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FOREMAN OF THE EMPIRE? RE-ANALYSIS OF THE READMISSION AGREEMENT WITH THE EUROPEAN UNION AND THE REPATRIATION IN THE ARCHIPELAGO OF CAPE VERDE¹

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Abstract

This article firstly presents an overview of legal framework and the weaknesses in the management of immigration in Cape Verde, analyzing in a particular way the Cape Verde readmission agreement with the European Union within the established special partnership (specifically the mobility partnership) with this same organization. On the other hand, it analyzes the Migration containment policies and management of the repatriated/deported in the archipelago, focusing on its close relationship with the phenomenon of readmission. This scenario leads to the question of whether Cape Verde is to transform or not into a “foreman of the empire”, that is, a praetorian guard in one of the most advanced frontiers of Europe.

Keywords Immigration policies; deportation; readmission; special partnership Cabo Verde/European Union

¹ A part of this article is based on research project entitled “Facilitation of intra-regional labor migration in the ECOWAS region - the case of Cape Verde”, conducted by the ACP Observatory on Migration (Africa, Caribbean and Pacific) in partnership with the University of Ghana. The research team was led by Odair Barros Varela, integrating Carlos Elias Barbosa (Assistant Researcher) and João Pina Cardoso (Statistical Consultant). Is partially published in: Varela, Odair B.; Barbosa, Carlos Elias (2014), “Migration in Cape Verde Islands. Legal and Policy Framework”, *European Scientific Journal*, Special Edition (May), pp. 449-466. Available in: <http://eujournal.org/index.php/esj/article/view/3302/3084>. And the other part is based on research project entitled “Para além das remessas. A consolidação da sociedade cabo-verdiana da diáspora e as transformações sócio-culturais e políticas em Cabo Verde”. The research team was led by Iolanda Évora, integrating Celeste Fortes, Leão de Pina, Redy Wilson Lima and Clementina Furtado

Resumo

Este artigo apresenta, em primeiro lugar, uma visão geral do quadro jurídico e as fraquezas na gestão da imigração em Cabo Verde, analisando de forma particular o acordo de readmissão de Cabo Verde com a União Europeia dentro da parceria especial estabelecida (especificamente a parceria de mobilidade) com essa mesma organização. Por outro lado, analisa as políticas de contenção de migração e a gestão dos repatriados/deportados no arquipélago, focando a sua estreita relação com o fenómeno da readmissão. Este cenário levanta a questão se Cabo Verde está a transformar ou não num "capataz do império", isto é, numa guarda pretoriana numa das fronteiras mais avançadas da Europa.

Palavras-Chave Moçambique; Políticas de imigração; deportação; readmissão; parceria especial Cabo Verde/União Europeia

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INTRODUCTION: LEGAL AND POLICY FRAMEWORK

Trying to understand the complexity of migration to Cape Verde Island, one should also highlight the historical importance of links on the mobility of people, which played a key role in disseminating information and contacts between the pre-colonial societies. It should also refer to the implications of European colonial process in migration dynamics in the African continent, with the delineation of borders, through the recruitment of work force, or by using strategies for planning political and administrative control of the populations (Andrade, 1996; Amaral, 2001; Carreira, 1983, 2000; Varela, 2013). At the level of migration from the West African Coast to the African archipelago of Cape Verde two examples presented here may be expressing a very clear historical connection.

1. First, it is critical to consider the colonial relationship as reflected in the settlement of the islands and the establishment of historical, political and very strong administrative culture, especially in regions of Guinea-Bissau (Carreira, 1983, 2000).

2. Second, we cannot forget the flows of Cape Verdean migration to several neighboring countries on the African continent, since the nineteenth century. This has contributed to the formation of bridges and migratory networks as supports for deciding to migrate and in the process of fixation. For example, Cape Verdeans built their families in emigration countries (Senegal, Guinea-Bissau, etc.), and returned after some time later. Once started this process, it will most likely contribute for the constitution of “cumulative causation” (Massey *et al.* 1998: 45-46).

These aspects favour the argument that led the current government to establish a special procedure for legal permission to stay for the nationals of Guinea Bissau, through

Decree-Law n° 13/2010. Another bilateral agreement is established between the State of Cape Verde and the State of Senegal, in a resolution n. 151/V/99 of December 28, approving, for purposes of ratification, the *Convention on Freedom of Movement and fixation of People and Goods*, signed between the Government of the Republic of Cape Verde and the Republic of Senegal. In both, the first and second cases, we consider the ties of friendship between Cape Verde and these countries, consistent secular ties, geographical and cultural determination in achieving the fundamental objectives of the Organization of African Unity (OAU) and ECOWAS, as well as the desire to ensure the respective national destination within a special status under the ties of brotherhood existing basis of reciprocity, equality and mutual interest.

The relevant level is the political and economic relations between States. It also stressed that in the 1990s there is a greater perception of migration to the islands of Cape Verde in conjunction with the entry into force of the *Protocol of Free Movement of Persons and the Right of Residence and Establishment*, within the framework of ECOWAS, signed in Dakar in 1979, and validated by the law n° 18/II/82 in Cape Verde. In the specific context of the member states of ECOWAS, the migration has been characterized by the density of mobilities, also largely facilitated by the agreement of free movement. More concrete examples that can be presented here go against two important aspects:

- a) The Legal and economic links (such as Resolution n° 151/V/99 of December 28);
 - b) The connections based on common language serving as one of the channels in facilitating decision-making plan migrants (as in the case of Cape Verde and Guinea-Bissau).
- However, the Cape Verdean State has been considering the possibility of imposing some restraints on freedom of movement within ECOWAS. One of the key criteria set out is linked with controlling access to the country by foreign nationals, being the evidence of economic means of subsistence one of the requirements for entry into the country. The

Legislative Decree n° 6/97 of May 5 - regulates the legal situation of the alien in national territory; and the Regulatory Decree n° 10/99 of August 9 - defines the nature and quantity of sufficient financial resources for entry and temporary stay of the foreigner in the country, cases of exemption and the manner of proof of ownership;

c) In June 2003, Cape Verde ratified the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*. In 2008 the new Labor Code entered into force and has since then introduced a law that only foreigners in legal status have the right to work. While in reality this is not what happens, theoretically this contradicts the spirit of the protocol.

