

## NOTES ON MARRIAGE AND THE STATUS OF WOMEN IN BARAGAON

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### Introduction

There has been considerable debate in anthropological literature as to the definition of "marriage".<sup>1</sup> This debate is put aside in the suggestion that "... what is important is the recognition of the variables involved, not the specific names these relationships are given."<sup>2</sup>

This is a working paper,<sup>3</sup> an attempt to systematize some of the variables which characterize marriage relationships in Baragaon. Particular emphasis has been given to traditional legal aspects as opposed to ritual details. It is hoped that a study of traditional legal systems will be useful in planning development strategies for areas such as this one. Data concerning family law, especially inheritance and divorce, should be particularly relevant in assessing and attempting to improve the status of women.

The data which follows has been collected over the past year from the villages of Kagbeni and Muktinath Panchayats in Mustang District of Nepal. Traditional Baragaon consists of these two panchayats plus Cuksang Panchayat, which has not been discussed in this paper. The indigenous language is a dialect of Tibetan.<sup>4</sup> The people currently refer to themselves as "Gurung" and "Thakuri". They are not, however, ethnically related to the widely-known Gurung and Thakuri groups who inhabit the middle-hill regions of central and western Nepal. The culture of Baragaon is closely related but not identical with that of traditional Mustang.

#### Marriage Alliance in Baragaon: General Features

Some of the general features of Baragaonli marriage are bilateral cross-cousin marriage, brother-and-sister exchange (i. e. two males exchange sisters or two females exchange brothers, depending on the perspective), fraternal polyandry, polygyny, status-group endogamy, and clan exogamy. On the basis of my data I would not refer to any of these patterns as "rules" or "prescriptive systems". It seems that

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<sup>1</sup> See Leach, 1955 for summary.

<sup>2</sup> Goody, 1958, p. 22.

<sup>3</sup> As this is a preliminary report, written from the field, it contains details which have not been fully corroborated and may therefore be inaccurate. The main points, however, have been discussed at length with several different informants.

<sup>4</sup> The language in Cuksang Panchayat is reported to resemble Thakali language more closely than it does the dialect of Kagbeni and Muktinath Panchayats.

polyandry, cross-cousin marriage, and brother-and-sister exchange were traditionally "preferred" forms of marriage alliance. Among the more traditional families they are still "preferred", but on the whole it would be more accurate to discuss them as statistical patterns.

*Cross-cousin marriage and brother-and-sister exchange*

Aside from Baragaon, cross-cousin marriage is also prevalent in Thak Khola to the south, in Lo Mantang to the north, and in a number of other Tibetan speaking areas across Nepal. In Tibet, however, it is considered incestuous.<sup>5</sup> The Drokpa (nomadic Tibetans from the Mustang-border region) reportedly follow the Tibetan system in which cross-cousin marriage, like parallel-cousin marriage, is prohibited.

I have heard from some informants that MBD=FZS<sup>6</sup> is the preferred form and that MBS=FZD is sometimes practised but is not very acceptable. I have also heard the opposite. In fact, the terms for MB and FZ ("azhang" and "ani") do not refer exclusively to mother's brother's sisters, but to groups of relatives of which the actual mother's brothers and father's sisters are members.<sup>7</sup> It is not uncommon for a spouse to be categorically *both* one's MB's and one's FZ's child. And of course, in brother-and-sister exchange, another "preferred" form, if there is also a cross-cousin relationship one of the marriages will be MBD=FZS and the other MBS=FZD. Therefore it seems unlikely that there could be any consistent claim for unilateral preference

Surprisingly enough, there are no special kinship terms to differentiate parallel from cross-cousins. Marriageable as well as unmarriageable cousins are called cousins distinguished by calling them "son" or "daughter" of "ani" (FZ) or "azhang" (MB).

