

CHILD LABOUR: A STUDY

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INTRODUCTION

Children are like mirror, who reflect the future image of a nation. If anybody wants to know a nation, he should see its children. Children are not only the future of any nation but also strength in reserve for a nation. They are the crops which feed the future. If they are healthy and active, educated and informed, disciplined and trained, the future of a nation is well insured, and if they are wanting in the above aspects the future of a nation is doomed to disaster. Labour is worshipping, no doubt, but it must be expected from and exacted upon those who are fit for it. Misplaced labour is dangerous to one who does it and to those who get the fruits out of it. History is replete with instances when nations have come up or gone down on the basis of the treatment the younger generation got at the hands of those in the saddle. It is in this context that the present study would be concerned with the vital aspects of child labour and its evil consequences.

CONCEPT OF CHILD LABOUR

The term 'Child Labour' is, at times, used as a synonym for 'Employed Child' or 'Working Child'. In this sense it is co-extensive with any work done by a child for gain. But more commonly than not, the term 'Child Labour' is used in pejorative sense. It suggests something which is hateful and exploitative. Thus, Homer Folks¹ defined child labour as²

"....any work by children that interferes with their full physical development, their opportunities for a desirable minimum of education or their needed recreation"

A child labourer is differentiated from an adult worker on the basis of age. Usually a child worker is someone below the age of 14 or 15 years who is involved in any productive activity whether paid or unpaid, with the family or outside.

The term child labour not only applies to the children working in industries but also to the children working in all forms of nonindustrial occupations which are injurious to their physical, mental, moral and social development.

In India, there is hardly any statutory provision which defines the term 'child labour' in precise terms. Even those various legislative provisions which prescribe the minimum age for

¹ The Chairman of the United States National Child Labour Committee .

² Supra note 1 at 1.

the admission to employment in different vocations do not fix uniform age for reasons of variations in the nature of the operations in which children are employed.

NATURE OF CHILD-WORK

Children are involved in all types of work. In agriculture, children do work as helpers, looking after cattle and sheep, watering crops, scaring away beasts and birds from the fields, helping at the time of sowing, weeding, harvesting and thrashing operations, etc. In their homes, they look after the younger siblings, collect firewood and water, and participate in other domestic and non-domestic work as in a cottage industry.

In factories, the children are often employed for packing, pasting, labeling, etc. In the organized sector, there are various manufacturing units and processes where children are engaged such as carpet weaving, glass and bangle industry, match and fireworks industry, slate factories, lock factories, mica factories, cashew nut factories, beedi manufacturing, tea estates, coir industry, handloom and power loom industry, wood and cork, furniture and fixture, printing, publishing and allied trades, leather and leather products, rubber and rubber products, machinery, transport equipment and personal services like laundries, dyeing and cleaning, etc.

A number of children are employed in unorganized sector and they work as domestic servants; or as workers in hotels, restaurants, canteens, dhabas (roadside cafes), petrol pumps, wayside shops and establishment; or as hawkers, magazine and newspaper sellers, fruits and peanuts sellers; coolies, shoe-shine boys, rag-pickers, vendors, car cleaners, parked car watch-boys; or helpers in scooter and motor repairing workshops, tailoring shops; or as messengers, etc. In the bigger cities, children have been caught selling drugs. The children are also taken with their parents in construction work for loading, unloading and breaking of stones, etc.

The children are also employed as artists. Thus in film industry, children are employed as artists. In circus also a sizable number of the artists are children. 'Madari' (juggler) also uses child as 'Jamura' (helping boy) for showing his art and he receives money by gaining sympathy of the visitors. Similarly, the acrobats beg alms with the help of child-artists.

A major sector where children are put to work is organized begging. However, it is open to serious debate whether begging should be considered a form of work at all, and if not, should it not be prohibited to all children and adults.

Child work is also brought about by one of the nefarious methods, namely bonded labour. The parents obtain loan and surrender their child as security for it in virtual mortgage where amount of loan is to be worked off by the child.

Whatever the occupation, the element of risk is always there as far as a child is concerned. It has been estimated that 16 million children among India's child labour force are

exposed to health hazards in their working conditions. Some occupations like match and fireworks industry, glass and bangle manufacture, and carpet weaving are extremely hazardous.

