to facilitate the swift, equitable, and efficient resolution of civil cases is essential. This strategy is also effective for enhancing the national economy. This is also useful for evaluating and analyzing civil procedural law-related regulations and statutes.

Consequently, the implementation of electronic trials has acquired prominence over the past decade, resulting in trial decisions that are effective and cost-efficient. In "United States v. Ulbricht," various pieces of evidence were presented via electronic media (Healy & Christiansen, 2016). This allowed the parties to present electronic evidence that was simpler to identify and analyze by the judiciary, resulting in successful outcomes. Similar to "United States v. Chelsea Manning," electronic evidence was presented to the court in another case, "United States v. Chelsea Manning," which helped establish that Chelsea Manning delivered sensitive US government documents to unauthorized individuals,

resulting in ineffectual outcomes (Colvin, 2018). "R v. Neil Entwistle," "The Pirate Bay trial," and a large number of other cases involved electronic trials, electronic evidence, and/or video conferencing (Elert, Henrekson, & Wernberg, 2016). From these trials, it has been observed that implementing IT and other electronic media and evidence facilitates a swift and cost-effective criminal procedure compared to traditional trials, which frequently require a great deal of time, resources, and money. As a result, many courts worldwide are now determined to implement electronic trials to save time and money for the court and other parties involved, resulting in a win-win situation for all parties involved.

However, the global implementation of electronic tribunals is accelerating. Various nations are making significant changes in this regard. E-filing of civil lawsuits has become commonplace in the federal courts of the United States. Accordingly, more than 27 million lawsuits have been filed using this method. However, the state court in the United States continues to struggle with the electronic filing of related documents (Engstrom & Gelbach, 2021). In Australia, e-filing has not yet become a significant factor in civil litigation. Even though electronic filing is widely available in Australia's courts, its implementation remains very low, resulting in ineffective results (Hall, 2022). The courts are implementing significant changes to encourage electronic filing and email communication between the courts and litigants. In this regard, "the Queensland Supreme Court" has also published an effective protocol. This has been effective in promoting electronic filing and online civil case searching. In addition, other nations, such as Israel, utilize "The Next Generation Court System (NGCS)," which is described as an "advanced document management system" developed in 2007. This is an electronic filing and case management method. This method has also been successful in electronic filing and online task management (Zalnieriute & Bell, 2020). This demonstrates that the judiciary has also increased its focus on e-filing and e-monitoring, which is crucial for achieving effective results. In addition, e-court applications are utilized extensively by the Supreme Court and other state courts, highlighting the significance of electronic trials.

In addition, electronic trials have effectively reduced trial costs by promoting e-filing, video conferencing, and electronic evidence presentation, which require less time, effort, and resources than traditional trials. Even though various nations are determined to promote electronic trials to achieve effective results, the Supreme Court of Indonesia is also implementing significant changes and policies to incorporate a rapid, efficient, and cost-effective trial method (Kharlie & Cholil, 2020). The implementation of electronic trials is deemed effective in this regard. The ICPL is also believed to play a significant role in this regard; however, almost no previous research has examined the advantages and disadvantages of implementing electronic trials in the context of justice and the advancement of judicial efficiency; thus, the present study will effectively fill this research gap.

4. Results and Discussion

4.1. Electronic trials implementations in Indonesian Civil procedural law

Indonesia is not among the world's first countries to populate electronic cases. The industrial revolution 4.0, which has become fashionable, has profoundly impacted every aspect of life, including Indonesian courts. All legal services must function

digitally, just as technology has conquered other industries, according to the advances in information technology that are becoming increasingly pervasive. Its legislative implementation is also of critical importance. An increasingly complex society necessitates efficiently delivering all private and public services categories. Following the Supreme Court, the increased development of information technology is a formidable obstacle for the judiciary, particularly in "procedural civil law."

On the one hand, the court must apply the existing procedural statutes. Despite this, the court must accommodate the increasingly innovative and advanced information technology. The Indonesian judicial system applies the "civil procedural laws" outlined in the HIR and RBG. HIR is a "civil procedural law" applicable in Madura and Java, whereas RBG is a "procedural law" regulated and enforced outside Madura and Java. HIR was disseminated in 1848, while RBG wasn't implemented until 1927 (Kharlie & Cholil, 2020; Kurniawan, 2020). Despite being enacted 170 years ago, these two "procedural laws, such as HIR and RBG," are still utilized by Indonesian courts when examining civil cases today. In this regard, the Indonesian Supreme Court, as the largest judicial power and the highest court of the state, plays a strategic role in judicial power, as it manages personnel, infrastructures, facilities, financial, and administrative fields and also "four court jurisdictions." This "one-roof system" results in the emergence of challenges and responsibilities, as the Supreme Court must demonstrate its capacity to establish institutional organizations that are effective, professional, transparent, efficient, and obligatory or accountable (Setiyanto et al., 2023). The Indonesian Supreme Court is a response to the rapid innovative advancements in information technology during the 4.0 industrial revolution to provide justice seekers in Indonesia with fair, satisfying, and equivalent services. RBG and HIR were created almost two centuries ago without consideration for and alignment with the progressive advances in information technology. The Indonesian Supreme Court issues numerous "Supreme Court Circular Letters" and "Supreme Court Regulations" to address legal vacancies and deficiencies (Setiyanto et al., 2023).

