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Functionalism of Municipal Laws and Good Governance in Pakistan

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ARTICLE DETAILS	ABSTRACT
History: Accepted 13 March 2021 Available Online March 2021	<p><i>The main objective of this research is to make a case for good governance as the only solution for Pakistan's multitude of problems. There is a need for goodwill to be restored among the people, if there was any, to begin with, given that Pakistan has always struggled with governance issues since its origin. What Pakistan needs now is the implementation of policies that can be a catalyst for dynamic and long-lasting social change. Categorically, the current nature of existing problems rooted within halted development, social disorder, and a state of anarchy, can only be combated through effective institutional structures and effective models of government that are able to act upon actionable items in the interest of the public. Today's dilemmas are rooted in archaic practices that need to be re-evaluated to meet the needs of the hour. Obsolete, ineffective modes of practice need to be reconfigured through a process of intense scrutiny and amendments. Political reform is the ultimate solution for the way forward. In this era of rapid globalization, and the visibility of other nations thriving across the globe, there is an urgent need to act swiftly to bring forth positive change within the existing system that is not failing, but in fact, has already failed.</i></p>
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1. Introduction

Good governance plays a pivotal role in cultivating progress, peace, and sustainable development within a country. In scenarios where there is poor governance, lack of effective public administration and a disregard for the rule-of-law, the overall quality of life is impacted immensely by this degeneration of order. These negative elements greatly contribute to instability which impacts nations in various aspects of life, starting from the institutional level, and extending to every common citizen in Pakistan. On the ground realities indicate there to be a dire need for better institution-building that is conducive to the growth and development of Pakistan and all its

inhabitants, in entirety. Good governance and a peaceful existence have become an unattainable dream for average Pakistanis.

Good governance is essential in ensuring Pakistan's progress, prosperity, peace and sustainable development. The goal is to achieve stability and upward mobility for regular citizens; a feat which seems further disassociated from reality than ever before, due to the current social, political, and moral upheaval in the country. In this current context, there is corruption, aggression, and civilian vigilantism, among other issues to contend with, in Pakistan. Civilians do not trust the current system, as the state has failed to fulfil its promises towards its people. The provision of social services seems to have fallen toward the private sector, which has also resulted in a consequent diminishing role of the state itself. This raises a question as to the extent to which a nation can survive without the implementation of strong governing mechanisms and the effective rule of law.

To understand Pakistan's current conundrum of poor governance and instability, it is important to take a step back to review an important, if not the most important, a precursor to today's situation. Pakistan is yet to reconcile with its past as a former British colony, and the repercussions of being a colonial entity that was split into different states following the departure and disintegration of the British Empire in the Indian Subcontinent, which now accounts for Pakistan, India and Bangladesh. The issue ultimately boils down to the issues of resource allocation and reconciliation with the effects and aftermath of colonization. From a Postcolonial lens, Pakistan is still nursing its wounds from its past as a former colony. As Pakistanis, we need to focus on the serious human consequences of the traumas endured by our people as formerly colonized and exploited people, living on formerly colonized land. This colonial legacy lives on in so many subtle and not so subtle ways. The use of English as an official language within the government and education systems is but one way in which internal orientalism is reproduced at a micro-level within Pakistan as a consequence of "English linguistic imperialism."¹

Political instability is deeply embedded in the fabric of Pakistani society. According to Pakistan's founder, Muhammad Ali Jinnah, any worthwhile cause could be achieved with the values of "faith, discipline and selfless devotion to duty,"² which in turn, paves the way for good governance. This, of course, requires good leadership that cultivates an atmosphere for states to grow at a steady pace. In the formative stages of Pakistan's origin story, its founder, Jinnah, died as a result of an ailing health condition. In the wake of his passing, he left behind a gaping hole in the configuration of Pakistan's state structure. What should have been a period of intense institution building, was in fact, became a period of mourning. This was followed by a number of socio-political issues that needed to be dealt with the departure of the British, the need to establish international relations on a global stage, and figure out what the next steps were for local governance in Pakistan itself.

