



# THE ROLE OF THE GOVERNMENT IN REACHING THE WELFARE OF SMALL AND MEDIUM ENTERPRISES IN THE PERSPECTIVE OF LAW NUMBER 20 OF 2008 CONCERNING MICRO, SMALL AND MEDIUM ENTERPRISES

WIWIK SRI WIDIARTY <sup>1</sup>

Law Program Study, Universitas Kristen Indonesia, Indonesia <sup>1</sup>

wiwik.widiarty@gmail.com<sup>1</sup>

**Abstract** - State's role is urgently needed, especially in its main ideas to create prosperity for SME Sector. Such business undertakings have the ability to create jobs and generate supplementary income for the society, which can enhance social welfare and stimulate development while also boosting the country's economy. However, there are several problems: 1. How to regulate Small and Medium Enterprises in realizing a welfare state, 2. What is the government's role for SMEs according to Law No. 20 of 2008 regarding MSMEs? The study methodology applied is based on normative legal research methods with descriptive-analytical research specifications, and Normative legal research, specifically library-based research, is conducted by analyzing materials from libraries or secondary data sources. The findings of the research determined that, initially, the enactment of Law Number 20 of 2008 regarding Small and Medium Enterprises by the government has led to the advancement of the MSME sector, resulting in increased prosperity, encouraged MSMEs to partner with Large Enterprises by using Article 1338 of Civil Law, specifically the doctrine of contractual autonomy of the involved parties, then through holding the G20 Summit in Bali the order succeeded in making policies by encouraging MSME investment. Second, the government's role for SMEs, namely by providing various stimulus programs through additional restructuring of loan capital in government's initiatives to promote the well-being of the Indonesian populace through the advancement of MSMEs, the Job Creation Law has been enacted to oversee the facilitation, safeguarding, and empowerment of MSMEs, through National Economic Program (PEN). ), through the People's Business Credit (KUR), as well as government policies in organizing the G20 Summit in Bali, succeeded in making policies to encourage MSME investment.

**Keywords:** Role of the State, Welfare, SMEs

## INTRODUCTION

Indonesia, a nation undergoing development, strives to establish an equitable and prosperous society. This vision is to be achieved through national progress, as stated in the Preamble to the 1945 Constitution. The government of Indonesia has pledged to safeguard the entire Indonesian population and their livelihoods, to promote public welfare, to cultivate a knowledgeable citizenry, and to uphold a global order based on autonomy, enduring peace, and social fairness [1].

Formulation contained in Preamble to the 1945 Constitution is used as ideal basis for aspects of Indonesian society (economic, political, social, cultural), while the 1945 Constitution is used as the constitutional basis. Apart from being a political constitution, the 1945 Constitution can be called an economic one, which contains the idea of a Welfare State that grows and develops due to the influence of socialism [2]. Article 33 to the 1945 Constitution enshrines principles of a welfare state, emphasizing the importance of cooperative economic activities for the well-being of all Indonesians. Connection between Indonesian nations participating in the world order is Indonesia's participation in international life. Mutual respect and appreciation for each nation must be realistic by considering how globalized the cultural economy is in western industrialized civilization [3]. Developing countries achieve three stages as well as unification, industrialization and social welfare because they are achieved simultaneously [4]. Prosperity is achieved if the government issues policies such as Program



for National Economic Recovery (PEN) has been implemented to provide support for micro, small, and medium-sized enterprises. Development and empowerment of MSMEs are very important for the world economy. In this instance, SMEs are the backbone of the world economy. MSMEs enterprises account for 90 percent of business operations and over 50 percent of global employment. At beginning of 2021, there was some stimulation in the PEN Program. The government has allocated a budget of IDR 96.21 trillion to provide assistance to micro, small, and medium-sized enterprises (MSMEs). This financial support can be accessed through various means such as KUR and Non-KUR interest subsidies, placement of government funds in partner commercial banks to support working capital loans and MSME credit restructuring, guarantees for MSME working capital loans, Productive Banpres for Micro Enterprises (BPUM), cash assistance for street vendors and stalls, and incentives for MSME tax payments covered by the government (DTP).