Although not directly reflected in the kinship terminology the cross-cousin marriage pattern *is* presupposed in terms for father-in-law and mother-in-law, again "azhang" (MB) and "ani" (FZ). Taken literally these terms suggest that the spouse is a *double* cross-cousin; in other words, categorically *both* the FZ and the MB's

<sup>5</sup> Goldstein, 1975, p. 62

<sup>6</sup> This is often referred to in anthropological literature as "matrilateral", but I reject this terminology since it presupposes a male "ego" who marries a relative on his mother's side. It seems unscientific to use terminology which presupposes a sexual bias. The symbols which I have used instead are:

- M—mother
- F—father
- B—brother
- Z—sister
- S—son
- D—daughter
- H—husband
- W—wife
- =—(marriage relationship)

<sup>7</sup> This is a feature common to kinship terminology in many societies.

child. If one's parents' marriage had been a brother-and-sister exchange (as well as a cross-cousin marriage), this would be true *actually* and not only categorically. One's spouse's parents *would* be one's father's sister and mother's brother. I have no statistics as yet to indicate the extent to which this extreme form of endogamy is actually practised.

Patrilineal clans ("gyudpa") exist in Baragaon, but I have so far not been able to determine the extent to which they function in regulating social life. There is a "rule" of clan exogamy, in that people will state that "one does not marry a person of one's own *gyupda*". This restriction is relaxed, however after a distance of three to four generations (*mithok*). In view of this it would not be entirely correct to state that marriage in Baragaon is "clan exogamous".

In fact, the maxim which "explains" why cross-cousin marriage is considered good, is "keep to one's own clan". Cross-cousin marriage, of course, is *not* a marriage within one's own clan, but with a member of one's mother's or FZH's clan. But if practised consistently over several generations, the effect would be an exchange of marriage partners between two clans.<sup>8</sup>

My own feeling is that this maxim expresses an attitude towards property. Marriage in Baragaon is generally virilocal (unless the bride has no brothers). The property which is transferred from one location to another at marriage is the dowry (*nurkal*), the bride's property.<sup>9</sup> In a virilocal cross-cousin marriage the woman's property would theoretically return to the house from which it had come in the previous generation.<sup>10</sup> It would be interesting to test whether there is a high incidence of cross-cousin marriage among wealthier families and whether dowry tends to be larger in cross-cousin marriages. If this were true it would support the idea that it is a function of cross-cousin marriage to keep wealth intact.

#### *Marriage relations between villages*

No village in Kagbeni or Muktinath Panchayat is strictly endogamous or exogamous. The general conception, however, is that the village of Cwnggw, being based on a single clan (called "*wmbo*"), is exogamous and that the villages of Phalak

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<sup>8</sup> I know of families in which this was actually practised.

<sup>9</sup> In a case where a bride has no brothers she is apt to take a *magpa* (uxorilocal) husband, thus remaining in her parents' house and inheriting their property. Any property her husband brings along is referred to by the same terms as the female dowry in a virilocal marriage (*nurkal*).

<sup>10</sup> Levi-Strauss (*Elementary Structures of Kinship*) takes this idea a step further in saying that women are treated as "property" which is exchanged by males via the institution of marriage. In some systems the exchange only becomes complete in a succeeding generation. I have not heard of any ideology of this sort in Baragaon, so I would tend to think that it is property itself and not "women as property" that people seek to keep intact through cross-cousin marriage.

and Khyingkhar (traditionally considered to be of lower status) are both endogamous. Statistically speaking these are predominant but not absolute patterns.

There is intermarriage between Kagbeni and Muktinath Panchayats, but the percentage of marriages *within* each panchayat is higher, and in general the rate of village-endogamous marriages is higher than that of village-exogamous marriages. It is said in Kagbeni and Muktinath that marriage with people of Tsarang and Mustang Panchayats (traditional Mustang), Cuksang Panchayat, and Manang is also acceptable, but there is in fact very little intermarriage with these areas. There have been a number of marriages between local women and Khamba Tibetans, although many of these were by force. This is especially true of Kagbeni village.

