

Gratuity Practices in Marriage Service: A Case Study in the Office of Religious Affairs (KUA)¹ in Surabaya City

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Abstract:

Gratuity practices in marriage service has been attracted the attention of Indonesian society since the arrest of an unscrupulous penghulu² who later jailed as he received a cash prize of IDR 225,000 for his service of registering the marriage. Giving gifts to penghulu has been such a common practice in weddings since the days of the Empire of Mataram, pre-independence, until today; however, as the establishment of anti-corruption law, giving gifts to public servants, including penghulu, has been considered as illegal. The study aims to examine the gratuity practices in marriage service amid strong public control and application of anti-corruption law. Using qualitative methods, this study seeks to understand gratuity practices in marriage service from the perspective of structuration theory of Anthony Giddens. The study was conducted in the Office of Religious Affairs (KUA) in Surabaya from 2014 to 2015 with 14 informants—these informants were those involved in gratuity practices. Data collection was done through in-depth interviews, participant observations, and the use of secondary data. Data were analyzed using qualitative and phenomenological approaches. The research brings out some results. First, gratuity practices in marriage service occur systemically and have been recurring as the agents, penghulu and both the bride and groom, need it. Penghulu requires gratuities to increase income, to share to superiors, and to support the operational costs of KUA. The bride and the groom require the legality of their marriage, and they have no other option, other than through the services of penghulu. Second, as to make the practice gratuity runs smoothly, the agents use the existing structure as a means and modalities. Penghulu uses the power structure as power driven to push the public to be willing to pay more for the service given, under the modes of (a) passing the buck as penghulu indirectly receives gratuity through modin as the assistance in the marriage service and (b) minimizing the number of penghulu in order to get more gratuities. The bride and the groom, as well as their families, uses the traditional marriage ceremony as a space to support the practice of gratuities.

Keywords: Gratuity, Marriage Service, Penghulu, Bride and Groom, Structurization Theory, KUA

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1. INTRODUCTION

Gratuities in marriage service are giving gifts or money or goods from the bride and the groom to *penghulu* for his services of recording the marriage. Such practices have been institutionalized in the marriage service system in Indonesia and a tradition for generations. Nonetheless, the question is, a number of regulations bind *penghulu* as a public servant, and accepting gratuities in service is considered as a violation to the rules.

As such, an unscrupulous *penghulu*, Romli (53 years old), was arrested by law enforcement officers on charges of accepting gratuities from the bride and groom (IDR 225,000) after serving the registration of marriage. Romli was accused of breaching the Law Number 31 of 1999 amended with the Law Number 20 of 2001 on Corruption Eradication Article 12B of gratuity. Therefore, he was sentenced to prison for one year (Okezone.com, Monday, December 16, 2013).

Because of gratuity practices in the service of marriage, KUA integrity, as a public service agency, has declined sharply. In the National Integrity Index of public service agencies in 2012, KUA scored below the national average of 6.07 (of the value of the national average of 6.37). This fact reinforces the results of the previous survey that the Ministry of Religion is one of the 15 most corrupt institutions (Transparency International Indonesia, 2008).

It is a dilemma actually as *penghulu* plays a big role and function as set forth in the Ministry Regulation of PER/62/N.PAN/6/2005, including 'surveillance and recording of marriage or reconciliation, advisory and consultation of marriage or reconciliation, monitoring violations of marriage or reconciliation, providing services on legal *munakahat fatwa*, and guiding *muamalah*, fostering harmonious family, as well as monitoring, evaluating, and development of professionalism of *penghulu*. However, they are not supported by enough funds to carry out these tasks. It is understandable that they choose to take gratuities from society. Moreover, it has been known since long that the community supports the performance of KUA, especially when it comes to funding. The community provided not only the cost of wedding, but also the assets (land and the office building) through the Muslim *waqf* (Ministry of Religious Affairs, 2013).

The government has not provided enough funds for KUA to perform duties and functions; this happened even during the colonial era, in which the government of the Dutch East Indies raised *penghulu* officially, but they were not given enough salary (Steenbrink, 1984:232). The government has not been paid much attention to KUA, so it is common for the apparatus to receive gratuities as to cover the shortages of KUA operational costs.

