



Criminal Justice System of Pakistan and the U.K: Similarities and Differences A Critical Analysis

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ARTICLE INFO

ABSTRACT

Article History:

Received: December 29, 2023

Revised: March 29, 2024

Accepted: March 30, 2024

Available Online: March 31, 2024

Keywords:

Criminal Justice System

UK

Pakistan

Similarities

Comparative Study of Pakistan &

UK

Procedural Differences

Adversarial System

Legal Framework

Funding:

This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

This research paper has conducted a comprehensive analysis of the criminal justice systems of Pakistan and the United Kingdom. The presented comparison revolved around the systems' parallels and differences in terms of their common colonial origin and diverging cultural and legal development. The respective methods of keeping law and order, conducting judicial proceedings, and structuring legal frameworks were analysed. The analysis has also compared the specific features of conducting the legal procedure in Pakistan characterized by the coexistence of common law and Islamic law concepts, and the one in the UK associated with a more stringent due process adherence. Finally, the introduced themes of the right, the role of the jury, and the socio-political environment of justice were analysed. The review paper a comprehensive account of the two criminal justice systems within the thematic framework of the chosen concepts. As such, the legal and sociocultural perspectives are integrated to explain the unique dynamics of a criminal justice system in the separate states.

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1. Introduction

This research paper offers a comparative analysis of the criminal justice systems in Pakistan and the United Kingdom, by their evolution of independence from their shared common law roots. This study highlights their gradual transformation from similar systems into two distinct based on historical, cultural, and legal differences distinctive to each country (Rajput & Benavides-Vanegas, 2022). A combination of two legal heritages common law and Islamic jurisprudence in the case of Pakistan is opposed to the adherence of the United Kingdom to a strict focus on procedural integrity and legal reform. By applying an analytical lens to the judiciary bodies, legal practice, and issues, the study aims to examine how the ideas and principles of justice and law are reflected and interpreted and shape these legal environments and the socio-political landscapes in which they exist. Pakistan and the UK have developed distinctive criminal justice systems after being created based on the common law heritage. Thus, by drawing a comparison between the two, the following research aims to evaluate and analyse both systems, focusing on the comparison of their resemblances and differences: Pakistan's criminal law system has been heavily influenced by the country's historical legacy during the period of the British Empire (Khosro, 2023). Pakistan adopted many of the British justice systems and its common law specifics. In contrast, the UK has continued to develop its system and adjust it in response to changing social and justice needs. Both countries adhere to principles that are crucial for a fair system and a democracy, such as the right to a fair trial, the presumption of innocence, and the adversarial justice system (Fasihuddin, 2012; Khoso, 2023). However, how these principles are interpreted and implemented can be different, as will be further discussed.

The next major difference lies in the legal system and the origins of law. The UK, more precisely England and Wales, has a legal system based on the interaction of common law and statute law and the influence of European Union law, which continued until the process of Brexit. The other component of Pakistani law is the so-called Islamic law or Sharia. If in the UK this system was a forced attempt to reconcile the common-law courts and the higher European law, then in Pakistan, the combination of the common law set, and Islamic traditions has largely become an integral part of law in general because. With these two components, there are significant differences in the interpretation and application of legal norms. A third major difference is structural. First, the UK's judiciary is structured hierarchically, with multiple types of courts and the Supreme Court as the highest. In contrast, Pakistan also has a hierarchical structure but with an additional branch of the Sharia courts, which complicates the system. In the UK, as a rule, the most common juries are used; in Pakistan, they replaced. Therefore, in Pakistan, cases are usually tried by judges. The fifth major difference is the criminal justice system of the UK and Pakistan. Their history was common, but there were enough differences between them because of the localization of external influences.

The purpose of this paper is to provide a comprehensive comparison and contrast of the criminal justice system in Pakistan and the UK based on the similarities and differences between these two systems despite the shared heritage of common law. The goal of this study is to investigate the nature and perceptions of crime, punishment, and justice in the frameworks of the combination of Islamic and common law in Pakistan and the strict procedural law in the UK as well as the influence of the social and political context on the criminal justice agenda and the execution of justice in two states. This research will examine the historical and legal framework for criminal justice in Pakistan and the UK, the court system and law enforcement as well as the process of a legal case and trial. Furthermore, this study aims to include challenges that each subsystem faces such as corruption and the need to guarantee liberties and protect national security. Hence, this research aims to integrate legal and social analysis to frame an understanding of crime and punishment and the execution of justice within the cultural and political context. To effectively organize the comparison and contrast of the criminal justice system in Pakistan and the UK, it is crucial to initially analyse the legal and historical background of the two states (Rajput & Benavides-Vanegas, 2022).

