



# THE STRATEGIC ROLE OF THE PUBLIC PROSECUTOR'S PRESECUTION PLAN IN IMPOSING SEVERE PENALTIES FOR CHILD ABUSE CRIMES

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**Abstract:** *Rentut has a strategic role for the prosecutor in prosecuting serious crimes against perpetrators of child molestation. Rentut functions as a juridical instrument that gives legitimacy to the demands, a victimological instrument that places child victims at the center of consideration, and a social-preventive instrument that affirms the state's attitude not to tolerate sexual crimes against children. In addition, Rentut strengthened consistency in prosecution among prosecutors so that it reflects the institutional policies of the prosecutor's office, not just the attitude of individual JPU. The main focus of this study is to understand how the prosecutor drafts criminal charges that are not only sentencing oriented, but also pay attention to the aspect of protecting child victims who have experienced deep trauma. The results of the study show that, in compiling the charges, the prosecutor considers both objective and subjective aspects as regulated by the Child Protection Law. The objective aspect includes the analysis of legal facts and evidence, and the application of the principle of *lex specialis derogat lex generalis*, while the subjective aspect includes moral, humanitarian, and socio-psychological factors affecting the victim. The procedure for preparing the Rentut is carried out systematically, starting from the collection of trial facts to the preparation of charges ratified by the Head of the District Attorney's Office. In the case of molestation of biological children, the prosecutor emphasized the imposition of punishment due to the betrayal of moral responsibility as parents.*

**Keywords:** *Child Abuse; Child Protection; Prosecution Plan; Public Prosecutor*

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## I. INTRODUCTION

The prosecutor is an official who is tasked with representing the interests of the state in the prosecution of criminal cases in court, which has the main task of prosecuting violators of the law in accordance with the applicable laws and regulations in Indonesia. Prosecutors play an important role in the criminal justice system, ensuring that offenders are punished according to their deeds, protecting

the public interest, and maintaining social order. Prosecutors must carry out their duties with professionalism, integrity, and independence, and continue to adapt to legal and technological developments. The understanding of the profession of the Prosecutor himself is that government employees who focus on the legal field, are in charge of submitting indictments or accusations in the court process against people who are suspected of violating the law. In Dutch it is called *officer van justitie*, in English it is called *public prosecutor*.<sup>1</sup>

The Prosecutor is not required to carry out his duties and authorities in an unstructured manner, the mandate regarding the duties and authority of the Prosecutor has actually been regulated in article 35 of the Law of the Republic of Indonesia Number 16 of 2004, concerning the Prosecutor's Office, in carrying out his duties should be independent and independent of the influence of government and other government powers in his efforts to realize legal certainty, legal order, justice and truth by avoiding religious norms, politeness, and decency, and are obliged to explore the values of humanity, law, and justice that live in society.<sup>2</sup> The Public Prosecutor must balance a variety of objective and subjective considerations to create a fair prosecution. Objective considerations include facts and evidence gathered during investigations and trials, the application of relevant legal provisions, and the evaluation of the defendant's guilt and responsibility under applicable legal standards. On the other hand, subjective considerations include an assessment of the defendant's motives and intentions, his personal condition and socio-economic background, and the impact of the crime on the victim.

The prosecution plan is an integral part of the criminal justice process in Indonesia. Before filing a charge, the prosecutor must obtain approval from their superiors through the Demand Plan (Rentut) reporting mechanism.<sup>3</sup> The plan of charges is prepared by the Public Prosecutor (JPU) before filing official charges at trial. The prosecution plan is an important instrument in the Indonesian prosecution process. The preparation of a good prosecution plan can improve the quality of prosecution, maintain consistency, prevent errors, and increase the accountability of the Public Prosecutor. Although there is debate about the prosecution plan, it is undeniable that the prosecution plan has a significant role in realizing a fair and transparent

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<sup>1</sup> Sudarsono, 1992. *Kamus Hukum*. Jakarta: Reneka Cipta, p. 191.

<sup>2</sup> Yesmil Anwar & Adang, 2011. *Sistem Peradilan Pidana*. Bandung: Widya Padjadjaran, p. 204.

