

Indonesian Government Policy in Protecting the Indonesian Diaspora in Mindanao, South Philippines

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Abstract

This article focuses on discussing the reasons for the Indonesian government to protect the Indonesian diaspora with the status of stateless people in the Southern Philippines. And also the efforts made by the Indonesian government in protecting Indonesians in the Southern Philippines Mindanao who does not yet have official citizenship status so that it will be difficult to get legal protection from the state. In addition, those who do not have citizenship will also find it difficult to travel anywhere because there is no official identity. So that makes them just settle and settle in a village and also have to survive during difficult economic conditions. The findings reveal that the government's reason for protecting the stateless Indonesian diaspora is because the Indonesian government has an interest in keeping the Indonesian diaspora as Indonesian citizens and so that the Indonesian diaspora can obtain their rights as human beings who have citizenship status. Efforts made by the government are trying to collect data immediately and issue free passports and ID cards for those who do not have citizenship status, provide free education as well as scholarships, educate society about natural resource management.

Keywords

diaspora; stateless; protection; interest



I. Introduction

People without citizenship status are often also associated with racial discrimination or ethnic considerations. Ethnic minorities are often excluded from citizenship status and sometimes experience discrimination in the application of a legal provision. Minorities have been in a country since the colonial period for doing a certain job and were then ostracized when a new independent state was formed, as was the case with the ethnic Tamils in Sri Lanka and the Nubians in Kenya. Indigenous people are also often denied citizenship status, including the tribes living in the hills of Thailand. Their habit of living a nomadic life between the borders of a country, causes them to be labeled as foreigners and not recognized as citizens anywhere. Ethnic, racial, religious, or linguistic minorities are sometimes labeled stateless because of court decisions that exclude them from the system. Minorities encounter obstacles in managing birth certificates or other documents required in the requirements for citizenship applications (Ciptowiyono, 2013).

One of the problems of citizens of Indonesian descent living in the southern Philippines, Mindanao, is the existence of *Illegal Entrance* status, with this status a major obstacle to their survival in Mindanao. Those who work as fishermen continue to struggle to survive during a low-level economic situation. The companies that employ them as fishermen take advantage of the *Illegal Entrance* situation so that the employers pay them below the prevailing salary standards. On the other hand, there is social jealousy from workers or Filipino workers because their superiors trust workers of Indonesian descent more because workers of Indonesian descent are honest, loyal, diligent and don't demand or ask for a salary increase (Gusnita Putri, 2017).

Indonesia is a country that has not ratified the 1954 convention relating to statelessness or the 1961 convention on reducing statelessness. With Indonesia's choice not to ratify the convention, Indonesia itself does not have the obligation to comply with all applicable provisions. Even though Indonesia is not a country that has ratified the conventions of 1954 and 1961, the Indonesian government has not let go of the case of the stateless Indonesian diaspora who lives in Mindanao, the southern Philippines. The Indonesian government is addressing the issue of statelessness by implementing a program to register all Indonesian descendants in the Mindanao region thoroughly. The Indonesian government is trying to collect data on Indonesian people in the Philippines, people who have been registered by the government are part of the Indonesian Consulate General in Davao program in coordination with the High Commissioner for Refugees (UNHCR) which has been established since 2012 (RT & Baidawi, 2020).

Indonesians who have lived in Mindanao for a long time have grown and developed more and more and made them spread in various places in the Philippines, specifically in the Southern Philippines, Mindanao. Even though they are Indonesians who do not have citizenship status, the Indonesian government is still trying to protect those who live there. An important question that must be answered is why the Indonesian government protects the stateless Indonesian diaspora in Mindanao, Southern Philippines?. This article argues that the reason for the government to protect is because the Indonesian government has an interest in ensuring that the Indonesian diaspora, especially people with stateless status, remain Indonesian citizens. Then the Indonesian government wants the stateless Indonesian diaspora to have rights as citizens and enjoy rights as citizens should.

