



Unsealing Identities and Past: Call for Open Intercountry Adoption Under Hague Convention 1993

- Bhakti Ghotkar (II BA LLB)

"My past was always there. And I always understood that I was adopted. It wasn't like a massive issue to me. But, identity was an issue. I knew that I was Indian, but I didn't really know much about myself, really. I mean, I really disassociated myself from what happened in the past to present. But, it was affecting, in regards to my identity. I didn't want to be disrespectful to my adoptive parents, but I think everyone wants to know the core of themselves." — [Saroo Brierley](#)

The movie *Lion* (2016) portrays Saroo Brierley's poignant journey of self-discovery and reconnection with his roots. Adopted as a young child from India, Saroo's longing to uncover his origins exemplifies a deep human need to understand one's identity and heritage. His story highlights a critical argument for open adoption policy in private international law especially in intercountry adoption settings: where children have a right to access information about their heritage and identity. Current child rights frameworks, like [the UN Convention on the Rights of the](#)

[Child \(CRC\)](#), uphold the right of children to preserve their cultural identity ([Article 8](#)) and maintain ties with their families of origin ([Article 20](#)). These principles underpin the argument that open adoption can play a vital role in supporting a child's sense of self and well-being.

In open adoption, adoptees retain some connection to their birth family, accessing vital information about their cultural background and family history. In a closed adoption, no contact or information is shared between the biological and adoptive families. All identifying information about the biological family is kept confidential. The adopted child generally has no access to their biological family's identity or history and may not learn about their origins unless the records are unsealed later in life.

[The Hague Convention on Intercountry Adoption](#), established to ensure ethical adoption practices, primarily aims to protect the child's best interests. However, it remains neutral regarding open versus closed adoption, leaving member states to set their own policies on this matter. Article 30 mandates that information about the child's origins be preserved, yet access to this information is left to

News at a Glance

The Philippines raised its highest storm alert and evacuated thousands of people on Thursday (November 14, 2024) as Super Typhoon Usagi barrelled towards its already disaster-ravaged north. Packing sustained winds of up to 180 km (112 miles) an hour, Usagi is set to smash onto the main island of Luzon in the afternoon local time — the fifth storm to threaten the country in just three weeks. For more information see [here](#).

An overly lengthy 34-page draft on a new climate finance goal emerged on the third day of the UN climate talks in Azerbaijan's Baku on Wednesday (November 13, 2024), but the text is filled with repetitions and duplications, making it difficult to work with. Among the Global South negotiators, the Like-Minded Developing Countries (LMDC) group has suggested that \$1 trillion per year is needed, the Arab Group has called for \$1.1 trillion, the African Group \$1.3 trillion, India \$1 trillion and Pakistan \$2 trillion. For more information see [here](#).



the discretion of individual states, allowing significant variability. Additionally, Article 27 allows the receiving state to convert an adoption to one that severs pre-existing legal relationships with biological parents if that state's laws permit and with appropriate consent. This neutrality reflects a non-interferential stance, respecting national autonomy but failing to actively support the child's right to maintain a connection to their cultural and family background.

To uphold adopted children's rights fully, the Hague Convention should take a clear stance in favor of open adoption; as of now it is left up to the discretion of the countries whether to go for open adoption or not. By endorsing open adoption policies, the Convention would align more closely with the CRC's emphasis on the child's identity rights, ensuring that adoptees are not left without access to their heritage. A neutral stance on open adoption inadvertently permits member states to implement policies that could hinder a child's access to their origins, thus impeding the child's holistic well-being and sense of identity.

[Studies cited in the research on openness in international adoption](#)

confirm that preserving ties with one's cultural background is crucial for a child's emotional and psychological development. For instance, access to one's biological family or cultural heritage can promote a more grounded sense of identity, enabling children to navigate the complexities of belonging. In contrast, closed adoption policies that prevent adoptees from learning about their origins can result in long-term identity struggles, as the child's understanding of "who they are" remains incomplete. By incorporating open adoption principles, the Convention would further its goal of prioritizing the child's best interests in every adoption.