The premise of Pakistan is rooted in the "Two Nation Theory" coined by Allama Iqbal, a prominent writer, poet, and politician, who envisioned an independent state for the Muslim majority of the Indian Subcontinent.³ Iqbal's stance posited that the Muslims were a distinct nation, with a

¹ Firasat Jabeen, "The perpetuation of colonial legacy: uncovering internal orientalism in the form of English supremacy in Pakistan," *Journal of Multilingual and Multicultural Development*, (2020) 41:5, 432-443, DOI: [10.1080/01434632.2019.1653303](https://doi.org/10.1080/01434632.2019.1653303)

² Munir Mughal, "Two Nation Theory in the light of the Speeches of Quid-i-Azam Muhammad Ali Jinnah," Muneeb Book House, Lahore Pakistan, 2012.

³ Munir Mughal, 2012.

unique set of needs and values, and therefore, deserved an independent state of their own. His writings placed great emphasis on independent thought, freedom and the need for justice. He believed that a nation's fate was dependent on its people, who hold power to elect their leaders. In the Western, Westphalian sense, by definition, Pakistan is a sovereign state with sovereignty over its own territories and domestic affairs, however, the fact remains that there are a number of obstacles for the Pakistani state to overcome before meeting its full potential.

True social change requires a major reformation of the fields of healthcare, education, science and employment. This requires the proper utilization of natural resources already available in the country, along with the rise of vocational training programs, along with a functional and productive education system for all. There are a number of discrepancies that need to be addressed to bridge the gap between the rich and the poor, which strongly requires participation from leaders who actively look towards the best interests of all their people, not just the upper class and ruling elites. There are a series of negative consequences of bad governance in the lives of many Pakistanis. Poverty has become a common feature in the lives of many.

The media plays a prominent role in the perception of leaders. It serves as an outlet of information to the public, who in turn, form their opinions of leaders, based on speeches and interviews. It is essential to focus on the strong impact of the media in the lives of people, in terms of social media, print media (newspapers), news channels, etc. On a whole, the public needs to be aware of this crisis of leadership and the terrible reign of political instability in Pakistan. There is so much potential and hope for better leadership that has a profound impact on the lives of people. Social change is a slow and steady process in some cases, and fast in others. It all depends on circumstances, however, according to philosopher and political commentator, Karl Marx, author of the Marxist theory, change is inevitable and unavoidable.

Problem statement of this is as of 14th August 2021, Pakistan will have been an independent state for seventy-four years, and however, it continues to face a plethora of issues associated with poor governance, ineffective institutions, and human rights' issues across the nation.

2. Literature Review

It is undeniable that Pakistan faces a plethora of issues. There is much academic discourse on the topic that examines the issue of governance, accountability and the role of public leadership in affecting current affairs and future outcomes. The issue of leadership deficits, however, is not unique to Pakistan alone. There are many states across the globe that need to hold their leadership accountable for better outcomes and services for common people. Governments have a responsibility to their citizens, explores Allan Rosenbaum in his research on "*Good Governance, Accountability, and the Public Servant*,"⁴ making a case for how governments are at the center of all discourse about governance, education and public policy that affects generations to come. Similarly, Rosenbaum, in "*Putting First Things First: Critical Issues for Public Administration Education*,"⁵ places emphasis on recognizing the centrality of government, and public administration in building a successful and coherent societal structure. Regardless of size or degree of influence of an individual, corporation or any other entity, governments establish and enforce rules and mechanisms for everyone to follow,

⁴ Allan Rosenbaum, "Good Governance, Accountability and the Public Servant: Insights Drawn from the United States and Paraguay" paper presented at the Conference on Governance Reform of the Government of Sabah, Malaysia (December, 1997; Kota Kinabalu, Malaysia).

⁵ Allan Rosenbaum, "Putting First Things First: Critical Issues for Public Administration Education," *Teaching Public Administration* 32, no. 1 (2014): pp. 80-94, <https://doi.org/10.1177/0144739414523286>.

indicating just how much power they hold. For the sake of ensuring public accountability, it is essential to regulate various laws and procedures and how they affect people.