II. Review of Literature

In answering the problem formulation, the writer uses the concept of national interest. The term national interest has been used by statesmen and scholars since the founding of nation-states to describe the aspirations and goals of sovereign entities in the international arena. There are various views regarding the national interest itself. Realism, liberalism, constructivism, each has a view of the national interest. For example, realists see that the national interest itself is related to the security of a country, where they see that foreign policy must produce fear of other countries so that they do not dare to carry out attacks. If security is threatened, the national interest is threatened. Meanwhile, from a liberal perspective, national interests are not only limited to state security but economic and market stability must also remain a reference. Economic growth is still an important goal in a country's economy, especially for developing countries like Indonesia (Magdalena and Suhatman, 2020). Constructivism sees that the national interest is always formed, transformed, and adapted to the existing international political structure. This is possible because the existing structure is formed by shared ideas or ideas. Constructivists believe that although the national interest is based on the interest of the state, it is not something that is *given* and fixed but is constantly changing (Umar, 2014).

But apart from various viewpoints, the national interest remains a policy that should prioritize the welfare of the country of residence. The leaders of all nation-states act rationally in pursuit of the goals of the state, namely that countries adopt policies that are believed by their leaders to advance the welfare of their community, whatever its constitutional system. A person is not asked to assess whether it is cost-effective state action, wise or virtuous act under circumstances where it was made, it was assumed only that the decision was made for a reason. The national interest is the perceived needs and

desires of a sovereign state in conjunction with other sovereign states that make up the external environment (Nuechterlein, 1976).

The basis of the national interest is as follows:

- a. Defense interests: the protection of the nation-state and its citizens from threats of physical violence directed from other countries, and/or externally inspired threats to its system of government.
- b. Economic interests: increasing the economic well-being of nation-states about other countries
- c. Interests of the World Order: the maintenance of an international political and economic system in which nation-states may feel safe, and in which their citizens and commerce can operate peacefully beyond their borders.

Ideological interests: the protection and continuation of a set of values shared by the people of a nation-state and believed to be a universal good. (Nüechterlein, 1976)

III. Research Method

This study uses a qualitative methodology to obtain data on the Indonesian government's efforts to protect the Indonesian diaspora in the Southern Philippines, Mindanao. The data is sourced from interviews, the internet, journals, papers, and books, which in turn will produce information that will help to complete the research. Interviews were conducted with residents of local Indonesian descent and the Consulate General of the Republic of Indonesia (KJRI) Davao in Mindanao, Southern Philippines.

IV. Results and Discussion

Every country in the world has problems faced both at the domestic and foreign levels. Starting from economic problems, politics, and in the realm of defense. Every problem faced by the state cannot be separated from this scope, for example at the economic level, even though the country has natural resources or natural resources that are qualified, but the human resources are not capable of processing existing natural resources so that they cannot improve other conditions. Of course, economic factors can affect the development of other sectors, because if the economy is bad, the security sector cannot be maximized. Not to mention that the government of a country cannot be separated from its responsibility to protect its citizens. Not a few in this world, cases of diaspora continue to occur, both those who have documented so that they are recognized by the state and receive legal protection and those who do not have documents so that later they will be known as *stateless people*.

4.1 Challenges Faced by the Indonesian Government in Carrying Out Stateless Protection

a. Extreme Group

Many problems occur both at home and abroad, such as armed groups who often commit violence, take hostages, and so on. Of course, this will make countries that are in this scope will be made restless. For example, the existence of a separatist group, namely the Abu Sayyaf, based in the southern Philippines to establish an independent Islamic state in western Mindanao and the Sulu archipelago. To achieve the desired goal, this group does things that are inhumane where the things they do are very contrary to the Islamic values taught by the Prophet Muhammad. In obtaining a lot of funds to increase their power, this group launched its action, namely by kidnapping or holding hostages and then by asking for a ransom from the state whose citizens were taken as hostages, not only that,

bombings, murders, and extortion were also carried out by the group. Abu Sayyaf (Indra, 2017).

Regional instability can make the government's focus in dealing with a problem to be divided. With the existence of the ASG Group, they create many serious threats, namely kidnapping or hostage-taking cases often occur, especially for Indonesians who work as fishermen. Kidnappings carried out by ASG in the waters are only carried out in the territorial waters of the Philippines, Malaysia, Indonesia, and this has become a *trademark* of these actions. A former high-ranking officer of the Bais Strategic Intelligence Agency, Major General Purn Sudrajat, said that to overcome the bad security conditions, security approaches could not only be carried out. Socio-economically, the area must also be developed, the step of opening economic access and transportation from North Kalimantan and North Sulawesi to the southern Philippines is a good step (Purnomo, 2016)