2. Historical and Legal Origins

The application of Islamic law in Pakistan is different from the secular law support in the UK outlined by different legal regulations due to the diverse history of both countries impacting the development of the law. Pakistan's legal system has strong historical roots in the years when the whole territory was governed by the British Crown. Although before the British Raj the territory that is now Pakistan had a slightly different and unique legal system partially based on Islamic law (Zahoor, Anwar, Safdar, & Jamshed, 2020) and indigenous traditions, the era of English common law implementation had brought significant changes to the region, establishing new legal principles and policies. After Pakistan gained independence in 1947, the state continued operating on with that legal system. As of today, despite having changes influenced by Islam, Pakistan's legal system's backbone is British law and especially English common law (ur Rehman, 2021). Before the British Empire ruled the entire India with their colony, the subcontinent's territory had multiple cultures, religions, belief systems, and kingdoms, each of which had its legal system and traditions. Southern, Western, Northern, and eastern parts of India during that time operated various legal systems, including but not limited to the Hindu Legal System, the Islamic Legal System, Customary Law, the Legal System of Local Rulers, Jain and Buddhist Legal Tradition, Persian Influence, Panchayats, and Royal Decrees. However, the colonial period led to the establishment of English common law across all regions of the subcontinent, which eventually became the primary legal system. After Pakistan's independence, most of these pre-colonial laws and systems were abandoned in favour of maintaining a legal system that England established. As of the current year, Pakistan's legal system has undergone multiple modifications and been influenced by Islam; however, it remains largely based on British law and especially English common law (Austin, 1981).

Essentially, the legal system in the UK, mainly in England and Wales, is a several-century-long development that occurred long before the history of the colonies (Hillyard, 1994). The legal institution unique to the British empire is primarily based on case law and the

value of judicial precedents, like common law practice. A distinct independent development of the UK legal system took place after the post-colonial period. The nation's legislative authority has gradually evolved to integrate new societal conditions and to strip the monarch of his power. Features of the country's evolution include significant amendments in the direction of human rights, EU Legislation until Brexit, and the process of devolution to Scotland, Wales, and Northern Ireland. The law establishes an even more comprehensive transition to a modern legal model based on rights. One of the most striking aspects of the comparison between the UK and Pakistan is the influence of Islamic laws. Notably, Islamic laws, or Sharia, maintain a significant role in Pakistan's local life (Slavny-Cross, Allison, Griffiths, & Baron-Cohen, 2023). These laws oversee numerous affairs concerning personal life, including marriage, divorce, and inheritance. By its constitution, Pakistan considers Islam its state religion and obligates the parliament to legislate in line with Islamic teachings. To ensure compliance with religious law, Pakistan has established institutions such as the Federal Shariat Court and the Shariat Appellate Bench of the Supreme Court.

At the same time, the UK's legal model primarily features a secular structure. Although the Church of England exists as a state church, the legal system is not involved in religious law enforcement. Religious practices are also subject to legal interpretation, like any cultural practice, and religious laws possess no legal standing on the court in the UK. Thus, this comparison reveals different influences of religious and cultural factors on the legal systems of Pakistan and the UK (Edwards & Travis III, 2020). The legal framework is a structure and a system of laws that govern a particular jurisdiction. It, in turn, includes the sources of law, defined as the origins or authorities from which the laws are derived. The legal system of Pakistan is a mixture of statutory, common, and Islamic law. This combination of legal systems is based on historical aspects and cultural traditions and forms. The main sources of legal concepts in Pakistan are, in turn, the Constitution of Pakistan, legislative acts and ordinances, Islamic Sharia law, legal precedents, customs, international agreements, directives of the government, CSI, legal commentary, and textbooks.