- A. Carpet Weaving Industry
- B. Handloom and Power loom Industry
- C. Match & Fireworks Industry
- D. Glass & Bangle Factories
- E. Slate and Lock Factories
- F. Beedi Industry
- G. Agricultural Operation
- H. Domestic and Hotel Services
- I. Self Employment

CAUSES OF CHILD LABOUR

Child labour is deeply rooted in poverty. In India, where nearly half³ of the population lives below the poverty line⁴ the choice before the impoverished families is limited, either to send their children to work for supplementing the family income or starve. Besides the economic compulsions, certain social traditions and attitudes also influence the practice of child labour. For example, a popular belief generally held by the poor is that “the larger the number of children in the family, bigger would be the family income” because every child means two extra hands to work, which means more income for the family.

Thus the reason for employing children has been two-fold, that is, economic and socio-cultural as well.

A. Economic Factors

Stronger than socio-cultural factors, are the economic reasons responsible for the prevalence and perpetuation of child labour; because child labour is essentially a problem of poor and destitute families, who have no option but to send the child for work in order to keep the wolf away from the door. Child labour exists in inverse relation to the degree of economic advancement of a society, country or region⁵

The economic compulsion may be characterized as under:

- (i) Poverty

³ Supra note 6 at 9, para 2.13.

⁴ Poverty Line - According to the criterion used by the Planning Commission, families in rural areas with income levels less than Rs.65/- per capita per mensem and those in urban areas with income levels less than Rs.75/per capita per n?ensem are considered to fall below the poverty line.

⁵ Elias Mendelievich (Ed.), Children at Work 4 (1919).

- (ii) Indebtedness
- (iii) Adult Unemployment
- (iv) Low Adult Wages
- (v) Inadequate Social Security
- (vi) Self-Interest of Employers
- (vii) Suitability of Specific Jobs

B. Socio-Culture Factors

Although the root cause of the persistence of child labour is economic, yet in a tradition-ridden society, like India, there may be socio-cultural compulsions like the agrarian pattern, educational system, values and attitudes towards children, etc. influencing the incidence of child labour, which is often accepted as part of the normal state of things. A look into the socio-cultural setting, therefore becomes imperative in order to appreciate the institution of child labour from this perspective.

(i) Agrarian Social Structure:

Indian society continues to be essentially agrarian in character and a recognized feature of rural employment is its seasonality. During the peak sowing and harvesting season, there is tremendous demand for labour. In order to earn the maximum possible income almost every rural labour household mobilizes the entire family labour force, including children to contribute, howsoever insignificantly, towards family income. Increasing landlessness among the rural households is also responsible for child labour in the agricultural sector.

(ii) Caste-System:

The deep-rooted institution of caste system in India has been responsible for socio-economic inequalities and many other social evils. Child labour is no exception to this.

A study of child labour in rural South India revealed that caste is inversely related to child labour participation⁶.

According to a report prepared by the Indian Social Institute on Child Labour, 80% of all child labourers belong to the S.C. and S.T. that have been exploited and marginalized in India for centuries⁷.

(iii) Population:

⁶ D.A.Naidu, "Micro-Determinants of Child Labour: An Evidence from Rural South India" (Paper presented at a Seminar on Child Labour and Health) 120 (1982).

⁷ Water Fernandes, Neera Burra and T.S. Anand, Child Labour in India (a summary of a report prepared by Indian Social Institute) 2 (1986).

Nearly 40% of the population, as per 1981 Census, consists of children below the age of 15 years. Thus, out of every 5 persons 24.2 are below 15 years⁸

Child labour force below 14 years of age, which was 10.74 million according to 1971 Census, has risen to 11.16 million in 1981 Census, excluding the figures for Assam⁹

The number of children employed is directly proportional to the progressive increase in population. Any increase in the population is likely to increase the supply of child labour in a poor country like India, where majority of parents cannot afford to rear a child from their own resources alone

(iv) Industrialization and Urbanization:

It was only after the establishment of some industries during and after the First World War that the process of out migration from rural areas commenced¹⁰. India is among terms of industrialization but among the poorest in terms of per capita income¹¹. Expensive urban living and low wages compelled the children to take up industrial employment in order to support meager family income.

