



ANTI-LGBTQ DISCRIMINATION AND VIOLENCE

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(Le Fonds National de la Recherche Scientifique affiliated with Université Libre de Bruxelles)

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Abstract

Putin's Russia has developed into an increasingly authoritarian and conservative state. Anti-LGBT+ rhetoric has been adopted as part of Putin's narratives, challenging the hegemony of Western liberalism. LGBT+ rights are portrayed by the Kremlin as a Western liberal phenomenon that poses a threat to "traditional values." As part of its national security measures, Russia has devised a range of policies to limit LGBT+ rights. Consequently, LGBT+ Russians face challenging sociopolitical conditions where public visibility has become dangerous, accompanied as it is by censorship, discrimination, and even violence.

In Russia, the legal landscape for LGBT+ rights has evolved over the course of post-Soviet history. The first decade following the dissolution of the Soviet Union was dominated by the country's intention to adopt Western democratic values, which was reflected in the liberalization of legislation regarding sexuality and gender. Homosexual relations (consensual sexual intercourse between men) were decriminalized in 1993 and depathologized in 1999. Russian criminal law also imposed parity between heterosexual and same-sex relations in terms of age and punishment for sexual offenses (previously there had been a clear distinction, with, for example, homosexual sexual assault incurring a harsher penalty). In 2008, Russia repealed the ban on gay men donating blood. As for transgender rights, changing one's legal gender on identity documents was legalized in 1997. In 2018, the bureaucratic process was significantly simplified, permitting the change of legal gender based on a medical certificate without the need for surgery or hormone replacement therapy.

These were among the few positive legal changes concerning the LGBT+ community. There have been no further improvements to LGBT+ rights in the country. There is no explicit legal protection against discrimination based on sexual orientation and gender identity. Even though the 1993 Russian Constitution declares equality and prohibits discrimination on the basis of race, social status, nationality, language, or religious origin, it does not list sexual orientation or gender identity as protected groups.

Restrictions

Moreover, in the last decade, Russia has introduced several legislative changes that target LGBT+ rights. In 2020, same-sex unions were banned by amendments to the Russian Constitution. In summer 2023, the law criminalized surgery and the use of hormone treatments for gender transitions. The new law severely impedes transgender rights and hinders advances in medical care and bureaucratic procedures regarding gender

transitioning. Notably, gender transitioning was legally defined in 1976 and has been performed since the early Soviet years (1926).

Another anti-LGBT+ law, this one banning "propaganda of nontraditional sexual relations" to all age groups, was signed by President Vladimir Putin in December 2022. This law extends the infamous so-called "gay propaganda law" adopted in 2013, which prohibited such propaganda among children. What is "propaganda of nontraditional sexual relations"? According to Russian legislation, such propaganda involves public actions and/or distribution of information in the media, advertisements, books, films, and other sources on "nontraditional sexual relations and preferences or change of gender." Thus, any mention of LGBT-related topics, display of LGBT+ symbols, or even public behavior such as kissing or holding hands could be understood as propaganda by the authorities. Such propaganda is considered an administrative offense punishable by large fines, administrative arrest, and even (in the case of foreigners) deportation.

The European Court of Human Rights (ECHR) found the 2013 "gay propaganda law" discriminatory, in violation of the European Convention on Human Rights. The ECHR also ruled that Russia had violated LGBT+ rights by banning Pride events and denying registration to LGBT+ groups. Russia, however, has embraced a nationalist approach to international relations. As such, the Russian Constitutional Court can declare international judicial decisions incompatible with the Constitution. According to the 2020 constitutional amendments, international treaties and the decisions of international bodies can be ignored if they contradict the Constitution. Against the backdrop of Russia's war on Ukraine, the country discontinued its membership of the Council of Europe and withdrew from the European Convention on Human Rights. As a result, it is highly improbable that the ECHR's judgments regarding the violation of LGBT+ rights will be executed in Russia.

War of the Worlds

It is no news to anyone at this point that Russia has become a notorious promoter of “traditional values” and a denier of gender norms and LGBT+ rights. Russia’s full-scale invasion of Ukraine has been accompanied by the intensification of political propaganda of “traditional values,” highlighting the geopolitical clash between Western liberalism (which promotes gender equality and LGBT+ inclusivity) and conservatism (which upholds the nuclear family and advocates an anti-gender agenda).

