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### LEGISLATION FOR UNIVERSALITY IN SENATE OF PAKISTAN (1985-1999)

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#### ABSTRACT

This study offers an analysis of adoption of universalism in conduct of Senate and its legislation through strict implementation of rules. The Senate was restored in 1985 and started its working in accordance with the 1973's rule and promulgated new rules in 1988. The phase from 1985-1999 is marked as the testing time for adoption of bills with required quorum and proper decorum. During the period, National Assembly was dissolved four times; however, Senate resumed its working. The working of Senate for the adoption of universalistic criteria to run the affairs of Senate is the focus of study. The Senate debates are analyzed to conduct this research and the archival sources along with secondary sources are used for study. The study complies that the Senate never seek the benefit of single person but worked for the collective benefit of the House. The adoption of bills with the consent of required quorum and two-third majority unfolded that Senate strictly followed its rules. The adjournment of House due to less quorum also endorses the professionalism of the Senate that has grown the significance of Senate over other institutions.

#### INTRODUCTION

An institution will be considered more signified when it supersede other institutions that may affect its capacity. Polsby in his theory narrated that the institution will be treated more institutionalized when it grows its significance over other institutions (Polsby, 1968). Senate gradually signified itself over the other parliamentary institutions and grew in internal terms. The growth of

significance can be measured with the organizational structure, its impositions on other institutions and its significance in the political system. A well-established significant institute contains important factors like the organization takes its decisions courageously and uses universalistic rather than particularistic criteria. In such significant institutions, the internal business is conducted through well-defined automatic methods rather than discretionary methods of administration or other factors that may affect its competency.

### ***Universalistic Rather than Particularistic Criteria***

Nelson Polsby's study about institutionalization of US House of Representatives was the first attempt to operationalize specific components of political institutionalization, leaned significantly on Huntington's four components. He used universal standards and automatic procedures in doing internal business in his three components of an institutionalized organization. The growing effort to settle the issue, House tried to make consensus on the matters so House contested elections on merit rather than partisanship, suggests an increase in universalism in the House (White, 2000).

Power politics is often thought to be derived from the holding of significant resources. The relative possession of resources is supposed to empower individuals, organizations, and states with the ability to coerce or influence others. This point of view is imperfect because power can be derived from a strong network of people by using links. These links may influence the abilities of member through material or intangible influences and provides a source to connect with other members. Similarly, the relative position also can influence others in that network (Hafner-Burton & Montgomery, 2009). Independence of individual resource possession, these relationships determine the prominence of a member in networks. Different centrality levels in a network impart different types and degrees of power to different members (Hafner-Burton & Montgomery, Centrality in Politics: How Networks Confer Power, 2010).

### ***Collective Benefit of the House Instead of Individual***

The Senate of Pakistan provides several types of privileges to its members and under rule 70 of the rules of procedure a member can raise the point of privilege with the consent of the Chairman in the House (Pakistan, 2012). The rule has clarity that raised question will be accepted by the decision of Chair. Sometimes Senate witnessed breach of privilege of the whole House or majority of Senators and therefore the voice raised by a Senator was considered as the voice of the House. It denoted that Senate secured the collective benefit of House. Contrary to that, sometime the House did not favor the member because the motion of Senator was self-centered. The House believes in universality rather than particularity. Chair often ruled out the privilege as well as adjournment motions, which were not in favor of House as whole.

Senator Abdul Rahim Mir Dad Khel explored the failure of PTV and PBC to identify specific Senators in their programs covering the Question Hour portion of the Senate proceedings. The mover stated that although TV and PBC coverage informed people about the questions of their representatives that were raised in the Senate but insufficient media coverage undermined that goal. The Chairman rejected the proposal, stating that the news media could not be forced to cover a specific issue in a specific way. Furthermore, he stated that the issue at hand was not of critical public interest (Pakistan, Senate Debate, 1985).

Similarly, Nawabzada Jahangir Shah familiarized the House that the PTV in its program omitted two important points, which were raised in his speech. It was observed by Chair that non-coverage or inadequate coverage did not cause the breach of privilege either of the House or of an individual member. The Senate had no control over the media regardless of whether they were under the government control or not. He further observed that he can act under the law and not otherwise. The Senate had no executive authority to direct anybody to do this or not to do that (Pakistan, Senate Debate, 1986). In view of Chairman, the news media was giving adequate coverage to the proceedings of the House. So he did not accepted the motion as a whole House, Senate was getting suitable coverage from media.