Furthermore, there are additional forms of aid in the form of exemption from minimum accounts, loading fees, and electricity allowances that MSMEs can take advantage of course, more than government support will be needed to support and empower MSMEs. Formulating a strategy and improving synergy and coordination with the public, academia, and the private sector is necessary, including how to develop Islamic finance for MSMEs. Small and Medium Enterprises provide economic benefits for Indonesia's domestic and export industries in developing world trade which requires special attention. Likewise, the function of state for SMEs is felt to be important, especially in the trade business as its foundation. Where Indonesia is a large country that participates in enlivening world market trade, especially in the field of export and import of products that contain the economic value for people's welfare.

When the Covid-19 pandemic occurred in early March 2020, as one of the countries impacted by spread to Covid 19 pandemic, one of the sectors that felt the impact was the MSME business. According Ministry of Cooperatives and MSME, there were at least 949 reports from cooperative actors and MSME affected by coronavirus outbreak. Large role to MSMEs in the economic structure is also evidenced by the increasing attention of developed countries to MSMEs in their countries. Strengthening SMEs in Indonesia is part to state's steps to accelerate industrialization. Businesses in the industrialization sector have demonstrated resilience during the economic downturn, absorb labor, and play a strategic role in supporting national food availability. Indonesia has also experienced a financial crisis, which has profoundly impacted many small and medium business actors who have gone bankrupt because bank interest is perceived to be very high, so they cannot reproduce their business. If now the entry of imported products from countries that produce easily, quickly and cheaply.

The Government's role in supporting MSME businesses in 2008 issued a policy in the form of Regulation No. 20 of 2008 regarding SMEs. This Law is a strong legal basis for business certainty and adequate facilities for empowering SMEs in economy of the country.

Microenterprise is "a productive economic enterprise that stands alone, which is carried out by individuals or business entities that are not subsidiaries or not branch companies that are owned, controlled, or become part either directly or indirectly of Medium or Large Businesses that meet the criteria Small business." Meanwhile MSEs are "Profitable economic enterprises that operate independently, and are conducted by individuals or business entities that are independent and not part of companies that are owned, operated, or affiliated with Small Businesses or Large Corporations with a net asset total or annual sales revenue exceeding a certain threshold.

In facing competition in 21st century, SMEs must restructure and reorganize to meet progressively particular consumer needs, changing rapidly, with superior products and affordable pricing. One of the initiatives that SMEs can undertake is through cooperative relations with large enterprises (UB). Collaboration between companies in Indonesia, in this case between UKM and UB, is known as Partnership. This partnership must be accompanied by growth of Large Enterprises for SMEs that pays attention to principles of reciprocal necessity, empowerment, and shared advantage.

While Government was discussing the G20 Summit in Bali, SMEs became as a key topic of discussion, with policy suggestions being proposed due to the critical role they played in the recovery efforts of



the economy. The Government's commitment to improving social and economic welfare that is broader, integrated and has access to technology in the market.

### **Formulation of the Problem**

1. How are SMEs Arranged in Realizing Prosperity?
2. What is Government's Role in SMEs As per the Legislation of the Republic of Indonesia Number 20 of 2008 on MSMEs?

## **1. METHODS**

The study's methodology follows a legal theoretical research method, which involves normative research on literature, executed by scrutinizing solely the secondary data available in libraries [5]. This study was undertaken to gather theoretical concepts, normative principles, and regulations related to the topic, within scope of normative research. The method taken was statutory, intended to discover developments in regulation and the government's role in MSMEs to realizing a welfare state, which can be utilized as a foundation for resolving legal issues relating to MSMEs.

## **2. RESULTS AND DISCUSSION**

### **2.1 Theoretical Framework**

SMEs are commercial ventures that are generate employment opportunities, provide supplementary income to the community, and promote economic advancement in improving the national economy so that business certainty is guaranteed and there is legal certainty, one of the government's tasks is to provide legal protection for businesses. SMEs in order to facilitate empowerment of Domestic SMEs in an increasingly competitive free trade era and, concurrently elevate the standards and quality of human livelihood as a process in conditions of realizing people's welfare.

The Theory of the Welfare State holds that its purpose is to promote overall well-being. The state is regarded as a mere instrument created by humans to accomplish common objectives, fostering prosperity and social equity for all the people residing within that country.

