

Policy Discretion

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Policy Discretion for Post-Disaster Rehabilitation and Reconstruction of Gunung Sinabung Eruption in Karo Regency in the Settlement Relocation Program

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Abstract

This research aims to reveal the Policy Discretion for Post-Disaster Rehabilitation and Reconstruction of Gunung Sinabung Eruption in Karo Regency in the Settlement Relocation Program. This study used qualitative research. Disaster emergency factors (Emergency Response Status) and Humanitarian factors because the refugees have been living in temporary shelters (shelters) for ± 1.8 years in inadequate and inhumane living conditions are the driving forces for discretionary Rehabilitation and Reconstruction policies in the Settlement Relocation Program for disaster victims the eruption of Mount Sinabung, Karo Regency; Discretion of Post-Disaster Rehabilitation and Reconstruction of Mount Sinabung's Eruption in Relocation of Refugee Settlements is caused by a legal vacuum, because post-disaster development cannot be carried out in the Emergency Response phase where since September 2013 until now the Disaster Status of the Mount Sinabung Eruption is still in the Emergency Response phase.

Keywords

policy discretion; rehabilitation; Reconstruction; Gunung Sinabung eruption



I. Introduction

Public Policy is an action taken by the Government that aims to achieve policy goals and welfare for the community. Public policy as a result of the formulation of a Government. Public policy is also a series of conscious, directed and measurable activities carried out by the Government that involve interested parties in fields that lead to certain goals (Thoha, 2012, Haris, 2019).

Public policy was action with intention determined by actor or several actors in overcoming a problem or task (Wu et al., 2017). Public policy was meant as state wisdom, a decision meant to overcome certain problem, to conduct certain activity, or to achieve certain activity, which was done by the authorized institution as part of implementation of state's task and development. (syakur, A. et al. 2020)

In disaster management, there are general policies related to 3 (three) phases of disaster. Each phase is Pre-Disaster, Disaster Emergency Response and Post-Disaster where each phase has a specific policy. In the post-disaster phase, it has a Rehabilitation and Reconstruction policy which consists of 5 (five) activity sectors, namely: Infrastructure, Settlement, Economic, Productive, Social and Cross-Sector.

The post-disaster policy of Mount Sinabung, Karo Regency, from the 5 (five) sectors, and one of the priorities is the implementation of the Rehabilitation and Reconstruction of the Settlement Relocation sector which is intended for 3,030 families which aims to restore disaster victims so that they can live normal lives again, because at that time the disaster victims still has the status of refugees living in temporary shelters (shelters), rented houses

financed by the government and some of them stay at family homes around Kabanjahe and Brastagi for 2.8 years.

The implementation of the Rehabilitation and Reconstruction Policy on Settlement Relocation as many as 3,030 units is divided into 3 (three) stages of development. The stages in its implementation are based on recommendations from the Center for Volcanology and Geological Hazard Mitigation (PVMBG). Recommendations regarding villages are defined as red zones that have an impact on pyroclastic flows which must be abandoned.

The red zone was set for the first Recommendation giving birth to the Phase I Settlement Relocation Program, namely villages: Bekerah, Sukameriah and Simacem which was implemented in 2014; The second recommendation, PVMBG establishes red zones in 4 (four) villages, namely Gurukinayan, Berastepu, Gamber, and Kuta Tonggal Villages which gave birth to the Phase II Settlement Relocation program which was implemented in 2017. Sukanalu, Marwall, Sigarang-garang, Kuta Gugung (Dusun Lau Kawar) gave birth to the Relocation III program which was implemented in 2018, as shown in the following table:

Table 1. Relocation of Settlement Post-Eruption of Mount Sinabung (2014 – 2021)

No	Relocation	Plans (units)	Ready (units)	Progress
1	Stage I (Siosar)	370	370	Already inhabited
2	Stage II (Independent)	1665	1665	Already inhabited
3	Stage III (Siosar)	892	892	LUT doesn't exist yet

Source: BPBD Kab. Karo, 2020.

The three stages of relocation of settlements above were carried out at different times. Phase I was carried out in 2014, Phase II in 2016 and Phase III was carried out in 2018. The process, mechanism, implementer, budgeting system as well as location and location determination and procurement differ from each of these stages. This condition is caused by limited human resources as implementers of the Settlement Relocation program, as well as natural resources, especially land/settlement locations and sources of funds. The policies that have been taken are implemented by administrative units that mobilize resources, financial and human. (Winarno, 2012).

