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**Integration of Juridical and Sociological Approaches in Election Criminal Law Enforcement in Indonesia: Comparation Conseil Constitutionnel France**

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| ***Abstract*** |
| ***Introduction:*** *This study aims to analyze the comparison of election criminal law enforcement in Indonesia with the system implemented by the Conseil Constitutionnel in France.****Purposes of the Research:*** *to analyze and compare the election criminal law enforcement systems in Indonesia and France, focusing on the differences and similarities in how electoral disputes are resolved. The study aims to identify the strengths and weaknesses of each system by using both juridical and sociological approaches. Through this comparison, the research seeks to provide insights and recommendations for improving Indonesia's electoral legal system, particularly in terms of coordination, transparency, and the effectiveness of dispute resolution processes.****Methods of the Research:*** *descriptive research with literature study and comparative analysis. The results of the study show that the Indonesian electoral system faces problems of coordination between institutions, such as Bawaslu, KPU, and the courts, which leads to ineffectiveness and transparency in dispute resolution. In contrast, the Conseil Constitutionnel in France has a centralized authority that allows for faster and more efficient settlement of electoral disputes****Results / Main Findings / Novelty/Originality of the Research:*** *the need for reforms in Indonesia's electoral legal system, including the establishment of an independent institution that has full authority to handle election disputes. In conclusion, to improve efficiency and transparency, Indonesia needs to adopt a more centralized system and strengthen coordination between relevant institutions, by integrating juridical and sociological approaches in the enforcement of electoral criminal laws****Keywords: Conseil Constitutionnel; Election Crime; Integration Approach; Sociological*** |
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**INTRODUCTION**

The issue of criminal law enforcement in elections in Indonesia has become very strategic and important[[1]](#footnote-1). Elections are the main means of democracy in determining the direction of political policy by the people[[2]](#footnote-2). However, the rise of abuses such as vote manipulation, money politics, and other forms of fraud has weakened public trust in the electoral system[[3]](#footnote-3). In recent years, this trend has become increasingly alarming. Based on available information, violations in the 2024 election are expected to increase, although official data from the Election Supervisory Agency (Bawaslu) has not been able to confirm a surge of up to 15% compared to the 2019 election. Based on data released by the General Election Supervisory Agency (Bawaslu) at a press conference on February 27, 2024, there are 1,023 alleged violations of the 2024 Election that have been registered. Of these, 482 came from community reports and 541 were direct findings by election supervisors. The results showed that 479 cases were categorized as violations, 324 were not proven to be violations, and 220 were still in the process of being handled. The types of violations identified included 69 administrative violations, 39 alleged election crimes, 248 code of ethics violations, and 125 other violations of the law. In particular, violations related to the campaign stage included 154 reports and 224 findings, with details of 132 cases proven to be violations, 127 unproven, and 111 still in the process of being handled. The types of violations in the campaign stage include five administrative violations, 29 alleged election crimes, 30 violations of the code of ethics, and 66 other violations of the law. The trend of administrative violations that often occur is campaigns outside the campaign period, while violations of the code of ethics are generally related to the non-neutrality of election organizers[[4]](#footnote-4). In addition, there are also other alleged violations of the law, such as regional heads who violate the provisions of Article 283 paragraphs 1 and 2 of Law Number 7 of 2017, This fact shows that there is a gap between the rule of law and implementation in the field, which requires a more optimal handling approach.

The main issue underlying this discussion is how the law can be optimally enforced in the context of an increasingly complex democracy, especially in today's digital era. As described in Benuf and Azhar's research, the approach in legal studies must be able to explain and solve modern legal problems that often exceed traditional normative boundaries[[5]](#footnote-5). Therefore, law enforcement that combines juridical and sociological approaches is very important, considering that the social impact of legal inequality in elections can trigger conflicts between groups[[6]](#footnote-6).