Political positions on LGBT+ rights have taken on a geopolitical dimension. Western democracies often treat pro-LGBT+ laws as a litmus test for the progressiveness of a state. Conversely, rejection of LGBT+ rights is turned into an indicator of the state’s resistance to Western liberalism. In turn, Russia has become the leading force worldwide promoting “traditional values.” The Kremlin perceives conservatism and “traditional values” as vital for Russia. The country’s survival, the narrative goes, depends on preserving Russia’s unique national culture from the harmful influence of Western liberalism, which includes gender norms and LGBT+ rights.

Manifest Conservatism

Russia is an illustrative example of how conservatism can manifest in the anti-LGBT+ agenda. Russian conservatism is built on the following principles: prevalence of state interests, religion as a spiritual strength, patriotism as a moral basis, protection of “traditional values,” and dominance of heterosexuality and patriarchy. A “traditional nuclear family” and patriarchal ideals have been turned into a matter of national security and survival. In November 2022, “Russian traditional spiritual and moral values,” including the “traditional nuclear family,” received legal protection. LGBT+ rights are portrayed as a Western phenomenon that goes against “traditional values” and threatens the nation. The Kremlin has adopted a narrative of the West employing LGBT+ rights as a tool to undermine and destabilize the country. LGBT+ identities are depicted as a foreign phenomenon imported from the West. Anti-LGBT+ legislation is thus presented as a necessary national security measure.

Russia’s radically different approach to sexuality and gender, which feeds into state-sponsored queerphobia, signifies the country’s quest for dominance and its resistance to Western liberal hegemony. Western democracies are accused of being morally corrupt and having forgotten their origins and traditions. In a speech in February 2023, one year after the start of the invasion of Ukraine, President Vladimir Putin argued:

It [Western liberalism] is all about the destruction of the family, of cultural and national identity, perversion and abuse of children, including pedophilia, all of which are declared normal in

their life... But here is what I would like to tell them: look at the holy scripture and the main books of other world religions. They say it all, including that family is the union of a man and a woman.

The speech highlights the fact that Russia ardently promotes patriarchy and heteronormativity, presenting itself as a global defender of traditionalism and religiosity in contrast to the decaying morality of the West. It is important to note that Russian conservatism is not simply opposed to the West as a whole, but differentiates between morally correct conservatism (patriarchal, heterosexual) and morally decayed liberalism (LGBT-inclusive). Russian conservatism also reflects the anti-LGBT+ political agenda, which has become transnational. Russia’s conservative discourse enjoys the active support of right-wing actors, Christian fundamentalists, and ultra-conservatives in the West.

Legislative Fences

The Kremlin’s hostility toward Western liberalism is irrevocably intertwined with increasing authoritarianism, which manifests as repression and limitations on political freedoms. The West is envisioned as an enemy that actively influences regime critics and opponents. To block this imagined threat, Russia has introduced a range of legislative changes. The “undesirable organization law” and the “foreign agent law” are among the most impactful policy changes obstructing the development of civil society. The “undesirable organization law” (adopted in 2015 and amended multiple times) severely impedes international aid to Russian civil society. The law bans foreign and international organizations that threaten Russia’s security, public order, and health. The law also prohibits Russian citizens and organizations (even those located abroad) from working with organizations that are labeled “undesirable.” Those included on the list of “undesirable organizations” are prohibited from engaging in all kinds of activity in Russia, including having representative offices, working on projects, or transferring money on Russian territory. The law makes obtaining material support for LGBT+ projects extremely difficult, as there are no domestic donors available to these actors.

The “foreign agent law” has become a powerful instrument of repression at the disposal of the Russian government. Anyone “under foreign influence” and whose activities “contradict Russia’s national interests” can be labeled a “foreign agent.” “Foreign influence” is purposefully vaguely defined as any kind of support from abroad, including financial aid, informational and technical assistance, and “other means.” Thus, any public criticism of Russian policies or officials could be cause for being branded a “foreign agent.” “Foreign agents”

are excluded from key aspects of public life, including civil service, elections, and even teaching. Defenders of LGBT+ rights are among the most frequently included on the list of “foreign agents,” which complicates their work and stigmatizes them in the eyes of the public. The term “foreign agent” has negative connotations, such as “spy” or “traitor.” Combined with the “gay propaganda law,” the “foreign agent law” significantly obstructs the work of LGBT+ activists and human rights advocates.