Various think-tanks and research centers seek to understand and highlight the factors that lead to good governance in states. In theory, it is as simple as what works or does not work. In practice, there are a number of complexities associated with this. Think-tanks such as Progress PK focus on leadership, national and global challenges, promoting sustainability and peace in the midst of conflict with the sole aim of a better Pakistan.⁶ Good governance is described to be a process of efficient discussion and decision making practices in regard to corporate governance, international governance, national governance and local governance. The characteristics of good governance are examined and identified as follows: participation, rule of law, transparency, responsiveness, consensus orientation, equality, inclusiveness, effectiveness, efficiency and the implementation of law and order. On a whole, in any organizational framework, each and every institution is accountable to its people, and in order to carry this out, transparency and the rule of law must be properly implemented. Organizational skills are pivotal in ensuring success. It is required that men and women both participate and interact for the cumulative welfare of the common people. This participation is a cornerstone of good governance through legitimate intermediate institutional structures. Adequate representation is necessary in order to have an effectively organized civil society that functions cohesively. Responsiveness is another necessary attribute. It is essential that all members of a community have a stake in the overall well-being of society in its entirety. Exclusion and marginalization of people, on any basis, is detrimental to society as a whole.

This brings us to our next discussion point - examining the ways in which good governance actually alters on-the-ground realities and experiences. In "Is Good Governance an Approach to Civil Service Reforms?" the authors, Muhammad Iqbal and Eatnaz Ahmad pose a valid question as to whether good governance is an approach to civil reforms.⁷ In theory, governance is not as complicated as it is in practice. When implemented effectively, this requires respect for the rule-of-law, and acceptance of minority groups, to begin with. Most importantly, there needs to be total transparency within institutions such as the judiciary, police, and military. Freedom of press and speech, and the right to vote during regularly held elections, are other indicators of good governance in a society. Pakistan's history of martial law, accusations of election rigging, mistreatment of minority groups, etc, are red flags and indicate that there is a long way to go before actual social change is brought forth. It is concluded that without a transparent government structure, there is a great deal of political, social and financial instability, which affects and impacts everyone but harms the most vulnerable members of society to the highest degree. Good governance can only materialize when the state is stable and has the resources to maintain stability.

Arguably, corruption is one of the most distressing issues faced by Pakistan, as demonstrated in "Corruption and its Deep Impact on Good Governance in Pakistan," by Umbreen Javaid.⁸ This great misuse of power for individual benefit has become endemic in Pakistani society. The reach of corruption and immoral quid-pro-quo is widespread, and almost all structures, public and private

⁶ "Governance In Pakistan," Progress Secretariat, accessed March 25, 2021, <http://www.progress.org.pk/governance-in-pakistan/>.

⁷ Muhammad Iqbal, and Eatnaz Ahmad. "Is Good Governance an Approach to Civil Service Reforms? [with Comments]." *The Pakistan Development Review* 45, no. 4 (2006): 621-37.

⁸ Umbreen Javaid, "Corruption and its Deep Impact on Good Governance in Pakistan." *Pakistan Economic and Social Review*, Vol. 48, No. 1 (Summer 2010), pp. 123-134 Published by: Department of Economics, University of the Punjab Stable URL: <http://www.jstor.org/stable/41762417>

sectors, are affected by this malaise. This impacts the regular functioning mechanisms of taxation, land administration, customs, law enforcement, education, and health, among others. According to the Corruption Perception Index, facilitated by Transparency International, Pakistan ranked at 124/180 in 2020. This is coupled with an overall score of 31/100 for the previous year, accompanied with further concerns of gross misconduct and incompetence within the public sector.⁹

Pakistan continues to fall behind in many regards, particularly in terms of development indexes and economic growth. The Pakistan Institute of Development Economics, has published research identifying why and how Pakistan has not embraced the positive impact of globalization throughout the globe.¹⁰ The paper aims to explore the relationship between the importance of governance and its connection to globalization, which go hand in hand when it comes to successful management of a government. Policies can only be implemented when governments are proactively taking a stand to curb corruption to achieve political stability. In order for Pakistan to compete with the rest of the world on a global stage, it must reap the benefits of globalization and international cooperation, for which good governance is a necessary requirement. Internal policies and procedures need to be revamped such that they curb corruption and combat political instability. Once these changes are made internally, Pakistan will be on the right track in terms of growth. In additional research by the Pakistan Institute of Development Economics, researchers, Arshed H. Bhatti and Musadik M. Malik, attempt to challenge “assumptions and perceptions regarding the role and relationship of growth and governance in reducing poverty in Pakistan.”¹¹ They identify how poverty is reduced through sustainable growth, and good governance directly correlates with higher growth rates. Income distribution can be regulated/enforced by central governments.” Institutions only flow out of government policies and actions, and good growth is always state- led. This also entails “stultification of the role of the private sector and enterprise in contributing to growth as well as reducing poverty of a nation.”