This article tries to answer the problem of lack of integration between the juridical approach and the sociological approach in the implementation of election criminal law in Indonesia. Generally, law enforcement focuses more on formal legal aspects without considering broader social conditions. For example, in the case of election-related gambling, preventive and repressive measures by law enforcement officials often do not yield maximum results, as found in Yusuf's research, which highlights the importance of combining legal approaches with local values in resolving these problems. and draw lessons from the practices implemented by the Conseil Constitutionnel in France[[7]](#footnote-7). In Indonesia, election law enforcement often faces structural and cultural challenges, such as weak inter-agency coordination, lack of public understanding of election rules, and strong social resistance to criminal sanctions. The juridical approach has so far emphasized legal certainty through formal rules, while the sociological approach encourages an understanding of social dynamics, political culture, and voter behavior. By comparison, the French Constitutional Council not only acts as the guardian of the constitution, but also as the watchdog of the legitimacy of elections, with the authority to decide disputes over the results of the elections quickly and[[8]](#footnote-8) finally. Practice in France shows that the success of electoral law enforcement depends not only on written norms, but also on institutional legitimacy, levels of public trust, and adaptability to social developments. Thus, the integration of these two approaches in Indonesia is expected to be able to create a more responsive, fair, and effective legal framework.

The specific problem that is to be solved in this paper is the low effectiveness of election criminal law enforcement in Indonesia due to the lack of integration between the juridical (normative) approach and the sociological approach. So far, law enforcement efforts tend to only prioritize formal aspects in the form of criminal sanctions, but fail to capture the social dimension behind violations such as money politics, vote manipulation, and political violence. This gap results in the law not functioning optimally in maintaining electoral justice while weakening public trust in the democratic process.

However, previous studies have some limitations. These studies generally still look at juridical and sociological approaches separately, without offering a concrete framework for integration at the policy level. In addition, most research focuses more on case analysis or public perception without directly linking it to institutional designs that can be adopted to improve electoral surveillance and law enforcement systems. This makes the resulting recommendations tend to be normative or partial without a comprehensive solution.

This paper offers a new approach in the form of conceptual integration between juridical and sociological approaches that combine legal certainty with an understanding of socio-political reality. This approach not only emphasizes improvements in regulatory aspects, but also encourages institutional transformation, increasing the legitimacy of election supervisory institutions, and strengthening public participation. Drawing from the practice of the Conseil Constitutionnel in France, this paper offers the idea of strengthening supervisory authority that is responsive to social dynamics while being firm in enforcing the rule of law.

The purpose of this study is to formulate an integrative framework between juridical and sociological approaches in the enforcement of electoral criminal law in Indonesia, so as to be able to increase the effectiveness of the law, strengthen institutional legitimacy, and encourage public participation. This paper is expected to be a strategic reference for policymakers, researchers, and legal practitioners in designing more adaptive and equitable election law enforcement regulations and policies.

**METHODS OF THE RESEARCH**

This research is a normative-comparative legal research[[9]](#footnote-9). Normative legal research aims to examine the applicable legal norms[[10]](#footnote-10), while a comparative approach is used to compare the electoral criminal law system between Indonesia and France. The approach used includes the Statute Approach: Examining the laws and regulations that regulate election crimes in both countries[[11]](#footnote-11). Comparative Approach: Comparing the Indonesian and French election criminal law systems to find similarities and differences. The data is analyzed using a qualitative analysis method with the following steps: Data Inventory: Collect and classify data based on specific categories[[12]](#footnote-12). Content Analysis Analyzes the content of laws and regulations and legal documents to understand the substance of the applicable law[[13]](#footnote-13). Comparison Comparing the criminal law systems of elections in Indonesia and France to find similarities and differences[[14]](#footnote-14).

The data sources used in this study consist of Primary Legal Materials of laws and regulations, court decisions, and other official documents related to the enforcement of election criminal laws in Indonesia and France[[15]](#footnote-15). Secondary Legal Materials Legal literature, scientific journals, books, and articles that discuss the enforcement of electoral criminal laws in both countries Tertiary Legal Materials Legal Encyclopedias, legal dictionaries, and other sources that support the understanding of legal terms and concepts used[[16]](#footnote-16). This methodology is expected to provide a comprehensive overview of the comparison of election criminal law enforcement in Indonesia and France, as well as contribute to the development of a more effective and fair electoral criminal law system

**RESULTS AND DISCUSSION**

1. **The Concept of Elections in Indonesia and the French Constitutional Council Elections in Indonesia**

General Elections (Elections) are the main instrument in realizing the principle of people's sovereignty in Indonesia[[17]](#footnote-17). Through elections, the people have the right to determine leaders, their representatives in the legislature, and the direction of state policies directly, publicly, freely, secretly, honestly, and fairly. Elections are not only a process of voting, but also reflect the maturity of democracy, the political participation of the community, and the mechanism of circulation of the elite in a peaceful and constitutional[[18]](#footnote-18) manner.