(v) Unsuitable System of Education:

Absence of any provision for compulsory education is another important cause of child labour. School facilities are also inadequate. In most of the cases, children finding non-availability of school going facilities at initial stage seek some job as an alternative.

The poor parents feel that educating the child will not help to feed them whereas a working child brings money into the home to take care of certain basic needs.

Moreover, our curriculum does not take into consideration their actual requirements in daily life. It is rigid and examination-oriented. If it was non-formal, with more emphasis on vocational training, then it would be of far greater use to the child. There is no adjustment of timings and periodicity of the school system and agricultural operations. In the agriculture sector children are needed when there is pressure of work during sowing and harvesting. At this time, it is impossible to spare them for school. In many cases, this temporary withdrawal from school, results in permanent drop out from the school.

⁸ See P.Padmanabha, "Population of India : Some Dimensions", *Yojna*, Vol.27 No. 1 ~ 2, 4-7, (26 January 1983).

⁹ *Supra* 6 at 13, para 2.27 and *Infra* 35.

¹⁰ *Census of India 1981, Series-1 India, Part-II of 14S3, Key Population Statistics based on 5% sample data Table 1, at 4.*

¹¹ M.S.Gore, 'Inaugural Address' in a Seminar on Child Labour and Health 29 (1982).

In the absence of any statutory obligation, employer is reluctant to provide non-formal education facility to working children voluntarily.

Taking all the factors into account, it is doubtful that each and every child in the country will receive elementary education even by the end of this century.

(vi) Parental Attitudes and Perceptions:

In ancient India, tradition of educational learning outside home was confined to the upper castes only. Children of artisan and other producing classes learnt the necessary skills in the family. Formal education had little relevance to them. Some parents still pursue this tradition and do not believe in the socio-economic value of formal education. Their children are inducted in the work-culture from the very beginning.

Another belief which has been handed down from generation to generation among the poor strata of the society is that "more hands in the family means more income". This tendency is not only responsible for the population explosion but also for the perpetuation of child labour.

Lower the education of parents, the lower is the educational aspirations for their children. Thus, the less educated parents tend to place lower value on their children's education and, therefore, put them to work at an early age. Thus the nature of parental attitudes and perceptions tend to influence the employment of children to an extent.

(vii) Norms of Social Obligation:

Children participation in agriculture, hereditary crafts and other productive work of the household is well-known. Any deviation from such role by the children is likely to incur the wrath of the family and the community at large.

In some households, engaged in wage-employment, children become regular working members of these units not because family needs their economic contribution but because social traditions direct so¹²

Under the pristine Hindu Law, a son was under an obligation to pay the debt incurred by his father. In order to satisfy such debt, he sometimes used to sell his labour to the creditor.

Even now the system of debt bondage of children is prevalent inspite of legal prohibition¹³. Because of the social sanction, children are serving the creditors in payment of petty loans taken by their fathers¹⁴

¹² Supra note 2 at 204

¹³ Supra note 4.

In case of death or disablement of the bread-winner in the family, the child has to join wage-employment due to his obligation towards the family.

Although the socio-cultural factors do shape the extent of child labour yet the principal forces responsible for the practice of child labour and its continuity are economic.

SOCIAL IMPLICATIONS OF CHILD LABOUR

The concern for child labour arises on world-wide basis because of its implications and repercussions for the child and the society as well. Child labour may produce multi-dimensional impact. Moreover, different economic activities by Children may generate different effects.

A. Child Welfare

The repercussions of child labour on the child's welfare and development are far reaching and multi-dimensional. Some of them are:

(i) Education and Schooling:

The working child has no time to go to school because the hours clash with his time at work and hence he remains uneducated through out the life.

Neera Burra points out:¹⁵

The (working) child is deprived. This deprivation is of two types: one related to the impact on its health..., the second concerns its educational status..., (he is) unable to go to school.

(ii) Health, Physical and Mental Development and Life Expectancy:

If the consequences of child labour for education and schooling are a major reason for concern for the child's future development, its impact on health and safety presents the most serious cause for concern about the immediate welfare of the child.

Some light work under regulated conditions may have positive effects for the child. But the child labour in the appalling working conditions in which it is actually carried out, is both physical and mental detrimental and its harmful effects are bound to shorten the life span of the working child.