The perception of increased immigration in Cape Verde has generated a set of measures that become part of the legislative body in order to regulate and monitor migration flows to the archipelago. However, immediately after the independence of Cape Verde in 1975, Decree-Law n° 17/76, in Official Bulletin No 9/76 of February 28, noted the regulations granting foreigners, visas for entry into the national territory. On the same year, Decree-Law No 46/76 and 47/76 were created, establishing, respectively, the laws concerning foreigners residing in the country and regulating the entry and stay of foreigners in the country.

In 1990, the Decree-Law n.º 93/III/90 of October 27 was signed to regulate the legal status of foreigners in the country and revoking Decrees n° 17/76 of February 28, n° 47/76, and Decree n° 46/76 of April 24. In 1991, Additional Protocols were ratified: A/SP1/6/89, (Law No. 34/IV/91), modifying the provisions of Article 7 of the Protocol A/A1/5/79 on the free movement of persons, right of residence and establishment of ECOWAS and A/SP2/5/90, (law No. 35/IV/91, December 30) on the implementation of the third stage (right of establishment) of that Protocol A/A1/5/79.

In this context, seven years later, May 5 of 1997, the Legislative Decree n. 6/97 enters into force to regulate the legal status of foreigners in Cape Verde, aiming to discipline the legal processes and to enhance the response capacity to the cases of non-resident aliens who entered the country illegally. This decree purposely intends to update, conform and adjust the law text in force at the time (Law no. 93/III/90, 27 October) to constitutional provisions and international conventions relating to foreigners. Indeed, that decree is entered in the proposal to make the formal refinement of some of its provisions, clarify doubts arising from the law enforcement and regular new aspects imposed by the movement of people and effective border management and access to the national territory.

Two aspects must be highlighted in legislative decree:

a) The possibility of political rights to foreigners, including active and passive electoral capacity for municipalities

b) The fact that Cape Verde belongs to ECOWAS, which has specific provisions on the movement of persons, right of residence and establishment. However, each Member State is left with the responsibility or option to regulate fundamental aspects regarding the arrangements for entry and stay and the granting of the right of residence for foreign nationals of Member States, on the assumption that there are issues of sovereignty and reasons of state that prevent the return of the power to regulate this matter exclusively through the community. Thus, measures to strengthen internal security and control access to the country by the foreigners are considered to be critical to review the grant of the visa and residence permit and measures to facilitate the process of refusal of entry and expulsion in cases of illegal entry and stay in the country.

Nevertheless, it is relevant to analyse data from the *Directorate of Foreigners and Borders* (DFB), concerning foreigners who hold the *Residence Permit* (RP). Indeed, we are talking about

a part of the total immigrant population in Cape Verde. Tables 1 and 2 illustrate the cumulative number of foreign nationals with RP from 1976 to 2008.

Table 1 - Residence Permit in Cape Verde Islands in 2008 by nationality

Nationality	Nº immigrants	%
Total RP	6193	100.00
Guinea Bissau	1229	19.84
Portugal	856	13.82
China	850	13.73
Nigeria	710	11.46
Senegal	701	11.32
Others	1847	29.82

Source: Data from the *Directorate of Foreigners and Borders* worked by IOM, 2010

Table 2: Distribution of residence permit, according to economic sectors, 1976-2008

Economic sector	Frequency	%
Commerce, restaurants and hotels	2.617	46,57
Activities not defined	1.320	23,49
Personal, Social and Public Services	783	13,93
Construction	331	5,89
Manufacturing industry	323	5,75
Transport and communications	106	1,89
Energy	91	1,62
Agriculture and fisheries	39	0,69
Banking and insurance	9	0,16
Total	5.619	100

Source: Calculations from the DFB database, presented by the IOM (Carvalho, 2009)

Considering the information on the RP (table 1) in 2008 there was a total of 6193 people residing in Cape Verde Islands, amount corresponding to the period from 1976 to 2008.² Of this total, the prevalence is 74% male, 26% female (Carvalho, 2009). The same institution (DFB) presents values considering the main nationalities represented. In this case, the community from Guinea Bissau is the biggest one with approximately 20 per cent, and the second large community, the Portuguese with about 14 per cent, followed by the Chinese community residing in Cape Verde, near 14 per cent. The Nigerian and the Senegalese people represent simultaneously about 11 per cent. However, these five countries accounted nearly 70 per cent of RP granted over the period under review.

² See also Table 5.

As can be seen below, these data are generally different from National Institute of Statistic's data:

Table 3 - Foreign people on the Cape Verde Islands by nationality

	Total	%
TOTAL	14373	100
ECOWAS	8782	61,10
PALOP (S/ GB)³	1209	8,41
Other African Countries	320	2,23
America (N/C&S)⁴	1104	7,68
Asia	498	3,46
Europe	2445	17,01
Oceania	18	0,13

Source: National Institute of Statistic (NIS) - Cape Verde, 2010 Census

As we can see from the data presented by the NIS – 2010 Census, there are 14,373 foreign nationals residing in Cape Verde. This figure is about 3% of the total population⁵. The data also show that the largest group, about 72 per cent, represents the entire immigrants from Africa. Thus, it is clear that ECOWAS countries were the largest group of African migration to the Cape Verde Islands in 2010 making up 8782 foreign nationals, approximately 61 per cent of the total immigrants, while only 8 per cent are from PALOP (excluding Guinea Bissau)⁶. Other countries from the African continent show an almost 2 per cent of the total number.

³ African Countries of Portuguese Official Language (excluding Guinea Bissau).

⁴ America (North, Centre and South).

⁵ According to data from the 2010 Census (NIS), the resident population in Cape Verde was 491,875.

⁶ PALOP – African Portuguese Speaking Countries.

According to information obtained in Official Bulletin⁷, the number of foreign nationals residing in Cape Verde makes up a total of 6688. Of these, 49.5% are of Bissau Guinean nationality. These three official data presented here indicate the challenge of working with the phenomenon of migration, and the specific case of migration from and to the Cape Verde islands is not an exception. As a result, the data presented here shows a clear discrepancy between the RP and the number of the immigrants, which does not match or suit official level released by the Cape-Verdean State.

Therefore, one estimates a considerable national presence of “illegal” foreigners (national immigrants of most West African coast countries) living and working in the country. Migration flows originating from West Africa countries, particularly from Guinea-Bissau and Senegal or Nigeria - which have more nationalities represented among migrant groups in the archipelago, are at the bottom of the socio-professional categories, as manual workers, especially in the construction sector. We find many other immigrants as street vendors and some have already built their businesses and small businesses. This contributes hugely for the visibility and the connotation of African migrant groups with the informal economy.