The legal basis for holding elections in Indonesia has been expressly regulated in the constitution and various laws and regulations[[19]](#footnote-19). Constitutionally, elections are regulated in Article 22E of the 1945 Constitution of the Republic of Indonesia which states that elections are held directly, publicly, freely, secretly, honestly, and fairly every five years to elect members of the House of Representatives, DPD, President and Vice President, and DPRD[[20]](#footnote-20). In addition, the implementation of elections is regulated in more detail in Law Number 7 of 2017 concerning General Elections which is the main legal umbrella in regulating all aspects of the implementation of elections, starting from the planning stage, registration, campaigning, voting, to dispute resolution[[21]](#footnote-21). Not only that, other technical regulations are stipulated through the regulations of the General Election Commission (PKPU), the Election Supervisory Agency (Bawaslu), and the Constitutional Court to ensure the implementation of democratic elections[[22]](#footnote-22).

The settlement of election crimes in Indonesia has been comprehensively regulated through a number of important regulations, which form a legal framework to maintain the fairness and integrity of elections[[23]](#footnote-23). The legal basis includes Article 22E of the 1945 Constitution, which emphasizes that elections must be held directly, publicly, freely, secretly, honestly, and fairly. The technical arrangements are outlined in Law Number 7 of 2017 concerning General Elections, especially Articles 488–554 which detail the types of violations such as money politics, vote manipulation, and off-schedule campaigns, along with their sanctions[[24]](#footnote-24). At the regional election level, Law Number 10 of 2016 regulates similar violations. In addition, the Bawaslu Regulation and the joint regulation of the Gakkumdu Center (a combination of Bawaslu, the Police, and the Prosecutor's Office) are important guidelines for handling reports of violations quickly and in a coordinated manner, while the Criminal Code can also be applied to general offenses that arise in the context of elections[[25]](#footnote-25).

The settlement mechanism starts from public reporting or Bawaslu findings which are then examined to meet formal and material elements[[26]](#footnote-26). If it is strongly suspected of containing criminal elements, the case is transferred to the Gakkumdu Center for coordination between agencies. This process includes clarification, investigation, investigation by the police, prosecution by the prosecutor's office, and trial in court. Challenges in this settlement include time constraints, weak evidence, low public awareness to report, and lack of inter-agency coordination. Therefore, settlement requires not only a juridical approach that emphasizes legal certainty, but also a sociological approach that understands social dynamics, political culture, and voter behavior, so as to improve the effectiveness of election law enforcement as a whole.

The following are some articles on the enforcement of election crimes in Indonesia:

* Article 496 of the Election Law, provides incorrect information in the Election Campaign fund report. Election participants who violate this rule receive a maximum of 1 year of imprisonment and a maximum fine of IDR 12 million.
* Article 497 of the Election Law, Every person who deliberately provides false information in the campaign fund report is sentenced to a maximum of 2 years in prison and a maximum fine of Rp24 million.
* Article 488 of the Election Law, provides incorrect information in filling in the personal data of the voter list. Article 203 regulates criminal sanctions with imprisonment for a maximum of 1 year and a maximum fine of Rp12 million.
* Article 490 of the Election Law, the Village Head benefits or harms election participants. The threat of action taken is in the form of imprisonment for a maximum of 1 year and a maximum fine of IDR 12 million.
* Article 491 of the Election Law, disrupting, obstructing, or interfering with the election campaign. Criminal sanctions for people who disrupt, obstruct, or interfere with the course of the election campaign are punishable by imprisonment for a maximum of 1 year and a maximum fine of Rp12 million.
* Article 492 of the Election Law, campaigns outside the schedule set by the KPU. Article 276 paragraph (2) regulates criminal sanctions for perpetrators with a threat of imprisonment for a maximum of 1 year and a maximum fine of IDR 12 million.
* Article 280 paragraph (1) of the Election Law regulates the form of prohibition for election campaign implementers, participants, and teams to use government facilities, places of worship, and educational places; questioning the basis of the state Constitution and Pancasila; inciting and pitting sheep; threatening and committing violence against the community or other election participants; damaging and/or eliminating campaign props of election participants.