The government started to fund KUA in 2007 as much as IDR1 million per month, and increased to IDR 3 million per month since 2013. However, the funds is to carry out the office operations, such as buying stationery, maintenance of buildings and office furniture, paying electricity, water and so forth; not for the transportation of *penghulu* to serve *bedolan* marriage, a kind of marriage service performed outside the office building of KUA.

The fund of *bedolan* has not been budgeted by the state and there are no standard rules as the basis for financing. The community then voluntarily pay for *penghulu* in the form of cash for transportation services. Such a practice has been going on since long, as *bedolan* is done based on the request of the community itself. In reality, the absence of rule for *bedolan* makes the practice exploited by *penghulu* and *modin* (the assistance) to unilaterally charge the bride and the groom, yet the community accepts it as a kind of symbiotic mutualism.

For the Javanese, marriage is a sacred event, and both time and place is to be determined carefully through *petungan* (Geertz, 1989: 43). Therefore, *penghulu* often must follow the will of the community—whether at home, in the mosque, or in other places believed to bring blessings to the couple, under the consequence that the transportation costs must be paid by the bride and the groom. Transportation costs for *penghulu* has been included as part of the cost of *slametan*. In addition to money for transportation, the bride's and the groom's family also provide big meal for *penghulu*.

In this context, *bedolan*, although full of gratuity practices, comes from the community needs rooted into the tradition to this day. Nevertheless, such practices are now in question as the law prohibits public servants from receiving compensation from the public when providing service. Based on the law as well, marriage service with gratuities, which has been a tradition in the community for long, is illegal and is punishable by imprisonment.

Based on the above, the problems to be addressed in this study are as follows. (1) How does the practice of gratuities in wedding service happen? How is the practice of gratuities in wedding service run amid the strong social control and the structure of the anti-corruption law? Then, this study aims to understand the practice of gratuities in wedding service and the use of gratuities by the perpetrators, and to understand the modes of gratuities in wedding service amid strong social control and the structure of the anti-corruption law.

2. RESEARCH METHOD

This study is qualitative with phenomenology sociology approach. Phenomenological sociology concentrates on how the actors interpret their social world by establishing a sense-data into typifying or mental representations (Waters, 1994: 8).

The study was conducted in six Offices of Religious Affairs (KUA) in Surabaya, including KUA type A consisting of KUA in District Sawahan and Kenjeran, KUA type B consisting of KUA in District Rungkut and Wonokromo, and KUA type C consisting of KUA in District Wonocolo and Lakarsantri. In addition to using the data and informants from six KUA, data was also taken from parent institution, namely the Office of Religious Affairs of Surabaya. The study took place for one year from August 2015 to July 2016.

Informants in the study were 14 people doing the practices. They consisted of *penghulu* (4), *modin* (2), brides and grooms (4), and the Board of the Association of *Penghulu* of the Republic of Indonesia (APRI) Surabaya (2) and East Java (1) as well as an official of the Ministry of Religious Affairs responsible for fostering the professionalism of *penghulu* (1).

In accordance with the chosen approach, the phenomenological approach, the technical data collection focused on in-depth interviews and narrative as the key methods to create a description of the experiences through life world. In addition to describing the lifeworld, it was also important to collect data through participant observation and documentation (documentary methods) or visual methods. The researcher became a mediator between the opinions (voices) and the experience of the informants and the wider community involved (Bloor & Wood, 2006: 128). Interview in phenomenological research is informal, interactive, and through open questions and answers.

Data were analyzed using the phenomenological approach as follows: (1) data classification according to research problems; (2) data reduction, i.e. selecting only data that fit with research problems; (3) data description, i.e. paraphrasing data without compromising the essence of the data collected; and (4) synthesis, i.e. answering all the research problems. Data validation was done by reflecting on the meanings of the phenomenon synthesized and asked for feedback from informants, as well as rational analysis.

3. RESULTS AND DISCUSSION

Gratuity Practices in the Marriage Service as a Need

This happens systemically in KUA bureaucracy, because it has become the need of the perpetrators, *penghulu* and the couple. *Penghulu* requires gratuities to increase their well-being, to share with the superiors, and to support operational costs of KUA. The bride and groom need the legality of marriage as a psychological sense of security and they are willing to give gratuities. The practices have been institutionalized in *duwe gawe* tradition.