⁷ No. 16, I SERIES April 26, 2010.

1. FROM THE VIOLATION OF ECOWAS “FREE MOVEMENT PROTOCOL” SPIRIT TO THE SIGNING OF READMISSION AGREEMENT WITH THE EUROPEAN UNION

Considered as a “transit” country (Duvell, 2006; Ratha and Shaw 2007; Marcelino, 2011; Barbosa, 2011a, 2011b), Cape Verde has already had some experience of emergency reception of migrants seeking to reach the European continent. Examples include cases such as “Djondad”, “Awaid II”, “Kabofumo” and “Case of 130” that have challenged the government of Cape Verde, as shown by the obstacles to the resolution of situations despite international treaties ratified by the country and a set of laws nationwide. These experiences of transit have been explored in the context of the African continent, especially in studies of movement of people from the Sub-Saharan Africa towards the Maghreb region (Duvell, 2008; Haas, 2006).

Authors such as Frank Duvell (2008) and Dilip Ratha and William Shaw (2007: 3) refers to Cape Verde as one of the transit points for the migration from West Africa, trying to obtain false documents as a means of reaching Europe. The archipelago has also been mentioned as a starting point skirting the migratory routes of the centre of the Sahara towards the Canary Islands (Haas, 2006: 4). However, is this purely a problem of illegal immigration? What have been their implications more broadly on social and political boundaries in Cape Verde?

It should be emphasized, that although the country is far from reverting its status as a country of emigration, the intensification of immigration to the islands - and the importance that it has received by the public authorities – have gradually transformed this State into a country of immigration and destination. In a study we consider some main

hypotheses that facilitate the understanding of an increasing migratory linkage of Cape Verde to the West Africa region (Barbosa, 2011a; 2011b).

Meanwhile, if we try to use the quantitative aspects on the regulation of migration flows to the Cape Verde archipelago, we note a certain absence of sufficiently reliable statistical data in the field. However, using the report produced by the *Interministerial Commission for the Study and Proposition for the Bases of Immigration Policy* (CIMI), “Immigration in Cape Verde: Guidelines for National Immigration Policy”, we make a brief analysis of the data collected from the DFB – see Table 1 and 2.

Table 3 - Emission and Refusal of residence permits (RP) from 2000 to 2010, by nationalities

Nationalities	Emission of Residence Permit		Refusal		Total	
	N	%	N	%	N	%
Africa	3876	53,2	2005	87,3	5881	61,4
ECOWAS	3663	50,3	1984	86,4	5647	58,9
Benin	8	0,1	0	0,0	8	0,1
Burkina Faso	5	0,1	0	0,0	5	0,1
Ivory Coast	15	0,2	3	0,1	18	0,2
Gambia	38	0,5	12	0,5	50	0,5
Ghana	124	1,7	20	0,9	144	1,5
Guinea Bissau	1485	20,4	723	31,5	2208	23,0
Guinea Conakry	99	1,4	95	4,1	194	2,0
Liberia	1	0,0	2	0,1	3	0,0
Mali	23	0,3	6	0,3	29	0,3
Niger		0,0		0,0		0,0
Nigeria	844	11,6	534	23,2	1378	14,4
Senegal	890	12,2	555	24,2	1445	15,1
Sierra Leone	112	1,5	32	1,4	144	1,5
Togo	19	0,3	2	0,1	21	0,2
Total	7287	100	2297	100	9584	100

Source: CIMI

According to this data, there are about 7287 RP that were conceived a total of 9584 applications and ECOWAS represent about 50 per cent of residence permits issued.

However, looking at data provided by NIS (see Table 2) we found a considerable difference regarding the presence of people of other nationalities in Cape Verde. The comparison of these data with the data from NIS and DFB shows that more than 50 percent of the immigrant population is not in proper legal conditions for residing in Cape Verde. It is true that in line with the Cape-Verdean legal framework (Decree n. 6/97 of May 5), the foreigners should show proof of economic means of subsistence.

So, here is the evidence of an event that has most blocked or inhibited the settlement of the majority of people who go beyond the 90 days allowed to stay. It thus consists of a contradiction between the *Aliens Act* and the *Labour Code*: to get the permit you need a work contract and to work you need a RP (and having an employment contract). Therefore, one enters a vicious circle that has dictated the legal insecurity for a large proportion of immigrants in Cape Verde and hence limited their integration into the formal labour market, as well as a proper integration in the country⁸.

8 Given the gravity of the situation and the consequences derived therefrom, the Cape Verdean Government Council of Ministers approved on the 7th November 2014 two decree laws concerning the integration of immigrants in the country (in: http://www.governo.cv/index.php?option=com_content&view=article&id=5701:conselho-de-ministros-aprova-medidas-que-regulam-a-imigracao-em-cabo-verde&catid=82:destaques&Itemid=300152, accessed on 08 November 2014) . Both diplomas were considered an important step for the “dignity” of foreigners living in the archipelago. The first Decree Law regulates the rules on entry, stay, departure and expulsion of the foreign national. It aims to respond to the country’s needs as regards to the creation of a legal framework on immigration that is “as coherent, just and dignified as possible”. The issues that are addressed in this law are “in line” with the national immigration strategy and international standards governing the matter. According to the government, this law is of “paramount importance” because it will regulate the granting of visas, extension of stay, granting and renewal of residence and the residence permit. The bill comes to confer feasibility to these standards that are already provided for in Law No. 66 / VIII / 2014 of 17 July which comes into force on 17 November 2014. On the other hand, the second Decree Law establishes the necessary measures for extraordinary regularization of foreigners who are illegal in Cape Verde. The legislation derives from the “commitment that the Government made” to carry out an extraordinary regularization process, “in order to ensure better integration of immigrant communities in our country.” According to this law, a residence permit without the necessary visa may only be obtained by the foreigners who have entered the country until November 17, 2011 and who are irregular in the country. These have a period of 90 days, counting from November 17, 2014, which call for the granting of temporary residence. There is also an exceptional rule on the grant of residence, which applies to a foreigner who has been irregular on the national territory for less than three years before November 17, 2014, which is the date of entry into force of the legislation, and engaged in a subordinate or independent activity. In both cases, there is a maturity of 90 days, from November 17 of this year to submit their expressions of interest in the Directorate of Foreigners and Borders (DFB) and trigger the official proceedings of exceptional granting of a temporary residence permit. These immigrants must

Moreover, this data mismatch confirms the fact that in Cape Verde there is still no statistical field for migration. It shows that there is a lack of knowledge, not only about the actual number of people who come from other countries, but also its distribution among the different islands and cities.