Statutory law is the legislation enacted by the nation's Parliament. It is a vital component of the country's legal system where they are positioned along with and sometimes below the common law concepts developed from the British legal systems (Warde, 2023). The common law is based on the principle of precedent means to give judges investigatory independence to interpret and use law. Islamic law or Sharia, particularly in personal views and family matters, is another vital aspect of the country's legal structure. According to the Constitution of Pakistan, all legal acts must be in line with Islamic principles to be valid law. This provision is enforced by specialized tribunals such as the Federal Shariat Court. Therefore, the law will apply statutory laws based on common law principles and Sharia's. Conversely, the legal system of the UK is mostly based on common law and statute law (Zimring, 2022). The England and Wales legal system is traditionally based on common law traditions focusing on case law and relying upon judicial precedents (Hillyard, 1994). However, statutory law, which is the law made by the UK Parliament in the form of legislation, has also had a substantial influence. Statutes gradually develop complex structures of legal rules and sometimes may override common law principles. The focus in the legal framework of the UK has been guided by human rights, equality, and justice, especially with the incorporation of the Human Rights Act 1998 (Slavny-Cross et al., 2023).

EU legislation has had a major impact on the UK, especially before Brexit. As a member of the European Union, the UK was required to harmonize its legislation according to EU laws and regulations. EU regulations were directly applicable, becoming part of the national law without the need for national representatives to legislate. EU directives needed to be implemented in national law through specific national measures and led to the indirect impact on other legal areas, such as commerce, environment, and human rights. The enforcement of EU law was managed by the European Court of Justice. The court interpreted the EU laws for effectiveness and had the power to sue sovereign states, including the UK government, for non-compliance. The UK has managed to regain its legislative power after the UK left the European Union, but the influence of EU law remains. This may be due to the incorporation of previous laws, and the influence of future negotiations on law and trade between the EU and the UK. The long-term implications of given events such as Brexit for the UK's legal system could be determined only by how political and legal dynamics proceed. This may be the consequence of the following and further reasoning. There is a unique situation regarding the

legal traditions, history, and the complex roles and functions of the Supreme Court of two countries, exemplified here by Pakistan and the UK. The reason is that these factors are distinctive from each other and predicated in different juridical establishments.

3. Judicial structure and Court system

The hierarchical structure of the courts can be expressed in Pakistan by a lower judiciary which is represented by Civil and Criminal District Courts. Those are the first authorities to file a lawsuit in terms of various disputes and criminal cases. Above them are the High Courts in each province. The Supreme Court examines the appeals from the concerned and affirms original jurisdiction in some cases. The Supreme Court of Pakistan is the highest judicial body in the judicial order. It executes the highest appellate, as well as the original jurisdiction constituted in cases of public importance. In Pakistan courts according to Specialization consider only family courts as a place where legal disputes are settled concerning marriage, divorce, and separation. He is elected exclusively to deal with terrorism cases. Banking courts as a place where disputes can be resolved in the branch concerning finance and banking. Who oversees the adjudication of courts to protect the implementation of Islamic law? The legal system in the UK varies from one constituent country to another (Warde, 2023). However, there are some general similarities: the basic court system. In England and Wales, for instance, the bulk of criminal cases are heard in the Magistrates' Courts, while most civil cases are heard in the County Courts. More serious criminal and civil cases are tried in the Crown Court, and High Court respectively. The Court of Appeal is the highest-ranking court in the hierarchy which hears cases against the lower courts.

The UK Supreme Court is England's highest court and the UK's final forum for civil cases (Daly, 2019). It functions as the "guardian of the Constitution," determining whether the legislation is constitutional. The legal system is made up of several specialized courts, such as Family Courts – these courts litigate family-centered legal disputes (Lambrecht, 2014). Furthermore, commercial courts are special judicial entities that litigate legal disputes and disagreements from business and corporate environments. Administrative Courts- these courts review public body actions. In addition, several specialized tribunals focus on specific areas such as occasional, employment, and tax cases. The UK Supreme Court also plays a vital role in the legal system. It functions as the "guardian of the Constitution," deciding constitutional litigations over the legality and requirements of parliament's legislation (Nawaz, Jan, & Naz, 2022). However, unlike the US Supreme Court, it lacks the authority under the European Union Law to rule that legislation is void on grounds of its incompatibility.