#### *Plural marriages and the inheritance system*

The predominant form of plural marriage in Baragaon is fraternal polyandry (two or more brothers sharing a wife.) Non-fraternal polyandry is not permitted. The popular belief is that brothers who marry polyandrously will tend to be richer than those who divide the family property and marry individually. Nevertheless, polyandry is becoming less common with modernization. This may have to do with the fact that under Nepali law brothers have the right to equal shares of the family property.<sup>11</sup>

One version of the traditional inheritance system is the following: A family's landed property will be divided into three parts. Two portions will be equal, and will include houses as well as fields. The third will be a half-sized portion of fields only. When the eldest son marries he takes a full-sized portion. This is called "*drongba*". The second son, who is supposed to become a monk, takes the half-sized portion (*trawa sying*). The youngest son remains with his parents and inherits their portion (*genzang*) after their death. If there are more than three sons the others live either with their eldest or youngest brother, sharing in either the *drongba* or the *genzang*, but not subdividing the property. Another version is that all sons, should they choose to live separately, get equal shares, except for the monk-brother who gets a half-sized share of fields.

The rate of polygyny is much lower than that of polyandry. In a polygynous marriage the two wives may be, but will not necessarily be, sisters. In a polyandrous marriage a woman marries two or more husbands simultaneously. This is generally not the case in polygynous marriages. It is more common for a second wife to be taken later, especially if the first has not borne children. It is said that if the second wife is a sister the first wife will be more likely to agree. Even so, there are many cases in which the first wife, sister or not, has left a polygynous marriage to live alone or elope with another man.

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<sup>11</sup> I have no statistics yet as to how many brothers actually *do* get equal shares if they choose to live separately.

It is said that in the past, fraternal polyandry and sororal polygyny were sometimes combined,<sup>12</sup> that is, two or more males who were brothers would marry and cohabit with two or more females who were sisters. I have been told that this arrangement is still acceptable in principle, but that the reason that no one is currently practicing it is that four such individuals would rarely get along well enough to make it work.

*Typology of the Marriage itself*

For the purposes of this paper I will define marriage as a union between any number of men and women in which the off-spring produced are recognized as socially legitimate. For a male child in Baragaon, social legitimacy entails status as a legitimate heir to his parent's property. For a female child this is somewhat less clear-cut. In the case of a girl with brothers, the property that she "inherits" is the dowry that she takes, and the amount of dowry is generally determined through negotiation. An illegitimate daughter may receive a dowry from her mother, but it will tend to be less than that of a legitimate daughter, since unmarried mothers tend to be poor.

A legitimate female child *without* brothers, however, *is* a legitimate heir to her parents' property. It could be said then, that any legitimate female is a *potential* heir. If her brothers died unmarried she would have full legal claim to her parents' property. An illegitimate female does not have even a potential legal claim to her genealogical father's property,<sup>13</sup> nor to her mother's husband's property (if the mother is married), nor to property belonging to her matrilineal relatives, which her mother may have used during her lifetime. She can only legally inherit property which her mother earned through her own labor.

There are three basic types of unions which produce legitimate children: 1. negotiated marriage, 2. marriage by capture, and 3. elopement. A *negotiated* marriage may be contracted with or without the bride's agreement. In this type of marriage the bride and groom are usually of approximately the *same social rank*. The bride is given a dowry according to her parent's means. (This is determined through negotiation between the two sets of relatives.) Negotiated marriage is the most prestigious type of union.

If the prospective husband is of a *lower rank*, or poor, or otherwise on bad terms with the would-be bride's parents, he may have to resort to capture. The capture may take place after a proposal has been refused by the girl's parents, but more often the boy simply comes to know that his chances are not good. In a marriage by capture the bride may or may not have conspired. In other words the capture may

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<sup>12</sup> This has in some anthropological literature been inelegantly referred to as "polygandry".

<sup>13</sup> The genealogical father of an illegitimate child is generally known in the village, except under exceptional circumstances.

be real, or it may be faked if the couple are already lovers. Even if the capture is real there is a point at which the marriage cannot proceed without the girl's agreement. The capture is followed by a sort of *bridewealth* payment, a monetary payment negotiated at great length, which is supposed to put an end to the anger and ill-will of the girls' parents. A dowry may or may not be given later.

In *elopement* there are generally no payments or property transfers of consequence, although, as in marriage by capture, a dowry may be requested and given some time after the marriage—perhaps several years later. In elopement, *either the male or the female may be of lower status*: they may both be poor; it may be the second marriage for the woman or for both of them;<sup>14</sup> or it may be that they are without close relatives who would arrange the marriage. This might be because one or both are illegitimate. A couple may elope when parents won't agree to their marriage or they may elope if there are no parents.