b. Registration as an Indonesian Citizen

Davao is one of the many areas that are included in the mission of feedback solutions that help provide aid to the *Person Indonesian Decent* (PIDs). Before this mission, however, there were various phases in the project which included mapping and registration of people of Indonesian descent in Mindanao, during which more than 8,000 Indonesians were registered. The Philippines and Indonesia are both located in Southeast Asia and have very close borders, so people have traditionally migrated by sea between the two countries for centuries. When Indonesia and the Philippines became independent states with their territory and their people, problems began to arise where the migration and mobility of the border continues to occur. Their lack of understanding of laws and regulations makes them clueless about the migration policies of both countries. A group of people will be at risk without an unclear nationality that is passed down from generation to generation. Some individuals also do not have documents such as birth certificates as proof of identity, without a clear area of origin. People of such Indonesian descent are marginalized without access to basic rights such as health care, education, and occupation (Tanggol, 2017). Under the Citizenship Act of 1958, the Indonesian people will lose their citizenship if they live abroad for more than five years without applying to the Indonesian authorities. This is what causes those in the current generation to not have any identity because their previous ancestors left them without ever reporting to the authorities. A mapping study conducted by UNHCR and the government of Indonesia and the Philippines in 2012 and 2013 identified more than 6,000 people of Indonesian descent of unknown nationality in the southern Philippines. Those interviewed highlight the everyday challenges such as poor access to jobs, livelihood, education, and clean water. They also face immigration penalties related to the fact that both Indonesia and the Philippines does not recognize them as citizens, and because of the lack of secure immigration status, given the status of which is not certain, they experienced discriminatory treatment in employment because they are considered foreigners by most people. There is a threat they would be deported, but it is their right to ownership of land that can also only that, the state will be felt more and more difficult when the first two months of every year because they have to pay an annual reporting fee for *Alien Certificates Of Registration*, or a registration certificate for foreigners. Although the renewal fee is not high, there are other costs to be incurred, such as costs operational, to get to the place updates are required countless hours and thousands of pesos for transportation costs, plus if there is a delay in paying it will be accumulated every month, and make them a lot who owe (Kidapawan, 2014).

4.2 The Problem of Stateless People

The term for *statelessness* describes people who are not considered citizens and are not recognized by any state. Although statelessness is prohibited by international law, UNHCR estimates that there are approximately 12 million stateless people in the world. The existence of a stateless population challenges some of the key tenets of international law and human rights discourse that has developed over the last sixty years. *Statelessness* is contrary to the right to citizenship as stated in the Universal Declaration of Human Rights. Under Article 12, the UDHR states, "No one may be arbitrarily deprived of his citizenship or denied the right to change his nationality". (Blitz, 2009)

Most stateless people are victims of discrimination by the country in which they live and are not prioritized in social assistance programs. They are further disadvantaged by aid policies that fail to reach them. The capacity of the state to provide services in a non-discriminatory manner remains one of the main factors in the elimination or prevention of stateless persons. The challenge of reducing and preventing statelessness must be addressed both through reform of the government sector and through the development of more integrated policies, this is particularly relevant in the case of reducing statelessness from birth. Despite the remarkable achievements made by the joint global advocacy campaign UNICEF and *Plan International* on birth registration, the introduction of a civil registration system has not been universally effective. In the absence of the rule of law, the poor are vulnerable to bribes and other hidden costs that can prevent them from registering the birth of their children. Likewise, the proliferation of the black market for documents, among other things, undermines the realization of human rights to nationality and identity. The development of joint policies that address the primary and secondary causes of statelessness, about the inclusion of statelessness on the good governance agenda, may help address these cases. Stateless persons do not enjoy any inherent rights or obligations, resulting in a lack of legal protection. Historically, statelessness has been seen as a technical legal issue. But the devastating consequences for real people are very clear. Equally clear, is that statelessness cannot be viewed or dealt with in isolation. The issue of statelessness is not new. It has risen on the international agenda in recent years as countries have pursued policies aimed at stripping their people of citizenship as a means of sanctioning those they wish to remove as unwanted persons. State sovereignty is at the heart of the government's reluctance to reduce or prevent statelessness. The state has sovereign rights and obligations to determine citizenship. Nationality is a very sensitive topic for countries and often causes disputes, tensions, and conflicts that cannot be resolved. Many countries have rejected international law and obligations, arguing for defending their sovereign rights. The government sticks to the position that decisions around nationality are a matter of national sovereignty and it is up to the state to grant or withhold citizenship of any individual living within its territory. (Mbiozo, 2019)