In conclusion, adopting open adoption policies would profoundly benefit children by preserving their right to identity, aligning the Hague Convention more closely with its mission to prioritize the child's best interests, and enhancing compliance with international law around child rights. However, a more comprehensive outlook demands to know the potential drawbacks of endorsing open adoption policy. Domestic laws of member countries may not be amiable towards this policy as some

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Yemen's Houthi rebels targeted two U.S. Navy warships with multiple drones and missiles as they were travelling through the Bab el-Mandeb Strait, but the attacks were not successful, the Defense Department said Tuesday (November 12, 2024). Maj. Gen. Pat Ryder, Pentagon press secretary, said the Iranian-backed Houthis launched at least eight drones, five anti-ship ballistic missiles and three anti-ship cruise missiles at the USS Stockdale and the USS Spruance, both Navy destroyers, on Monday (November 11, 2024). For more information, see [here](#).



cultures and legal systems may prioritize confidentiality leading to resistance. Secondly, open adoption exposes a child to juggle in an emotionally complex atmosphere where he/she may struggle to draw boundaries, establish genuine bonds, and have a divided sense of loyalty. The possibility of the child being exposed to manipulation and exploitation as the biological family may feel coerced to contact due to financial pressures also cannot be ruled out. However, the right to know one's past and all attributes of one's identity cannot be just taken for granted. Through a robust supervisory body created under Hague Convention for post adoption, establishment of clear channels of communication and providing psychological counselling services to all the stakeholders can go a long way.

Analysing the 1933 Hague Convention on Intercountry Adoption and its role in safeguarding children's rights

- Bhakti Ghotkar (II BA LLB) and Avantika Patra (II BBA LLB)

Intercountry adoption is a process where parents adopt a child from a different country into their family. The Hague Convention on

Protection of Children and Co-operation in Respect of Intercountry Adoption was established in May, 1993 majorly legislates in the matters of intercountry adoption under international law. The Convention prioritizes enabling children to remain with their families. If a suitable permanent family cannot be found domestically, intercountry adoption becomes a viable alternative. Key considerations include the child's best interests and preventing violations like trafficking or exploitation. Article 4 of the Convention outlines the principle of subsidiarity, emphasizing that a child's adoptability and best placement must be carefully determined. Key requirements include prioritizing the child's interests, obtaining informed and voluntary consent from birth families or authorities, and ensuring the child is mature enough to understand and freely consent. Consent must remain free from financial incentives or coercion, as offering monetary compensation to struggling families violates ethical and legal standards. However, the Convention faced a significant amount of criticism due to its non-interferential neutral

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North Korea ratified a major defense treaty with Russia stipulating mutual military aid, the North's state media reported Tuesday, as the U.S., South Korea and Ukraine say North Korea has sent thousands of troops to Russia to support its war against Ukraine. Russia had completed the ratification of the treaty last week after it was signed by Russian President Vladimir Putin and North Korean leader Kim Jong Un in June. It is considered both countries' biggest defense deal since the end of the Cold War. For more information, see [here](#).



policy stance, lack of stringent enforcement mechanism and being overly accommodating towards the domestic laws of each country which makes the application of its objectives redundant.

The Convention's leniency is evident in the lack of adherence to Article 23, which mandates automatic recognition of adoptions between contracting states to eliminate re-adoption. Many countries bypass this, adding bureaucratic delays and forcing parties to navigate both domestic and international legal systems. To avoid these complexities, many nations prefer bilateral agreements, which allow for personalized and streamlined processes. For example, Ireland has agreements with Belarus and China, Spain with Bulgaria and China, and Australia with China. These agreements reduce procedural hurdles and adapt to specific adoption requirements, saving time and resources.

One major critique of the Convention is its non-interferential stance, as it does not require adoptions to occur only between signatory countries. This allows nations like the U.S. to adopt from non-signatory countries with poor

records, such as Vietnam, which faced allegations of fraudulent practices, including coercing mothers, forging documents, and even stealing children. These issues led to the suspension of Vietnam's adoption program in 2010. In contrast, adoptions from compliant countries like Guatemala have also faced suspension due to delayed compliance, discouraging countries from joining the Convention when its standards are inconsistently enforced.