Putin’s authoritarian conservatism has had a heavy impact on the current sociopolitical climate in the country, facilitating the censorship of LGBT+ themes, bans of LGBT+ public events, and state-endorsed public queerphobia. The Russian authorities have consistently banned Pride parades and other LGBT+ public events, refused to register LGBT+ organizations, and issued queerphobic statements. Most worryingly, the Kremlin’s conservative political paradigm has instigated a substantial increase in hate crimes and discrimination against the LGBT+ community. Between the enactment of the “gay propaganda law” in 2014 and 2019, cases of discrimination or experiences of violence based on sexual orientation and gender identity—as reported in online surveys among the LGBT+ community conducted by the Russian LGBT Network (2019), one of the most prominent LGBT+ organizations in the country—escalated from 17 percent to 64 percent. The rate of hate crimes and violence toward members of the LGBT+ community has also increased significantly. The police do not offer sufficient protection against anti-LGBT+ violence. Many victims are reluctant even to go to the police for fear of discrimination and queerphobia. Quite often, police officers overlook or disregard hate crimes—or even commit such crimes themselves.

This increasingly hostile sociopolitical environment has forced more visible members of the LGBT+ community, such as LGBT+ activists, to reconsider their tactics and strategies. The organization of street events such as Pride has become less favored, for several reasons. First, it has become nearly impossible to get permission for LGBT+ street events from the local authorities. Second, LGBT+ street events are likely to attract

attention and be attacked by anti-LGBT+ groups and individuals. Third, LGBT+ street events are likely to be disrupted by the police.

For safety reasons, LGBT+ activists have had to change their tactics and strategies and minimize their public visibility. They have switched to predominantly organizing closed indoor events such as educational meetings, movie screenings, and tea gatherings. However, even such events are at risk of violence and harassment from the authorities, the police, and queerphobic individuals.

The distribution of LGBT+ information has also suffered due to the “gay propaganda law.” LGBT+ websites and social media sources are regularly targeted, removed, and/or shut down by the authorities. Publishers and distributors preemptively remove LGBT+ content from books, movies, and theaters to avoid propaganda charges. The “gay propaganda law” thus fosters self-censorship, as any positive or neutral mention of LGBT+ topics can be considered “propaganda” by the authorities.

Conclusion

As we can see, the LGBT+ community has become a convenient political target for Russian authoritarian conservatism. The state has been steadfastly cracking down on the LGBT+ community, depicting LGBT+ rights as an issue of security and national survival. That has led a higher number of LGBT+ Russians to emigrate and seek asylum abroad. Those who have no choice but to stay in the country might be forced “back into the closet.” Most likely, the Russian LGBT+ community will have to resort to Soviet-era tactics of relying on caution and discretion for meetings and gatherings.

However, we should not assume that Russian society is largely conservative and queerphobic. As Levada (2021) public surveys show, more than half of the younger population express positive attitudes toward the LGBT+ community and support LGBT+ rights. Social media attest to that. Despite state censorship, social media posts with LGBT+ content are quite popular among young Russians. Such popularity signifies that there is hope in the coming generation, who might aspire to a liberalized, LGBT-inclusive Russia.

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Russia’s “Gay Propaganda Law” and Anti-LGBTQ Violence

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Abstract

The level of hate crimes against LGBTQ individuals in Russia is on the rise. This is closely connected with the introduction in 2013 of the so-called “gay propaganda law,” which introduced fines for the vaguely defined offense of “promoting non-traditional sexual relationships.” This effectively resulted in a blanket ban on positive or neutral LGBTQ-related expressions, sending a clear symbolic message to the LGBTQ community. The article reviews the societal effects of the “gay propaganda law,” finding that hate crimes against LGBTQ individuals have tripled since the introduction of the law.