4. Law Enforcement and Investigative Agencies

Law enforcement is mostly under the jurisdiction of the provinces; each of the four provinces has its own police forces referred to as the Punjab Police and Sindh Police (Adil, 2022). There are also federal law enforcement organizations such as the Federal Investigation Agency, whose powers are limited to certain offenses, including smuggling, human trafficking, and corruption (Rashid, Jan, & Ahmed, 2021). Renewal, maintenance, and propagation of the law, deterrence and investigation of criminal behavior, and security of one's life and property are the police's chief obligations. But it frequently receives blame for corruption, ineptitude, shortage of professionalism and ultimately peoples' absence of faith. Police reform faces issues from an array of structural, political and societal hindrances. Other institutions like the National Accountability Bureau concentrate exclusively on political and bureaucratic corruption, while the Anti-Narcotics Force is concerned mainly with drug-related crimes. Intelligence services like as the ISI and IB are charged with identifying primary national security problems, both domestic and foreign, and can often offer assistance to criminal probes. One of the primary characteristics of the police system in the UK is a territorial organization, which implies that there are specific units operating in district areas, for instance, the Metropolitan Police in London (Smith, 2014). Moreover, POWs include transport, railroads, and high-level criminal activity departments, such as the British Transport Police and the National Crime Agency. The primary functions of police forces are crime prevention, law enforcement, criminal investigation, and order maintenance. The public holds the police in high regard; however, the capacity of major investigations, questionable actions in some high-profile cases, police brutality, racial bias, and the reduced effectiveness of budget cuts are a cause of concern (Rolison, 2020). Additionally, other investigative endeavours include the National Crime Agency, which is frequently equated to the FBI, as well as MI5 and MI6, which are primarily

focused on national security matters but also assist in domestic and foreign criminal investigations. Furthermore, HM Revenue and Customs are responsible for the investigation of financial crimes, including tax fraud.

One of the principal differences between the criminal justice system in Pakistan and the UK is the treatment of sensitive offenses and religious, cultural, and social values (Zimring, 2022). Pakistan is aggressively opposed to terrorism and has comprehensive anti-terrorism legislation and specific judiciary bodies. However, the state is often criticized for having overly broad or severe laws. In particular, the nation has blasphemy laws that are commonly used in legal practice and create challenges for individuals and society. Moreover, the legal system is influenced by Islamic law, particularly in cases of personal and family law, and the cultural one has a significant impact on bans and permissible behaviour. Finally, it is much more challenging to address specific human rights violations, such as capital punishment or the treatment of minorities, as Pakistan is continually trying to adapt to international standards (Edwards & Travis III, 2020). The strategy of the United Kingdom to deter terrorism is based on a wide net of legislation. UK policy seems to be a compromise of prioritizing security over civil rights. Thus, the secular approach was demonstrated by abolishing blasphemy laws in 2008 in England and Wales to promote freedom of speech. The UK has a secular legal system compliant with the principles of accommodation that is fully consistent with its diverse and heterogeneous society. The criminal justice system is strongly influenced by cultural and social norms, especially when dealing with crimes associated with these two factors. The UK has signed in the European Convention on Human Rights and has introduced human rights tendencies in its criminal justice system. Human right tendency has affected multiple levels and mechanisms, including legislative reform, court decisions, and law enforcement. The overall approach to these issues in the UK is straightforward, while Pakistani is diverse. Regardless, the two countries share certain similarities in their effort to address crimes, such as terrorism, but their approaches are very distinct considering the fit within the legal and social contexts. While the UK relies on its traditions with a focus on human rights, Pakistan is a religious country facing human rights issues and a strong cultural background that complicates the situation.