The implementation of different policies in each stage of relocation above illustrates that policies related to post-disaster Rehabilitation and Reconstruction in the Settlement Relocation Program for disaster victims are influenced by several factors, including prolonged emergency response conditions, relocation land crisis, socio-cultural, implementation and funding.

The status of "Emergency Response" for the eruption of Mount Sinabung reached ± 2.8 years (when Relocation I was carried out), while on the other hand, the victim community who had been in shelters for many years were not humanely fit to live their lives and livelihoods. Based on humanitarian considerations, the Phase I relocation was carried out by the TNI using the "Ready-to-Use Funds (DSP)". This DSP is actually intended to finance "Emergency Management", namely: food, drink, search and rescue efforts, management of temporary shelters (shelters), provision of clean water and sanitation, as well as health and education services.

Land crisis, namely the location for the relocation of settlements is needed in massive quantities by requiring land and a large expanse, so it takes a relatively long time to search and determine the location of relocation. Phase I relocation is in the Siosar Production Forest through a forest area use permit from the Minister of Environment and Forestry of the Republic of Indonesia. Relocation II the second permit from the Minister of Environment and

Forestry of the Republic of Indonesia has not yet been issued, so Relocation II is carried out spread over 28 (twenty eight) stretches in the Karo Regency area and Relocation III returns to the Siosar Protection Forest because it has obtained a forest use permit through a second decree from the Minister Environment and Forestry RI.

Furthermore, from the aspect of implementing the Phase I relocation carried out by the Indonesian National Army (TNI). The TNI is tasked with clearing the Siosar Protection Forest after obtaining a use permit from the Indonesian Minister of Environment and Forestry. After further forest clearing (Land Clearing), the TNI builds Relocation Houses I. Relocation II is carried out by the community with an Independent Relocation scenario where the community searches for land and builds houses independently. Relocation III was carried out by the Karo Regency Government with a contractual system with a tender procedure.

From the aspect of funding, they also differ, in Relocation I using Ready-to-Use Funds (DSP), Relocation II and Relocation III using "Central Government Grants to Local Governments in Disasters", which based on previous regulations, post-disaster development uses Social Funds with a Grant Pattern (PP Number 21 of 2008).

From the several factors above, it can be understood that there are policies that are not normative in their implementation. This condition implies that public policies in disaster management, especially in the post-disaster Rehabilitation and Reconstruction phase cannot be implemented normally, as non-disaster development policies in general. Therefore, the implementation of settlement relocation development requires discretionary policies.

Discretion is an empty gap contained in a policy, so that actions are needed so that a policy can be implemented so that policy objectives can be achieved optimally. Discretion is a decision and/or action determined by Government Officials to overcome concrete problems faced in the administration of government in terms of laws and regulations that provide choices, do not regulate, are incomplete, unclear, and/or there is government stagnation (Law Number 30 of 2014).

II. Review of Literature

2.1 Public Policy

In simple terms, public policy is an action taken by the government that aims to achieve the goals of goodness and welfare for the community. More broadly, the notion of public policy has encompassed the entire process between the interactions between the governments and society and other environmental factors in implementing program objectives and activities.

Jones, 1970 (Abdullah and Rusfiani, 2016), suggests that public policy is the relationship between certain government units and their environment. A more comprehensive understanding Jenkin, 1978 (Abdullah and Rusfiani, 2016) suggests that government policy is a series of interrelated decisions taken by a person/group of political actors with regard to the goals that have been chosen and the ways to achieve them in situations where decisions are made. The decision is, in principle, still within the limits of the power of the actor.

It should be emphasized that the nature of public policy needs to be stated in the laws and regulations that are coercive. In this view, it can be assumed that public policy is a policy made by the government that is oriented towards the welfare of the community without exception. Before the public policy is issued and implemented the policy must be determined and approved by the authorized agency/institution (Haris, 2019).