Indeed, for the last two decades, Cape Verde “has become an attractive country not only as a route for the migratory groups to more easily reach Europe and North America, but also as a destination because it is a democratic country, economically promising and without conflict.”⁹ Besides the rapidly growing economic, social and political stability that enabled the country to graduate to the level of middle-income countries (reaching levels of developing countries), with GDP per capita exceeding all ECOWAS Member States (3400 in 2009), the country also established a Special Partnership with the European Union (EU) since 2008. This partnership with the EU is considered as the main reason why many people come to Cape Verde in the hope of securing a visa to enter Europe after obtaining a RP. So, it is also seen as a hub aiming towards other alternative destinations: Western Europe and North America (facilitated by its geostrategic position at the crossroads of Africa-Europe-America).

In conclusion, the country begins to face the arrival of migrants from various backgrounds and with a diverse range of goals. Most of these migrants do not materialize the initial idea of transit. They eventually settle permanently in the country, beginning or not to be counted in the number of illegal immigrants. This is justified by the fact that there is a

prove that they meet the requirements by law and that they are effectively integrated, with the necessary supporting documents (NIF-Taxpayer number, membership of the social security system and Cape Verde’s Criminal registration certificate). This is considered a “significant improvement” in existing required documents. The deadline for regularization applications officially ended on 17 February 2015. However, given that the data on this process were not yet available, this prevents a deeper appreciation of it.

⁹ National Commission for Human Rights and Citizenship - “The issue of illegal migration or Irregular: Recommendations” (CNDHC/Rec/GTPMR/01/2006: 2). Available in: <http://www.indexmundi.com/g/g.aspx?v=67&c=cv&l=pt> (accessed in 10 January 2013).

progressive barrier and control in the Schengen Space and a strengthening of Cape Verdean national borders, in partnership with the EU. In December 2007, the European Union chose Cape Verde and Moldova as pilot countries for a new approach to issues of immigration, facilitating the entry of Cape Verdeans into Europe and of Europeans into the archipelago.

Since early 2008, Cape Verde has been negotiating the terms of mobility with the European Commission and with Portugal, Spain, France and Luxembourg. The Government of Cape Verde and the European Union signed in April 24 2012, in Brussels, two agreements within the partnership for mobility: a facilitation of the issuance of short-stay visas to citizens of Cape Verde and the EU and another for the readmission of illegal residents. Thus, Cape Verde is committed to work in order to strengthen the control of illegal migration from Africa to Europe.

In our view, the signature of the readmission agreement with the EU on 18 April 2013¹⁰, - though the outlines of such agreement are not official - entails that one rethinks the issue of repatriation of third-country nationals (Varela, 2016). According to Fortes and Lima (2012), due to the agreements it has with countries like Portugal, Spain, France and the United States, Cape Verde undertakes to readmit the nationals expelled from those countries (although the very international law - despite the disputes, exceptions and failures - “force” states to readmit their citizens expelled from other countries). With the exception of the U.S.A, these agreements extend to judicial cooperation in criminal matters, on the one hand, serving as a tool for removing difficult immigrants (who have committed crimes or are suspected) and, on the other, as a means of access to national and expatriate immigrants who commit crimes and flee to the States of origin (Delgado, 2011).

¹⁰ See http://www.portalangop.co.ao/motix/pt_pt/noticias/africa/2013/3/16/governo-cabo-verdiano-assinam-acordo-para-readmissao-migrantes-ilegais.746a586e-57d3-4251-9fae-7efac368374b.html (accessed 18 April 2013).

As to foreign citizens, international law does not require that a state readmits or receive returnees who are nationals of third countries. However, as there is no international law on migration in the true sense of the term, it leaves room for the readmission agreements that may “compel” a state to receive returnees (readmitted) from other States. The Cotonou Agreement in its Article 13^o acknowledges this possibility by setting the opening of negotiations for bilateral readmission of nationals and others. The bilateral treaties that Cape Verde has with the European countries mentioned above have foreseen that as well.

Knowing that Cape Verde integrates the ECOWAS, and that the citizens of this area have the right of residence and establishment in any Member State, the signature of the readmission agreement with the EU, at least in the same standards it has traditionally been done with other States, (e.g. incorporating the ability to expel undocumented immigrants to the country where they were last before reaching the territory of the EU), may pose some unusual situations:

1) Considering that in the light of the ECOWAS Protocol on free movement, Cape Verde cannot, in normal situations, expel citizens of this region, the country may experience an increased flow of migrants from this space that were repatriated from EU but whom enjoy citizen status in Cape Verde. Hence, the archipelago shall be facing the real possibility of an overall increase of returnees / readmitted inside and abroad;

2) Faced with the possibility and intention, in turn, of re-repatriating these foreign nationals it may face the opposition from neighboring States and trigger a political-diplomatic conflict of undefined proportions which may even endanger the process of integration of Cape Verde in the sub region, despite the fact that the rhetoric of one of the pillars of the partnership argues otherwise;

3) With the readmission agreement, and due to many kinds of international trafficking, rather than being able to consolidate its migration flows management policy and

its exclusive economic zone, Cape Verde might become, as the Global South, the labor “reserve army” in the Global North (particularly the of the EU) and, as Libya under Kaddafi’s rule, the foreman or the bodyguard of Europe, as an “gendarme”.

2.MIGRATION CONTAINMENT POLICIES AND MANAGEMENT OF THE REPATRIATED IN CAPE VERDE

Although deportations of Cape Verdeans to the islands is not new, from the end of 1990s and the beginning of 2000s, with the connection of deportees with the new kind of urban criminality seen in the country, the issue entered everyday life and the theme began to be explored in the academic works (Neves, 2007; Carvalho e Sá, 2007, Drotbohn, 2011; Lundy, 2011; Cardoso, 2011; Fortes and Lima, 2012).