On December 23, 1985, Khawaja Kamal ud Din Anwar told the House that he visited Lahore and he asked for stay in Chamba House Federal Lodge Lahore, as a Senator. The administration of Chamba House did not allow him to stay there. The mover wanted stay at lodges for personal purposes so Chairman clarified that, “the members of the Senate could not enjoy any right over and above the rights of an ordinary individual unless those rights that had been enshrined either in the Constitution or any law or in any parliamentary practice etc. By virtue of the fact that the members of the Senate could not claim that the rights of the ordinary citizens should be ignored and our right in a private matter which has nothing to do with the affairs of Senate should have priority (Pakistan, Senate Debate, 1985).”

During Martial Law, Zia-ul-Haq detained several political leaders due to opposing the government, which lasted after the restoration of democracy. The political imprisonments were severally challenged in the Senate. Senator Javed Jabbar raised the issue of detainees of M.N.A. Afaq Shahid. He was not allowed to attend the session of National Assembly so the mover asked for his release. The Chair ruled that the privilege of a M.N.A did not cause the breach of privilege of this House (Pakistan, Senate Debate, 1986). The House sought his own benefit and did not bother to discuss the diminutive matters of other House of Parliament.

Senate did not authorize its members to do that works, which are not under their dominion. The jurisdictions of a Senator in Federal Government no doubt have a great impact even a Senator can advise to provincial officials and government. However, he never can pressurize the officials to do so. It was witnessed when Qazi Abdul Latif told the House that he advised the Chief Minister of NWFP Arbab Jahangir Khan to not to transfer deputy

commissioner of Dera Ismail Khan. He accused that this transfer caused the religious riots (Pakistan, Senate Debate, 1986). The motion stood inadmissible because it was not necessary to assent the advice of Senator by Chief Minister. Another reason was the personal will of Senator instead of whole House.

Political workers generally oppose different moves of other political members and they generally ignore their statements due to democratic norms. However if any person accuses the Parliament or threatens the Parliamentarians, it may cause the breach of privilege of whole House which may stand admissible. In lieu of growth of House's significance, Chair fortified the House when Javed Jabbar told that leaders of Jamaat-i-Islami, Mr. Muhammad Azam Farooqi and Mr Naimat Ullah Khan threatened members of Parliament with violence and intimidation if parliamentarians opposed Sharia Bill (Pakistan, Senate Debate, 1986). This was a clear opposition of the whole House so Chair referred the task to committee for further authentication and proposals. Senate emphasized on collective benefit not only of the House but the both Houses of Parliament to leave a positive impact on National Assembly for securing of their interests too.

On 30 April 1987, Tariq Muhammad Chaudhary articulated to the House that he was traveling from Faisalabad to Islamabad to attend the session of Senate when he faced uneven traffic jam. The point raised by him was based on his personal drives and no ill happening was occurred. Therefore, the Chairman ruled out this motion as it was based on unclear facts because mover intimidated the Senate that he would never attend the session. The traffic jam was due checking of buses and cars which was considered as duty of Magistrate and Police officials (Pakistan, Senate Debate, 1987). It was a clear fact that the point was illogical and inadmissible as it was based on personal will of the Senator. The Senate remained clear in these perspectives and secured the collective benefit of House instead of individual.

### ***Proceedings Adjourned Due to Less Quorum***

The technical term used for the enumeration of members of House is quorum. A quorum is the minimal figure of members who must be present at a House or Committee meeting to conduct business. The quorum required for a Senate sitting is 25 percent of the Senate's membership while committee meeting requires three persons as quorum (Pakistan, Senate Manual). If, at any moment during a Senate session, anyone draws the attention of presiding officer that the present members are less than the recommended quorum, he will ask to ring the bells for five minutes. If quorum is not attained after the ringing the bells the sitting will be adjourned for half hour and in case of not attaining the quorum after that interval, the session will be adjourned until the next working day (Pakistan, Rules of Procedure and Conduct of Business in Senate, 2012).