2.2. Public Policy Implementation

Umar (2017), the implementation perspective is knowledge and practical knowledge in the administrative field owned by policy makers and implementers that enable them to develop approaches to policy implementation. This implementation perspective is usually owned by practitioners, not by just any actor who participates in the implementation process. The actual policy implementation process does not only concern the behavior of administrative bodies that are responsible for implementing the program and creating obedience to the target group, but also involves a network of political, economic, and social forces that can directly or indirectly influence the behavior of all parties involved, and which ultimately affects the expected and unexpected impacts (Wahab, 2004)

According to Edward, 1984 (Akib, 2010), policy implementation is needed because there are policy problems that need to be addressed and solved. Public policy is a "tool" that does not significantly affect the objectives of the policy. Public policy has value when it is implemented as a system, process to have outputs and outcomes which in principle are to meet the needs of services to the community and benefit the community. Grindle (Kasmad, 2018), gives his view on implementation by saying that in general, the task of implementation is to establish a study (linkage) that makes it easier for policy objectives to be realized as a result of a government activity. Therefore, the task of implementation includes the formation of a "policy delivery system" in which certain facilities are designed and run with the hope of achieving the desired goals.

According to Nugroho, 2003 (Sirajuddin, 2004), in the model "Four right, on the third right, the accuracy of this target relates to 3 (three) things, namely: 1) whether the intervention target is as planned, does it not overlap with the intervention other, or not contradictory in the condition of being ready to intervene, or not, and 3) whether the policy implementation intervention is new or updating the previous policy implementation. Public policy in a broad sense can be divided into two groups, namely policies in the form of government regulations written in laws and regulations and unwritten but agreed upon regulations, which are called conventions. (Nugraho, 2004).

2.3. Public Policy Discretion

Discretion is an empty gap that is not regulated in laws and regulations in the context of the government's function in carrying out public services to meet their wants and needs. According to Ramdhani and Ramdhani (2017), discretion can only be exercised if it fulfills the indicators stipulated by law, namely: smoothing governance, filling legal voids, and overcoming government stagnation in certain circumstances for the benefit and public interest.

According to Atmosudirjo (Ansori, 2015), who defines discretion as the freedom to act or make decisions from the authorized state administration officials according to their own opinion. Furthermore, it is explained that discretion is needed as a complement to the legality principle, namely the legal principle which states that every action or act of state administration must be based on the provisions of the law to regulate all kinds of position cases in the practice of everyday life. Therefore, there is a need for freedom or discretion from the state administration.

According to Lumbuna (Alamsyah, 2013), defining discretion is a policy from central to regional state officials which essentially allows public officials to carry out a policy that violates the law, with three conditions, namely, in the public interest, still within the boundaries of their authority, and does not violate the general principles of good governance. Discretion is decision making that is influenced by personal judgment, which is not bound by applicable law. Discretion is the freedom given to implementers of public policies in the

context of implementing public policies, in accordance with the increasing demands for public services that the state must provide to an increasingly complex society (Pradana, 2016).

According to Marbun (Mustamu, 2011) so that public services can be carried out and achieve maximum results, the state administration is given a certain independence to act on its own initiative to solve various complicated problems that require proper handling, while there are none; or a legal basis for the settlement has not yet been established by the Legislative Institution which is then given free authority in administrative law in the form of discretion.

In exercising this freedom, the administrator must be supported by a compelling condition and/or unforeseen event. According to Bagir Manan (Firdaus & Erliyana, 2020) states that the element of urgency that forces must show 2 (two) general characteristics, namely there is a crisis (crisis) and there is urgency (emergency). According to him, a crisis situation occurs when there is a grave and sudden disturbance. Emergency, if there are various circumstances that were not taken into account beforehand and require an immediate action without waiting for a deliberation first, or there have been signs of a real start and according to common sense, if not regulated immediately, it will cause disturbances both for the community and for the community the course of government.

2.4. Disaster management

Disaster is a natural or non-natural event as well as human activity that has an impact on human life causing illness, injury, death and material loss. Disasters cannot be avoided from human life, especially natural disasters which are closely related to the geography and topography where humans live and organize their socio-economic life.

According to Law no. 24 of 2007 concerning Disaster Management, it is stated in Chapter I, Article 1 point 1, that a disaster is an event or series of events that threatens and disrupts people's lives and livelihoods caused, both by natural factors and/or non-natural factors as well as human factors, resulting in the emergence of human casualties, environmental destruction, property losses and psychological impacts.