One speaks about deportees to refer to the emigrant who is expelled from the country where he lives or he was captured. Cardoso considers that this concept refers to the idea of complying with a punishment in a place outside the territory where the emigrant comes from. On the other hand, the concepts of repatriated or returnees, most commonly used in the country of nationality, allude to the homeland, to the return to the place of birth. (Cardoso, 2011:65). In Cabo Verde, one has adopted the term deportee to mean the migrant who sees his migration project unintentionally interrupted by being expelled from the country he lived due to a legal process. It refers to the penalty the State imposes on the foreigner who becomes a danger to the public order or national security of the receiving country and which consists of forcing him to leave the country, being able to return or not, depending on the severity of the situation.

As it is not a new or local phenomenon, the intensification of deportations in recent years ends up being the result of the hardening of migration policies, reflected in the recent migration securitization at global scale. For Mabee (2009), the recognition of migration as a security issue (and a threat to internal security) is quite recent and came under the spotlight in the discussion in the USA about the situation of Mexican migrants in the 1970s, making it a subject of study in International Relations.

Ellermann (2009) considers that, in the end of the decades of the last century, liberal democracies became socially more coercive States once they hardened the control of migration, criminal justice and internal security. Being assured that the State withdrew from social issues, leaving this sector in charge of Non-Governmental Organizations, the increase of investment in legal bureaucracy in these countries was, at the time, the great exception of that withdrawal. This strong investment can be understood as a way of providing State bureaucratic machine with a critical device in the social control (the deportation), with which institutional agents enforce the rules inside a certain border, regulating the entry and stay in the territory and excluding those seen as representing a threat to the nation.

The modern Western/European State, whose model is exported to the entire European colonial world and becomes dominant today¹¹, has Max Weber as one of its best theorizers. In his perspective (Weber, 2006), modern State can be defined as institutions that claim the monopoly of legitimate coercion inside any territory. Thus, States differ from non-state association by its exclusive authority over the use of physical coercion as a means to enforce the rules through the compliance with two basic conditions: first, the means of violence must be institutionalized under the centralized control of the State through coercive bureaucracies like the police or the army. Secondly, States must be recognized as the

¹¹ For a critical analysis of this process, see Varela (2014).

legitimate holders of this monopoly of force (Ellerman, 2009:28). In the name of public order and national security, socially coercive policies are imposed to citizens and even when its application does not imply the real use of physical force, its compliance reposes on the threat of State to use violence as a last resort measure. Deportation can be understood as a violent measure towards those who do not meet the expectations of receiving society and / or violate the established rules. The readmission agreement with the EU fits into this context: making Cape Verde as a sort of an advanced border of Europe¹², thus reinforcing the repressive apparatus in the migration control according to the European interest in exchange of the so desired development aid.

International cooperation on this issue is so relevant that even the countries or integration spaces as the European Union, that traditionally adopted perspectives of pure control of migration flux that, in order for these policies to succeed, in the short, medium or long term, had to gather the collaboration of transit and sending State and externalize its borders to create buffer zones outside its territory (Delgado, 2013: 527).

Besides its strategic importance, (that served in the past as an important point in the triangular trade of slaves), the choice of the archipelago must be seen as a result of its major willingness to accept some proposals or because it is easier to handle (Delgado, 2013). This is hugely influenced by the fact that the small bourgeois elite that dominates the State has not broken, in great extent, the former colonial logic (Varela, 2013), assured that this scenario was reproduced by the successive governors due, in part, to their identity schizophrenia (Furtado, 2013), which, to some extent, provides favourable condition to European intentions.

¹² In 2011, Cape Verde signed a joint border control agreement with the European Agency for External Borders (Frontex) aimed at blocking the entry, by sea, of irregular immigrants in the EU territory, controlling them still outside its territory (Delgado, 2013: 543). Before, in 2006 and 2008, Cape Verde had signed the same agreement with Portugal and Spain, respectively.

Nevertheless, as Delgado (2013) highlights, the Cape Verdean migration policy with the EU poses concrete risks as it may put the country in a situation wherein it facilitates the coercive removal of their national and third State national and stateless persons from the European territory whenever they are in irregular situation, assured that the former may be deported to Cape Verde once it is understood that they transited their physical space in the migration process. As it happened in the past, with this situation, the role of the islands as a space of deportation wherein the unwanted face forced exile (Barros, 2009), will get a new lease that along with the social fear of islamization, which is normally linked with the African migration (Delgado, 2013), may contribute to the emergence of racial or ethnic conflicts, in a society where there is an hierarchy of *morabeza*¹³, as the native population tends to label the immigrant according to his racial or ethnic group¹⁴.

Regarding national repatriated, the on-going study about the consolidation of the Cape Verdean society in the diaspora and the socio-cultural and political transformations in Cape Verde¹⁵, point to the feeling of imprisonment in open sky that many youth forced to leave the receiving country face in the archipelago, which puts their lives in suspension waiting for the end of the penalty and the ability to return to their normal life in the country where the family chose to live.

Countries such as USA and Portugal are the ones that have deported Cape Verdeans despite the good diplomatic relations between these States and the Cape Verdean nation. The data presented by INE (IMC, 2014) shows that from 2008 to 2013, of the 11903 individuals that left the country, 56,4% went to Portugal and 15,4% to the USA, these two

¹³ *Morabeza* is taken as a social category that best characterizes and identifies the Cape Verdean – friendly, welcoming, urban, cosmopolitan and democratic, etc. About this issue see Pina (2006: 73-90).

¹⁴ In Cape Verde, as Marcelino (2011) stresses, the white man is perceived as foreigner, the Chinese is seen as business man and the African national is perceived as immigrant.

¹⁵ Multidisciplinary study funded by CODESRIA and coordinated by Iolanda Évora (Celeste Fortes, Clementina Furtado, Leão de Pina e Redy Wilson Lima).

countries making up to 71, 8% of the entire recent emigration¹⁶. Considering that traditionally these countries are the preferred ones by the Cape Verdean emigration¹⁷, in principle, it is not surprising that the majority of deportees are therefrom.