Concerning the concept of a reference to the Welfare State in the interpretation of the 1945 Constitution, specifically the statement that the State of Indonesia is grounded on law rather than mere power, makes it evident that Indonesia is a nation governed by the rule of law that strives to attain general well-being, an equitable and affluent community founded on Pancasila. As one of manifestations of welfare state is manifested in Article 33, subsections (1), (2), and (4) of the 1945 Constitution following Amendment. This concept are the basis of a juridical philosophy oriented towards justice, people's justice, and democracy by prioritizing national unity and integrity.

The form and implementation of a welfare state because 1945 Constitution stipulates that the economy are structured organized on kinship is expected to create a balance of large, medium and small business activities in business partnerships so that all parties can compete as a kinship, fostering each other so that together they can progress in developing a strong national economy. Efficiently [6].

Subsections (2) and (4) of Article 33 of the 1945 Constitution provide that the State shall control production sectors that are crucial for the nation and impact the welfare of the general population. The national economy shall be founded upon economic democracy, guided by the principles of solidarity, efficiency with equity, sustainability with consideration to the environment, self-reliance, and the promotion of balanced progress and national economic unity. This means that state and people's power are regulated so that they play an significant function in controlling economy as antithesis to ideas of liberalism and capitalism which fully surrender the dynamics of the economy to the market mechanism. At the same time, the role of the people in politics is endeavored to develop towards the ideals of democracy which is capable of controlling and supervising the running of government.

According to Muhammad Hatta, Indonesia must run a "Guided Economy" no longer social [7]. The problem of guided economy is not an ideal anymore. It remains only to implement it which is a social and moral obligation.

In reality, it appears to be challenging to put into effect the concept of a welfare state. Over time, it has been gradually reformed to comply with societal demands, especially in fields of economics,



politics or law, specifically in field of law, 1945 Constitution was amended four times, but the idea of a Welfare State, the concept of Indonesian figures and scientists.

It can be said that welfare is a feeling of life that is at a higher level than happiness. People feel the existence of justice in his life. Basic needs can be met; the people are free from the dangers of poverty.

Small and Medium Enterprises require empowerment as an integral component of the people's economy, which has a vital position and the potential to achieve a more balanced, developed, and fair national economic structure. The evolving and worldwide economic environment necessitates the development of a more dynamic approach requires legal protection from the government for SMEs to ensure business certainty or fairness in country.

Social justice according to Mubyarto is genuine equality for all Indonesian citizens, specifically a society that is both fair and prosperous founded upon Pancasila. The intended objective is to establish a society that embodies complete fairness and prosperity, encompassing legal, economic, political, socio-cultural, and ethical justice, all of which are interrelated.

Social justice for all Indonesian people, contains many normative elements that regulate human behavior and actions that are not always related to clear social sanctions. Such factors are contained in Pancasila, the ideology of the nation. The people of the Indonesian nation that will create is a society that is prosperous in justice and fair in prosperity.

Equal rights and responsibilities for all citizens of Indonesia is a legal ideal (Rechtsidee) in realizing justice and as a system of legal norms or a state based on law. The most important thing if someone wants to be fair must understand the sense of justice itself.

According to Hobbies, that Fairness can only be comprehended if it is positioned as justice that is to be achieved by law [8]. Endeavors to achieve it is a dynamic process that requires time, one can consider justice as a concept, and refer to it as an ultimate truth. Dynamic process referred to here is in accordance with the conditions of time and era. Meanwhile, according to Aristotle's doctrine, its relation to justice distinguishes between distributive justice and commutative justice.

This distinction is of course very basic for all thoughts on issues of justice and law, to decide who and with whom he is equal, then what will emerge when the consideration is distributive justice, so that what makes the question is who should be treated equally, and who should equalized, that equality cannot be proven philosophically and in general people should be equal to one another, that all citizens must be equal before the law. Because there are just laws that are beyond the conflict of interests of the will and understanding of conscious citizens - society from something higher. Where the embodiment of justice and injustice based on economic wealth is the foundation of a wrong view. The concept of societal fairness for all citizens of Indonesia, as stated in the fifth principle of Pancasila which is intended is spiritual and physical harmony. The endurance of the physical elements is maintained and increased by means of economic activities (boards, food and clothing) and the endurance of the spiritual elements consists of the natural level (creativity, taste and intention) and the cultural level (awareness) which is spiritual [1].