The results showed that, in the tradition of *duwe gawe*, the gratuity practices find actualization and justification. Therefore, the practices become a habit that lasts for generations that the pattern becomes the norm followed. Compliance with the norms constitutes social piety; otherwise, one's denial will result in social sanction, for example, they will be excluded or not supported by the community when they hold a similar celebration.

In the context of the tradition then the practices create rights and obligations. *Penghulu* is entitled to receive gifts from the community and at the same time obliged to carry out the duties to legalize marriage. Likewise, the community is entitled to receive marriage services and at the same time is obliged to give gifts to *penghulu*. Hence, gratuities are produced and reproduced constantly to finally systemized and almost happen with practical consciousness.³

³ Practical consciousness is the awareness that automatically appears when an agent faces social situations that require a response. The agent has had knowledge of his actions, and that knowledge is expressed as practical

As a result, *penghulu* and head of KUA are likely to get two sources of incentives, the official and unofficial incentives.

Official Incentives

Official incentives are given by the state to *penghulu* under the legitimate rules. These incentives come from the transportation sector and professional services every time *penghulu* attend the marriage registration outside KUA. The scheme is as follows (Table 1).

Table 1. Incentives for Serving *Bedolan* Marriage Registration

Unit cost	KUA Type	Rate (IDR)	Note
Transportation	A, B, C	110,000	For each marriage registration or reconciliation
Professional charge	A	125,000	
	B	150,000	
	C	175,000	
Total	A	235,000	
	B	260,000	
	C	285,000	

Note:

1. KUA Type A refers to KUA serving more than 100 cases of marriage registration or reconciliation within a month.
2. KUA Type B refers to KUA serving a minimum of 50 to 100 cases of marriage registration or reconciliation within a month
3. KUA Type C refers to KUA serving of less than 100 cases of marriage registration or reconciliation within a month

Source: The Regulation by the Minister of Religious Affairs Number 24 of 2014

consciousness (Kaspersen, 2000: 380). Practical consciousness that for the most part is the underlying of marriage service in which the practice of gratuitities is also attached to.

Based on the scheme, the incentives for *penghulu* and Head of KUA also serving as *penghulu* are as follows (Table 2):

Table2. Official Incentives of *Penghulu* per Month from Transportation and Professional Charge (Year 2014 to 2015)

No	KUA in District /Type	Number N	Number of <i>Bedolan</i> (60%)from the Total N	Number of <i>Penghulu</i> + Head of KUA	Transportation and Professional Charge	The Incentive of Each <i>Penghulu</i> and Head of KUA
1	Sawahan/A	108	65	3	65 x 235,000 = 15,275,000	5,091,666
2	Kenjeran/A	104	62	2	62 x 235,000 = 14,570,000	7285,000
3	WonoKromo/B	87	52	2	52 x 260,000 = 13,520,000	6,760,000
4	Rungkut/B	53	32	1	32 x 260,000 = 8,320,000	8,320,000
5	Wonocolo/C	43	26	2	26 x 285,000 = 7,410,000	3,705,000
6	Lakarsantri/C	28	17	2	17 x 285,000 = 4,845,000	2,422,500

Source: Data processed

Based on the above table, it is known *penghulu* given incentives are for *bedolan* marriage, i.e. 60% of total N; whereas 40% of *penghulu* are not given official incentives as the marriage registration is held at KUA.

Unofficial Incentives

Unofficial incentives come from gratuities from the entire amount of N (100%), both *bedolan* and marriage at KUA. The results showed that all gratuity practices take place in all marriage events, held in the presence of *penghulu*. In each district, the amount is different. It is between IDR 100,000 to 300,000 (the average is IDR 200,000) in District Sawahan. In District Kenjeran, it is between IDR 50,000 to IDR 300,000 (the average is IDR 175,000). In District Rungkut and Wonokromo, it ranges between IDR 50,000 to 350,000 (the average is IDR 200,000). In District Wonocolo, it ranges between IDR 50,000 to 500,000 (the average is 275,000). In District Lakarsantri, it is between IDR 50,000 to 300,000 (the average is IDR 175,000).