Statelessness is not just a legal problem, it's a human problem. Failure to obtain status under the law can negatively affect many important elements of life, including the right to choose, own property, have health care, send children to school, work, and travel to and from one's country of residence. Many complications arise for those who are stateless or whose citizenship status is unclear, including indefinite detention in a foreign State when that State is unable to determine the nationality of the individual for expulsion and release in an unauthorized territory (Hodgson, 1993).

Citizenship is a fundamental element of human security. Apart from giving people a sense of belonging and identity, it entitles individuals to state protection and provides a legal basis for exercising many civil and political rights. A stateless person may find it difficult or impossible to engage in activities that are considered normal by citizens. If one

wants to enjoy the right of automatic residence in a country, carry a passport, and benefit from diplomatic protection while abroad, then citizenship is indispensable. In many situations, citizenship also enables people to find work, take advantage of public services, participate in the political process and have access to the justice system. Since the end of the cold war and the beginning of this period, stateless people were considered a less serious problem, so they were not taken very well (Uhcr, 2012).

Human rights are rights that must be enjoyed by human beings, based on our property as human beings and in accordance with human dignity. However, without citizenship, several rights are beyond the reach even under contemporary human rights legal mechanisms. Political rights in particular, such as the right to vote or run in elections and to perform certain public functions, may be restricted to citizens of a country. Therefore, the revocation or loss of rights is an immediate and almost universal problem for stateless persons, circumstances in the absence of citizenship rights limiting their ability to influence laws and policies that affect them or to call for reforms that would end the state of being without citizenship. This no doubt also contributes to the invisibility and inattention of the problem of statelessness in general, and its resulting manifestation and growth from generation to generation (The World's Stateless, 2014).

4.3 Protection Provided

The efforts made by the Indonesian government in protecting its citizens in the southern Philippines, precisely on the island of Mindanao, is one of them by granting citizenship status to citizens of Indonesian descent who have long lived in Mindanao. In 2018 Berlian Napitupulu as the consulate general of the Republic of Indonesia in Davao not only processed a passport which was distributed to citizens of Indonesian descent but they also obtained a Population Identification Number (NIK) (Ginanjar, 2018). With the issuance of passports to descendants of Indonesian citizens, they obtain legal citizenship status so that they can obtain their rights as citizens, namely getting legal protection from the government. In 2016, the Indonesian Consulate General Berlian Napitupulu coordinated the repatriation plan for Indonesian citizens from Mindanao with the provincial government of North Sulawesi (Safaat, 2016).

In addition to distributing passports, the government also gives citizens of Indonesian descent in Davao the right to provide education. The Indonesian government provides schools ranging from elementary or elementary to middle or high school levels which were founded in Davao, southern Philippines. Children who do not have access to Philippine schools should study at the Davao Indonesia School (SID) free of charge. SID is not only for citizens of Indonesian descent living in Davao but is also open to all Indonesian citizens living in the Philippines, and also for those who wish to continue their education to higher education, various scholarship programs are available from the government itself and the private sector. With the efforts of the Consulate General to register and register citizens of Indonesian descent, most of them have a clear status. With the clarity of their status, they have the opportunity to continue their education in Indonesia.

The Consulate General of the Republic of Indonesia (KJRI) Davao City, Philippines, together with the judicial, immigration, and prosecutorial authorities of the Philippines, as well as UNHCR Manila, registered and confirmed citizenship for the registration of descendants of Indonesian citizens or Person of Indonesia Descents (PIDs) in Davao City in 2019 ago. . In this program, the Indonesian Consulate General in Davao City is targeting family members of Registered Indonesia Nationals (RINs) who cannot participate in the registration and confirmation program in the first batch of 2014-2016. The Consulate

General in Davao targets the number of program participants as many as 120 people in 3 regions, namely Governor Generoso, Davao Oriental, and Davao City. The data collection program for the Indonesian Consulate General in Davao City involves a technical assistance team or the Perbanis Team of the Directorate of State Administration, Director General of General Legal Administration, Ministry of Law and Human Rights, the Republic of Indonesia from Jakarta. This program is very important considering that all RINs will get legal status by issuing an immigration stay permit in the form of a Special Non-Immigrant Visa 47 (a) (2) with a stay period of 5 years and can be extended. With the approach taken by the Indonesian Consulate General in Davao City, a residence permit is granted free of charge by the Philippine government for free, except for the issuance of an Alien Certificate of Registration Icard for those who will travel out/return to the Philippines (Kurmala, 2019).