The number of hate crimes against LGBTQ people in Russia has been growing every year for at least a decade. This has been facilitated, above all, by the existence of discriminatory legislation—including the so-called “gay propaganda law.” Our research group based at University College Dublin developed a method for identifying anti-LGBTQ hate crimes in open databases of court rulings in Russia. Utilizing this method, we were able to gather a database of such crimes. Our data show that homophobic violence has been on the rise in Russia since the introduction of the “gay propaganda” law. We find that between 2010 and 2020, 1,056 hate crimes were committed against 853 individuals, with 365 fatalities. Overall, the number of crimes perpetrated on an annual basis since the enactment of the “gay propaganda” law has been three times higher than prior to the law. In addition to this quantitative change, crimes against LGBTQ people have changed qualitatively: since the 2013 law, not only have they become more violent, but there are also more crimes that are premeditated and committed by a group of perpetrators. Both the quantitative and qualitative changes in the level of anti-LGBTQ hate crime in Russia are attributable to the introduction of the “gay propaganda law.”

The hate crimes listed in our database, however numerous, are still a drop in the ocean of homophobic violence committed in Russia. In our analysis, we include only those crimes that reached the court—which, according to the Russian LGBT Network, a prominent LGBT rights NGO in Russia, usually account for just 2 to 7 percent of the total number of hate crimes. Most of the cases identified by our research team were neither covered by the media nor monitored by NGOs. The Russian authorities do not monitor such crimes, instead making such statements as Ramzan Kadyrov’s “We don’t have these kinds of people here, we don’t have any gays. You cannot kill those who don’t exist” (2017). The purpose of the research was to refute this claim. To do so, we searched all the criminal cases available to the public and applied definitions of “hate crime” to identify anti-LGBTQ hate crimes among these cases.

Definitions of “Hate Crime” and “Bias Motive”

What is a hate crime? According to the definition given by the OSCE Office for Democratic Institutions and Human Rights (ODIHR), hate crimes include criminal offenses committed with a bias motive and motivated by prejudice against a particular social group (based on

race, ethnicity, gender, sexual orientation, etc.). Such crimes are usually directed not at a specific individual but at the group as a whole, and the victims are generally interchangeable.

The key concept here is the bias motive, which can manifest itself in different ways. In the first variant, the perpetrators choose the victim because of their own hostile feelings toward the social group to which the victim belongs. Often, the perpetrators somehow express this hatred: for example, the notorious Maxim Martsinkovich (aka “Tesak”), whose followers carried out serial attacks on LGBTQ people in Russia, openly declared that the motive for his actions was the rejection of homosexuality. In his book *Restrukt*, Tesak wrote that he “relies on the laws of nature, and therefore does not allow any tolerance for homosexuals, [he] hates them, like all other vices.” In all subsequent crimes committed by Tesak and his followers, this open hatred could be observed. The ODIHR terms this the “hostility model” of hate crime; it implies a well-documented negative attitude toward the targeted group on the part of the offender. In the vast majority of cases, this motive is indicated by the actions or words of the criminals themselves. For example, an excerpt from the court judgment may testify to this, as with Case 1-11/2021 from the city of Vorkuta: “In the summer of 2014, the perpetrator met Rudenko, who asked for help. He said that there is a gay man in the neighborhood, and that he wants to punish him.”

In the second variant, the criminals are indifferent to the social group to which the victim belongs but commit the crime because the victim is a “convenient target” for them. For example, many of those who commit robberies and assaults against LGBTQ people in Russia are guided primarily by pragmatism: their victims are unlikely to go to the police, as doing so would require them to reveal their own sexual orientation. Yet despite the absence of open hatred, this is still a hate crime, as the key element of the act is the motive of prejudice against a certain social group. The ODIHR terms this the “discriminatory selection model,” in which the victim is chosen “because of” or “due to” their presumed group membership, while the element of enmity or hatred on the part of the perpetrator may be absent. Consider the following example from Case 2-7/2014 from the Moscow City Court, in which the defendant described selecting victims in a discriminatory way:

Defendant M pleaded guilty at the hearing and testified that he met K in 2010. < ... > M had financial difficulties, which K knew about, and the latter suggested robbing people of non-traditional sexual orientation, finding them on the Internet, to which M agreed.

Effects of Discrimination on the Level of Hate Crime

What can increase the level of hate crime in society? One factor is the presence of discriminatory legislation. Such laws restrict the rights of a salient social group and introduce inequality. This state of affairs becomes dangerous—social scientists agree that discriminatory laws increase the level of violence against the discriminated group.