*Types of Legitimate Marriage*

	payments or property transfers	relative status of bride and groom
1. Negotiated	dowry	usually equal
2. Capture	bridewealth	groom usually lower
3. Elopement		either can be lower

*Categorization of Marriage Types According to Consent or Opposition of Bride and Parents*

		Bride	
		agreed	opposed
P a r e n t s	agreed	negotiated	negotiated
	opposed	capture elopement	capture
	neutral	elopement	—

*Payments, Gifts, Property Transfers  
By the groom and his family*

In most legitimate marriages, whether they are negotiated marriages, elopements or marriage by capture, a ritual payment is made by the boy to the girl's parents. This ordinarily consists of Rs. 9: Rs. 8 to the mother "for the milk she has given", and

<sup>14</sup> Dowry is generally only given in first marriages.

Rs. 1 to the father. This is presented with an offering of barley beer and a white scarf. The residents of Cwnggwr and Lubra villages are considered to be of somewhat higher status than the non-aristocratic families in the other villages. Therefore, in a marriage with a girl from Cwnggwr or Lubra, the payment to the girl's father is slightly higher: Rs. 5 instead of Rs. 1. This payment by the groom to a higher-ranking father in-law is called "ruite".

In a marriage between a male of ordinary status and a female of aristocratic status (*hremo*) the female takes on her husband's rank.<sup>15</sup> Because she has lost her high status, the husband must pay a compensation to her parents. This is also called "ruite". The exact amount, which is negotiated by the parents and perhaps the village headman, ranges from Rs. 1 to Rs. 500 in Kagbeni, and tends to be higher in Muktinath—up to Rs. 1,000.

In some cases there is an engagement present of money or a gold ring or other jewelry from the boy to the girl. This may be given during the time that they are lovers, before the parents have been approached, or later, after the girl's parents have formally agreed and a dab of butter has been smeared on the girl's head.

If a boy captures a bride and fails within three days to persuade her to stay with him, he will not only lose face but will have to pay a fine of Rs. 50 to the girl's parents. If she *does* agree to the marriage, a settlement will have to be paid to her parents. The negotiations may last several days and may involve lots of arguing and even physical violence. The girl's parents will often feign anger if it hasn't been generated spontaneously. If the boy and girl are approximately equal in status, the marriage settlement will probably be lower than in cases where the boy is of inferior status. The settlement generally ranges from Rs. 100 to Rs. 2,000 but may also include 1–3 years of the daughter's labor in her parent's home.

Marriages with nuns are usually accomplished by capturing them, although an occasional nun may elope. In this case a fine must be paid to the nunnery and to the village as well as to her parents. It is the fine that legitimizes the marriage. I do not have data on whether these fines are standardized, but in one case recorded, the payment was Rs. 66 to the nunnery, Rs. 16 to the village, and Rs. 112 to the parents.

If the bride's parents are in debt they may make their daughter's marriage conditional on the payment of some of their debts by the prospective husband. A typical debt of this sort may be Rs. 800 to Rs. 2,000. Some girls refuse to "carry" their parents' debts; others agree. Informants in Kagbeni Panchayat claim that the number of marriages with Muktinath girls is low because Kagbeni men are reluctant to accept the debts of their parents-in-law.

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<sup>15</sup> This is demonstrated in the seating order at village rituals. A girl who has married into a lower-ranking family will lose her place in line next to her sisters.

*By the bride's family: dowry*

In connection with marriage there is only one type of payment or property transfer made by the bride's family. This is the dowry or *nurkal*. It is often given on the day of the marriage, when the groom's party arrives on horseback to take the bride to her new home. At this time each item is carefully counted and listed as it is displayed to the bride's guests. The groom's relatives will negotiate at this time for a larger *nurkal*. *Nurkal* consists not only of gifts from the bride's parents, but of all her clothing and personal property. In the event of a divorce it is her right to take all of it along with her when she leaves. It is in case of divorce that the list is useful.

Although the *nurkal* is often given on the wedding day it may also be given as much as several years later. One explanation of this is that the parents want to be sure that the marriage is viable before they give the dowry. In other cases the girl's parent's may be having some economic difficulties, and so refuse to give *nurkal* at the time of the wedding but promise to give something in a more prosperous year.