At this point in time, good governance has moved onto the agenda of many international organizations since the end of the Cold War when calls for democracy and better government became louder, as examined by Ngaire Woods in “Good Governance in International Organizations.”¹² Expectations as to what international organizations might do to further this, have heightened only since then. Many multilateral agencies from the United Nations to multilateral development banks have taken up the summons. They are now part of a chorus of voices urging governments across the world to “heed higher standards of democratic representation, accountability, and transparency.” There has been an emergence of an agenda of good governance

⁹ Transparency International: Profile on Pakistan (2020). (n.d.). Retrieved March 29, 2021, from <https://www.transparency.org/en/countries/pakistan#>

¹⁰ Pakistan Institute of Development Economics, Islamabad Governance, Globalization, and Human Development in Pakistan [with Comments] Author(s): Naved Ahmad and Ejaz Ghani Source: The Pakistan Development Review, Vol. 44, No. 4, Papers and Proceedings PART II Twenty-first Annual General Meeting and Conference of the Pakistan Society of Development Economists Islamabad, December 19-21, 2005 (Winter 2005), pp. 585-594 Published by: Pakistan Institute of Development Economics, Islamabad Stable URL: <http://www.jstor.org/stable/41261120>

¹¹ Arshed H. Bhatti and Musadik M. Malik, Pakistan Institute of Development Economics, Islamabad Growth and Poverty in Pakistan: Implications for Governance [with Comments] The Pakistan Development Review, Vol. 40, No. 4, Papers and Proceedings PART II Seventeenth Annual General Meeting and Conference of the Pakistan Society of Development Economists Islamabad, January 14-16, 2002 (Winter 2001), pp. 831-844 Published by: Pakistan Institute of Development Economics, Islamabad Stable URL: <http://www.jstor.org/stable/41260365>

¹² Ngaire Woods, “Good Governance in International Organizations,” Global Governance, Vol. 5, No. 1 (Jan.–Mar. 1999), pp. 39-61, Lynne Rienner Publishers Stable URL: <http://www.jstor.org/stable/27800219>

across the globe in the entire international arena to maximize efficiency of government structures which are representative of their states. The crux of this issue is now rooted in effective implementation processes.

In “Trends in Absolute Poverty and Governance in Pakistan,”¹³ Talat Anwar, carries out a review of poverty studies in Pakistan and focuses on identifying absolute poverty as a product of inadequate governance. The author states that poverty and governance have a direct relationship. The abuse of power or poor implementation of power, the poor will always face the brunt of the fall-out. This poor governance hinders how services and benefits are delivered to the masses. Influential groups and their interests play a prominent role in how budgets are allocated and funds are spent. This results in a lack of protections and failed promises on part of the state, disadvantaging the already disadvantaged groups even further. A continued lack of property rights, state protection and legal services, prevent the masses from securing homes, assets, and the ability to operate businesses and enterprises. This hinders their chance at an equitable and prosperous life. Governance is a pillar of poverty reduction. When the Pakistani government adopted its Interim and Full-Poverty Reduction Strategy Paper (I-PRSP) in 2001, good governance was defined as a feature of this strategy. This paper further outlined policy measures and areas of improvement in key areas of governance, including but not limited to allocation of power, reforms, capacity building, freedom of information, and anti-corruption approaches.¹⁴

The Pakistani economy is plagued by an “elitist state” as examined by Sanjay Kumar in an extended analysis of “*Pakistan: The Economy of an Elitist State*,” by Ishrat Husain.¹⁵ Weak governance in Pakistan is characterized and featured in every form of government, and/or hybrid military structures, whether it has been a product of democratic elections or not. Political factors can be attributed to being the root of the issue at hand. In essence, ever since its birth, Pakistan’s state power has predominantly been in the hands of the bureaucracy and the military forces. Ultimately, the formation of elite groups which control and acquire publicly owned goods and resources for private benefit. These groups have ended up excluding the majority of the population from the benefits of development, leading to a state of relative stagnation. This has further reinforced a number of inequities in society, and skewed distribution of economic and political power. The feudal mindset and behaviours of the ruling elite that has had a regular flow of power and resources awarded to them, forming client-patron relationships that exclusively benefit them. There is an abundance of tools that allow the elite to thrive. For example: economic rents formed through import licensing, foreign exchange, industrial permits, agro-credits, and perhaps most prominent of them all is tax evasion.