The Convention's neutrality and excessive leeway to member countries often exclude same-sex couples from adoption. The member countries can reject adoptions conflicting with their "public policy," enabling discriminatory practices. While nations like Canada and the UK permit same-sex adoption, others, such as China and Guatemala, prohibit it, forcing individuals to hide their sexual orientation.

A clear, inclusive standard under the Hague Convention would align with contemporary human rights standards, including the CRC, which upholds children's rights to identity and family. The preamble's goal of a "permanent family environment" applies equally to same-sex couples.

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America's civil aviation regulator FAA has announced to suspend flights by US carriers to Haiti for a month after three US planes were struck by gun attacks while departing the Caribbean nation. While flying to Haiti's capital Port-au-Prince, the three US carriers JetBlue, Spirit and American Airlines were all hit by bullets. In a sigh of relief, no passenger was hurt in the incident though a flight attendant of Spirit plane suffered minor injuries. For more information, see [here](#).

A public execution carried out in a sports stadium in Afghanistan drew condemnation from senior UN officials on Wednesday, who demanded an immediate end to such practices by the ruling Taliban. Since the Taliban takeover of August 2021, the de facto authorities have reintroduced public executions, floggings and other forms of corporal punishment, despite international appeals to uphold human rights standards. For more information, see [here](#).



Statistics show same-sex couples are more likely to adopt—20.9% in the U.S., compared to 2.9% of opposite-sex couples. Inclusive policies would expand the pool of adoptive parents, reducing children's time in institutional care and fulfilling the Convention's aim of prioritizing permanent family environments.

Post-adoption monitoring, outlined in Article 9, remains a significant challenge in inter-country adoptions. Despite comprehensive guidelines from ChildONEurope, the Hague Convention, and the UN, practical implementation is lacking. This has led to severe incidents, such as an American family fatally abusing their adopted Ethiopian daughter or an influencer rehoming an autistic child from China after two years due to inadequate preparation. Such failures result in traumatizing consequences for children, highlighting the need for robust monitoring systems.

The Hague Convention provides a solid framework for addressing cross-border adoption but requires updates to meet modern societal needs. Key improvements include mandating post-adoption monitoring, recognizing same-sex adoptions, and ensuring transparency through

comprehensive data publication. Streamlined procedures to reduce delays can help children find permanent families faster. A constructive review of overlooked provisions and stricter enforcement are vital to achieving the Convention's objectives in an evolving world.

Combating the rise of Child Pornography and CSAM in the Digital World

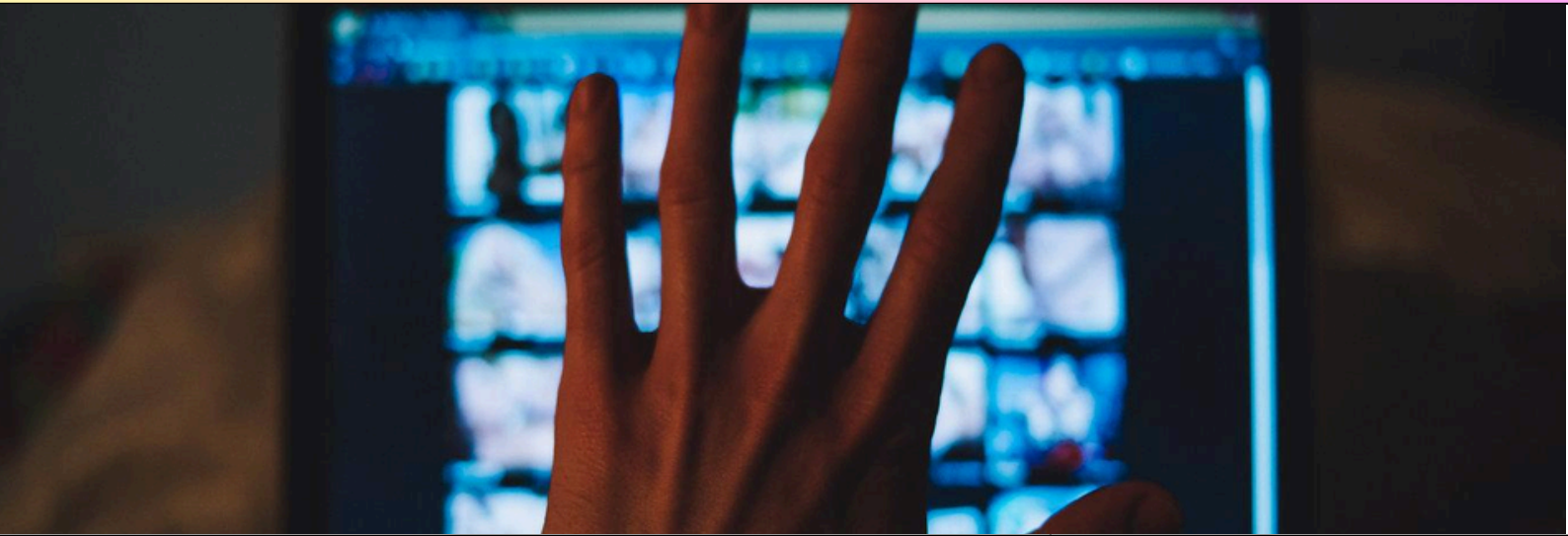
- Arya Mitkari (III BA LLB)