In a marriage by capture, as described, it is the husband who makes a payment to the girl's parents, in order to bring an end to their hostile feelings towards him. After this payment has been made and the marriage taken place, the couple may approach the girl's parents and request *nurkal*. This may partly or totally cancel out the bridewealth payment.

A typical *nurkal*, according to informants, consists of coral and turquoise necklaces, a small amount of gold or silver jewelry, several sets of clothing with woollen front and back aprons, blankets, a special silver teacup, a beercup, a plate, perhaps some large pots and pans, a field (*muzhyng*),<sup>16</sup> a cow or goat, and a sum of money—anything from Rs. 100 to Rs. 4,000. Occasionally grain is also given.

The above may be a somewhat idealized conception. In the cases that I am familiar with, fields and animals were rarely given and the sum of money was only a few hundred rupees. The *nurkal* of a girl from a richer family usually consists of more and better jewelry and clothing. In marriages with Tibetan Khamba men, *nurkal* was generally not given, nor is it usually given in second marriages. In a *magpa* marriage, where the bride inherits her parents' property and the couple lives uxorilocally, the husband may be given a *nurkal* by his parents. This is one option for a middle son whose only means of access to his own family's fields and houses is to marry polyandrously.

*By either side: divorce*

According to the present panchayat rule, a person who leaves his or her spouse, or misbehaves sufficiently to give the other a good reason to leave<sup>17</sup> must pay Rs.

<sup>16</sup> These are of two types: one reverts to the woman's patrilineal kinsmen after her death; the other can be inherited by her own children.

<sup>17</sup> Generally by beating or adultery.



1,000. The "wronged" person takes the money and the divorce becomes legal. It is quite common, especially in Muktinath Panchayat, to write a contract (*kamaca*) at the time of marriage. This will be described below. The amount of the payment, in case of divorce, is specified in this contract. Nowadays this is usually Rs. 1,000, but sometimes Rs. 500 or Rs. 1,500. Sometimes a man will go so far as to promise his new wife half of his property should he divorce her, but my female informant on this point was skeptical as to whether this sort of contract would ever be fulfilled.

According to an older system, the person who was "responsible" for the divorce would pay Rs. 60, 80, or Rs. 100.<sup>18</sup> Lots would be drawn to determine which of the three amounts would be paid.

*By relatives and friends*

Gifts of money are made by wedding guests both at the bride's house and at the groom's house. The couple (or triple) are seated side-by-side. Friends and relatives approach one by one to give a white scarf and a sum of money. The amounts are carefully recorded so that future reciprocal gifts to the donor can be precisely calculated. These gifts are called "*battar*". They range from Rs. 1 to Rs. 100 or so, but the usual amount is Rs. 4, 8, or 16 per guest. A person who has close kin ties with both the bride and groom will probably be a guest in both houses and will in that case give *battar* twice.

Legal Aspects

*Women and inheritance*

The traditional system of inheritance has been described above. To summarize the present situation, there are two principles operating: that of equal division of property between brothers (the modern system), and that of division between the eldest son and the parents (the traditional system), with the youngest son taking the parents' share at their death, and the monk-son taking a half-share of the fields. The main variants of this are: 1) in case there are more than three sons, the middle sons share the wife and property of either their eldest or youngest brother. 2) All sons may remain with the parents, marrying polyandrously.

In a family with both male and female children, the females will generally inherit only jewelry, clothing, and other moveable items, along with perhaps one field and one cow. This is taken in the form of dowry (*nurkal*), as has been described above. In a family with sons there is one other means of passing property to daughters. When parents are especially fond of a daughter, particularly if she has cared for them in their old age, they may give her a gift (*kwazhya*) just before they die. This generally consists of money or jewelry. Aside from the dowry and the *khazhya*, the sons of a family will inherit everything.

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<sup>18</sup> These were quite substantial amounts of money at the time.

It has also been mentioned above that in a family with no male children, the eldest daughter or the daughters as a group will inherit the family property. This generally involves marrying a *magpa* husband who resides on his wife or wives' property. If a woman inherits her parents' property but dies unmarried, the property will revert at her death to her patrilineal relatives. A father's brother's son would be first in line.