<sup>3</sup> Siska Trisia, 2023. *Explainer: Bagaimana Proses Penuntutan Perkara Pidana di Indonesia?* <https://ijrs.or.id/2023/11/30/explainer-bagaimana-proses-penuntutan-perkara-pidana-di-indonesia-2/>.

criminal justice. An in-depth understanding of the prosecution plan is essential for legal practitioners, academics, and the general public interested in the dynamics of the criminal justice system. The legal basis for the prosecution plan is the Attorney General's Regulation Number PER-039/A/JA/09/2010 concerning the Administration of Criminal Cases. This regulation requires the Public Prosecutor to prepare a prosecution plan before filing a formal charge at trial. In addition, there is also a Circular Letter of the Attorney General of the Republic of Indonesia. Number: SE-013/A/JA/12/2011 concerning Guidelines for Criminal Prosecution of General Criminal Cases, which provides technical guidelines related to the preparation of a prosecution plan.

The Charge Plan (*Rentut*) prepared by the Public Prosecutor (JPU) plays an important role in every criminal case as a guideline for determining the direction and weight of the charges. *Rentut* not only serves to maintain consistency and legal certainty, but also affirms the strategic role of the prosecutor as a case controller (*dominus litis*). In the case of criminal acts of molestation, especially against children, *Rentut* becomes increasingly crucial because this crime is classified as an *extraordinary crime* that causes long-term physical, psychological, and social impacts on the victim. When the perpetrator is a biological parent, the complexity is even higher because there is a betrayal of the family's moral responsibility. Therefore, the prosecutor, in drafting the Prosecution, not only based the charges on the juridical aspects as stipulated in the Criminal Code and the Child Protection Law, but also considered the victim's psychological aspects. In this situation, *Rentut* was directed to prosecute serious crimes as a form of substantive justice, to protect children, and to undertake preventive efforts so that similar acts would not be repeated in society.

The crime of obscenity is a form of criminal act that has a very bad impact, especially on the victim. Violations not only violate human rights but also undermine the inherent human dignity of every individual. These violations of basic human rights hurt victims' sense of security and confidence, often causing prolonged trauma that is difficult to recover from. Therefore, perpetrators of the crime of obscenity deserve sanctions that are firm and commensurate with their actions, as a form of justice for the victim and to deter future offenders. In the context of the scope of sexual violence, molestation is defined as any act that violates morality (decency) or that is considered heinous by societal norms. This act is always related to the perpetrator's lustful impulses and is often carried out without the consent of the victim. Forms of abuse can include actions such as unwanted kissing, groping sensitive body parts,

or other behaviors aimed at satisfying the perpetrator's sexual desires. While some actions may not leave physical scars, their psychological impact can be much more devastating, especially in victims who are underage or in situations that render them powerless to resist.<sup>4</sup>

The fact that perpetrators often come from environments that are supposed to provide protection and moral guidance highlights the deep rifts in our social and cultural structures. The inability of society to decisively identify, prevent, and deal with such cases demonstrates the need for fundamental reforms in the child protection system. In addition, weak sexuality education and lack of awareness about children's rights often leave them vulnerable to manipulation and exploitation. This study aims to find out and analyze the consideration of the Prosecution Plan (Rentut) by the Public Prosecutor (JPU) against the perpetrators of the crime of sexual abuse of biological children and the procedures carried out by the prosecutor in submitting a Rentut to the perpetrators of the crime of molestation of biological children.

## **II. RESEARCH METHODS**

The problem approaches used in this study are normative juridical and empirical juridical approaches. The data source in this writing uses secondary data, which is data sourced from the results of literature research obtained from the results of the study of documents, archives, and literature related to the writing obtained by studying theoretical matters, concepts, views, doctrines, and legal principles related to the subject matter of the research problem. The secondary data types in this study include primary, secondary, and tertiary legal materials. The resource persons who provided information were the Public Prosecutor of the Bandar Lampung District Attorney's Office and the Lecturer in the Criminal Section of the Faculty of Law, University of Lampung.