Table 3. Unofficial Incentives of *Penghulu* from the Gratuity Practices of Marriage Service in a Month in IDR (Year 2014 to 2015)

No	KUA District /Type	Total N	Average Gratuity /N	Number of <i>Penghulu</i> + Head of KUA	Incentives from Gratuity	Incentives Divided with the Number of <i>Penghulu</i> + Head of KUA
1	Sawahan/A	108	200,000	3	21,600,000	7,200,000
2	Kenjeran/A	104	175,000	2	18,200,000	9,100,000
3	Wonokromo/B	87	200,000	2	17,400,000	8,700,000
4	Rungkut/B	54	200,000	1	10,800,000	10,800,000
5	Wonocolo/C	43	275,000	2	11,825,000	5,912,500
6	Lakarsantri/C	28	175,000	2	4,900,000	2,450,000

Source: Data processed

Based on the table, it is known that the amount of gratuity multiplied by the number N is the total incentive from gratuity. Total incentive is then divided by the number of *penghulu* and head of KUA. The highest was in District Rungkut because there is no functional staff as *penghulu* so the incentive was completely taken by the head of KUA. The lowest is in KUA District Lakarsantri because the number of N was low and the amount should be divided between *penghulu* and head of KUA.

When these two sources of incentives (official and unofficial) are accumulated, then the results are as follows (Table 4).

Table 4. Accumulation of Incentives (Official and Unofficial) Year 2014 to 2015

No	KUA District /Type	Number of N	Official Incentives from <i>Bedolan</i>	Unofficial Incentives from Gratuity and all N	Number of <i>Penghulu</i> + Head of KUA	Total Incentives of Each <i>Penghulu</i> and Head of KUA
1	Sawahan/A	108	5,091,666	7,200,000	3	12,291,666
2	Kenjeran/A	104	7,285,000	9,100,000	2	16,385,000
3	Wonokromo/B	87	6,760,000	8,700,000	2	15,460,000
4	Rungkut/B	54	8,320,000	10,800,000	1	19,120,000
5	Wonocolo/C	43	3,705,000	3,762,500	2	7,467,500
6	Lakarsantri/C	28	2,422,500	2,450,000	2	4,872,500

Based on the above table, it is known that the incentives of each *penghulu* or Head of KUA was different. The highest was in KUA Ke incentive prince. The highest was in District Rungkut because there is no functional staff as *penghulu* so the incentive was completely taken by the head of KUA. The lowest is in KUA District Lakarsantri because the number of N was low and the amount should be divided between *penghulu* and head of KUA. The imbalance in the incentives could also be used by officials in the City level to intimidate the *penghulu* or Head of KUA in case the amount shared was not big enough; the consequence is mutation to KUA type C.

Therefore, each *penghulu* or Head of KUA, by the unwritten rule, share the gratuity to the superiors at the Ministry of Religious Affairs of Surabaya City by 20% and set aside to KUA cash by 20%, while 60% to personal income (Table 5).

Table 5. Allocation of Money from Gratuity Practices

Penghulu	Share to Superiors	KUA Cash	Total
60%	20%	20%	100%

Source: Primary data

The cash money is used for many purposes, i.e. to increase the welfare of non-permanent employees, saving, and to provide the operational needs of KUA.

The interests of various parties towards gratuities encourage the practice to exist. The structure is institutionalized and the agents do it as ‘underground movement’, which is tacit, and takes place based on unwritten ‘agreement’. Thus, in the conception of Giddens, the phenomenon is called agent-structure duality relations running social practices constantly and systematically, called as structuration. In structuration, a structure facilitates actions of the agents, motivate actions, limits actions, and form a unified group of actions continues in the trajectory of space and time.

Based on the findings, sociologically it is understood that the practice is a conscious act, i.e. deliberate action based on awareness of the doers for their objectives to be achieved. Giddens (2010:10) refers to types of consciousness such as discursive consciousness, as the opposite of practical consciousness. The doers know that they have psychological, economic, structural, and cultural needs towards the gratuity practices.

For the community, giving money to *penghulu* who has legalized marriage is necessary; there is a psychological burden if they do not do so, *ewuh pakewuh*. It makes them feel uneasy of not doing it. As for *penghulu*, receiving gratuities from the community is also a necessity, as behind him, there has been several parties waiting for the distribution of gratuities—superiors in the City level and subordinates in KUA (in cash). Rejecting the money from the community will make such a psychological burden, *ewuh pakewuh*, as the superiors are waiting for the money and the office needs it for funding reason.