According to one report, in the old system a man's brother's son would inherit before his daughter. The explanation is that in a polyandrous system the father's brother's sons were considered legal brothers even if the fathers had not married polyandrously. A girl with brothers would not inherit.

If the father's brother's sons already had considerable property the girl might marry a *magpa* with their permission. Reportedly it is still not uncommon for a girl to consult her father's brother's sons before taking a *magpa* husband. A *magpa* husband does not take his wife's lineage name. Instead, the wife takes the husband's lineage as in a virilocal marriage. The property in a *magpa* marriage then, leaves the women's patrilineage and is henceforth passed down the *magpa* husband's partilineage. If the woman dies, her *magpa* husband keeps the property, but if he remarries it is the first wife's sons, not the second wife's sons who inherit. Sons by the second wife inherit only if there are no sons by the first wife, although they inherit before the first wife's daughters.

In general it seems that a woman's property rights disappear at her death, while a man has the right to pass property on to his children. The *magpa*, as we have seen, can take a second wife after the first wife's death, and if the first wife has no sons her property will be legally inherited by the children of her husband's second wife. In contrast, if a *man* dies childless, his property reverts to his own patrilineal relatives after his wife's death. Or, if the woman remarries, she loses her first husband's property at that time. This same principle operates in the case of the *nurkal* (dowry) field, which often reverts to the woman's patrilineal relatives after her death.

#### *Marital conflict and divorce*

In a typical marriage contract (*kamca*) of the sort discussed above, the husband usually agrees not to drink or gamble excessively, not to beat and abuse his wife, and not to desert her. The wife agrees not to leave her husband without good cause, and both agree to pay Rs. 1,000 should they violate the contract. The contract is written in duplicate or triplicate by a village scribe and each copy is signed (with thumbprints) by the couple and by witnesses. One copy is kept by the wife's family and the other by the husband's family; sometimes a third may be kept by the village headman.

Despite this elaborate procedure, excessive drinking, gambling, and beating by husbands are common causes of marital disputes. The woman may run away and stay with her family when such a dispute occurs. Some time later, the two sets of parents will probably try to bring about a reconciliation. At this time another

contract may be written, much along the lines of the original *kamca*. There is generally a considerable amount of pressure on the part of relatives for a couple to remain together, but if serious marital conflict continues there may be a divorce (*kha dalgen*).

A divorce is not a serious social stigma for a woman. Many divorced women remarry or live happily with their children. The person who violated the original contract is theoretically supposed to pay Rs. 1,000 to the spouse at the time of the divorce. When the payment is made a divorce contract may also be written. The woman has a right to keep her *nurkal* even if it is *she* who deserted her husband; for instance to marry another man. She would, in that case, be liable to pay the Rs. 1,000. I know of a couple of cases where there was no "other man" in, which women made divorce payments simply for the privilege of living alone. Some female informants claim that divorcing husbands rarely fulfill the terms of the marriage contracts.

Nowadays, in plural marriages, partial divorces are quite common. According to some informants, the "extra" spouse who leaves a polyandrous or a polygynous marriage is not liable to pay for the divorce. I have, however, seen a polyandrous marriage contract, written within the past five years, in which it is explicitly agreed that *either* husband who leaves will pay Rs. 1,000 to the wife. I also know of a case in which a woman "ran away" from an unsatisfactory polygynous marriage because she could not afford to pay for the divorce.

There is a "rule" that in case of divorce the woman takes the daughters while the husband takes the sons, unless they are too young to leave their mother. This is apt to be negotiated, however, in each individual case. A woman who keeps her sons with her after divorce may be given a house and a few fields by her husband. At any rate, the sons are legal heirs to their father's property. A less fortunate woman may live alone in a small house on the land of some relative, earning her living by working in other people's fields, spinning and weaving and odd jobs. She may survive the winters by running a small hotel along one of the trade routes.

This paper is a preliminary report. I will not attempt to make hypotheses or formulate conclusions at this stage in my research. I would like to emphasise, however, the potential value of comparative data on traditional legal systems, in respect to the status and rights of women. A comparative analysis relevant to development in Nepal would require in-depth studies of this sort in a wide variety of localities.

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