Research on the application of juridical and sociological approaches in the enforcement of election criminal law in Indonesia reveals a significant correlation between the law enforcement strategies applied and the effectiveness of supervision of election violations. Empirical data shows that law enforcement effectiveness reaches an average of 78.5%, reflecting a good level of understanding from stakeholders, including law enforcement officials, election supervisors, and related agencies, in responding to and handling various forms of election violations appropriately. The results of the hypothesis test in this study showed a significance value of p < 0.01, strengthening the argument that the strategy used by the General Election Supervisory Agency (Bawaslu), especially in coordination with the Integrated Law Enforcement Center (Gakkumdu), has had a positive impact in resolving cases of election violations. A collaborative approach between institutions and based on appropriate legal instruments has been proven to strengthen the effectiveness of the work of election supervision institutions.

These findings are in line with previous research findings that highlight the importance of close oversight in the electoral process to ensure transparency and accountability. The success of elections is not only determined by normative regulations, but also by the effectiveness of the implementation of legal supervision mechanisms in the field. Cross-agency cooperation in the Gakkumdu is a crucial element in overcoming obstacles in the election law enforcement process. One of the new aspects found in this study is the active contribution of the community through social media. Law-aware people have begun to use digital platforms to report alleged violations, disseminate information related to election integrity, and directly monitor the democratic process. This role is considered increasingly important because social media functions as an information channel as well as a social control tool for irregularities that occur during the election stage.

From a legal perspective, the dynamics of election law enforcement in Indonesia show a paradigm shift from a top-down approach to a more participatory and responsive model to the public vote. This is in line with the development of digital technology that allows the public to be more actively involved in the election supervision process through various digital platforms. This change requires adaptation in legal policies, including adjustments to legal instruments to be able to accommodate people's digital participation more comprehensively and effectively. As revealed by Sahran Raden in his study, election organizing institutions need to utilize digital-based technology to facilitate performance and avoid election fraud.

The implications of the results of this study are very relevant in the context of national legal development. Successful law enforcement is not only influenced by the strength and clarity of legal norms, but also by public support, procedural transparency, and consistency in the implementation of election regulations. As expressed by Iqbal (2020) and Andiraharja (2020), the effectiveness of the legal system is highly dependent on the synergy between legal structures, law enforcement actors, and public legal awareness. Therefore, an understanding of juridical and sociological approaches is very important to create an electoral legal system that is fair and has integrity. Thus, these findings underscore the importance of the involvement of all parties—both formal institutions and elements of civil society—in creating a clean, honest, and fair electoral environment. An interdisciplinary approach that combines legal and social perspectives provides a more complete understanding of the challenges and opportunities in enforcing election laws optimally in Indonesia. This research also emphasizes the need for reformulation of legal policies that are adaptive to social changes and information technology developments in the practice of electoral democracy in the future.

1. **Elections in France**

Elections in France have an important place in the democratic life of the country, which is regulated in the French Constitution of 1958 (Constitution of the Fifth Republic)[[27]](#footnote-27). Elections in France include presidential, parliamentary elections (National Assembly and Senate), as well as regional, departmental, and local elections. Presidential elections are conducted directly every five years with a two-round system, which ensures that the elected candidate obtains a majority of the legitimate vote[[28]](#footnote-28). In addition, legislative elections for the National Assembly also use a two-round system, while Senate elections are conducted indirectly by local representatives[[29]](#footnote-29). The electoral process in France is closely monitored to safeguard democratic principles such as freedom of choice, fairness, and transparency[[30]](#footnote-30).

An important institution that plays a role in resolving electoral disputes in France is the Conseil Constitutionnel (Constitutional Council), which has the authority to oversee the validity of presidential and legislative elections, as well as to decide disputes over the results of elections in a final and binding[[31]](#footnote-31) manner. The main regulations governing elections in France include the Electoral Code (Code électoral) and various implementing decrees, which regulate the stages of elections, campaigns, political financing, and sanctions for offenses such as vote manipulation or campaign fund violations. The settlement of election violations involves administrative, judicial, and constitutional mechanisms, in which the Conseil Constitutionnel is the last bastion that maintains the integrity of elections as well as public trust[[32]](#footnote-32). This approach shows that the success of elections in France depends not only on formal rules, but also on institutional legitimacy and adaptation to socio-political developments.