The Indonesian Supreme Court introduced the E-Court application on August 13, 2018, in response to general demands and to alter the information technology requirements of justice seekers. A year later, on August 19, 2019, the Indonesian Supreme Court launched and implemented the E-Court Application flawlessly, becoming what is presently known as "E-Litigation." Supreme Court Regulation Number 1 of 2019 on "Electronic case administration and trials" is the finalized legal basis for this application (Cahyono, Zauhar, & Domai, 2023; Kamello & Sastro, 2023; Rizkiana & Gerry, 2023). Implementing information technology in the form of E-Litigation and E-Court has altered the nation's approach to civil justice. Therefore, it can be concluded that civil justice practices have been restructured in light of technological advances in justice. This application effectively revealed the new faces and images of Indonesian courts, which began to reach the same level as courts in other developed nations worldwide.

3 4.2. *Electronic Trial (E-Litigation)*

Implementing the electronic trial was necessary for Indonesia, which desired a cheaper, more efficient, and less complicated trial procedure. Kurniawan (2020) &

Setiyanto et al. (2023) describe the following components of e-litigation or electronic trial:

1. In the first trial, the defendant and the plaintiff must be present. The judgment panel provides the electronic trial. According to "Article 20 verse 1 PERMA Number 1 of 2019", electronic trials were conducted with the consent and legal sanction of the plaintiff and defendants when the mediation procedure was unsuccessful. In a neutrality hearing, the defendant's consent is required to secure his rights. However, if the defendant affirms that he does not approve of the electronic trial, the electronic trials cannot continue, and the next trial will be conducted manually, as specified in HIR/RBG.
2. According to "Article 21 PERMA Number 1 of 2019," court calendars generate an electronic trial schedule based on the submission of replica answers, and pieces of evidence. It duplicates the judges' reading of judgments. In the trial schedule, if the plaintiff does not send a conclusion or replica, or if the defendant does not send a conclusion, duplicate, or answer electronically in the absence of an authentic or genuine reason, it can be assumed that he is not exercising his rights (Putra, 2020). Even without a valid explanation, the trial may be delayed once.
3. Parties do not participate in the trial during the electronic duplicate, replica, or answer stages. Despite the absence of the litigants, the judge's panel continues to assemble in the courtroom as required. Electronic records containing submissions of duplicates, answers, duplicates, and conclusions are maintained following applicable legal and ethical frameworks.

4.3. Electronic Conclusions

In contrast to RBG and HIR, in which both the defendant and the plaintiff elaborate their conclusions in writing or orally, according to "PERMA NUMBER 1 OF 2019, conclusions are conducted paperlessly by uploading electronic documents to the application of e-court not later than the day and time of trial as per the set schedule (Kurniawan, 2020; Lumbantoruan et al., 2021).

4.4. Electronic Verdict

Electronic proceedings read the phases of a judge's verdict without the parties' presence. The chairperson of the judge's panel must transmit a copy of the verdict to the e-court application and deliver it to the parties involved (Kurniawan, 2020).

4.5. Opportunities and Challenges for judicial efficiency of E-Courts

E-courts implementation is advantageous not only for those seeking justice but also for the court officers themselves. The E-court system in Indonesia is advantageous for justice seekers in three ways. E-court makes the judicial process easier and more efficient. The involved parties are not required to appear in court to file cases, attend trials, etc. Individuals do not have to wait in line for lengthy periods to receive trials. E-court can also bridge the vast geographical limitations of Indonesia, which is a wonderful opportunity for its residents. E-court systems can significantly facilitate court access for Indonesians residing in remote regions of the nation. As all cases are conducted electronically, utilizing an E-court can substantially reduce the court fees litigants must pay (Alam & Luthfi, 2021; Rahman & Pujiono, 2022). E-Court trials are, therefore, extremely advantageous for individuals as they

are cost-effective. Costs associated with trials and summonings may be reduced or eliminated. Using E-Court's electronic litigation procedures can also benefit court officers, providing two important advantages. E-Court can assist with case resolution, thereby preventing court backlog. Electronic litigation procedures can facilitate case administration for court employees, particularly in courts where the number of workers is disproportionate to the current burden. The electronic litigation system also offers the chance to increase public confidence in the judicial system, as the system limits direct interaction between justice petitioners and court officials or judges (Mandyam, 2016). Fewer interactions can reduce the likelihood of law code and ethics violations such as bribery and corruption. This can increase the frequency of impartial, impartial, and equal decisions in Indonesia.