## **III. ANALYSIS AND DISCUSSION**

### **a. Public Prosecutor's Consideration of the Prosecution Plan for Perpetrators of Criminal Acts of Molestation of Biological Children**

Research on the Strategic Role of the Public Prosecutor's Prosecution Plan (Rentut) in the Imposition of Punishment for Serious Crimes Committed by Perpetrators of

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<sup>4</sup> R. Soesilo, 1995. *Criminal Code (KUHP) and its commentaries complete article by article*, Bogor: Politeia.

Child Abuse is essential to ensure that justice is upheld proportionately. The Prosecution Plan (Rentut) prepared by the Public Prosecutor (JPU) has a strategic role in determining the imposition of severe penalties against perpetrators of child molestation. Rentut is not just an internal technical guideline but also a prosecutorial policy instrument that helps ensure consistency in the legal process and prevent disparities in prosecutions among prosecutors. In the case of child molestation, this role is very important because the crime is classified as *an extraordinary crime* that concerns the protection of children's rights as a vulnerable group, as well as the future of the nation. Furthermore, the existence of Rentut also serves as a filter to ensure that submitted demands do not exceed the limits of the applicable legal provisions. Thus, despite encouraging serious crimes, the prosecutor still maintains the principles of proportionality and respect for human rights. The position of the prosecutor as *a dominus litis* is evident through the Rentut mechanism, because it is from this instrument that the balance between the interests of the state, victims, and defendants can be realized fairly.

The existence of principles carried out in a case in a criminal act in molestation committed against minors, the prosecutor applies the principle in this case in the Criminal Code will exclude things that have general characteristics and only focus on the law that regulates a special nature, namely what is called *Lex Specialis Derogat Legi Generalis*. Positive law that says that this criminal act has been regulated in the existing law in Indonesia, where this is included in a global or general nature where the existence of rules in the Criminal Code is the principle of *Lex Generalis*.<sup>5</sup>

Tri Buana Mardasari, S.H., explained the basis for the Prosecutor's consideration in carrying out prosecution efforts, which generally includes two important aspects, namely objective and subjective considerations. Objective considerations are the basis based on applicable legal provisions, such as laws and other laws and regulations. In this case, the Public Prosecutor (JPU) will analyze the facts in the case, and ensure that the prosecution action taken is in accordance with the applicable law. This includes evaluating the evidence gathered during the investigation and ensuring that the alleged criminal act has met the elements set out in the law. Meanwhile, subjective considerations are a more personal aspect, which reflects the feelings and conscience of a prosecutor in assessing a case. Although it is based on

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<sup>5</sup> Anggia Nur Ramadhani. D, et al., 2024. *Implementation of Expanding the Meaning of the Principle of Legality Based on the National Criminal Code*. Jurnal Ilmiah Hukum dan Hak Asasi Manusia (JIHAM) 3, no. 2, p. 65 – 74. <https://doi.org/10.35912/jihham.v3i2.2529>

the principle of justice, this consideration does not only look at the legal facts, but also considers humanitarian and moral factors. In some cases, the prosecutor may consider the social and psychological impact caused by the crime on the victim, as well as efforts to provide a deterrent effect to the perpetrator. Thus, this subjective consideration aims to ensure that the prosecution decisions taken are not only legally fair, but also reflect a deeper sense of justice, which takes into account the rights of victims and perpetrators in a social and humanitarian context.<sup>6</sup>

Tri Buana Mardasari, S.H. and Fatahilah, S.H., M.H., explained that the Public Prosecutor's (JPU) consideration in formulating a plan of prosecution against the perpetrators of abuse of biological children basically involves two main factors, namely juridical and non-juridical factors. Juridical factors include various relevant laws and regulations, such as the Criminal Code (KUHP) which regulates criminal acts of obscenity in general, including articles related to sexual crimes. In addition, the Child Protection Law became a more specific legal basis, providing provisions on severe punishment for perpetrators of sexual crimes against children, including the imposition of punishment for those who were related by blood to the victim. In addition to these regulations, evidence also plays an important role in determining the prosecution plan. Physical evidence such as visum, recordings, or digital evidence that supports the incident, as well as witness and victim statements, are very helpful in strengthening the alleged criminal act. The defendant's confession can also clarify the chronology of the incident, which serves as a reference in determining the severity of the charges. In the process of drafting charges, the criminal procedure law, which is regulated in the Criminal Procedure Code, must also be followed, including the assessment of valid evidence and in accordance with the stages of the trial. Previous court decisions or jurisprudence can be an important reference in determining proportionate claims and in accordance with the provisions of the law. In addition, the prosecutor's guidelines provide more specific directions in drafting charges, including in cases of child molestation.