5. Legal Proceedings and Court Trial

The legal and justice is very different in several ways, including accusatorial versus investigatory approaches, the use of juries, protection of the defendant's rights and legal proceedings, and the availability of counsel and legal office. The legal system of Pakistan, compared to the UK, is based on the accusatorial approach which originated from the continent during British colonization (ur Rehman, 2021). The judicial process is based on the conflict of interest between three parties, the judge, the plaintiff, and the defendant. The role of the judge is relatively passive. The United Kingdom, which stands on the common law heritage, also involves an adversarial system (Khosro, 2023). It implies that both prosecution and defence make their cases before a neutral judge and sometimes a jury (Daly, 2019). The judge's role is to make sure the trial proceeds fairly and legally. The jury system is one of the key features of the criminal justice in the UK. Juries are composed of ordinary members of the public and make responses to serious criminal cases whether the defendant is guilty or innocent. They also have the responsibility to assess the evidence presented at court and decide the verdict on which their verdict should be based. Pakistan, unlike other countries, does not utilize a jury system in which juries provide a role in legal matters. This absence of juries grants a larger role for judges in the examination of evidence and making decisions in legal cases. Another component is ensuring the rights of an accused person. The rights include due process or the right to a fair trial, the right to a good legal defence, and the right to be presumed innocent unless evidence is provided to prove guilt. Both of the countries recognize the rights above, but they may be different as Pakistan faces structural issues such as court delays, corruption, or the access to a good legal defence (Davies, 2021). In the UK, the rights and the defendant's protection are relatively stricter and are guaranteed by expert employees. Although legal representation is available in Pakistan, it is less available than in the UK. This is not the ideal environment for provide educated lawyers, so there may be problems with qualitative legal assistance for defendants.

In contrast, the United Kingdom has a more robust legal aid system although it has faced criticism and opposition, particularly due to recent funding cuts (Zilka, Sargeant, & Weller, 2022). Legal aid includes making legal services available to people who are unable to pay for representation, meaning that access to justice is not to be merely reliant on how

wealthy a person is. The adversarial nature of the systems also places lawyers, prosecutors, and judges in charge of representing their side of the case and making sure that the correct evidence is presented (Khosro, 2023). However, the use of juries in the UK and the lack of juries in Pakistan are two very different outcomes of the justice process. In the United Kingdom, emphasis on due process and the protection of the rights of the accused is crucial and is maintained in line with effective procedures. In Pakistan, systemic problems make it difficult to guarantee due process alone. Although in both countries the legal system promotes legal aid, the services in the United Kingdom are more widespread and easier to access although efforts have been made to narrow people's opportunities. As one can see, Pakistan's and the United Kingdom's legal systems are massively different, with considerable variations in their treatment of juries, due process, and legal aid. Such differences represent each country's legal culture and institutional capacity. The consequences represent the restrictions and circulations of legal prosecution in each country {9. Harrington, 2015 #24}.

6. Obstacles and Current Problems

These barriers include the obstacle infertile corruption inside the police power and activities that such corruption results in a loss of reliance by the population. Efforts to implement reforms are exacerbated by institutional, political, and societal factors. The Federal Investigation Agency and there are equally important agencies such as the National Accountability Bureau and Anti-Narcotics Force that can play an important role in addressing specific criminal activities. However, although the police are the specific addressees of police duties are heavily constrained by the same obstacles impinging on the police. The police system in the United Kingdom is geographical and encompasses actual police powers like the Metropolitan Police, as well, as specialized divisions such as the British Transport Police, and the National Crime Agency. The dominant public attitude towards the police is greatly positive. Nevertheless, concerns have been raised in recent times about specific sets of difficulties, comprising the conduct of high-profile inquiries, racial discrimination, and the consequences of the reduction in policing budgets on operational effectiveness. The United Kingdom's investigative agencies such as MI5, MI6, and HM's Revenue and Customs also play an essential role in the country's policing framework (Sholihin, 2013). In fact, law enforcement and investigative agencies' efficacy and proficiency in both countries are critical to ensuring adherence to legal principles and maintaining public welfare. In both countries, there are many barriers that such bodies encounter, including but not limited to limited resources, political interference, and widespread corruption; they directly affect the integrity and efficacy of the justice system. Such barriers have translated into multiple reforms and ongoing discourse in both countries to enhance the efficacy of such bodies and secure justice and public welfare. Regardless of the differences in organizational structures and particular issues, the need to secure justice and prevent crime is what unites the approaches in both Pakistan and the UK. The continuous work on reforms and adaptation to the dynamic conditions and public expectations is a clear sign of the acknowledgment of the importance of such bodies to maintain law and order (Nazir et al., 2023).

7. Analysis and Discussion of Comparisons

Justice systems in Pakistan and the United Kingdom share several similarities and differences in their approaches to multiple issues across the assessment areas. The impact of these influences on the effectiveness of each system is sometimes decisive, which makes each country's response to the interrelation between law, society, and justice different.