In realizing social justice for all Indonesian people, which means Indonesian people evenly and continuously, every Indonesian human being experiences spiritual and physical harmony as well as in economic law, priority must be given to relationships with harmony in sustainability and harmony in freedom, order that can be felt by citizens who demand rights and obligation to achieve social justice. Justice that gives to everyone what is owned and so that everyone gets what is due because someone who has the same rights by acting fairly and vice versa reciprocity with fellow citizens does not remember one's services, then this is called justice commutative.

According to Notohamidjoyo, Social Justice demands that humans live properly in their respective societies, they must be given reasonable or proportional opportunities for human decency or decency. Such justice is related to rights and obligations as human beings who live in society. So justice according to Aristotle is an assessment by giving to anyone according to what is their right, namely by acting proportionally and not violating the law.

Agree with Posner, a perspective in the field of economics and law. Posner illustrates that the economic evaluation of law is a normative theory, but this economic assessment can also be seen as



a theory of justice. Likewise regulations that have been made to protect the public often end up causing harm, said Posner, the economic approach to law is criticized for ignoring justice. Even though it has a variety of different meanings that interpret distributive justice, namely the level of fair economic equality. Another justice is that if people think other people are unfair without any proof, it's like violating rules that have been made but violated, so they are considered illegal.

The law aims to protect, guarantee and promote human equality. In the economic field, industrialization began to grow as a result of new discoveries in the field of technology, as well as giving rise to very strong middle classes so that the ideology of capitalism emerged which wanted free competition.

The purpose of law as a tool for community renewal cannot be separated from the ideals so that every law that is made must reflect such ideals, must really lead to prosperity and justice for the people, both materially and spiritually.

As per Mochtar Kusumatmadja, the law serves as an instrument for social rejuvenation (a means of social engineering). This is to ensure that there is a relationship between law and social change, it is necessary to look at the functions carried out by law in society, namely the two functions that are side by side with each other are role of law as a mechanism of regulation and as a method of carrying out "social engineering." [9]. Another presupposition entailed in the concept of law as a vehicle of revitalization is that the law, in the form of rules or legal provisions, can genuinely act as an instrument (regulator) or medium of growth in the sense of directing human activities towards the purpose of progress or revitalization [10].

Both of these roles are intended to be fulfilled by law apart from its conventional function, which is to ensure predictability and order. According to Rosco Pound, that "law as a tool of social engineering" [11]. When this concept can be applied in a country that is developing from an agrarian to an industrial one that makes the law "transforming traditional society into modern society." Friedmann also said that role of law is to structure and organize areas pertaining to politics, economy, societal affairs, and morality [12]. The form which governs a particular social relationship becomes more important than the social relationship itself. Thus the function of law includes facilitating social interaction, as a tool for regulating society, as a mechanism for societal design [13]. Social changes affect legal changes, such as giving birth to SMEs Law which underwent another change in 2008.

The legal system must function as an economic framework, while the economy must not disregard the law [14]. The law serves as a protection for economic policies and as an economic stabilizer, for instance, in providing credit to business owners. It must be examined whether it is used according to its purpose, so that entrepreneurs and banks can safely run their business.

The provision of this guarantee is actualized through the existence of legal assurance that can eliminate uncertainty of economic actors in their activities and efforts to develop their business, so the purpose of law in establishing justice is to ensure equal treatment to all economic participants including legal treatment of government business actors capable of acting as facilitators. economy, state intervention in excessive economic fields can be limited [15].

The development of a country is inseparable from dependence on the country's economy, especially in economic development bound by the applicable legal rules, Indonesia's ability to play a role in economic forums must be supported by national cohesion. According to U.S.S. Tambunan stated that, Economic life has developed into legal life.

In this endeavor, state ensures legal protection for small and medium enterprises to obtain legal security, as stated in the Small and Medium Enterprises Law. Empowerment of small and medium enterprises, as mentioned in point (c), needs to be implemented comprehensively, optimally, and sustainably by creating a conducive climate, providing business opportunities, supporting business protection and development, to increase their position, role, and potential in achieving equitable economic growth, increasing people's income, creating jobs, and reducing poverty. Due to their weak position, the government must give special attention to optimizing MSMEs as state commodities through its policies. In response to the pandemic, the government can revitalize small and medium enterprises by distributing their products through partnerships as a strategic effort to anticipate fierce competition in the era of free trade. Article 25 of the Micro, Small, and Medium Enterprises



Law No. 20 of 2008 stipulates partnerships with small and medium enterprises to develop their businesses.