Senate tended to use universalistic criteria for the House rather than particularistic criteria. It can be perceived from its legislative process as Constitution also provided a way to pass a bill or a resolution with the consideration of majority of the House. The provided rules elucidated the importance of universality of the House and it signified that Parliament grown

this rule well. However, Senate provided the equal representation to every province so significance of Senate remained far better than other institutions. In February 1987, the House was adjourned three times, due to non-availability of quorum. On 5<sup>th</sup> day of February, the House started normal business. After question answer session, House discussed a privilege motion. However, during discussion on adjournment motion on failure of phase-1 of Chashma right bank canal project, Sardar Khizar Hayat Khan cognized the absence of required quorum. Chairman ordered to rang the bell but after taking a while quorum was not acquired. Under these circumstances, the Chair adjourned the House (Pakistan S. o., 1987). Similarly, the House was adjourned due to fewer quorums on 15 February while the House was debating on the enforcement of Sharia bill (Pakistan S. o., Senate Debate, 1987).

Contrary to this, on 9 February, House was holding legislative work when Wasim Sajjad moved a motion to pass the Service Tribunals (Amendment) bill. During that, Mr. Javed Jabbar drew attention of the House towards lack of quorum. He propounded that it would not be appropriate to consider a bill in the absence of quorum (Pakistan S. o., Senate Debate, 1987). Chair asked to rang the bell and after a while, quorum got complete and House started its legislative business. While on March 12, a member expounded that the quorum was not there but Chairman continued legislation on the draft, rules of procedure and conduct of business in Senate, 1986 as 25 members were present in the House and quorum was completed (Pakistan S. o., Senate Debate, 1987).

Another thing that was observed during the sessions was the quorum got exhausted when House held long discussion on matters specifically during discussion on Presidential address. During 1985 to 1999, the House was adjourned five times due less quorum during Presidential address as on April 17, 1987, May 18, 1989, March 5, 1992, November 23, 1995 and May 6, 1999.

During discussion on the criminal law amendment bill, 1988, (Pakistan S. o., Senate Debate, 1988) Pakistan Press Publication (amendment) bill, 1986, (Pakistan S. o., Senate Debate, 1988) the Presentation of People (amendment) bill, 1990, (Pakistan S. o., Senate Debate, 1990) the Indus River System Authority bill, 1992, (Pakistan S. o., Senate Debate, 1992) the Constitution (amendment) bill, 1991 (Pakistan S. o., Senate Debate, 1998) and during legislation on April 18, 1996, and on August 20, 1998, the House witnessed the absence of required quorum. On April 17, 1998, House acquired quorum and continued its working, however, during other discussions House was adjourned.

There are provisions in the rules of Senate, that the Chairman under Article 54(3) can call House on a signed request of 1/4 Senators. On March 22, 1990, session was called abruptly and in hurry but the House cannot become able to hold its business due to absence of quorum. Dr. Sher Afgan Niazi pointed out and Chair ordered to rang bell. After ringing the bell, quorum was not meet so Senate was adjourned for some time and then for *Maghrib Prayer*. After a long while, House reassembled but

quorum was still fewer so Chairman Wasim Sajjad adjourned the House for three days (Pakistan S. o., Senate Debate, 1990).

During a session, House was debating on illegal arrest of Senators from opposition benches. After break of *Zuhar Prayer* from treasury benches Chaudhary Shujaat Hussain started to talk about the issue. Senator Syed Abdullah Shah raised voice about the absence of quorum. Seventeen members were present in the House so on orders of Madam Deputy Chairperson, bells were rang and House gained two members (Pakistan S. o., Senate Debate, 1992). However due to non-compilation of quorum the House was suspended.

### ***Bills Passed with Consent of Required Quorum***

Senate was bounded by rules provided under the Constitutional jurisdictions in 1973 but with the span of time House extended its jurisdiction. The rules drafted by Senate itself grown significance of the House over other institutions. In 1988, Senate promulgated its rules, however, rule about passing of bills and requirements about quorum remained unchanged.

During the Premiership of Muhammad Khan Junejo, Senate passed 28 bills. These were most important issues which were not accounted during the Martial Law rule. Senate proved that the restoration of Senate was quite necessary for the better legislation. Members of Senate from treasury benches initiated these bills while several resolutions were introduced by both treasury and opposition benches. The unanimously approved resolutions on Celebration of Labor day on the day of digging trenches in the battle of Khandaq and Independence Day may be celebrated on the 27<sup>th</sup> Ramzan instead of 14 August are the examples of resolution passed by the consent of both opposition and government (Pakistan S. o., Senate Debate, 1986). Following bills were accepted with the consent of quorum during 1985-1988.