According to "Chief Justice Decree No. 129/2019, page 11," all documents must be printed and downloaded, and "register officers will download the documents in the e-courts application as hardcopy backup information." The provision on page 20 of the same decree confirms that "all electronically produced documents will be printed for completion by the Deputy Registrar of the relevant courts" (Nurjihad & Ariyanto, 2022). This budgetary requirement to print all documents is viewed as onerous, especially when numerous documents are in a single case. In contrast, the court's printing budget may be inadequate (Kurniawan, 2020). If a budget can be provided after the fact to produce the document, it will have to be substantial, given that there are approximately 800 courts in Indonesia. Numerous court registrars and leaders who met with the authors advised against printing the entire document, particularly regarding efficacy and expense. In electronic digitalization, case file supervision management must be conducted without paper or the need to reproduce it on paper. The requirement for printing documents in electronic administration may render the E-Litigation and E-court system in Indonesia ineffective or inefficient, particularly for court officers.

To make E-litigation and E-courts more effective, efficient, and superior, the supreme court of Indonesia must demonstrate the courage to eliminate the requirement for printing documents uploaded by individuals (litigants) to transform the system into completely paperless and increase the system's efficiency (Latifiani, 2021; Yulianto & Sugiri, 2022). Thus, the goal of efficient and effective judicial administration can be realized and practiced for justice-seeking members of the general public and court employees.

5. Conclusion

Implementing "Supreme Court Regulation No.1 of 2019" has effectively transformed and revolutionized the trial process to include electronic trials and administration. In Indonesia, cases are registered electronically without entering a courtroom. Similarly, people do not need to appear in court to pay court fees, and Internet banking makes payment simple, which is a significant advantage of electronic courts. Similarly, the summons of litigants is also delivered to the recipient's electronic email address (domicile). The trial is also conducted electronically, with E-Litigation including the initial trial, the stage of rebuttal, the conclusion, and the rendering of the verdict. The electronic courts and proceedings ensured the provision of numerous advantages for both external and internal parties to expedite, simplify, and reduce the cost of justice.

Contrary to this, numerous advantages, obstacles, and problems are associated with this aspect of judicial efficacy. E-trials save time for those seeking justice in Indonesia by facilitating court access. Similarly, before the implementation of E-court proceedings, people had to wait months or even years for justice to be served, which is now a swift process. Printing heavy and sizable files is also a significant challenge requiring a larger budget. For this reason, the Indonesian government must eradicate the printing component from their E-trials and E-court proceedings to make printing for others easier and less burdensome. To effectively implement E-trials or electronic litigation, the Indonesian courts must revise the statute governing electronic trials with new rules. Currently, the Indonesian government is active regarding the "civil procedures code draft"; consequently, it is effective to include electronic trials with appropriate monitoring and supervision in the "Civil Procedure Book Draft" to provide solutions for the debate regarding "PERMA" superseding the act. Indonesian courts also emphasize recruiting experienced and qualified personnel to dominate information systems and technology. Any rule, regulation, or policy cannot be effectively implemented until its formulation is matched by efforts to improve its application.

Consequently, the E-courts of Indonesia must deal with the potential and actual consequences of the E-courts system. The requirement for upgraded facilities and infrastructure necessitates a substantial portion of the budget due to the involvement of relevant parties. Singapore is far ahead of Indonesia when it comes to implementing E-litigation, so Indonesia must recognize that the neighboring country is several steps ahead of it, indicating that Indonesia still has work to do to improve E-litigation. Following the lead of the supreme court of Indonesia, the Indonesian judicial institutions must be optimistic that the effectiveness of judicial institutions based on information technology will be able to create an efficient and superior court that is inexpensive, straightforward, and quick.