The effectiveness of public expenditure, economic performance and provision of social services is impaired by governance problems. In Pakistan, routine decision-making has been

¹³ Talat Anwar, “Trends in Absolute Poverty and Governance in Pakistan: 1998-99 and 2004-05.” The Pakistan Development Review, Vol. 45, No. 4, Papers and Proceedings PARTS I and II Twenty-second Annual General Meeting and Conference of the Pakistan Society of Development Economists Lahore, December 19-22, 2006 (Winter 2006), pp. 777-793 Published by: Pakistan Institute of Development Economics, Islamabad Stable URL: <http://www.jstor.org/stable/41260651>

¹⁴ International Monetary Fund (IMF), and Government of Pakistan (GoP). “Pakistan Interim Poverty Reduction Strategy Paper (I-PRSP),” November 2001. <https://www.imf.org/external/np/prsp/2001/pak/01/113001.pdf>.

¹⁵ Sanjay Kumar, “Pakistan's Economy: Problem of Governance Reviewed Work(s): Pakistan: The Economy of an Elitist State by Ishrat Husain,” (Review) Source: Economic and Political Weekly, Vol. 34, No. 29 (Jul. 17-23, 1999), pp. 1993-1994 Published by: Economic and Political Weekly Stable URL: <http://www.jstor.org/stable/4408207>

incredibly politicized to the point that it has weakened civil service while diverting expenditure and budgets to lower-priority agenda items. The government is fully aware of such a need for a fundamental change toward greater respect for the rule of law and attention needs to be given to ensure that Pakistan has a professionally strong and independent government. It is an obligation upon all incoming and present government officials to prioritize the need for good financial governance in Pakistan, setting the arena for strong institutions with solid prospects for the future.

Pakistan has had a constantly developing bureaucratic leadership system over the past decades ever since it came into being. In *“Advising the State: Bureaucratic Leadership and the Crisis of Governance in Pakistan,”* Ilhan Niaz examines the political, social and religious aspects of the situation in Pakistan.¹⁶ Pakistani civil servants’ approaches vary greatly. Some have been found guilty of making recommendations to the government in pursuit of their own personal agendas and self-interests. Over the last few decades, there are many accounts in Pakistani history that examine Pakistan’s various internal and external struggles, dealing with the rise of religious extremism, and terrorism. The Pakistani government has recognized the need for constitutional reforms, along with the need for a thorough examination of the country’s dysfunctional criminal justice system. What Pakistan needs is leadership that looks out for the collective benefit of Pakistan and advocates for growth that is pro-poor,¹⁷ as discussed in “Governance and Pro-Poor Growth. Governance has gained importance over the last few decades and become a key component of policies for economic development. The lack of quality governance mechanism results in detrimental outcomes such as stunted economic growth and investment, and aggravated poverty coupled with rampant inequality. This paints a clear picture of where Pakistan is at now, a developing state that can be characterized by “weak institutions, low growth, poverty and inequality all of which translate into low levels of human development.” It is becoming increasingly difficult to break out of the iron tight grasp of the poverty trap. In response to this current state of affairs, Pakistani government has rolled out a variety of reforms to achieve economic growth. It is indisputable that “establishing a conducive environment for saving and investment, risk taking, providing incentives to producers, creating certainty in markets, increasing the size of markets by removing barriers to international trade and improvements in competitiveness,” all serve a purpose in a country’s growth and success.