(iii) Occupational Risks:

¹⁴ Supra note 2 at 196-200.

¹⁵ Neera Burra, "Child Labour in India : Poverty, Exploitation and Vested Interest", *Social Action*, Vol.36, No.3, 251. (July-September, 1986).

The risk of occupational accidents or disease is present in every employment sector to a greater or lesser extent (refer to sub-chapter II dealing with the 'Nature of work'), not only because of hazardous nature of the job but also because of the child's immaturity, lack of experience and training, lack of concentration and use of machinery without adequate protective devices.

(iv) Future Prospects:

Child labour directly affected future prospects of the child. Since he starts working at such an early age, he remains illiterate and unskilled for the rest of his life and this hinders any progress or advancement in his life, and "he spends his whole life at the bottom of the social ladder, performing routine, unskilled jobs...."¹⁶ In Case of attracting any occupational disease or suffering any accident resulting in any disability during childhood, the entire future of such a child is endangered.

B. Labour Force

Employment of children has a multi-dimensional impact on the labour market.

- (i) Adult Unemployment
- (ii) Wage Structure
- (iii) Labour Productivity

C. Socio-Cultural Effects

Child labour involves social consequences also because children constitute an important component of the society.

- (i) Demographic Behavior and Patterns
- (ii) Poverty and Economic Inequality
- (iii) Migration and Slums
- (iv) Disintegration of Family Life
- (v) Social and Political Consciousness
- (vi) Premature Freedom and Child Delinquency

To sum up, child labour is economically unsound, psychologically disastrous and physically as well as morally dangerous and harmful. It involves the use of labour at its point of lowest productivity and is, therefore, an inefficient utilization of labour power. More important is that child labour precludes the full enfoldment of child's potentialities. It deprives him of education, training and skills which are the necessary prerequisites of earning power and economic development. Children are the most vulnerable group in any population and in need

¹⁶ Supra note 11 at 46.

of greatest social care. On account of their vulnerability and dependence they can be exploited, ill-treated and directed into undesirable channels by unscrupulous elements in the community¹⁷

Child labour thus entails far reaching consequences both for the working child and the society at large.

INTERNATIONAL INSTITUTIONS & CHILD LABOUR

UNITED NATIONS ORGANISATION

International concern for child labour has also been manifested in some international instruments adopted by the United Nations .

The Supplementary Convention on the Abolition of Slavery, Slave Trade, and Institutions and Practices similar to Slavery of 1956 prohibits the exploitation of Child Labour in cases where children are delivered to another person for that purpose.

The fundamental text is the Declaration of the Rights of the Child¹⁸. Stressing that “mankind owes to the child the best it has to give”, the Declaration affirms the rights of the child to enjoy special protection, to be given opportunities and facilities to enable him to develop in a healthy and normal manner, to enjoy the benefits of social security including adequate nutrition, housing, recreation and medical services, to receive education, and to be protected against all forms of neglect, cruelty and exploitation. The Declaration specifies that “the child shall not be admitted to employment before an appropriate minimum age, he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education or interfere with his physical, mental or moral development”

These rights of the child were later reaffirmed in the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly in 1966. The Covenant called attention to the needs for special measures of protection and assistance on behalf of all children and young persons. Regarding child labour, Article 10, paragraph 3, more especially provides that¹⁹ Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

¹⁷ National Seminar on Employment of Children in India 7-2 (1979).

¹⁸ Proclaimed by the United Nations General Assembly on 20 November 1959, Resolution 1386

¹⁹ Supra note 36 at 28.

Efforts “to eliminate child laboring conformity with the relevant international labour Conventions”, were also specifically called for by the international Development Strategy for the Third United Nations Development Decade, adopted in 1980²⁰

The problem of child labour has manifold dimensions. Various agencies of the United Nations system, other than ILO, as the WHO, UNICEF, UNESCO and FAG, have also been contributing in the fields of health, levels of nutrition, education and training, etc. A brief mention of their role is, therefore, inevitable.

A. WHO

The World Health Organization (WHO) set up in 1947, has as its basic objective, “the enjoyment of the highest attainable standard of health as one of the fundamental rights of every human being without distinction of race, religion, political 49 belief, economic or social condition”²¹ “Health for All by the Year 2000” is the goal adopted by WHO in May, 1981.