Meanwhile, non-juridical factors that also affect the prosecutor's consideration are no less important. One of the main factors is the psychological condition and trauma experienced by the victim. If the victim experiences severe trauma, this will be the basis for the punishment for the perpetrator. This condition is often strengthened by the results of a psychologist's or psychiatrist's examination that shows a deep

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<sup>6</sup> Results of an interview with Tri Buana Mardasari, S.H., as the Public Prosecutor of Bandar Lampung City, on December 01, 2024

psychological impact due to the perpetrator's actions. In addition, the blood relationship between the perpetrator and the victim, as in the case of the father who molested his biological child, became a weighting factor in the prosecution, because the perpetrator was considered to have betrayed the trust given by the victim as a parent. Crimes that occur in the family environment often cause a wide negative stigma in society, and this is also a consideration for prosecutors in formulating charges. Prosecutors usually seek punishment that can provide a deterrent effect to the perpetrator, as well as provide a sense of justice for the community who feel shaken by the incident. In addition, cases involving children often attract public attention, and although public opinion is taken into consideration, prosecutors still strive to maintain objectivity and fairness in the ongoing legal proceedings.

As part of the criminal justice system, the Public Prosecutor has a very important role in ensuring that the prosecution process can run in accordance with the principles of justice. Therefore, in addition to paying attention to the applicable legal provisions, the Prosecutor must also be able to take into account the social impact that may arise from every decision taken. A fair decision will not only reflect the success of the justice system, but will also give a sense of confidence to the public that the law can indeed guarantee justice. Thus, the considerations given by the Public Prosecutor are not only oriented to the legal aspect, but also to the broader social and moral interests.

The severity of the crime in the case of molestation of biological children affects the amount of charges filed by the Public Prosecutor (JPU) in the prosecution plan. The prosecutor should also refer to Article 81 paragraph (3) of Law No. 17 of 2016 concerning the Stipulation of Government Regulations in Lieu of Law No. 1 of 2016 concerning the Second Amendment to Law of the Republic of Indonesia No. 23 of 2002 concerning Child Protection into Law, which states that the family relationship between the perpetrator and the victim is a weighting factor in determining the punishment. Since the perpetrator is the biological father, this blood relationship is considered a betrayal of the responsibility as a child protector, which can lead to the imposition of punishment, with a maximum penalty of 15 years in prison. In addition, in some cases, the prosecutor should be able to file additional criminal charges, such as chemical castration for perpetrators of severe sexual violence in accordance with Government Regulation No. 70 of 2020 concerning Procedures for the Implementation of Chemical Castration, Installation of Electronic Detection Devices, Rehabilitation, and Announcement of the Identity of Perpetrators of Sexual Violence against Children, as well as the installation of electronic monitoring devices

after the perpetrator completes his criminal term to prevent the possibility of the perpetrator from repeating himself his deeds. Therefore, the severity of this crime, coupled with family relationship factors that exacerbate the emotional and psychological impact on the victim, causes the charges filed to tend to be heavier than if the perpetrator is another person who is not part of the family. However, it needs to be underlined that basically the perpetrators of sexual molestation / harassment of biological children or non-biological children in this case can be said to be other people, the criminal snares are the same and the rules are the same, but as has been stated previously there are ballast reasons for perpetrators who commit the crime of sexual molestation / harassment of biological children.