Now that the problem has been identified, the way forward requirements implementation. In *“Improving Governance in Pakistan: Changing Perspectives on Decentralisation,”*¹⁸ the researcher, Ehtisham Ahmad, makes note of how Pakistan has a federal constitution, with interludes of Déconcentration to districts in the early 2000s military rule by Military-General Pervez Musharraf during his time in office. It also looks at the current political situation through the lens of one of the founders of Pakistan, Allama Iqbal, who would have been disgusted by the blatant display of “*khudi*”

¹⁶ Ilhan Niaz, “Advising the State: Bureaucratic Leadership and the Crisis of Governance in Pakistan, 1952—2000.” *Journal of the Royal Asiatic Society, Third Series, Vol. 21, No. 1 (JANUARY 2011)*, pp. 41-53 Published by: Cambridge University Press on behalf of the Royal Asiatic Society of Great Britain and Ireland Stable URL: <http://www.jstor.org/stable/23011521>

¹⁷ Rashida Haq, Uzma Zia and G.M Arif, “Governance and Pro-poor Growth: Evidence from Pakistan.” *The Pakistan Development Review, Vol. 45, No. 4, Papers and Proceedings PARTS I and II Twenty-second Annual General Meeting and Conference of the Pakistan Society of Development Economists Lahore, December 19-22, 2006 (Winter 2006)*, pp. 761-776 Published by: Pakistan Institute of Development Economics, Islamabad Stable URL: <http://www.jstor.org/stable/41260650>

¹⁸ Ehtisham Ahmad, “Improving Governance in Pakistan: Changing Perspectives on Decentralisation.” *The Pakistan Development Review, Vol. 49, No. 4, Papers and Proceedings PARTS I and II The 26th Annual General Meeting and Conference of the Pakistan Society of Development Economists Islamabad, December 28 - 30, 2010 (Winter 2010)*, pp. 283-310 Published by: Pakistan Institute of Development Economics, Islamabad Stable URL: <http://www.jstor.org/stable/41428659>

(egotism) in Pakistan over the past few years, especially since the restoration of the democratic process. There is an unwillingness to fulfil promises and assurances made to the international community.

3. Identifying the Crisis of Leadership and the Role of Political Instability in Pakistan

Different leaders are meant for different systems. For a Muslim state like Pakistan, there is a dire need for a leader that can balance Pakistan's status as an Islamic Republic made under the banner of Islam, while also simultaneously prioritizing Pakistan's need to grow in the global economy, along with the rest of the world. We see leaders in various walks of life across Pakistan. From tribal leaders to religious leaders to leaders of civil society organizations, and beyond. One would think that with such a wide variety of leadership forms, Pakistan would not be where it is at today, and would be elsewhere. Alas, the issue remains that there continues to be a disconnect between these various forms of leaders at different levels.

Ultimately, the onus of this responsibility falls upon government entities to bridge these gaps and better utilize resources to lead Pakistan into an era of economic and social prosperity. This requires cooperation on all levels among all people. Communities across Pakistan know what they need, in terms of basic amenities; what they don't have is access to resources that can propel them into the future. This is where it is essential for the federal government and provincial government to work in unison, with the collective goal of changing systems, and properly allocating resources while ensuring that corruption is curtailed at all levels. There is no magical band-aid solution that will instantly repair the depth of Pakistan's problems, however, the foundation needs to be laid for this work to be slowly and steadily accomplished over a passage of time.

Pakistan has a number of political parties in the arena, all that come with multitudes of agendas. Conflict resolution and institution building need to be added as top priorities for political parties. They need to adopt a "country over party" agenda that shifts their concerns toward the collective interests of the nation as a whole, rather than just a select few members of their group, or region, etc. There are many factors to consider. Pakistan is a multi-ethnic state with indigenous people all over the country. Many languages are spoken by Pakistanis, adding to the overall diversity of the country. Instead of these being divisive factors that alienate Pakistani against Pakistani, leaders need to manifest political will to make these unifying factors that instead bring people together, rather than tear them apart.

Pakistan has suffered great losses following Partition, under different government regimes, and during the American War Against Terror, that resulted in drone strikes within Pakistani territory. Coupled with sharing borders with entities like Iran and Afghanistan, Pakistan is centrally located in what the West sees as a problematic zone. The fact remains that Pakistan has suffered ample losses. Pakistan people require leadership that prioritizes Pakistan's interests while also continuing to strategically engage with others on global platforms. This must be done without venturing into the dangerous territory of nationalistic tendencies, but must rather be rooted in the principles of multilateralism. People's confidence in democracy has been greatly shattered after having witnessed so much instability within Pakistan's borders and beyond it. The focus needs to be on institution building more than anything else.

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