The rise of digital technology has introduced new obstacles for lawmakers and law enforcement in the fight against child pornography. Recent advancements in electronics have transformed child pornography into a global industry worth millions.

The rapid development of computer technology has altered the nature and structure of child pornography. The images can be shared worldwide in seconds and can be easily manipulated, limited only by human creativity. Additionally, the market now includes completely computer-generated pseudo-images or deepfakes, which raise complex questions about what legally

News at a Glance

A Moscow paediatrician, Dr Nadezhda Buyanova, has been sentenced to five-and-a-half years in a penal colony, following allegations of anti-war comments, a BBC report said. Prior to the sentencing, Dr Buyanova was brought into the courtroom handcuffed and held in a glass and metal enclosure. Through the glass, the 68-year-old remarked on her situation: "It's absurd, just absurd... I can't get my head around what's happening to me", as reported by BBC. For more information, see here.



constitutes child pornography and what materials should be deemed illegal.

The definition of child pornography varies across national legislation. While the term “child pornography” is often used, it has internationally been replaced by the term “Child Sexual Abuse Material (CSAM)” as it more aptly describes the true nature of these explicit images.

The 1989 United Nations Convention on the Rights of the Child (UNCRC) and UN’s Optional Protocol to the Convention on the Rights of the Child (2002) are the main conventions in the international sphere in this regard. Article 17 of the UNCRC imposes a responsibility on nation States and the international community to protect children from exposure to pornographic materials. The Optional Protocol serves as a comprehensive example of legal mechanisms that require governments to implement and provide for services to assist child victims and their families.

A major problem which arises however, is choosing the right enforcement mechanisms and enforcing them. Consistent with

the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, a comprehensive approach to implementation of enforcement mechanisms must incorporate both preventive and protective elements. A National Strategy Plan (NSP) is an excellent approach which offers a detailed, long-term framework for a country aiming to prioritise specific issues, such as child protection or combatting sexual exploitation, within its political, social, and legislative agendas. This plan serves as an essential tool, helping key stakeholders grasp the issue’s full scope and develop unified policies, procedures, standards, systems, technologies, and resources to effectively address it.

The CSAM model legislation requires 5 criteria met to effectively prevent and protect Child Sexual Abuse, which include having a specific legislation for Child Pornography, which defines the crime and also criminalizes simple possession and technology facilitated CSAM offences. The final criteria would require Internet Service Providers (ISP) to mandatorily report suspected CSAM to law enforcement. The recent Global Review found that

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Numerous international airlines suspended their services to and from Bali due to ongoing ash clouds from Mount Lewotobi Laki-Laki on Flores, which reached heights of 10 km and forced several residents to evacuate. The volcano released a massive 9km (6.2 miles) ash column into the sky over the weekend, following a major eruption last week that claimed the lives of 10 people. For more information, see here.

The Philippines’ Foreign Ministry said on Wednesday (November 13, 2024) it summoned China’s ambassador to protest Beijing’s drawing of baselines around the disputed Scarborough Shoal in the South China Sea. “The said baselines infringe upon Philippine sovereignty and contravene international law,” the ministry said in a statement. For more information, see here.



only 27 countries met all 5 criteria, which calls for the need for implementation of stricter enforcement norms.