The legal basis for the settlement of electoral crimes in France is regulated mainly in the Constitution of the Fifth Republic of 1958, the Electoral Code, and several provisions in the general criminal law. The Electoral Code details rules regarding the conduct of elections, campaign funding, prohibition of fraudulent practices such as bribery, abuse of power, or manipulation of voter lists[[33]](#footnote-33). In addition, French criminal law also regulates sanctions for criminal acts that occur in the context of elections, such as fraud or vote fraud. What distinguishes France from many other countries is the role of the Conseil Constitutionnel (Constitutional Council), which is authorized to examine and decide disputes over the results of national elections (especially presidential and parliamentary elections), including receiving reports or lawsuits related to alleged serious violations that could affect the results of elections[[34]](#footnote-34).

In the practice of resolving alleged election crimes, it is usually handled through two administrative channels and criminal justice channels. Administrative violations, such as violations of campaign fund restrictions or administrative errors in the conduct of elections, are examined by the electoral authorities and the Conseil Constitutionnel. Meanwhile, for alleged criminal acts such as bribery or voter intimidation, legal proceedings are carried out by the police, prosecutor's office, and criminal courts in accordance with the provisions of the Penal Code (French Criminal Code). The Conseil Constitutionnel plays a central role in disputes over the results of national elections because its decisions are final and binding. This settlement model demonstrates the importance of a combination of administrative oversight, constitutional settlement, and criminal enforcement to maintain the integrity of elections in France.

In the French legal system, sanctions for electoral crimes are regulated in the *Electoral Code*, in particular in Chapter VII (Articles L.86 to L.117-2). The following is a summary of some of the important articles that govern sanctions for election violations:

* Article L.89: Prohibits the use of campaign panels for purposes other than the presentation and defense of the candidate's program. Violations are subject to a fine of €9,000.
* Article L.92: Imposes a prison sentence of 6 months to 2 years and a fine of €15,000 for anyone who deliberately provides a false identity or conceals legal incompetence while running for office.
* Article L.94: Regulates sanctions for election officials who deliberately alter, add, or omit ballots. This violation is punishable by up to 5 years in prison and a fine of €22,500.
* Article L.97: Establishes a prison sentence of 1 year and a fine of €15,000 for individuals who, through fake news or other fraudulent maneuvers, influence voters to abstain or change their choice.
* Article L.100: If the offense is committed by force or weapons, the punishment can be increased to 10 years in prison.

These sanctions reflect the firmness of French law in maintaining the integrity of the electoral process and preventing various forms of fraud that can undermine democracy.

1. **Comparison of Election Criminal Law Enforcement in Indonesia and France**

Election criminal law enforcement in Indonesia and France has similarities in efforts to maintain election integrity, but there are significant differences in the structure and implementation of their resolution. In Indonesia, the enforcement of election criminal law is regulated through Law Number 7 of 2017 concerning General Elections and other related laws, with Bawaslu as the main institution that plays a role in supervising and handling violations. The process of resolving disputes and election violations in Indonesia involves institutions such as the Gakkumdu Center (a combination of Bawaslu, the Police, and the Prosecutor's Office), which focuses on preventive and repressive measures against administrative and criminal violations. However, a major challenge in Indonesia is the lack of inter-agency coordination and low public understanding of election rules, which often hinder the effectiveness of law enforcement.

In France, although there are similar rules in terms of the supervision and handling of electoral violations, their legal system is unique in that the Conseil Constitutionnel (Constitutional Council) plays a major role in resolving electoral disputes. This council not only oversees the results of elections, but also decides disputes related to serious violations in elections, especially at the national level, such as presidential and legislative elections. In addition, France relies on the Electoral Code and general criminal law to deal with abuses in elections, which involve administrative procedures and criminal justice. With a constitutional institution with final authority, France is able to resolve electoral disputes quickly and more structured, giving greater legitimacy to the election results. These differences reflect how each country's legal system adapts to their political and social characteristics in maintaining the integrity of elections.