In the case of child labour, WHO has been working closely with the ILO and other non-governmental organizations for maintenance of industrial hygiene and protection of child labour from hazardous occupations. An important aspect of WHO’s function is the generation and international transfer of valid information so as to create awareness as to the ill-effect of child labour on the physical and mental development of the child.

B. UNICEF

The United Nations International Children’s Emergency Fund now United Nations Children’s Fund, but still known as UNICEF is a specialized agency operating for the welfare of children. UNICEF is working with the theme that as the child grows each of his needs is immediate. For a child, otherwise, there is no tomorrow. His name is today²²

Among the child’s needs, UNICEF has concentrated primarily on his education. Where child labour is inevitable due to extreme poverty, UNICEF is encouraging nations to take the education to the child instead of bringing the child to the school by introducing non-formal. education centre at the work-places.

C. UNESCO

The United Nations Educational, Scientific and Cultural Organisation (UNESCO) is another specialised agency of the United Nations system established for contributing to peace and security by promoting collaboration among the nations through education, science and culture.

²⁰ Report of the Director-General 4 (1983).

²¹ WHO Constitution, See John Paxton (Ed.), The Statesman’s Year Book 1983-84, 18-20, (1983).

²² Supra note 4, Vol. 1, at 50.

In the field of education, the UNESCO seeks to promote the progressive application of the right to free and compulsory education for all and to improve the quality of education everywhere.

In the protection and restriction of child labour, the ILO has realised the need for the application of social measures other than labour laws, such as compulsory primary schooling and social welfare services. The ILO has co-operated closely with the UNESCO in the training of children in handicrafts and village industries with a view to increase their efficiency and productivity²³

d. FAO

About two-third of the world's population do not have enough to eat²⁴. The Food and Agriculture Organization (FAG) has been working with the aim of raising levels of nutrition and standards of living to improve the production and distribution of all food and agricultural products, to improve the living conditions of rural population and by those means to eliminate hunger²⁵

By helping to conserve forests, the improvement of fisheries, proper utilization of water resources, the reclamation of deserts and otherwise better conditions of rural people, the FAO is attacking the very causes which generate child labour and their migration to urban areas.

NON-GOVERNMENTAL ORGANISATION

Besides the United Nations system, child labour has been of concern to some Non-Governmental Organizations also at the international level. Two of such bodies deserve mention for focusing world attention on the plight of this silent work force which does not constitute vote-bank.

A. Anti-Slavery Society

The Anti-Slavery Society, London, which has consultative status with the United Nations Economic and Social Council (ECOSOC), is the only non-governmental organization which has had a consistent programme in respect of child labour, and together with the ILO has been the major source of information on this topic²⁶

As far back as 1918 to 1930 the Society fought bureaucratic opposition in London to secure protection for children. The current programme commenced in 1975, in respect of children, is concerned with the exploitation of child labour. In 1977 a searching study was made

²³ G.A. Johnston, *The International Labour Organisation* 230 (1970).

²⁴ *The ILO in the Service of Social Progress*, 116(1969).

²⁵ *Supra* note 49 at 16.

²⁶ *Anti-Slavery Society - Future Work on Child Labour* (Paper presented at a Child Labour Workshop at the Institute of Development Studies, University of Sussex, Brighton, England), (mimeo. 1981)

of child labour in the carpet factories in Morocco and a report was published and submitted to the United Nations in 1978²⁷

To mark the International Year of the Child (1979) the Society expanded its activities and undertook a world-wide-programme of research on child labour and its exploitation. A series of country monographs were commissioned and are being published in the form of reports based on field research. These reports form the backbone of the Society's campaign to inform public opinion and encourage action by international agencies and national Governments. During 1979 the society sponsored the publication of "Child Workers Today", which presents an overall view of child labour throughout the world²⁸. The Society has published its report on child labour in India, Spain, Thailand²⁹. Reports on child labour in Malaysia, Italy and South Africa have also been published.