2.5. Post-Disaster Management

Disaster management in the post-disaster phase is a strategic function where the Government and Regional Governments make efforts to restore people's lives in the perspective of sustainable development. Rehabilitation and reconstruction are concepts that are inseparable from the perspective of disaster management in the post-disaster phase. According to Government Regulation N0. 21 of 2008, in Chapter I, article 1, numbers 10 and 11 it is stated, Rehabilitation is the improvement and restoration of all aspects of public or community services to an adequate level in post-disaster areas with the main goal of normalizing or running normally all aspects of government and community life. in the post-disaster area.

Furthermore, Reconstruction is the rebuilding of all infrastructure and facilities, institutions in post-disaster areas, both at the government and community levels with the main targets of growing and developing economic, social and cultural activities, upholding law and order, and increasing community participation in all aspects of social life in post-disaster area. The focus in post-disaster Rehabilitation and Reconstruction is as follows: Improvement of the disaster area environment; Repair of public infrastructure and facilities; Providing assistance for community housing repairs; Psychological social recovery; Health services; Reconciliation and conflict resolution; Social, economic, and cultural recovery; Restoration of security and order; Restoration of government functions; and Restoration of public service functions.

III. Research Methods

Majchrzak (Nugroho, 2014), argues that policy research is research that is included in the applied research group, and is intended as an attempt to examine fundamental social problems in relation to creating pragmatic courses of action in order to improve or fix problems social.

This study uses a qualitative approach with observation techniques through observation or interviews. According to Stranss and Corbin, 1990 (Salim and Syahrin, 2012), Qualitative Research is a type of research whose discovery procedures do not use statistical or quantification procedures. In this case qualitative research is research on organizations, social movements or reciprocal relationships. Furthermore, according to Hajar, 1996 explains that in terms of the research results presented, qualitative research is to present the results in a descriptive narrative form.

According to Salim and Syahrin (2012), human behavior must be applied in the same way as the behavior of other natural objects, there are laws that determine human behavior. An action is determined if it can be included within the scope of the law, and of course such laws are confirmed by empirical evidence.

The qualitative model in this study is the choice because it is related to the available data and information sources that are more suitable for a qualitative approach than a qualitative model quantitative, because it is related to the intangible policy-making process and also involves regulations or laws and regulations related to the causes of a policy being adopted and how the policy process is made through certain complexities taken from limited informants.

Research Location and Plan

The location of this research was carried out at the Karo Regency Government, especially the agencies involved in implementing the Post-Disaster Rehabilitation and Reconstruction Settlement Relocation Program for victims of the Mount Sinabung Eruption disaster, namely the Karo Regency Government which participated in making Rehabilitation and Reconstruction policies for Settlement Relocation. This research is planned for 5 (five) months from pre-study to the final result of the study. The pre-research has been carried out since February and ends in June 2021.

IV. Results and Discussion

The implementation of post-disaster Rehabilitation and Reconstruction policies in the Settlement Relocation Program is actually an action that must be carried out after the disaster is over, or after the Emergency Response Status has been revoked. According to existing regulations, the main person in charge of disaster management is the Regency/City Government, Province and Central Government. As the Emergency Response Status for the Mount Sinabung Eruption is determined through the decision of the Karo Regent, normatively the management of the Mount Sinabung eruption disaster is the responsibility of the Karo Regency Government.

However, from the capacity of the Karo Regency Government, it cannot be carried out optimally as Edward argued, policy implementation is influenced by 4 (four) variables, namely (1) communication, (2) resources, (3) disposition and (4) Bureaucratic structure. The "emergency response" phase is one of the 3 (three) disaster phases in addition to the "pre-disaster" and "post-disaster" phases. These three phases have their respective main tasks and functions separately, although sometimes there are areas of intersection or transitional periods

between the three phases of a disaster. According to existing regulations, the rehabilitation and reconstruction phase is usually implemented when the emergency response period is over/revoked.

Meanwhile, the emergency response period itself has 3 sub-phases, namely “emergency alert”, “emergency response” and “emergency transition to recovery”. In disaster management, especially in Merapi and Kelud, after the “emergency response” phase was lifted, the Rehabilitation and Reconstruction phase or post-disaster phase was immediately implemented. The problem is, the characteristics of Mount Merapi and Kelud are very different from the characteristics of Mount Sinabung where volcanic activity is prolonged, and does not stop erupting.