7.1. Similarities

Both countries experience the limitation of resources though they are different in types and extents. Thus, Pakistan is often recognized for its meagre infrastructure and personnel when the UK faces the absence/lack of financial resources allocated for maintenance of legal aid and courts. Both countries have a problem in balancing national security and protection of humans' rights. This mixture is especially stressed by different challenges related to anti-terrorism legislation and programs.

7.2. Differences

In Pakistan, there is a significant problem with corruption of the justice system, which restricts the effectiveness of the law enforcement due to low credibility and applicability. The United Kingdom sometimes also faces corruption such as accepting bribes, but the sphere is

believed to be better regulated by stronger institutions. The UK is more similar to Pakistan in the type of internal conflict that can occur between the judiciary and the administrative system, but the former is likely affected more in a more evident way by political influence. The Pakistani system implements a significant amount of Islamic law concerning personal and family affairs, which is consistent with the social and religious specifics of the country. In the UK, the legal system is secular, reflecting the nature of the country's culture. Some issues in Pakistan, such as corruption, lack of resources, and political interference, result in a heavy backlog of cases, lengthy trials, and public perceptions of general inefficacy and injustice. Such problems erode public trust. In the UK, limited resources, and the challenge of balancing security and liberty also create issues. The general picture is that the system inspires trust more effectively. However, the issue of marginalized communities without access to justice remains severe. In Pakistan, the balance is frequently disrupted by societal and cultural norms, especially in rural areas where traditional justice can overrule national laws. The role of religion in creating legislation can also cause problems in balancing the justice system and contemporary human rights (Robinson, 2023). The UK attempts to maintain the balance between a legal framework and a highly diverse, multicultural society. Nevertheless, several difficulties remain, especially in ensuring equal and equal access to justice for all groups of society. The modern debate on human rights, especially after Brexit, amplifies the mentioned challenges. From the above overview, even though Pakistan and the UK face many parallels in their justice systems. However, it is necessary to note that these countries' challenges and outcomes are entirely different. Each system's approach to the balance between law, society, and justice is firmly based in the broader socio-political context and accompanied by consistent attempts of reform and adjustment to the changing environment and set of expectations.

8. Conclusion

In summary, Pakistan and the UK face challenges due to the lack of sufficient resources and funding that directly affect the capacity and availability of their justice systems. While Pakistan also struggles with significant systematic corruption and political influence upon the judiciary, the UK, with more extensive protective institutions, also has its own set of issues, yet much rare. Every government must negotiate between building a national security strategy and respecting civil liberty when moving into counterterrorism. The criminal justice system in Pakistan is highly influenced by its legal system and social customs, reflecting the country's Islamic heritage (Ahmed, Abbas, & Kasuri, 2022). The UK, being largely secular, has to accommodate its highly diverse population. The court system in the UK is typically seen as more efficient and fairer with higher public trust than the Pakistani alternative which is widely regarded as corrupt and dependent on politics. However, the UK is also not free of problems, including corruption, and several critical areas may require significant rethinking in the future. In the case of Pakistan, judicial independence, anticorruption measures, and access to resources should be top priorities. The legal system should also be readjusted to adhere to international human rights standards, considering sociological and cultural variables in heated topics such as blasphemy. In the UK, budget cuts should be contained, universal access to legal representation should be guaranteed, human rights must be redefined post-Brexit, and the balance between civil liberties and security must be adjusted. This analysis was intended to show the complexity of a criminal justice system dependent on the social and political context. Although there are also historical and some social commonalities between the two, while the challenge is quite similar, the developmental trajectories have been drastically different. The social and cultural frames are dissimilar, with Pakistan being religious and community oriented. At the same time, the UK's legal system is more secular and pluralistic. The strength and independence of the law implementation structures, and the judiciary play a critical role in the public's perceptions and source of justice. Both are going through a constant process of transformation. Pakistan must change its critical systems, while the UK is improving its existing framework. The analysis presented confirmed the importance of understanding the context in evaluating different justice systems (Edwards & Travis III, 2020). As such, the statement reiterated the need for constant changes targeting not only overcoming existing barriers but also predicting potential challenges to advance the justice system in the way it would promote fairness, efficiency, and public satisfaction.

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