In 2002 and 2011, Cape Verde received 857 repatriated, amongst whom, 759 male and 98 female. The USA led in this period the deportation of Cape Verdean nationals with 388 individuals followed by Portugal with 250 and the remaining countries as Brazil, France, Germany, Netherland, Spain, Luxembourg and Switzerland, with a total of 219 deportees. In 2002, Santiago island led with 77% (Santa Catarina with 34%, Praia with 18% and Tarrafal with 13%, São Miguel with 7% and Santa Cruz with 5%) the number of residing repatriated, followed by Fogo island with 9% São Filipe with 5% e Mosteiros with 4%), Brava with 8%, São Vicente island with 4% and the remaining with 2%. Looking at the birth place of these individuals, one observes that the deportees from European countries are mostly from Santiago and São Vicente, while 84% of the deportees from USA come exclusively from Fogo and Brava (INE *apud* Neves, 2012). It is worth noting that the data presented are about nationals repatriated from 1980 from countries like Portugal, France, USA, Luxembourg, Netherland and Switzerland.

If regarding deportees from the USA, the majority of Cape Verdean deportees registered in the entities that manage the repatriation process was expelled for aggression, lack of stay documents, possession and traffic of drugs; in the Portuguese case, the main reason for deportation remains unknown.

In 2002, with the national census of deportees, the Cape Verdean government took an important step in the attempt to quantify the Cape Verdean citizens expelled from

¹⁶ 36% of departures were driven by studies, followed by family reunion (21,4%) , job (17,6%), health treatment (16,7%), among others (8,2%). After Portugal and USA, France appears as the destination of the new Cape Verdean emigrants (7,2%), followed by Brazil (3,7%).

¹⁷ Portugal is increasingly a transit space (gateway) of the Cape Verdean emigration towards other European destinations.

countries towards which the island people historically migrate, however, afterwards, despite some efforts, the incapacity of communication and articulation between the institutions that assure data collection¹⁸ impedes a reliable characterization of national deportees. On the other hand, as Neves (2012) highlights, both the Instituto das Comunidades (IC) and DEF work based on the information they get access to, that in turn, stem from several sources and notwithstanding the will of these two institutions harmonize their database, the information about existent deportees is still incoherent and irregular. Therefore, as in the case of emigration towards Cape Verde, in the deportation case, there is also a lack of knowledge of an accurate number of expelled people from other countries living on the islands as well as its dynamic between the islands and cities that compose the archipelago.

This fact is equally made difficult by State incapacity to count the deportees identified by Fortes and Lima (2012) as resulting from a negotiation between the families in the diaspora society and the eventual deportee as a way to escape an eventual deportation or as punishment for a behaviour seen by the relatives in the receiving society as being risky.

In the USA, the migration policy has been present in the political and legislative speeches, dividing the society between those who are for and against emigration, assured that the former adopted nativist, racist and discriminatory positions towards immigrants. On the other hand, being USA a nation built by immigrants, “immigration has been greatly encouraged and the promise of citizenship offered to immigrants (despite the restriction of quotas that limits its annual influx)” (Guiddens *apud* Furtado, 2012).

Historically, the wave of US deportation has been motivated by concerns with national security. Soon after World War II, the US anti-communist wave resulted in the

¹⁸Data collection has been assured by two different sources: the IC, which receives and compiles the information included in the notifications sent to the Cape Verde’s diplomatic representations and DEF, which collects the information about national deportees in the ports and international airports.

deportation towards Europe of supposed communists and syndicalists (Panunzio; Schrecker *apud* Ellermann, 2009). In the 1970s, with the oil crisis, an unprecedented wave of policies against immigration entered the political discourse, using the immigrants as the scapegoat for the negative situation in which US industry found itself. Since then, new immigration laws were created, with special focus on the *Immigrant Reform and Control Act*, created in 1986, whose aim was, on the one hand, to grant amnesty to undocumented immigrants living in USA, which ended up transforming circular migrations into permanent ones, as well as salary reduction in the inferior sphere of the labour market and, on the other, dissuade immigration, mainly that coming from Central and South America, through border militarization (Furtado, 2012).

Deportation for criminal reasons, seen as one of the most outstanding events in the history of American deportations, had huge impact in the 1990s, having by the end of 1990s made up to 50% of total deportations (Ellermann, 2009). For these deportations there was a huge contribution of the passing in 1996 of *Illegal Immigrant Reform and Immigration Responsibility Act* (IIRIRA) which came to define new criteria for migration control, making deportation a more easily applicable measure (Furtado, 2012).

However, if in the 1990s, upon the judicial reforms in the USA, the laws were hardened, mainly against the youth, due, in part, to conflicts between street gangs and groups linked to drug trafficking (Fortes e Lima, 2012), it is in the post-9/11 period that unprecedented security measures in American history were taken (Michaels, 2002), reinforcing the IIRIRA, which consequently provokes the re-emergence of nativist positions and concerns about immigrant civil liberties (Furtado, 2012).

As Delgado (2013) asserts, notwithstanding the conclusion of the readmission agreement mentioned above, States with tolerating discourses about immigration harden their legislation in this issue as Portugal did in 2012. Bernardi (2011), addressing American

deportation in the post-2008 period, shows how it cannot be a useful tool for labour management provided that it ditches the (African) less wanted immigrant, accused by the population of stealing its place in the labour market.

Being Portugal a country marked by deportation (mass returnees from Brazil, former colonial territories and more recently from the USA), in recent years the Service of Foreigners and Borders (SEF) doubled the number of expelled foreigners¹⁹.

Upon the hardening of discourses and measures against emigration, the immigrants saw the stay in that Iberian country institutionally more difficult, even more so in a space and conjuncture wherein the gentrification process is a reality, threatening the neighbourhoods they live in for decades, as is the case of recent demolition in Santa Filomena, Lisbon, a place mostly inhabited by Cape Verdeans, wherein the Cape Verdean government, through its embassy in the Portuguese capital, was charged by the *Plataforma Guetto*²⁰, as being in collusion with the Portuguese authorities. As a result of this case, some Cape Verdean immigrants that lost their houses and are not registered in the resettlement projects were advised to voluntarily abandon the country as they do not have financial capacity anymore to keep to living in that country, notwithstanding living there for decades.

In spite of the current concern from the Cape Verdean public and political entities, as well as society in general, with the issue of deportation, their integration, through the deportee reintegration project, taken as crucial strategy for individual and social well-being of these individuals, is considered to have failed in its intentions. Neves (2012) points out the reasons for this failure: the mistake of conceiving it as project rather than a program; the

¹⁹ http://www.dn.pt/inicio/portugal/interior.aspx?content_id=1648442 (accessed on 1 September, 2013).