Successful implementation is strengthened through collaboration and partnerships across borders and sectors. This cooperation among various stakeholders enables optimal resource use, minimises duplicated efforts, supports information sharing, and aids in the prompt identification of child victims and offenders. Naturally, these initiatives need to be customised to each country's political, social, cultural, religious, and economic context, while also considering the country's unique historical and developmental factors. When these elements are aligned effectively, they can motivate a nation to prioritise child protection and push for impactful, sustainable legislation.

Who is the Future? An Interplay of the relationship between the Rights of the Children or Future Generations

- Ritu Karwa (III BA LLB)

The interrelationship between children's rights and future .

generation rights have been of growing importance in International Human Rights Law (IHRL) with respect to sustainable development and climate change where the rights for both the current and future generation is at stake. While children's rights are well-established, the development of future generation's rights is quite nascent. Hence, in order to define the scope it is important to determine who has rights for children and for future generations ("FG") and in what way are they intertwined.

The UN Committee on the Rights of the Child and general comments from the UN Committee on Economic, Social, and Cultural Rights efforts reveal overlap between the three bodies. However, no one has clearly defined what "future generations" are. All of this corresponds with the growing awareness between the rights to children's and future generations, but still, it gives reason for concern related to an excessive use of children's rights issues and a tendency to overlook these specific needs.

Under International Human Rights Law, Children's Rights have been demarcated in the UN Convention on the Rights of the Child (UNCRC)

News at a Glance

Indonesia and Australia have launched joint military exercises off the coast of Java, with around 2,000 troops taking part in a series of air, maritime, amphibious, and land operations. The four-day Keris Woomera 2024 drills, which began on Wednesday, include live-fire exercises involving tanks, artillery, infantry, and attack helicopters, along with a joint landing operation and a non-combat evacuation exercise simulating a disaster scenario. For more information, see [here](#).



in [Article 1](#) which provides two interpretations for childhood. First being that a child is anyone below the age of 1 and the Second one [empowers](#) the national law applying to the child to under which majority can be attained earlier. However, the convention [does not explicitly refer](#) to the minimum age of childhood or perhaps the start of the childhood. However, UNCRC has most of its work centered around prenatal and postnatal care women. This gray area has led to the generalization that children's rights under IHRL apply to the children who are born and not the unborn ones who would qualify when they are born and not before that.

On the other hand, the definition of future Generations is still not specific in nature for the purposes of IHRL. An understanding of Future generations states that it's the already existing or [current born generation](#). Another interpretation of the same is the people who will live in the future or the now children in their adulthood. In the IHRL space it's also regarded as the [generation yet to be born](#). Hence, the pertinent issue here is that there exists no specific definition leading to the question as to who qualifies for Future Generation in

the IHRL context.

As the importance of justice and remedies prevails in issues like environmental protection, it is essential that FG rights be claimed by children or groups. In this regard, children's rights may become an entry point for [intergenerational justice](#); thus, the central purpose of children's protection-the very point of protecting born children-is diluted. It may also lead the definition of children's rights to be expanded to include issues under the rubric of Future Generation and, therefore, be a threat to their core agenda of providing for the needs of the current children. Therefore, while the children's rights should be implemented and protected in their full integrity, it should not become a pretext for circumventing or sidestepping [direct application](#) of rights to future generations.

Children's rights [might not be broad enough](#) to deal appropriately with future children's rights. Interests in areas like child autonomy consider the balancing of present and future children's interests, but the framework has not looked into deeper balancing between current children's and future children's rights or even

[News at a Glance](#)

The people of Sudan face an ever-deepening crisis as the relentless war between rival militaries pushes the country further into chaos, the UN's top political affairs official told the Security Council on Tuesday, underscoring that a ceasefire and a negotiated political solution remain the only viable path to peace. The latest surge in violence has been especially brutal, notably in eastern Aj Jazirah state (also spelled Gezira), where the paramilitary Rapid Support Forces (RSF) launched assaults described by non-governmental organizations (NGOs) as among the most severe of the war so far. For more information, see [here](#).



within a child's own lifetime. However strong the factor of time may be to children's rights, intertemporal rights claims remain a relatively unexplored area compared with most other domains of international human rights law.