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According to Tri Budiarto (at that time as Deputy for Emergency Management), the National Disaster Management Agency stated:

"The prolonged situation of the Mount Sinabung Emergency Response and PVMBG have not been able to predict the intensity of the Sinabung volcano in relation to the change in the Emergency Response Status, while the community affected by the Sinabung impact must be restored as soon as possible so that they can live normally and humanely."

Based on the interview, it can be understood that the post-disaster Rehabilitation and Reconstruction policy of the Mount Sinabung Eruption is based on emergency and humanitarian considerations. According to Law Number 24 of 2004 concerning Disaster Management, it is stated that disaster management consists of 3 (three) phases, namely the pre-disaster phase, during the disaster (emergency response), and the post-disaster phase (rehabilitation and reconstruction).

The three phases have different handling, especially in terms of planning, implementation and funding. From these three aspects, according to PP No. 21 of 2008 concerning the Implementation of Disaster Management, Regulation of the Head of BNPB Number 17 of 2010 concerning the Implementation of Disaster Management, article 4 paragraph (3), Implementation of Rehabilitation and Reconstruction in the Settlement Relocation program is carried out according to regulations, after the Emergency Response Status is revoked.

Relocation development which is a post-disaster program must be carried out with the following considerations:

4.1. Emergency Response Period

At the time the relocation had not been built, the Emergency Response period for the eruption of Mount Sinabung had lasted for ± 2.8 years. The Emergency Response Period was first established through the Decree of the Karo Regent Number: 361/249/Bakesbang/2013, dated 17 September 2013 concerning the Determination of the Emergency Status of the Mount Sinabung Disaster. Simultaneously extended through the decisions of the Regent of Karo. This prolonged Emergency Response Period is the result of a technical review and PVMBG recommendation. Technical studies from PVMBG related to the affected area (red zone) traversed by hot clouds (pyroclastic). Through a technical study, PVMBG recommends areas/villages that must be left to the Karo Regency Government.

The Emergency Response Status was followed by the establishment of an Emergency Response organization as the organizer of the Emergency Response through the Decree of the Karo Regent Number: 361/250/Bakesbang/2013, dated 17 September 2013 concerning the Establishment of an Emergency Response Team for Disaster Management led by the Commander of Kodim 205/TK Letkol (inf) Meyer Putong. The implementation of this Emergency Response is tasked with rescue and relief, activating refugee posts, meeting the needs of food, drink, clothing, clean water and sanitation as well as emergency education and health services for disaster victims.

Normatively, conditions in the Emergency Response Status implementing post-disaster programs, such as relocation, are not in accordance with existing regulations. Thus, it can be understood that this emergency condition has an impact on the legal vacuum in implementing Settlement Relocation.

4.2. Humanity

During the plan to relocate the settlements for the victims of the eruption of Mount Sinabung, the number of refugees was around 9,323 people/2,592 families still living in refugee camps such as Jambur, churches, mosques and government-owned buildings, and were given house rent and agricultural land.

People's lives in refugee camps have long brought social problems in their interactions and kinship systems. There are even behavioral deviations due to the inhumane life occurring in the refugee camps.

According to Tri Budiardjo:

During the Emergency Response period, the community was in refugee camps with very limited space for movement, which was in jambur-jambur without walls, church buildings which were very unfit for habitation for a prolonged period of time (at that time the refugee period was 2.8 years).

According to the research results of the United Nations Development Program (UNDP), Ginting & Sembiring:

There is deviant behavior that is published and widely discussed by word of mouth by members of the public. The deviant behavior discussed is related to sexual behavior that affects young teenagers. There is much talk about young teenagers having sex in the bushes or hidden places around refugee camps.

The relevance of this problem was raised, given that the protracted waiting in the refugee camps had encouraged behavior that deviated from social norms. So that immediate action to complete and provide new housing for them is considered very urgent, so that behavior that deviates from social behavior does not develop in other forms. The social order for the community will be more solid and maintained when they live in permanent settlements, considering that the interaction system between residents has been more patterned by residents who know each other and supervise each other.