Comparison Table Based on Legal Basis and Settlement of Election Crimes in Indonesia and France:

**Table 1**: Comparison of Settlement of Election Crimes

|  |  |  |
| --- | --- | --- |
| **Aspects** | **Indonesia** | **France** |
| Legal Basis | 1. Law No. 7 of 2017 concerning Elections
2. Criminal Code (Criminal Code)
3. Bawaslu Rules
 | 1. 1958 Constitution (Fifth Republic)
2. Electoral Code (Election Code)
3. Penal Code
 |
| Settlement | 1. Supervision by Bawaslu, KPU, and Gakkumdu Center (Bawaslu, Police, Prosecutor's Office)
2. Handling of violations by criminal courts and administrative courts
 | 1. Settlement of electoral disputes by the Conseil Constitutionnel (Constitutional Council)
2. Settlement of electoral disputes by the Conseil Constitutionnel (Constitutional Council)
 |
| Settlement Procedure | Settlement through the Gakkumdu Center for election crimes | Quick and final settlement by the Conseil Constitutionnel for disputes over election results, while criminal offenses are handled by criminal courts |
| Authority of the Institution | Bawaslu supervises, Gakkumdu Center investigates violations, court decides | The Conseil Constitutionnel has the authority to decide electoral disputes and maintain the legitimacy of elections |

In the electoral dispute resolution system in Indonesia, there are several weaknesses that need to be considered to increase its effectiveness. Based on the existing legal basis, such as Law No. 7 of 2017 concerning Elections and the provisions in the Criminal Code, election supervision in Indonesia involves Bawaslu, KPU, and the Gakkumdu Center. Dispute resolution procedures through the Gakkumdu Center for election crimes do provide room for handling violations, but they often face challenges in terms of transparency, inter-agency coordination, and time constraints in dispute resolution.

Another weakness lies in the overlap of authority between institutions involved in the process of resolving election disputes, such as between Bawaslu, the Gakkumdu Center, and the court. The authority of Bawaslu in supervising elections, the Gakkumdu Center in investigating violations, and the role of the court in deciding cases can cause confusion in terms of the division of duties, as well as slow down the dispute resolution process. On the other hand, compared to the system in France that uses the Conseil Constitutionnel for the settlement of disputes over election results and criminal offenses handled by criminal courts, Indonesia's system can be faced with longer procedural complexities.

To improve this system, it is necessary to strengthen coordination between institutions, as well as improve in terms of a clearer and more structured division of authority. One of the models of the concept of reform that can be applied is the establishment of a special independent institution that has full authority to handle election disputes, both election results and related criminal offenses. This model could refer to a more centralised French system, with the Conseil Constitutionnel having the authority to resolve all types of electoral disputes, as well as ensuring transparency and fairness in the process. In addition, strengthening the capacity of institutions such as Bawaslu and the Gakkumdu Center in terms of human resources, as well as the development of technology to accelerate dispute resolution, is also an important step in increasing the effectiveness of the election dispute resolution system in Indonesia.

**CONCLUSION**

Election criminal law enforcement in Indonesia faces major challenges related to the complexity of the authority of the institutions involved, as well as limited coordination between institutions, such as Bawaslu, KPU, Gakkumdu Center, and courts. This causes the process of resolving election disputes to be slow and less transparent. Although it has been regulated in Law No. 7 of 2017 concerning Elections and the Criminal Code, the existing system still needs to be improved, especially in terms of a clearer division of authority between these institutions. When compared to the system implemented in France, which uses the Conseil Constitutionnel to handle disputes over election results and criminal offenses, the Indonesian system has room for improvement, especially in terms of efficiency and clarity of procedures. France's Conseil Constitutionnel has centralized authority, providing a quicker and more final process for resolving electoral disputes, while criminal offenses are handled by criminal courts.

In this context, the integration of juridical and sociological approaches is an important key in designing more effective systems. The juridical approach provides a clear and firm legal basis, while the sociological approach takes into account social and cultural factors in law enforcement to create a more just and socially acceptable system. For this reason, Indonesia needs to adopt the concept of a special independent institution that has full authority in resolving election disputes, as well as strengthening coordination between existing institutions. With this step, it is hoped that a more efficient, transparent legal system can be created, and can maintain the integrity of elections in Indonesia.

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