### 3. DISCUSSION

#### 3.1 Regulation of SMEs in Creating Prosperity

Arrangements for SMEs can partner by entering into contracts with their partnerships, namely between business actors that are adapted to the existing economy codified in Civil Code. There are multiple legal doctrines that regulate contract law, such as the principle of autonomy of the will, the principle of consensus ad idem, and the principle of Pacta Sunt Servanda. Book III, Chapter II of the Civil Code provides provisions for contracts. The principle of consensus ad idem is closely related to the principle of autonomy of the will and the principle of binding force, as stated in Article 1338 paragraph (1) of the Civil Code, which stipulates that, "all agreements made legally apply as laws to those who make them."

The principle of contractual freedom that is the basis of Article 1338 of the Civil Code concerns the conditions of the agreement's validity. This principle ensures the freedom of business actors to enter into agreements freely, particularly through partnerships among small and medium enterprises that involve the transfer of expertise in the areas of production and marketing management, capital, human resources, and technology. Thus providing opportunities for small businesses to play a bigger role in their business. The term agreement according to Sudikno Martokusumo are an agreement between two or more parties that creates legal consequences is known as a legal transaction. In this transaction, the parties involved mutually agree to establish rules, rights, and obligations. Should any party violate the terms of the agreement, there will be corresponding consequences. law imposed by offender. Concept of contract liberty and dispute resolution are expected to provide a solution for parties with different legal systems and economic interests.

The principle of contractual freedom is enshrined in Article 1338(1) of the Civil Code, which is viewed as a cornerstone of contract law a condition or demand for legal certainty (a promise is binding), and Article 1338 section (3) of the Civil Code enshrines the principle of bona fide, which requires all agreements to be conducted in good faith, must be considered as a demand for justice. Good faith is the fundamental basis in the law of contracts [16]. Furthermore, the law always pursues two goals, namely guaranteeing certainty (order) and fulfilling the demands of justice, therefore The requirement for good faith in accordance with Article 1338 paragraph (3) of the Civil Code should be viewed as a call for fairness [17].

In connection with other regulations that apply to SMEs, the government issued Legal No. 20 of 2008 concerning MSME. In order for SMEs to ensure smooth business operations, it is necessary to have legal protection and certainty in fulfilling the welfare of Indonesian population.

Especially with entry of imported products that have large enough capital, with quality products, especially opportunities for the market in Indonesia. Where market openness, in the global era, opens opportunities to invest in various countries, therefore the government needs to take part in determining changes and policies in the business world aimed at encouraging domestic business actors.

The Law on Small and Medium Enterprises protects and guarantees legal certainty for SMEs, but in this case not all SMEs in Indonesia are ready to "fight" in arena of free market trade.

The aim is to empower SMEs, government facilitates growth of businesses in field of production for the sake of running businesses that are economically efficient and healthy in competition.

The government facilitates the business world to encourage and promote collaborative endeavors that require mutual dependence, trust-building, and mutually advantageous relationships between SMEs and large corporations in terms of marketing, capital, and human resources through motivation and development of export-oriented products, as well as organizing education and training.

In this case, what needs to be done is to keep trying to take advantage by developing SMEs in recruiting workers for the advancement and development of the company.

At the High-Level Conference held in Bali on 13-14 November 2022, one of the things on this occasion that Indonesia succeeded in formulating policy recommendations was to clarify the role of MSMEs.



This recommendation is to strengthen support and increase inclusiveness in an inclusive supply chain, so that the economy has higher resilience, and encourages MSMEs to continue to grow. This is with Indonesia's commitment to improving and realizing broader social and economic welfare, integrated with supply chains, and having access to technology and markets.

### **3.2 The Government's Role in MSMEs in Perspective of Regulation No. 20 of 2008 regarding SMEs**

In an attempt to implement the national economic recovery program, the administration persists in extending assistance to MSMEs. The findings of surveys conducted by several organizations such as BPS, Bappenas, and the World Bank indicate that the pandemic has made it challenging for numerous MSMEs to repay loans and pay for electricity, gas, and employee wages, resulting in some of them laying off their employees. Other hurdles include difficulties in obtaining raw materials, capital, a decline in customers, obstructed distribution and production. Nonetheless, the government is quick to provide several stimuli through loan restructuring, additional capital support, relief in electricity bill payments, and other financing aids.