The ‘need’ variable would be able to explain why the practices have been long structured. According to Giddens (2010: 22), there should be variables that explain why these individuals compelled to carry out regular social practices across time and space, and what consequences that arise. Unintended consequences will arise as an inevitable result of routine behaviors reflexively maintained as such by the doers.

There need on both sides has further caused the next variable, i.e. dependence. The community is dependent on *penghulu* and the vice versa. People who need the service of marriage, inevitably, have to use the services of *penghulu*, because there is no other choice. Instead, *penghulu* also depends on the community. The relationship then gives birth to the dependency as ‘symbiotic mutualism’, that is mutually beneficial to both parties, which according to Rose-Ackerman (2006: 128-129) is called *quid pro quo*. Because of the dependence, whatever the obstacles that confront them, including the law, will not stop the practices.

Thus, the relationship in the service of marriage has turned into a system, as Giddens called it reproduced relationships between actors or collective members, organized as regular social practices (Giddens 2009:115). Hence, social practices involving agency relationship have been recurring until it comes into a reproductive system. The marriage service accompanied with gratuity practices will be ‘social practices’ that are reproduced continuously, because it is built on the variable of ‘needs’ and ‘dependence’ between agents.

Modes in Gratuity Practices in Marriage Service

Passing the Buck

Penghulu and *modin* are the main actors in the service of marriage registration. *Penghulu* holds the sole authority for marriage registration for Muslims, while *modin* is the assistant accompanying the bride and groom. *Modin* takes advantage of the situation. On the one hand, *modin* is the assistant of *penghulu*, on the other hand he represents the bride and groom. *Modin* in such situation is called middle man, in the conception of Klitgaard.

As a middle man, *modin* works on the necessary documents for the marriage registration including (a) the approval of the bride; (b) copy of birth certificate or certificate of origins; (c) certificate of the parents; (d) certificate of marriage (model N1); (e) permission for marriage for a member of armed forces from the

military unit; (f) certificate of divorce; (g) certificate of death of the husband / wife created by the head of the local municipality according to N6 model example if the bride or groom is a widower or widow since the death of the wife or husband; (h) exemptions for the bride or groom who has not reached the minimum age according to the provisions of the Act Number 1 of 1974, Article 6 Paragraph 2 to 6 and Article 7 Paragraph 2; (k) special dispensation letter from the Head of the District for marriages to be held less than 10 working days after the announcement; (l) certificate for economically disadvantage people from the Head of the Sub-District.

On that role, *modin* is often called as the 'Marriage Service Bureau'. As such, *modin* does not hesitate to accept rewards or gratuities from the bride and groom. However, *modin* also brings the interests of *penghulu* demanding a share of the gratuity. At other times, *modin* also use the name of *penghulu* in order to get more money from the bride and groom; the bride and the groom usually agree to give more as they think *modin* will share it with *penghulu*. This where the 'pass the buck' practice takes place. With such a strategy, both actors present themselves as clean, as if they did not expect anything in return.

Because of the action, then the cost of marriage increases nearly 100% of the official rate. Based on the Regulation Number 48 of 2014 amended with Regulation Number 19 of 2015, official marriage rate shall be paid to the state treasury—in which it is free for marriage registration at KUA and IDR 600.000 for marriage outside the office or *bedolan*.

Table 5. Unofficial Marriage Rate (in IDR)

No	KUA District/ Type	Average Rate		Modin Fee	Penghulu Fee	For RT/RW/ Sub-District
		Marriage at KUA	Bedolan Marriage			
1	Sawahan/A	550,000	1,150,000	250,000	200,000	100,000
2	Kenjeran/A	425,000	1,025,000	200,000	175,000	50,000
3	Wonokromo/B	500,000	1,100,000	200,000	200,000	100,000
4	Rungkut/ B	500,000	1,100,000	250,000	200,000	50,000
5	Wonocolo/C	525,000	1,125,000	250,000	175,000	100,000
6	Lakarsantri/C	475,000	1,075,000	200,000	175,000	100,000

Source: Primary data processed

According to the table above, it is known that the rate varies in each district. Marriage at KUA is supposed to be free, but in reality it costs from IDR 425,000 to 500,000. *Bedolan*, a marriage registration done at home by inviting *penghulu*, it costs 600,000—yet, in reality, it can cost 1,025,000 to 1,100,000. The difference is the gratuity paid to *penghulu* and *modin*.