<b>Sr.#</b>	<b>Name of Bill</b>	<b>Passed on</b>
1	The Pakistan Animals quarantine (import and export of animals and animals product) (amendment) bill, 1985	10-Jul-85
2	The emigration (amendment) bill, 1985	
3	The Korangi Fisheries Harbur Authority (amendment) bill, 1985	
4	West Pakistan Maternity Benefit (amendment) bill, 1985	
5	The representation of people (Seventh amendment) bill, 1985	
6	The Senate (Elections) (Second amendment) bill, 1985	
7	Representation of the Peoples (eighth amendment) bill, 1985	

8	Members of Parliament Salaries and Allowance (amendment) bill, 1985	
9	Modarba Companies and Modarba (Flotation and Control) (amendment) bill, 1985	
10	Employees cost of living (relief) (amendment) bill, 1985	
11	Banking tribunals (amendment) bill, 1985	
12	PIA Corporation (amendment) bill, 1985	
13	Labor Laws (amendment) bill, 1985	
14	The central law officers (amendment) bill, 1985	23-Oct-85
15	The Constitution (Eighth Amendment), 1985	31-Oct-85
16	The loans for agricultural purposes (amendment) bill, 1985	11-Dec-85
17	The establishment for of the federal bank for cooperatives and regulation of cooperative banking (amendment) bill, 1985	
18	The agricultural development bank (amendment) bill, 1985	
19	The criminal Law (amendment) bill, 1986	10-Jul-86
20	The Houses of Parliament and Provincial Assemblies (amendment) bill, 1986	17-Jul-86
21	The electoral rolls (amendment) bill, 1987	2-Feb-87
22	The Pakistan Space and upper atmosphere research commission (amendment) bill, 1987	
23	The Ex-Government Servants (Employment with foreign Government) prohibition bill 1987	12-Feb-87
24	The literacy (amendment) bill, 1987	27-Jul-87
25	The legal Practitioners and Bar Councils (amendment) bill, 1987	29-Jul-87
26	The Capital Territory Local Government (amendment) bill, 1988	15-Mar-88
27	The criminal Law (amendment) bill, 1988	17-Mar-88
28	The Pakistan WAPDA (amendment) bill, 1988	

**Source:** Senate Debates 1985-1988

President Zia-ul-Haq dismissed Muhammad Khan Junejo's government and set an interim government which was opposed by Senate due to absence of Prime Minister. Before creating a new cabinet, Zia-ul-Haq demised in plane crash and in result of elections 1988, Benazir Bhutto came into power. During the rule of PPP, Senate started its working effectively but due to lack of time, it did not hold much legislation. Due to strong opposition of IJI, PPP government passed only four bills during its 20 months government. During December 1988 to August 1990, following bills were accepted.

Sr.#	Name of Bill	Passed on
1	The Islamabad real estate agents and motor vehicles dealers (regulation of business) (amendment) bill, 1988	23-Jan-89
2	The civil servants (amendment) bill, 1988, the delimitation of constituencies (amendment) bill, 1988	
3	The code of criminal procedure (amendment) bill, 1989, the criminal law (amendment) bill, 1989	7-Dec-89
4	The national tariff bill 1990	15-May-90

**Source:** Senate Debates 1989-1990

In result of Article 58(2b) the first government of Benazir Bhutto was dismissed by President Ghulam Ishaq Khan. The elections 1990 configured the government of Prime Minister Nawaz Sharif and IJI started efficient working in the Parliament. Three years of IJI government were quite beneficial for the Senate as well. The Chairman Senate was also from PML and the hold of Chair on House also helped during the admissibility of bills. Senate passed 35 bills during the tenure these are listed in the following table.