6. Recommendations

Over the years, the justice system has been substantially transformed by incorporating cutting-edge and contemporary technology. Consequently, electronic trials are being implemented into the legal system. Therefore, the implementation of electronic trials in ICPL presents both opportunities and challenges; therefore, the following suggestions can be considered to guarantee the implementation of effective and fair electronic trials in ICPL:

- A comprehensive and effective legal framework should be formulated to resolve the implementation of electronic trials in Indonesia. This framework should concentrate on various aspects of electronic trials, such as electronic signatures, data protection and privacy, and the authenticity of documents generated electronically.
- The government should invest more in technology and other innovations to promote the implementation of electronic trials, resulting in effective outcomes. This will help the associated stakeholders and other legal authorities better understand the electronic trials, leading to fair and effective hearings. This strategy will effectively promote digital case management platforms and increase transparency. However, effective collaboration between the Judiciary, IT

- specialists, and other stakeholders must be fostered to achieve this goal. This will aid in the successful implementation of electronic trials.
- Electronic trials can also be effective in keeping up with the modern and progressive world. To this end, it is necessary to promote various public awareness programs that provide vital information regarding implementing electronic trials to promote data security and privacy. This will also encourage multiple governments to develop and implement significant electronic trials, which can be more cost effective for the government and associated parties.
 - However, the implementation of electronic trials must be continuously monitored to ensure effective outcomes. In this regard, the input of the associated stakeholders and consumers is deemed indispensable. To acquire the necessary information regarding the implementation of electronic trials, the government and other involved public and private organizations must therefore be considered. This method will also effectively identify the challenges and opportunities of implementing electronic trials, resulting in successful outcomes.
 - To make electronic trials an integral part of the judiciary, the government and other relevant parties should also take significant steps to strengthen the technological infrastructure underlying the implementation of electronic trials. Promoting video conferencing platforms and enhanced Internet connections is necessary for this purpose. This strategy will enhance the overall process of electronic trials in ICPL, resulting in satisfactory outcomes. The present study has also effectively emphasized the significance of electronic trials in ICPL, concentrating on its opportunities and challenges for advancing justice and judicial efficiency.

7. Implications

Almost all business sectors have transitioned from analog to digital operations due to the accelerated development of technology. The present research focuses on the most significant and prevalent aspect of technology related to the efficacy of the judiciary, such as E-courts, so it has multiple theoretical and practical implications. First, the research contributes important insights to the expanding literature on E-litigation and E-trials in Indonesia. There is a vast amount of literature on these concepts, but this study has narrowed its scope by focusing on the Indonesian context. This is an important contribution to literature. In addition to examining E-litigation or E-trials in Indonesia, this study also addresses opportunities and challenges, making it a significant contribution to the literature. This research reveals that despite the formulation and implementation of electronic trials and electronic litigations in Indonesia, there is still a great deal of work to overcome identified obstacles and compete with countries far more advanced than Indonesia. Therefore, these perspectives have contributed valuable insights to the literature concerning the investigated topic.

Similarly, this research has numerous practical applications. First, the study illuminates the obstacles that must be surmounted by the authoritative judicial bodies of Indonesia to implement E-litigation effectively. If Indonesians are unaware of the benefits of e-litigation and e-trials, they can acquire knowledge of them through this study and utilize them. Therefore, this research can increase public awareness of

E-trials' benefits in Indonesia, which is the study's most important practical implication. This study encourages the Indonesian government and other relevant institutions to implement a comprehensive framework for the practicable and efficient administration of e-trials and litigation in Indonesia. After analyzing the obstacles in applying E-trials, the Indonesian government will be able to design effective policies to eliminate the issues and guarantee the effective implementation of E-trials and E-litigation for justice seekers in Indonesia.

8. Limitations and Directions for Future Research

Although the current study has successfully advanced the literature on electronic trials in the context of ICPL, it still possesses several limitations that must be emphasized to promote its value. This section highlights four significant limitations of the present study so that future research can consider them and surmount them. Due to researcher bias, this study utilized qualitative analysis to determine the implementation of electronic trials within the context of ICPL. Second, this study did not compare conventional and electronic trials, limiting their efficacy. This method was utilized due to the data's accessibility. This study has also examined the opportunities and challenges for justice and the advancement of judicial effectiveness in Indonesia. Still, no other civil law or common law country has been the focus. Due to researcher bias, this study did not examine the implementation of electronic trials within the context of international law. This had a significant impact on the global approach of this study, resulting in ineffectual results.

Future research could eliminate these limitations. Future research could, for instance, concentrate on quantitative analysis, incorporating various facts and figures regarding electronic trials conducted in Indonesia and around the world. This will aid in preventing bias in the data collected, leading to effective results. In addition, future research can focus on the comparative analysis of conventional and electronic trials, resulting in effective outcomes. In addition, future studies can emphasize instituting electronic trials in common law countries to better comprehend the differences between the common law and civil law systems in the context of electronic trials. Nonetheless, the global approach of this study can be enhanced by examining the implementation of electronic trials in the context of international law.

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