#### **b. Procedures Carried Out by Public Prosecutors in Submitting Prosecution Plans to Perpetrators of Criminal Acts of Molestation of Biological Children**

The Public Prosecutor (JPU) before making charges at trial first prepares a plan of charge, or often referred to as a *rentut*, which is a very important first step in the criminal case prosecution process. Based on the results of the interview with the JPU, it was explained that the process of preparing the prosecution plan began with the prosecutor detailing the articles that would be applied to the defendant, as well as the threat of punishment in accordance with the applicable legal provisions. In this case, the prosecution plan must be prepared based on the existing evidence, be it witness statements, *visum et repertum* letters, evidence, or statements from the defendant himself. Each element of this evidence will be used to prove the charges against the perpetrator of child abuse. Abuse is an imperfect manifestation of a person's sense of responsibility towards fellow humans. Abuse is the result of an interaction due to an interrelation between existing phenomena and influencing each other. Now the important thing is to understand which phenomena affect the existence of the obscenity. This is important in relation to determining who or what should be dealt with in dealing with and overcoming this problem of abuse.<sup>7</sup>

*Rentut* allows the prosecutor to balance two interests of justice, namely retributive justice and restorative justice. Retributive justice is reflected in efforts to prosecute serious crimes in retaliation for the perpetrators, while the restorative aspect emphasizes the need to protect child victims who need special treatment and safety guarantees. Guided by *Rentut*, the prosecutor can formulate serious criminal

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<sup>7</sup> Arif Gosita, 1993. *Masalah Korban Kejahatan: Kumpulan Karangan*, 2<sup>nd</sup> Edition. Jakarta: Akademika Pressindo, p. 47.

charges that are not only oriented towards punishment, but also pay attention to the best interests of children as victims.

The procedure for preparing a prosecution plan (Rentut) is regulated in several written rules that serve as guidelines for the Public Prosecutor (JPU). The main legal basis is the Attorney General's Regulation Number PER-039/A/JA/09/2010 concerning the Administration of Criminal Cases and the Attorney General's Circular Letter Number: SE-013/A/JA/12/2011 concerning Guidelines for Criminal Prosecutions in General Criminal Cases. This guideline regulates in detail the stages of the process, starting from preparation to submission to the leadership in a hierarchical manner. In addition, Article 182 paragraph (1) letter a of the Criminal Code states that the public prosecutor files criminal charges after the investigation is completed, even though the article does not explicitly regulate the obligation to submit the report. To ensure that the prosecution is successful and fair, the prosecutor must go through a thorough and systematic evidentiary process in accordance with the procedures stipulated in the Criminal Procedure Code (KUHAP).

This process aims to ensure that the charges against the defendant can be proven with valid and strong evidence, so that the decisions taken can be legally accounted for. By proving in accordance with applicable procedures, the prosecutor will be able to prepare a fair prosecution in accordance with existing regulations, without any inequality or error in the prosecution process. This is done so that when the charges are given to the defendant, the legal process can run transparently, and the public feels that justice has been upheld equally. The charges given must also consider the social and psychological impact on the victim and ensure that the sentences handed down can provide the necessary deterrent effect to prevent similar crimes in the future. The process of preparing this demand plan also involves evaluation by JPU's direct superiors. The plan of demands that had been prepared by the prosecutor was then submitted to the superior for approval. This process aims to ensure that the demands filed reflect justice, both for the victim and for the community at large. With an evaluation from the superiors, the prosecutor can ensure that the decision taken has considered all relevant legal aspects, including the rights of victims that must be protected, and that the claims filed are based on a clear and legitimate legal basis. After the prosecution plan was prepared, the prosecutor then asked for opinions from his superiors, namely the Head of the General Crimes Section (Kasipidum) and the Head of the District Attorney's Office (Kajari). The opinions of these two officials are very important because they will

provide direction and ensure that the demands that are prepared have taken into account various aspects of existing laws and policies. The opinion of Kajari, in particular, will be the part read out in the letter of demand at the trial. It can be said that the Rentut is a kind of compliance (notice / permission) of the prosecutor to his superiors which is indeed procedurally permissible. Thus, this process ensures that the demands filed not only reflect the opinion of the JPU, but also in accordance with the internal policies and directives of the leadership above them, which aim to create fair and consistent law enforcement.