Minimizing the Number of Penghulu

Total number of *penghulu* is still very limited when compared to the ratio of the workload (Table 6). The Ministry of Religious Affairs at the city level has the authority to propose the addition of personnel, but it is not done. At least until the last five years, the policy of zero growth has been maintained, no additional *penghulu*.

Table 6. The Number of Penghulu and the Average Monthly Workload

No	District	KUA Type	Number of Penghulu	Workload
1	Sawahan	A	2	108 cases N
2	Kenjeran	A	1	104 cases N
3	Wonokromo	B	1	87 cases N
4	Rungkut	B	0	53 cases N
5	Wonocolo	C	1	43 cases N
6	Lakarsantri	C	1	28 cases N

Source: Primary data processed

According to the table above, it is known that the number of marriages is very high even at KUA type C. KUA type C with lowest number of marriages to serve, at least serve 28 registrations a month. The number is quite high considering that a marriage registration requires a long process, which is 10 working days from registration to *akad nikah* (unless there is a special dispensation from the district head to cut the waiting time). As such, the administrative process at KUA is tiresome.

Therefore, maintaining a minimal number of *penghulu*, even leaving alone KUA without functional staff *as penghulu*, such happens in KUA Rungkut, is clearly irrational. This fact is ironic, since KUA has the main task of serving marriage and reconciliation, yet KUA is dominated by non-*penghulu* such as religion extension officers and *madrasah* supervisors.

Superiors seem to not wanting to increase the number of *penghulu*, although they exactly know the situation. There is a very economical calculation “the fewer the number of *penghulu*, the more revenue generated from the gratuity, which means more share to be given to superiors, and the vice versa”. On that basis, the minimum number of *penghulu* must be maintained. Many non-*penghulu* employees are interested to be *penghulu*, yet superiors refuse their intention, and even those employees are threat with mutation.

This is done to maintain the ‘status quo’, namely the abundant income from *penghulu*. Officials at the higher level (city and province) do not have direct access to the public, but by using the hands of *penghulu*, they can still get abundant gratuity from *penghulu*.

The above facts asserted that corruptive behaviors always occur through the cooperation of several parties. Susan Rose-Ackerman (2006:146) describe such phenomena in terms of patronage, in which agents of the state (the boss) act as a patron and subordinates as clients. This relationship then gives birth to certain obligations as a form of compliance of subordinate to superiors.

In the context of this study, super ordinate uses the power to suppress subordinates and appraise subordinates based on their subjectivity. *Penghulu* as subordinates, as to get positive assessment, appreciation, and respect from superiors and even the possibility of promotion to a more strategic position.

4. CONCLUSION

First, gratuity practices in marriage service has become the need of the agents, i.e. *penghulu* and the bride and groom. *Penghulu* needs funds to increase income, to share it to superiors, and to cover the operating costs of KUA. The bride and groom require the legality of marriage, and to obtain it, they are bound by tradition to *duwe gawe mantu*. In the tradition, there is money allocated for *penghulu* coming to serve the marriage. Both parties need each other, then the existing structure is once used as means and resources for the survival of gratuity practices. Power structure is used by *penghulu* as a power driven to condition that the bride and the groom who need their services give gratuities. On the other hand, the tradition of *duwe gawe mantu* is used as a means of legitimacy and justification of the practice of gratuities. Therefore, as long as *duwe gawe mantu* tradition is still there, the practice of gratuities will still happen, just as *buwuh* practices that cannot be separated from *duwe gawe* tradition in general.

Second, to maintain the continuity of gratuity practices, the agents use mode ‘pass the buck’, cooperating with *modin* (the assistant of *penghulu*) to get the money—this way, it seems that *penghulu* gets nothing and asks for nothing, yet he gets some from the amount given to *modin*. In addition, *penghulu* is also cooperating with the superiors in order not to increase the number of *penghulu* as to keep the share maximum. With maximum gratuity received, the amount shared to the superiors is also big enough. Therefore, there is a structure under *penghulu* (*modin*) and the structure above *penghulu* (superiors) who share a common interest towards gratuities.

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