In 2023, there was a dark anniversary of the “gay propaganda law”—10 years from the moment when it entered into force. It was introduced in June–July 2013 and included amendments to the Code of Administrative Offenses that imposed liability for “propaganda of non-traditional sexual relations among minors.” The definition of such “promotion” is very vague, leaving broad discretion to the police and judges. The only pattern that can be observed in the case law is that any positive or neutral LGBTQ-related expressions are restricted. This represents a blanket ban: as the Russian Constitutional Court puts it, when dealing with expressions related to sexuality, there is a “presumption of danger,” which means the expressions are *a priori* dangerous unless proven otherwise, which allows law enforcement to restrict anything LGBTQ-related—cases of “gay propaganda” range from wearing rainbow prints to screening LGBTQ movies. The “gay propaganda” article was used relatively infrequently: in 10 years, just over 50 persons and organizations were found guilty of “gay propaganda.” Despite such ineffective law enforcement, the law performed a different function. It increased negative attitudes toward LGBTQ people in society. It sent a symbolic message that members of this group are second-class people with limited rights, and if injustice and violence are committed against them, they deserve it.

This influence can be seen in the shift in public opinion. Since 2013, the attitude toward LGBTQ people has become much more negative. In 2021, the Levada Center published the report “Attitude of Russians towards the LGBT community,” which clearly showed that Russians’ views of the LGBTQ community deteriorated after 2013. As of 2021, the most common attitude toward LGBTQ people in Russia was “disgust or fear” (38 percent in 2021, compared to 21 percent before 2013), while the proportion of those who were indifferent had declined by almost half compared to before the introduction of the law (26 percent in 2015 compared to 45 percent until 2013). Most people deny the right to engage in same-sex relationships (68 percent in 2021). This is an illustration of the hostile environment that has been created in part by the introduction of the “gay propaganda law.”

This change in sentiment has affected the level of violence against LGBT people. Our research shows that if in 2010 there were 46 hate crimes against LGBT people,

in 2015 there were already three times more such cases (138). In general, the number of crimes increased substantially over the course of the decade (for more detail, see Figure 1 on p. 8).

Our data therefore demonstrate that discrimination does affect the level of violence perpetrated against members of the LGBTQ community. The “gay propaganda law” has increased the number of crimes committed against this social group. Gordon Allport, in his seminal work *The Nature of Prejudice*, called discriminatory legislation a mechanism that “deactivates the social brakes that prevent a hostile sentiment that exists in society from progressing into acts of violence.” Once these social brakes are removed, it launches an uncontrollable and unpredictable chain reaction in which random people around the country decide to attack LGBTQ people.

Conclusion

All the crimes that we identified after 2013 are, at least in part, the result of the existence of this law—the logical continuation of a state policy aimed at institutionalizing inequality against LGBT people. The German jurist and law professor Gustav Radbruch, analyzing the unjust laws of the Third Reich, developed the concept of “illegitimate law.” A law is considered such if the underlying legal concept “consciously disregards [the] equality of human beings”—“where justice is not even strived for, where equality, which is the core of justice, is renounced in the process of legislation, there a statute is not just ‘erroneous law,’ it is in fact not of a legal nature at all. That is because law, even positive law, cannot be defined otherwise than as a rule, that is precisely intended to serve justice.” Radbruch believed that illegitimate laws are dangerous because they create inequalities between different groups of people and put some of them in a vulnerable position. The “gay propaganda law” is an example of this. It imposes blanket restrictions on the rights of an entire social group.

A similar view on the law in question was provided by the European Court of Human Rights in *Bayev and*

Others v Russia. The Court found that the law in question violated Articles 10 and 14 of the European Convention of Human Rights (ECHR), as it both infringed on freedom of expression and contravened the prohibition on discrimination. The Court specifically addressed the potentially dangerous societal effects of the law in question: “By adopting such laws, the authorities reinforce stigma and prejudice and encourage homophobia, which is incompatible with the notions of equality, pluralism, and tolerance inherent in a democratic society.”