The Society in collaboration with the ILO has already compiled extensive information on at least 20 countries in all parts of the world³⁰

The Reports of the Society are presented to various international bodies. In August, 1979, short reports on Child Labour in Hong Kong, Columbia, India and Portugal were submitted to the United Nations Working Group on Slavery and Interventions on child labour made at the thirty-second and thirty-third sessions of the sub-commission on Prevention of Discrimination and Protection of Minorities (Geneva, August-September, 1979 and 59 1980 respectively)³¹

The programme of the Society so far has aimed at creating a greater awareness of the problem and has endeavoured to link the research findings to action at both national and international levels. The publication of the reports will complete the first phase of the Society's programme.

The Society is now starting to plan the second phase of child labour programme and is likely to concentrate on economic and social research on the causes and effects of child labour.

B. Amnesty International

Amnesty International is a world-wide human right movement which seeks the observance of the United Nations Universal Declaration of Human Rights throughout the world. This organisation, with headquarters in London, is independent of any governmental or political faction, ideology, economic interest, or religious creed. It works, primarily, for the release of

²⁷ Anti-Slavery Society, Child Labour in Morocco's Carpet Industry, Child Labour Series, Report No.1, London, (1978).

²⁸ Supra note 54.

²⁹ Anti-Slavery Society, Child Labour in India by S.Banerjee, Child Labour Series, Report No.2, 1979; Child Labour in Spain by S.Searlight, Report No.3, 1980; Child Labour in Thailand, by S.Banerjee, Report No.4, 1980.

³⁰ Supra Note 36 at 1

³¹ Supra Note 54

men and women imprisoned anywhere for their belief, colour, ethnic origin, language or religion provided they have neither used nor advocated violence. These are termed as “Prisoners of Conscience”

Amnesty International also opposes torture in all cases and without reservation. Campaign ‘or the Abolition of Torture (CAT) is an important part of the Amnesty’s overall programme. Not only the torture of prisoners but also torture of any kind including the extreme cases of exploitation of children while in employment as in the case of bonded child labour is included.

Amnesty International has consultative status with the United Nations Economic and Social Council (ECOSOC) and is recognized by the UNESCO, the Organization of American States, the Organization of American Unity, and the Council of Europe. It submits information to each of these organizations from time to time about the infringement of human rights by well researched and impartially presented reports³². In January 1977, Amnesty International submitted a report to the UNESCO regarding the “widespread and systematic violation of human right in education” of children, including working children in some countries³³.

Although the organization primarily concentrates on the “Prisoners of Conscience” yet, of late, it has addressed itself to the cause of child labour also, concerning the naked violation of their human rights.

APPRAISAL AND INSPIRATION

For almost seventy years (1919-1989) the ILO has been working to translate the ideal of peace with justice into reality. The ILO stands and works for social justice for working people everywhere.

In the field of child labour, the ILO has adopted a series of Conventions and Recommendations dealing with the employment or work of children and young persons as mentioned earlier. Their objective is to ensure gradual elimination of child labour in the long run. The formulation of Conventions and Recommendations is intended to address the diversity of situation obtaining in different parts of the world. These are not intended simply as static instruments prescribing fixed minimum standards but as dynamic ones aimed at encouraging the progressive improvements of standards and of promoting sustained action to attain the objective. In addition, the obligations assumed by ratifying States are flexible and conditioned by national circumstances and the level of the standards already achieved in the country. Provisions are therefore made for this through exceptions.

International labour standards can serve as a general guide and as a source of inspiration for national action by virtue of the authority which attaches to texts adopted by an assembly

³² Amnesty International Report 15 (1977)

³³ Id. aty 24

composed of representatives of the Governments, employers and workers of almost all the countries in the world. They may also for that reason provide a basis for the claims of the workers and guide the policies of the employers 'International Labour Standards' have thus developed into a kind of 'International Common Law'

In order to boost national action for the progressive elimination of child labour and pending its achievement, transitional measures for the improvement of their working conditions, the ILO decided to celebrate the year 1979 as the 'International Year of the Child'.

Such an occasion not only focuses world attention on the plight of the children, particularly for the least privileged and those who are at work, but also provides all member States with an opportunity to review their economic and social policies concerning children.

To distil in a few words, the essence is that the ILO has been rendering a yeoman service, with support from the specialized agencies of the United Nations and non-governmental organizations for the ultimate elimination of child labour from the world.

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