Sr.#	Name of Bill	Passed on
1	The Child Labor bill 1990	6-Jan-91
2	The limitation (amendment) bill 1991, The census (amendment) bill 1991	11-Apr-91
3	The parliament and provincial assemblies (disqualification for membership) order 1977	
4	The criminal law (amendment) bill 1991, the companies (amendment) bill 1991	4-Nov-91
5	The transfer of managed establishments (amendment) bill 1991	5-Nov-91
6	The Pakistan maritime shipping (regulation and control) (repeal) bill 1991	12-Nov-91
7	The medical officers (regularization of appointments) bill, 1992	2-Jul-92
8	The special courts for speedy trails bill 1992	
9	The protection of economic reforms bill 1992	
10	The Pakistan banking and finance services commission bill 1992	
11	The cutting of trees prohibition bill 1992	
12	The terrorist affected areas (special courts) bill 1992	
13	The passport act (amendment) bill 1992	7-Jul-92
14	The Pakistan rangers (amendment) bill 1992	
15	The hydrogenated vegetable oil industry control and development 2 <sup>nd</sup> amendment bill, 1992	
16	The banking companies recovery of loans amendment	

	bill 1992	
17	The antiquities (amendment) bill 1992	
18	The criminal law 3 <sup>rd</sup> amendment bill 1992	8-Jul-92
19	The agriculture pesticides (amendment) bill 1992	12-Aug-92
20	The copyright (amendment) bill 1992	15-Aug-92
21	The code of criminal procedure (amendment) bill 1992	11-Nov-92
22	The employees cost of living (relief) (amendment) bill 1992	
23	The political parties (amendment) bill 1992	12-Nov-92
24	The Pakistan army (amendment) bill 1992	
25	The Pakistan navy (amendment) bill 1992	
26	The Pakistan Air Force (amendment) bill 1992	
27	The Pakistan Engineering Council (amendment) bill 1992	
28	The Indus river system authority bill 1992	18-Nov-92
29	The criminal law (amendment) bill 1993	1-Mar-93
30	The code of criminal procedure (amendment) bill 1993	
31	The foreign private investment (promotion and protection) (amendment) bill 1993	
32	The Pakistan environmental protection (amendment) bill 1993	2-Mar-93
33	The national archives bill 1993	
34	The West Pakistan minimum wages for unskilled workers (amendment) bill 1993	
35	The exclusive fishery zone (regulation of fishing) (amendment) bill 1993	

**Source:** Senate Debates 1991-1993

Prime Minister Nawaz Sharif faced the same kind of dismissal as Prime Minister Benazir Bhutto. However, this time President also resigned from office after taking oath from caretaker government. PPP's Benazir Bhutto again became able to make her government. During this government, PPP tried to work effectively as first government was not become able to do. Though, Senate was consisting on multi-party personals but impact of majority in National Assembly also paved way for PPP in Senate. During 1993 to 1996, till the dismissal of Benazir's second government by President Farooq Leghari, PPP's government became able to pass 22 bills in the Senate. The adopted bills with the consent of quorum are as below.

Sr.#	Name of Bill	Passed on
1	The banking tribunal (validation of orders) bill 1994	12-May-94
2	The securities and exchange (amendment) bill 1994	25-May-94
3	The maritime security agency bill 1994	26-May-94
4	The labor law (amendment) bill 1994	
5	The dangerous drugs (amendment) bill 1994	25-Jul-94
6	The civil laws reforms bill 1994	21-Jul-94
7	The airports security force (amendment) bill 1994	26-Jul-94
8	The lighthouse amendment bill 1994	19-Sep-94
9	The sales of goods (amendment) bill 1994	22-Sep-94
10	The weights and measures (international system) (amendment) bill 1994	26-Sep-94
11	The code of criminal procedure (amendment) bill 1994	28-Sep-94
12	The civil defence (amendment) bill 1994	
13	The west Pakistan family courts (amendment) bill 1994	29-Sep-94
14	The railways (amendment) bill 1994	19-Jul-95
15	The Pakistan standards institutions (certification marks) (amendment) bill 1996	2-Jan-96
16	The civil servants (amendment) bill 1994	17-Jan-96
17	The Pakistan broadcasting corporation (amendment) bill 1996	18-Jan-96
18	The Pakistan veterinary medical council bill, 1994	21-Jan-96
19	The Pakistan standards and quality control authority bill 1996	22-Jan-96
20	The abolition of punishment of whipping bill 1995	30-Jan-96
21	The travel agencies amendment bill 1995	4-Mar-96
22	The foreign exchange (prevention of payments) (amendment) bill 1996	11-Jul-96