Indeed, the existence of such legislation can be seen as part of the political regime. The development of anti-LGBTQ legislation took place at the same time as the formation of the authoritarian regime in Russia. In 2006, when the first regional laws restricting LGBTQ-related expressions were introduced, Russia was characterized as a hybrid regime by the Economist Democracy Index, even if some scholars claimed that Russia had already developed strong personalist autocratic rule. Seven years later, in 2013, when the “gay propaganda law” was expanded to the national level, the country was already classified as “authoritarian” by the Economist Democracy Index following Vladimir Putin’s return to the presidency in 2012, the subsequent consolidation of the regime, and the country’s turn to the rhetoric of “traditional values.” Finally, in 2022 Russia’s Democracy Index fell to its lowest level with the full-scale invasion of Ukraine, and interestingly enough, the “gay propaganda law” was once again a focus of the authorities: the scope of the law was expanded to cover the “promotion of non-traditional sexual relationships” to all citizens (not only minors, as it had been initially) and new bans were introduced on the “propaganda of pedophilia” and the “promotion of gender reassignment,” with the latter outlawing the change of legal gender. Therefore, the emergence and development of the “gay propaganda law” has occurred in parallel with the consolidation of authoritarian rule in Russia. Such legislation is employed by the regime for its own purposes. This law reinforces inequality against LGBTQ people and authorizes violence against the group.

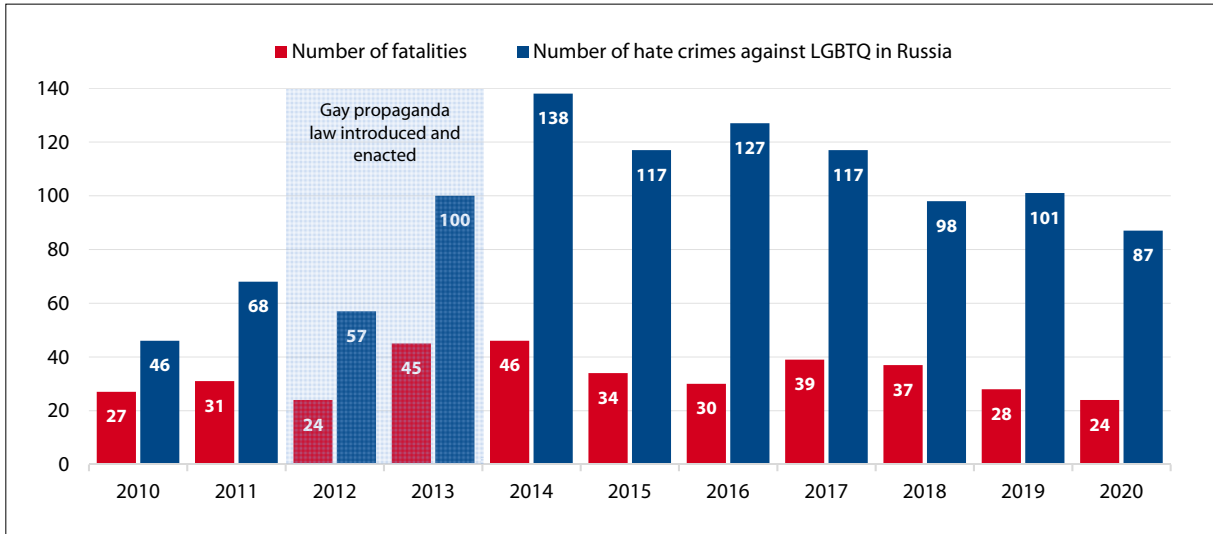
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Further Reading

- Sergey Katsuba (2023) “The Decade of Violence: A Comprehensive Analysis of Hate Crimes Against LGBTQ in Russia in the Era of the ‘Gay Propaganda Law’ (2010–2020),” *Victims & Offenders*, DOI: 10.1080/15564886.2023.2167142
- A full list of publications on the issue, as well as a detailed description of the research, is available at <https://www.ucd.ie/research/impact/casestudies/adecadeofviolencemonitoringanti-lgbtqhatecrimesinrussia/>

Figure 1: Number of Hate Crimes against LGBTQ Individuals in Russia, 2010–2020



Source: Katsuba (2023)

ABOUT THE RUSSIAN ANALYTICAL DIGEST

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