Government at the Ministry of Cooperatives and MSMEs in November 2022, during the G20 Presidency, encouraged investment in domestic MSMEs, considering that 80% of global investment comes from G20 countries. Indonesia has the honor of being the host or presidency this time which is being held in Bali for the first time since becoming a member of the G20 which was formed in 1999. Another role of the Government is that the administration has offered extensive aid to MSMEs via the National Economic Recovery Program (PEN). Moreover, the Job Creation Law positions MSMEs at the forefront of the arrangement, along with cooperatives, by granting them convenience, protection, and empowerment. The expectation is for MSMEs to advance into larger businesses that can employ Indonesian workers. Another strategy is the People's Business Credit Program (KUR), where financial institutions disburse credit with a guarantee scheme, further advancing the government's role in boosting MSMEs.

Meanwhile, state's goals contained in Articles 2 and 3 of Regulation No 20 of 2008 regarding MSMEs, namely MSMEs aim to expand and enhance their enterprises within the framework of establishing a national economy founded on fair economic democracy. Introduction of these governmental initiatives undoubtedly intends to revitalize and fortify SMEs, with the aspiration of attaining economic stability.

In an effort to eliminate the marginalization of SMEs in Indonesia, it has been carried out in various ways, one of which is by studying concepts in various countries so that they can be applied in Indonesia. Marginalization with government policies must be completely eliminated, and state needs to accommodate interests of MSME, so that resulting policies are truly effective and do not harm SMEs.

Various understandings of SMEs are still confusing, so it is necessary to see by comparing what differences there are in SMEs in Asian and European countries such as: Thailand, Malaysia, China and South Korea by comparing SMEs in these countries. It can be concluded that what are the causes of the weak competitiveness of SMEs in Indonesia.

The role of SMEs in absorbing labor is very helpful in minimizing the unemployment rate. The real contribution of SMEs in the added value of each sector is formation of GDP or GNP [18].

SMEs deserve special attention in terms of their development, because SMEs are considered to have contributed significantly to the economy and employment, SMEs are also considered to have a role in developing the nation's economy so that government policies must be in favor of SMEs, therefore intensive competition is needed. to save SMEs.

The government is expected to have a crucial role in rescuing and advancing SMEs. It is necessary to tackle the highly bureaucratic regulations and unlawful levies strictly, and to transform the government and its officials into facilitators. Government policies must be directed towards enhancing skills and technology, disseminating information on market prospects, streamlining access to financing, and enabling interconnectivity among SMEs. Nonetheless, globalization necessitates amplified competitiveness and superior quality products to thrive, especially if one intends to partake in and reap benefits from globalization.

Government plays a crucial role in protecting SMEs, particularly during challenging economic times, by supporting their growth and development. This includes addressing obstacles such as limited access to finance, lack of expertise, inadequate science and technology capabilities, and excessive bureaucratic regulations and illegal levies. Government policies should focus on enhancing skills and technology, providing information on market opportunities, facilitating access to funding, and promoting networking between SMEs. However, given the challenges of globalization, SMEs must also improve their competitiveness and the quality of their products to succeed and take advantage of global markets and more importantly the government also need to facilitate networking between SMEs.

### CONCLUSION

Regulation of SMEs in effort to achieve prosperity, namely Government issued Regulation No. 20 of 2008 regarding MSMEs, Encouraging MSMEs to partner using Article 1338 of Civil Code, namely concept of contractual freedom between involved parties. Then the government in holding the G20 Presidency Summit in Bali on 14-15 in Bali, the Government succeeded in formulating a policy to encourage investment in MSMEs. The Government's role for MSMEs, namely by providing various stimulus programs, through restructuring additional capital loans in the government's efforts to advance Indonesian MSMEs, through Law on Job Creation governs the ease, protection, and empowerment of MSMEs. Additionally, it is part of the government's efforts to revive the Indonesian economy in the wake of the Covid-19 pandemic, including the National Economic Recovery Program (PEN) and the People's Business Credit (KUR), which are channeled through financial institutions using a guarantee scheme, as well as other programs in the administration of the Presidency. G20, the government encourages investment in MSMEs..

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