Based on an interview with Erna Dewi, the preparation of the report requires an in-depth analysis of the elements of criminal acts, including the relationship between the perpetrator and the victim and the articles violated. In the case of molestation of biological children, the factor of aggravation of punishment is the main concern because of the existence of family relationships that should be a refuge for children. By referring to Article 81 of the Child Protection Law, criminal threats can be aggravated up to one-third of the maximum sentence, for example from 15 years to 20 years in prison. In addition, in preparing a plan of prosecution (rentut) against the perpetrator of child molestation, the Public Prosecutor (JPU) considers various aspects involving a juridical approach, philosophical, and the benefits of the claim. The prosecutor must pay attention to the rules of the law violated and consider the imposition of punishment, especially if the criminal act involves sexual violence against biological children. This burden is important to provide a strong foundation for judges in deciding cases, especially because the relationship between the perpetrator and the victim adds to the severity of the violation. In addition, the prosecutor must also consider the benefits of the charges submitted, namely to ensure that the judge's decision is balanced with the prosecutor's demands. Usually, the minimum standard of a judge's verdict is two-thirds of the prosecutor's demands, so a firm and evidence-based demand is necessary so that the judge does not hesitate in imposing a severe and fair sentence.<sup>8</sup>

The procedure for submitting a plan of charges it self is not specifically regulated in the Criminal Procedure Code (KUHP), but is regulated in the Guidelines for Criminal Charges and the Attorney General's Decree which is an internal policy of the Prosecutor's Office. This guideline provides more detailed directions to the Public Prosecutor in drafting demands that are not only in accordance with laws and

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<sup>8</sup> Interview results with Dr. Erna Dewi, S.H., M.H. as a lecturer in Criminal Law at the University of Lampung, on December 02, 2024

regulations, but also with applicable legal principles. This guideline serves as an operational guideline that assists the prosecutor in making objective and professional decisions, as well as ensuring that every claim filed at trial meets appropriate and fair legal standards.<sup>9</sup> In the trial, Rentut became the main basis for the preparation of the letter of demand. This document contains juridical analysis, legal facts, and sociological considerations that strengthen the legitimacy of serious criminal charges. Through the arguments structured in the Rentut, the prosecutor can convince the panel of judges that the maximum penalty is a step in line with the need for a deterrent effect and community protection.

Thus, Rentut has a strategic role that not only guides the prosecutor in prosecution practices, but also strengthens the state's legal position in protecting children's rights. Rentut functions as an instrument of consistency, balance of justice, control of proportionality, the basis for legal arguments in court, as well as preventive and educational means. Through Rentut, the prosecutor not only appears as a representative of the state, but also as the front line in ensuring the upholding of justice and maximum protection for child victims of abuse.

#### **IV. CONCLUSION**

Based on the results of the research on the Strategic Role of the Public Prosecutor's Prosecution Plan (Rentut) in the Imposition of Severe Crimes Against Perpetrators of Child Molestation, it can be concluded that the Public Prosecutor has a central role in ensuring fair and balanced law enforcement. First, the prosecutor considers objective and subjective aspects as stipulated in the Child Protection Law in the preparation of charges. The objective aspect is based on legal facts, valid evidence, and legal provisions, while the subjective aspect includes humanitarian, moral, social impact, and the psychological condition of the victim. Victimology considerations are also an important foundation so that the prosecution does not only focus on the perpetrators, but also provides maximum protection for victims who have experienced deep trauma. Second, the procedure for the preparation of the Rentut is carried out systematically in accordance with the Attorney General's Regulation Number PER-039/A/JA/09/2010 and the Attorney General's Circular Letter Number SE-013/A/JA/12/2011. This process starts from collecting the facts of the trial, analyzing the evidence, to the preparation of the prosecution plan approved by the Head of the District Attorney's Office. In the case of child

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<sup>9</sup> Results of an interview with Tri Buana Mardasari, S.H., as the Public Prosecutor of Bandar Lampung City, on December 01, 2024

molestation, the prosecutor emphasized the imposition of punishment because the perpetrator not only violated the criminal law, but also betrayed his moral responsibility as a parent. Thus, Rentut serves as an important instrument that affirms the balance between juridical and non-juridical aspects, legal and humanitarian justice, as well as victim protection and punishment of perpetrators. Through careful consideration, the Public Prosecutor not only seeks to uphold the rule of law, but also presents substantive justice, provides a deterrent effect for perpetrators, and ensures optimal protection for children as victims of sexual crimes.

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