²⁰ Black social movement that advocates for the auto-determination of all oppressed people through anti-capitalist, anti-colonialist, anti-racial and anti-imperialist resistance. It struggles against all forms of discrimination and social injustices that affect the residents of precarious housing communities that are economically vulnerable and occupied by a police State. The emergence of the *Plataforma* was driven by the need to give voice and turn to the residents of Lisbon peripheral neighbourhoods.

non-engagement of the country diplomatic representations in the process; the limited number of staff; the lack of budgetary planning; the absence of an effective plan of monitoring and assessment; the non-establishment of an personalized attention office (GAP) at the airports; and finally, the non-coordination and the dispute of project management between the ministries that manages the IC and Directorate-General for Social Services.

The connection of young deportees with criminal activities due mainly to the engagement of some with street gangs, emerged in the end of 1990s and the start of 2000s, as well as with the narcotraffic groups operating in national territory, provoked that deportation started to be seen with greater concern and the deportees seen as a threat to national security.

They came, therefore, to be charged of reproducing “forms of criminal organization ‘learned’ in the receiving countries (mainly in the USA), that overcame the capacity and operation means of the Cape Verdean police” (Cardoso, 2011: 68).

Hereby assured that, as Cardoso (2012) and Lima (2012a) stress, some youths in Praia were influenced by expelled youths from the USA for criminal activities linked to street gangs in Massachusetts, it is important to note that this does not mean they were the main instigators of violence of armed groups in Praia. At the time deportation hit its peak, in early 2000s, Cape Verde also received a considerable number of deported from countries like Portugal, France and Netherlands (Cabral *apud* Carvalho e Sá, 2007), most of them related to the lack of legal stay document both in the USA and EU countries, among which Portugal.

In Cabo Verde, in the existent studies about the deportees, as well as about immigrants, imported explanations from other contexts have been repeated, (being the concept of integration an example), that being easy to adapt, provide biased results, since they are ruled by a culture of scientific dependence on the outside, which hampers the construction of a culture of internal knowledge production (Varela, 2009). On the other

hand, little attention is being paid to the coercive regulation imposed on the immigrants from where they are expelled, just like one has ignored the economic reasons underlying the deportation policies in these studies or to link them with issues of human rights' violation²¹. By emphasising these aspects, we can notice that many of these deported youths, considered in the USA as the Hip-Hop generation, are children of Cape Verdean immigrants working in factories in the US industrial cities that, upon upon the de-industrialization process carried out in the 1970s, see their social situation deteriorating and, simultaneously, the opportunities of success or to achieve the so wanted American dream more difficult to be realised unless, in many cases, integrated in the crime economy as proletarians of crime.

In order for individual and social well-being of deported population to be met, rather than worrying about their supposed integration, the projects and programs designed for them should seek to provide them a major social integrity, readmitting them (mainly the youths that emigrated when still children) as socialized people in other contexts that, despite possessing life styles that, in the conservative eye of a portion of the Cape Verdean society may appear as a threat to the values taken as national and Judaic-Christian, also belong, with the same rights, to the Cape Verdean diaspora society.

²¹Fact ignored in the 1st National Human Rights Report 2004-2010 presented by the Comissão Nacional para os Direitos Humanos e a Cidadania.

FINAL REMARKS. POST-COLONIAL MANAGEMENT OF THE UNWANTED. (RE) BIRTH OF THE READMISSION/DEPORTATION ARCHIPELAGO OR EUROPEAN EXPORT OF IMMIGRANT DETENTION CENTRE?

In this study, some notes are worth taking. It is well known that the migration in the West Africa Region is historically a complex phenomenon. Furthermore, it should be analyzed in its complexity of experiences. As to Cape Verde Islands, it is possible to speak about cases of expectancy to get in Europe. The archipelago began to have its prominence as a possibility for transit from the 1990s. But it is likewise true that the geopolitical reality around the Mediterranean and Maghreb has served as justification for the resilience of European borders. This is in fact their control has extended along the Atlantic, reaching the Cape Verde islands as a way of retaining unwanted or illegal immigration. Thus, since the 1990s and the turn of the new millennium, we have seen an intensification and increasing the retention of a greater number of nationals of ECOWAS member states. But it should also be noted that the experiences of sedentarization have been happening for decades, especially after the period of independence of Cape Verde in 1975.

The region is strongly marked by lifestyles around trade. Thus, it is quite possible that some people, having a greater possibility, take advantage of the facilities around the context of free movement in the region to develop or expand their business to a transnational scale. This is how the islands of Cape Verde, in the context of expansion of tourism investment and greater international openness, are becoming as a desirable target for small businesses in the region. This may justify or strengthen the expression of a long and intensifying process of dynamic intra-regional migration in the West African context covering the Cape Verde archipelago.

In accordance with data presented in this paper, it appears to be a large discrepancy between the numbers of people with foreign nationality residing in Cape Verde. It is also true that the lack of statistical control may contribute to a relative institutional discomfort when faced with the phenomenon of “irregular migration” (this refers especially to those who go beyond the 90 days allowed to stay without obtaining the residence permit). Since then, particularly for immigration in the context of ECOWAS, it must be said that the origin of this phenomenon has become a political concern in Cape Verde, and may have developed a widespread notion that migrants generally are in “transit” (to Europe or to North America), so they will not be inclined to devote much attention to issues that may be of interest to them in Cape Verde. All these concerns largely have disturbed migrants fixation in Cape Verde, since migration has been unable to contribute to the creation of improved living conditions in Cape Verde and hence creating economic, cultural, political and social gains either locally or nationally.

The problems and the potential offered by the complexities of migration flows in general – particularly the migration to and from Cape Verde in the ECOWAS region - push us to rethink the international system structure itself and its estate-centric and Eurocentric nature, insofar as this feature has traditionally conditioned the policies implemented to manage these flows. When, for example, the main international institutions dominated by the major world powers, do not take into account the existence of other forms of governance that are situated out of the Western nation-state canon, it makes the adopted measures (often top-down), in the migration field, completely inadequate - not to mention its neo-colonial nature.