4.4 Efforts in Caring for Indonesian Descent Persons (PIDs)

Since Susi Pudjiastuti has served as minister of maritime affairs and fisheries, there has been a new designation for the impact of her policy, namely the Susi effect. The name for the Susi effect itself is the impact of the policy of the Minister of Maritime Affairs and Fisheries of the Republic of Indonesia in handling cases that have been going on for a long time, namely *illegal fishing* or fishing without a permit. Since Susi's tenure as minister of maritime affairs and fisheries at the beginning of Jokowi's presidential administration in the early period, namely in 2014, Susi immediately took an unusual action at that time, namely sinking ships that carried out fishing theft in Indonesian territory.

The unavoidable problem requires the community to change their profession from being fishermen to being garden workers, motorcycle taxi drivers, roadside food sellers where the income they get is much smaller than before when they work as fishermen. So to handle the impact of the Susi effect itself, the Consulate General of the Republic of Indonesia made various efforts to help Indonesian citizens who were affected by the Susi effect. The Consulate General collects data on the problems experienced by PID's so that the Consulate General can provide the best solution in solving existing problems.

The problems experienced by PIDs include:

- a. Legal Certainty (No clear citizenship identity, either Filipino or Indonesian)
- b. Land Ownership (As a Foreign Citizen, you may not have a land certificate)
- c. Access to Education (As foreign nationals, they do not get educational social security so that parents are not strong enough to send their children to higher education. Most of them only receive formal education with a maximum of junior high school)
- d. Employment (As a foreign citizen you cannot become a civil servant (ASN), so you only become a lowly worker with a low salary)
- e. Illegal Jobs (poverty can push them into various illegal, criminal, and even prison jobs).

The Indonesian Consul General in Davao, after identifying the problems, then took several policy steps. These steps can be broadly divided into two groups. The first is that the action or coordination is more "Indonesian internal", both in Indonesia and in the Southern Philippines. Second, it is more "external", namely the coordination of the Indonesian side with the Government and the people of the Philippines.

Indonesian "internal" policies implemented by the Indonesian Consulate General in Davao, the first is to build a communication network between the Consulate General with citizens of Indonesian descent (PID's). Among other things, this was done through the figures in each of the PID's settlement points. Characters who are often referred to as 'pamong' are usually taken from those who are relatively good at Indonesian and their level of education. They function as liaisons between the Indonesian Consulate General and all

PIDs, most of whom are not fluent in Indonesian. Various programs carried out by the Indonesian Consul General for PIDs include: fostering nationalism; improving PID's skills to providing documents (passports). Since 2017, the Indonesian Consul General Davao has started to introduce new terms to replace 'alien' and 'PIDs' to become *Registered Indonesian Nationality* (RIN).

The Indonesian Consul General also held various activities for fostering Indonesian nationalism as well as improving the skills of citizens of Indonesian descent. Even though the majority of them have settled for many years, they can still sing the Indonesian Raya song well. Their nationalism is maintained even though they live in remote parts of the Philippines and the majority have never returned to Indonesia" (Napitupulu, 2018). "Internal Indonesian" communication, another communication carried out was the communication between the Indonesian Consul General Davao with the Central and Regional Governments of Indonesia. Communication with the Central Government, One of the concerns is the process of providing documents to PIDs because it must involve the Ministry of Foreign Affairs and the Ministry of Law and Human Rights. In addition, coordination with the Ministry of National Education is related to the management of the Community Learning Center (CLC) as an activity center/school for students. Indonesian citizens in the Southern Philippines.