Additionally, children's rights haven't seriously interacted with collective or group rights, which may be necessary for future generations' rights. Relating issues concerning future generations to children's rights would distort the development of FG rights, considering their different potential rights and interests. The adoption of the Maastricht Principles on the Human Rights of Future Generations is an important contribution to these future-focused developments which seek to outline the the human rights attributable to the future generations. However this stepping stone furthers the way forward for mobilizing broad global support for the same.

Hence, it is of utmost significance to delineate the scope of definitions in context to IHRL to work upon the many challenges daunting upon the planet which would in fact further the policy making, embedding the principle of intergenerational equity in

processes for impact assessments; facilitating the participation of representatives of future generations in decisions; and reorienting financial planning and budgeting to build economic capability for future generations and would provide a framework to uphold.

Lost Childhoods in Bangladesh: Can Policies Alone Eradicate Child Labor

- Devansh Bhat (V BA LLB)

Despite significant technological and social advancements worldwide, child labor remains a pervasive issue. Recent studies reveal that in 2020, 160 million children aged 5 to 17 were involved in child labor globally, with approximately 17 million children in South Asia alone. Although there have been numerous efforts both globally and nationally, the number of child labour continues to rise, particularly in low-income and developing countries where economically active children are more prevalent.

In Bangladesh, several factors contribute to child labor, including poverty, cultural norms, limited access to education, and increasing economic pressures. Poverty remains the primary driver,

Upcoming Activities

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as many low-income families rely on their children's earnings to make ends meet. In Bangladesh's garment industry, the average worker earns merely one-third of what is considered a living wage. This stark wage gap, combined with extended working hours, pressures many parents to pull their children out of school and involve them in work to supplement family income. Some of the most prevalent and popular garment brands, like H&M, C&A, Marks & Spencer, and Kmart Australia, play a significant role in amplifying these practices through their sourcing practices and cost demands, contributing this cycle where families are compelled to push their children toward child labour as a means of survival.

Another reason for the prevalence is the cultural acceptance in the society. In some communities, child labour is seen as a rite of passage, normalizing it as part of daily life. Even after implementations of legal mandates, many children lack access to quality education due to barriers like cost, distance, and poor infrastructure. The pandemic made the situation worse with reports indicating a 41.76% rise in child labour as families struggled

to cope with such extreme economic hardships. A report from the latest National Child Labor Survey (NCLS) reveals that, as of 2022, approximately 3.54 million children aged 5 to 17 were engaged in child labour in the country. This figure represents 8.9 percent of the nation's child population, which totals around 40 million.

Bangladesh has ratified several essential international conventions to protect children from labour exploitation, including the United Nations Convention on the Rights of the Child (UNCRC) in 1990; ILO Convention No. 182 in 2001; and ILO Convention No. 138 in 2022.

The Worst Forms of Child Labour Convention was adopted by the International Labour Organization (ILO) in 1999 to address and eliminate the most harmful types of child labour as a global priority. This convention underlines the value of immediate action to prohibit the practice of exploitation and child labour, including slavery and trafficking.

Even after ratifying and signing these international frameworks, the implementation in Bangladesh remains a big concern limiting the effectiveness. Implementation gaps remain, with laws often

Upcoming Activities

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remaining unenforced due to resource constraints, insufficient training, and limited political will. Moreover, the practice of child labour is significantly in the informal sector, where not only regulation is challenging but also there exists big lack of awareness among the masses. Cultural norms that normalize child labour within communities further complicate enforcement, as changing these deep-rooted attitudes is essential to any sustainable solution. There is an absence of a social protection system which leaves vulnerable families trapped in cycles of poverty, while inadequate access to quality education. This ultimately results in many children working instead of attending school, increasing the prevalence of child labour in the country.

Upcoming Activities

Call for Papers | 9th CARTAL Conference on International Arbitration:

National Law University, Jodhpur is making a call for abstracts for its 9th CARTAL Conference on International Arbitration, 2025 to be held on 22-23rd March, 2025. The deadline for submissions is 25 Nov, 2024. For more information, see [here](#).

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