In this regard, Bagir Manan (Firdaus & Erliyana) stated that for administrators to make discretion, it must be supported by coercive conditions and or unexpected events. The element of urgency that compels must show 2 (two) general characteristics, namely there is a crisis (crisis) and there is urgency (emergency). According to him, a crisis situation occurs when there is a grave and sudden disturbance. Emergency, if there are various circumstances that were not taken into account beforehand and require an immediate action without waiting for deliberation first, or there have been signs of a real start and according to common sense, if not regulated immediately, it will cause disturbances both for the community and for the community the course of government.

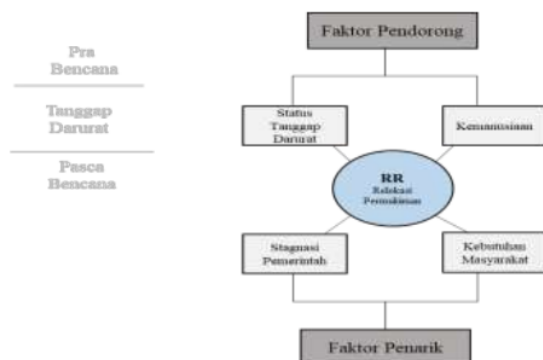
The government in making discretionary decisions is not only for the sake of legality, but above all so that the government can carry out public service tasks, especially so that immediately. In this connection Darunurti (Munaf) mentions:

"The fundamental understanding of the state, namely the principle of legality is a means in the framework of the public good. Therefore, in the public good, the principles of legality cannot be ruled out (the purpose should not be ruled out by the means).

The purpose of the discretion is from the aspect of the purpose of Settlement Relocation for victims of the eruption of Mount Sinabung who have been in shelters for \pm 2.8 years which are in inadequate and inhuman conditions. Therefore, by exercising discretion, the purpose of the Post-Disaster Rehabilitation and Reconstruction Program in the Relocation Program which aims to humanize disaster management in the post-disaster phase is "built back better and safer".

Based on the results of interviews, available documents and regulations as well as supporting theories, there are 2 (two) factors as triggers for the implementation of the post-disaster Rehabilitation and Reconstruction program in Settlement Relocation activities. The first factor is the Emergency Response Status, which normatively cannot be implemented with post-disaster development. The second factor is human considerations.

These two factors are the impetus for the situation where it is normatively impossible to carry out Settlement Relocation. There is a legal vacuum where the law and other regulations explicitly mandate that relocation development can only be carried out when the Emergency Response period is revoked/ends. If the relocation development is not immediately carried out with the condition of the refugees living in an inhumane manner on the grounds that they cannot be relocated immediately, then the government stagnates because it cannot fulfill the public interest of the community so that they can recover quickly. The two factors above are the triggers for the implementation of discretion so that the post-disaster Rehabilitation and Reconstruction program in Settlement Relocation activities for the victims of the Mount Sinabung eruption is carried out through discretion.



Source: Data Analysis, 2021

The two main factors are the driving factors, namely the Emergency Response and Humanitarian status factors affected by the eruption of Mount Sinabung. Emergency Response Status is an empty gap because the implementation of Settlement Relocation cannot be carried out. However, the consideration of humanitarian factors, although not supported by regulations, must be built immediately, otherwise it will cause socio-cultural and economic problems for the wider community.

While the other two factors are pull factors, namely the stagnation of government and the needs of the community. Thus, it is recommended that factually and existing regulations there are 2 (two) driving factors of the 4 (four) discretionary indicators according to Ramdhani & Ramdhani.

V. Conclusion

Disaster emergency factors (Emergency Response Status) and Humanitarian factors because the refugees have been living in temporary shelters (shelters) for \pm 1.8 years in inadequate and inhumane living conditions are the driving forces for discretionary Rehabilitation and Reconstruction policies in the Settlement Relocation Program for disaster victims the eruption of Mount Sinabung, Karo Regency;

Discretion of Post-Disaster Rehabilitation and Reconstruction of Mount Sinabung's Eruption in Relocation of Refugee Settlements is caused by a legal vacuum, because post-disaster development cannot be carried out in the Emergency Response phase where since September 2013 until now the Disaster Status of the Mount Sinabung Eruption is still in the Emergency Response phase.

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