The Indonesian Consulate General in Davao also encouraged the Indonesian Ministry of Home Affairs to facilitate descendants who wish to return to settle in Indonesia. This is closely related to the coordination of the Ministry of Home Affairs with local governments, especially North Sulawesi Province and several districts directly bordering the Philippines. The Consulate General also encourages the Indonesian Ministry of Home Affairs to facilitate various efforts to improve the quality of public services in Indonesia's border areas, so that RINs are willing to return to Indonesia. For example, in the efforts of two regions on the Philippine Border to be divided (Ikkanubun, 2016).

To make it easier to understand the problems faced by PIDs and the lack of government assistance in assisting problems, consider Table 1.

Table 1. Problems and Solutions

Problems Faced by PIDs	Government Steps in Handling
Do not have a clear identity	<ul style="list-style-type: none"> - Doing data collection - Give free passport and ID card
Difficult access to education	<ul style="list-style-type: none"> - Providing schools for PIDs - Providing scholarships to continue study to the next level
Low economic level	<ul style="list-style-type: none"> - Provide education on natural resource management

The birth of stateless people is inseparable from the applicable state rules. Indonesians residing in the Philippines who became stateless persons due to the enactment of the Indonesian citizenship law, which at that time was Law no. 62 of 1958 in one of its provisions explains that an Indonesian citizen (WNI) who leaves the territory of Indonesia for more than 5 years will lose the citizenship status of the Republic of Indonesia (RI). Regulations related to the loss of citizenship status of Indonesians due to living abroad for 5 consecutive years are also regulated in the current Indonesian citizenship law, namely Law no. 12 of 2006, article 23 in letter I (Faizal, 2020).

In addition to the regulations that apply in Indonesia, the government also has duties and obligations in protecting Human Rights (HAM), as stated in Article 281 paragraph 4. Given that citizenship status is one of the human rights that must be owned by humans, therefore the government is obliged to deal with *stateless persons* (Siddiq & Ardianto, 2020).

V. Conclusion

Various problems keep popping up in this world. The problem of stateless people is not new but has been around for a long time due to various factors. As is the case with people of Indonesian descent who have lived in the Philippines long before there were national boundaries between Indonesia and the Philippines, so when national boundaries have been determined and they do not manage or report to the authorities, they become people who do not have clear citizenship status. The steps of the Indonesian government in protecting the descendants of Indonesians who do not have legal documents as citizens in the southern Philippines are first by collecting data on how many descendants of Indonesian citizens do not have citizenship status, then after data collection, they will be given in the form of passports and passports. also Identity Card (KTP) as a form of protection. The Indonesian government also cooperates with the *United Nation High Commissioner* (UNHCR) in carrying out protection activities given to descendants of Indonesians. Rights as citizens are also granted, namely the provision of free education from elementary to high school levels for those who do not have access to education in Philippine schools and also the provision of scholarships for those who wish to continue their education to higher education. Of course, the government's protection of Indonesians in the Philippines cannot be separated from Indonesia's own obligations as a sovereign country and it is also stated in the law that Indonesia participates in maintaining human rights, where citizenship rights are part of human rights.

Although Indonesia is not one of the countries that have ratified international conventions governing people who do not have citizenship status Indonesia has helped stateless people in the southern Philippines. The protection carried out by the government has its reasons, including the Indonesian government's interest in ensuring that the Indonesian diaspora, especially people with *stateless* status, remain Indonesian citizens. Then the Indonesian government wants the *stateless* Indonesian diaspora to have rights or enjoy rights as citizens should.

In this study, there are shortcomings due to the limitations of the author in compiling writing. The weakness of this paper is that it only uses one theory so that in looking at the existing cases it can only be seen from a theoretical point of view, then the research was carried out during the COVID-19 pandemic so that there was limited space in conducting research which caused some countries to implement lockdown policies so that The majority of the references used are obtained from news sites or scientific writings that are used as the main source, but not information obtained directly from the field with a higher level of validity.

Due to limited time and references, further research is needed to make this research more comprehensive. Due to the Covid-19 pandemic, the government does not only focus on how to resolve the issue of documents of Indonesian descent in Mindanao but also has to think about the next policy to be taken regarding the economic difficulties experienced by them and also not a few of those who have lost their jobs. So far, the government has only been able to provide direct assistance, namely in the form of distributing groceries. For this reason, there is a need for further research on how the Indonesian

Consulate General in Davao as a representative of the state in solving the economic problems currently being faced by Indonesians who have received citizenship status from the government.

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