Our strong recommendation is that - before prescribing policies or producing future studies - we must pay attention to the fact that on the African continent, particularly in the Economic Community of West African States (ECOWAS) region, there is, in our view, a

clear collision between different forms of economic, political and social organization (Varela, 2008: 11). Using the term “contact zone” we can say that “governance” constitutes an “epistemological zone” wherein we face the confrontation between the cannibal and annihilating state centric model of governance and alternative models of political, economic and social organization existing, for example, in many realities in the Africa region and in other latitudes such as the indigenous and black communities in Latin America. The confrontation and constructive resistance towards these actors to the dominance of state model and its exclusive nature is one example, among many others, that occur in this world, that the “disciplinary power”, centred in the sciences, according Boaventura de Sousa Santos (2003: 12), “(...) is increasingly not a disciplinary power considering that sciences are losing their epistemological confidence and see themselves obliged to share the field of knowledge with knowledge rivals (...)” as are the knowledge of several distinct groups, companies or people from sub-Saharan region struggling to not dilute in the hegemonic model of governance (Varela, 2008: 18).

Delgado depicts Cape Verde as simultaneously an emigration, immigration and transit country. However, recent events exposed throughout this article also portray the country as a space of deportation, as it was in the past. As the author asserts, the islands only interest the EU if it plays an active role in the ECOWAS space since, as in the slaving past, the country has a “natural vocation”²² to serve as the bridge between European, African and American continents (Delgado, 2013:550-551). The difference lies in the inverse transit of (unwanted) Africans from Europe to Africa via Cape Verde. It is noteworthy that, as Delgado

²²For a critical and deconstructive analysis of the “natural vocation”, or “Atlantic vocation” thesis attributed to the archipelago, see Barros (2014).

points out, the protocol on free circulation of people in the ECOWAS is fundamentally ambitious, but it entails weaknesses and internal contradictions.

Adepojo (2002, 2005) refers that in times of a major economic difficulty, several countries have expelled immigrants who are national citizens of the Member States of this Community.

The Western African youths have adopted increasingly more sophisticated methods to skirt the borders of Northern countries and the circuits of the chosen clandestine and spontaneous migrations involve more risks and have more transition points, including Cape Verde, where they acquire false documents aiming to go to Europe (Adepojo, 2002; Veiga, 2011). Akokpari (2000) mentions that in many African countries the category of undocumented migrants has normally been associated to criminal activities, making them the quarry of the security services, which provokes, in many countries belonging to the Community, the emergence of xenophobic feeling towards these immigrants (Adepojo, 2002, 2005).

In Cape Verde, the INE (INC, 2014) counts the total of 17 807 immigrants, most of them male (64,3%), with major incidence in the country capital (40,8%), where 71,9% come from the African continent. Of these, 51,2% use foreign documentation, 26,6% Cape Verdean and 22,3% double nationality. Between 1976 and 2013, 40 immigrants were expelled, 90% of which were nationals from African countries (37,5% from Senegal; 35,5% from Nigeria; 10% from Guinea-Conakry; and 7,5% from Guinea-Bissau). The expulsions were motivated by irregular stay (50%) and judicial decision (50%).

In the 1990s, African immigrants, especially Nigerians, carried the stigma as criminal (Fortes e Lima, 2012) and a great deal of the population nowadays link the increase of violence and criminality in Cape Verde to immigrants from West Africa (Veiga, 2011) or to deportees from the USA (Cardoso 2012; Lima 2012a; Fortes e Lima 2012). There is in all

societies a trend to blame the alien for the social problems that affect a certain place and here it is not different. Recent studies show that neither the immigrants (Veiga, 2011) nor the deportees (Cardoso, 2012; Lima, 2012a) are responsible for this new kind of criminality even because, unlike other realities, on the islands the number of native prisoners outnumber that of immigrants and deportees together. Meanwhile, Gemert and Decker hold the view that immigrants and ethnic identification have been critical to understand the formation and proliferation of gangs since the first studies of Chicago School to the present day.

If in the USA there are already thousands of works about the issue, in Europe the study of gangs is very recent and in Cape Verde it is taking the first steps. During the periods of economic expansion, starting in the 1960s, many European countries recruited “guest workers” to work in the factories, which became a problem in the 1980s with the economy’s decline (Gemert and Decker, 2008). The Portuguese case, as Domingos and Peralta argue (2013), much of the pathways created in the colonial times led to post-colonial Lisbon, because decolonization brought former imperial individuals who have now become immigrants. The majority of this population ended up filling the subaltern labour sector such as domestic service or civil construction, occupying Lisbon suburbs in illegal houses and neighbourhoods of self-construction.

In the authors’s view, the phenotypical characteristics, the educational level and class belonging recreated, in the former metropolis, discrimination situations and, at least in Lisbon, a reproduction of the metropolis (central neighbourhoods) and colony (peripheral neighbourhoods) relationship (Ascensão, 2013).

Both in the USA and EU, the deindustrialization process took Afro-Americans, Latins and Africans to unemployment and this fact has been identified as the main factor for youths’ adherence (those immigrants’ children) to gangs or criminal activities, mostly for facing obstacles in the social opportunities structures that have put them into situations of

marginality. Cultural proximities due to the fact they live in the same neighbourhoods may lay the foundations to explain gangs' ethnic component, whereas Starbuck, Howell and Lindquist (2001) contend that the new generation of gangs, the so-called hybrid gangs, does not identify itself with the racial component.

The latest deportations of thousands of youths belonging to gangs in the USA, including to Cape Verde, revives the debate on the relationship between immigration and criminality. The overlap of this fact with the emergence of this new type of criminality in the archipelago, ignoring other factors identified in the most critical studies about criminality in Praia (Lima 2010, 2012a, 2012b; Bordonaro, 2012a, 2012b; Cardoso, 2012) favours such relationship, as the idea reproduced by the media and internalised by the population is that the deportees are the major responsible for the situation.

Lundy (2001) regrets the lack of studies that analyse the impact of deportations in the sending societies, although Cruz (*apud* Gemert and Decker, 2008) asserts that the members of MS-13 and M18 gangs expelled from the USA reproduced in El Salvador and Honduras the culture of American street gangs, posing a huge problem to these countries.

In short, besides having to readmit its repatriated, a situation which has been debated, the country will also have to receive those from third countries. As a result, this new reality poses new questions: as whether it is not, in exchange of individual ambitions of the governing class, provoking the (re) birth of Cape Verde as the archipelago of deportation or if it is not exporting to the islands the immigration detention centres similar to the situation described by Nethery, Rafferty-Brown and Taylor (2013) analysing migration policies between Australia and Indonesia.

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