**Source:** Senate Debates 1994-1996

Elections 1997 give rise to Pakistan Muslim League and Nawaz Sharif became able to make his government by gaining two-third majority in National Assembly. This resulted speedy legislation, including 13<sup>th</sup> and 14<sup>th</sup> amendments in the Constitution of Pakistan. Even PML introduced bill for speedy legislation, which was not yet accepted and Pakistan faced emergency by Chief of Army Staff, General Pervez Musharraf on October 12, 1999. During this reign of Pakistan Muslim League, 30 bills were ascended and passed by the required quorum. The accepted bills during 1997-1999 are as below.

<b>Sr. #</b>	<b>Name of Bill</b>	<b>Passed on</b>
1	The criminal law (amendment) bill 1997	9-Apr-97
2	The anti-narcotics force bill 1997	
3	The offence of zina (enforcement of hadood) (amendment) bill 1997	
4	The general clauses (amendment) bill 1997	21-May-97
5	The marriages (prohibition of wasteful expenses) bill 1997	22-May-97
6	The state bank of Pakistan (amendment) bill 1997	27-May-97
7	The banking companies (recoveries of loans, advances, credits and finances) bill 1997	28-May-97
8	The banking companies (amendment) bill 1997	
9	The offences in respect of banks (special courts) (amendment) bill 1997	
10	The banks nationalization (amendment) bill 1997	29-May-97
11	The central depositories bill 1997	
12	The ehtesab bill 1997	30-May-97
13	The national university of science and technology bill 1997	
14	The Pakistan rangers (amendment) bill 1997	27-Jun-97
15	The legal reforms bill 1997	2-Jul-97
16	The suppression of terrorist activities (special courts) (amendment) bill 1997	3-Jul-97
17	The control of narcotics substances bill 1997	
18	The federal judicial academy bill 1997	12-Aug-97
19	The Pakistan standards and quality control authority (amendment) bill 1997	
20	The supreme court (number of judges) bill 1997	1-Nov-97
21	The Pakistan environmental protection bill 1997	7-Nov-97
22	The imports and exports control (amendment) bill 1997	13-Nov-97
23	The contempt of court (amendment) bill 1997	18-Nov-97
24	The regulation of generation, transmission and distribution of electric power bill 1997	2-Dec-97
25	The census amendment bill 1997	4-Dec-97
26	The securities and exchange commission of Pakistan bill 1997	12-Dec-97
27	The capital development authority (amendment) bill 1997	25-Feb-99
28	The companies amendment bill 1999	4-Mar-99
29	The code of criminal procedure (amendment) bill 1994	10-May-99
30	The code of civil procedure (amendment) bill 1999	2-Aug-99

**Source:** Senate Debates (1997-1999)

Constitution says that a bill never can be accepted without the consent of two-third majority of the each House and rules of Senate determined one-fourth of its members as required quorum. The acceptance of bills in the House determined that Senate passed bills with the consent of required quorum. The consent of quorum clarified the institution's tendency toward universality instead of particularity.

## CONCLUSION

The organizational structure unveils the growth of significance of an institution. A well institutionalize political organization increases its significance to other institutions and imposes its rules in the legislative process. The organization takes its decisions courageously and uses universalistic rather than particularistic criteria. The Senate of Pakistan adopted the rules to seek the collective benefits of the House instead of individual.

The House determined a proper setup of quorum. Without the consent of quorum, legislative business cannot be done. During 1985-1999, the Senate adjourned its proceeding for ten times due to absence of required quorum. While only one time the quorum was gained after ringing the bell. On the other hand, 119 bills were accepted with the required quorum. The determination of quorum and adjourning the House due to less quorum indicates the adoption of universalistic rule.

Similarly, the institution becomes more significant if it determines automatic methods rather than discretionary methods of administration. The Senate was working under the Presidential order 1973 and did not determine its rules. The Constitution of Pakistan provided a clause to draft the rules of Senate itself. Senate devised its rules in 1988 and with the adoption of rules, the House empowered itself in several terms. Senators shaped the Senate in a manner that gained it power as the venue for debating national issues and producing public policy. It not only relied on its precedents but made decisions in case of necessity where the rules were silent.

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