BELIEF IN GOD ALMIGHTY AS PART OF HUMAN RIGHTS

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ABSTRACT

Indonesian is given an extraordinary gift from God Almighty in the form of the diversity of the nation's life in which there are different cultures, customs, and religions. The history of Indonesian struggle began with its indigenous life along with all the cultures which are still preserved to present. The existence of various religions from out of Indonesia that entered and were accepted by most of the nation of Indonesia and the progress of the nation's life in all fields influenced the acceptance of some Indonesian people to Aliran Kepercayaan (traditional belief system) with its teaching coming from the ancestors of Indonesia. Believing in God Almighty is one of the basic rights possessed by all Indonesian people who have the same legal protection from the Government since the establishment of the 1945 Constitution of the Republic of Indonesia as the highest basic law which is then amended in its articles in the Reform Era until the issuance of Act Number 39 of 1999 on Human Rights. However, until recently, the acceptance of the society to the existence of Aliran Kepercayaan (traditional belief system) with all its activities has not shown the progress as expected by the Disciples. Finally, the Joint Regulation of the Minister of Domestic Affairs and the Minister of Culture and Tourism No. 43 of 2009 dated September 16, 2009 on Service Guidance to the Disciples of the Belief in God Almighty was issued with the aim to protect the community in order to preserve the social and cultural values so that people can live side by side.

Keywords: Belief in God Almighty, Diversity, Human Rights

Introduction

Prior to the establishment of the Republic of Indonesia, in what is now the Republic of Indonesia, there have been various tribes and tribal languages. Even, until todal, in Indonesia, there are more than 700 tribes and more than 1000 tribal languages, so there are various kinds of customs, culture and religions that characterizes the daily life from generation to generation.

The nation's life diversity was then enshrined in the motto *Bhinneka Tunggal Ika* (Unity in Diversity). *Bhinneka Tunggal Ika* was derived from *Sutasoma* written by Mpu Tantular in the 15th century during the administration of *Majapahit* Kingdom that includes "Rwaneka dhatu winuwus Buddha Wiswa, Bhinneki Rakwa ring apan hit parwanosen, Mangka ng Jinatwa Kalawan Siwatatwa tunggal, Bhinneka Tunggal Ika tan hana dharma mangrwa" (that Buddhism and *Shiva* (Hinduism) are different substances, but the truth values of *Jina* (Buddha) and *Shiva* is one. Unity in Diversity, that means there is no ambiguous service). ¹

It shows that, in the 15^{th} century, the ancestors of Indonesia had already seen the diversity of the nation and they showed the desire to live together even though there are various differences.

With the motto of Bhinneka Tunggal Ika, Indonesia recognizes the diversity within the unity of the nation, and the differences are in unity.

In principle, Indonesian people accept the difference, but they recognize to be united in the diversity. With the acceptance and recognition of the difference, it is proper that Indonesian people have a very high tolerance in the matters of difference, including in terms of religion and belief.

However, apparently, Indonesian's diversed cultures are influenced by the changing times leading to different acceptance to the appreciation of different belief although, since ancient time, long before the colonial period, Indonesia has had faith and beliefs held by the ancestors of Indonesian nation for generations.

Most of the Indonesian people are religion adherents. However, actually, it can be seen that religions in Indonesia are the forms of religion influenced by customs because in many areas there are cults followed by local indigenous community. Among the Indonesian people, there are some welcoming the arrival of religions coming from the out of Indonesia, but some still adhere to the belief and faith obtained from their ancestors for generations.

The problem for the adherents of belief in God Almighty in living with their beliefs is related to the legal protection provided by the Government in order that they can carry out their beliefs in accordance with the applicable law. Based on the 1945 Constitution, all citizens have equal position before the law.

¹,Empat Pilar Kehidupan Berbangsa dan Bernegara (Four Pillars of National and State Life), Jakarta: the Secretariat General of the House of Representative (MPR-RI), 2012, p.181.

Discussion

Since being in the womb, every human being has rights; in this case, of course man as an individual.

God created man as a supreme being, completed with will, own feelings, and thoughts. Based on the simple fact, it contains the dignity and natural rights of each person in each period.²

The recognition of human rights goes through a very long history of struggle for centuries, and human life journey recorded the occurrence in contrary to human rights.

The scientists in the field of State Science, John Locke, described the following rights in detail:

- right to life
- right to liberty
- right to prosperity³

In 1941, Franklin Delano Roosevelt (the US President of 1932-1945) formulated "four essential freedoms", which consists of:

- freedom of speech
- freedom of religious worship
- freedom from want
- freedom from fear

It is necessary to keep in mind that the rights are not absolute. Having the rights and using the rights are the two cases. In using the rights, the national interest must not be ignored at all. ⁴

Human rights which initially, by Franklin Delano Roosevelt, only consisted of 4 (four) rights, turn into various rights according to a nation's conditions, wants and needs.

On December 10, 1948, the United Nations (UN) proclaimed the Universal Declaration on Human Rights so that every December 10th, all the nations in the world commemorate Human Rights Day.

Article 18 of the Universal Declaration on Human Rights states:

"Anyone has the right to freedom of thought, conscience and religion this right including the freedom to change religion or belief, and the freedom to express religion or belief by teaching, doing, worshiping, and obeying it, either alone or jointly with others, either in public or alone".⁵

According to common doctrine, one of the condition of the state of law is the guarantee of rights. The guarantee must be legible or interpreted in applicable constitution, both in written and unwritten, and it is at least recognized from the practices of law applicable everyday. As rights, the rights cannot be separated from the issues of freedom and obligation, either on the side of authorities and ³/₄ of the rights supporters.⁶

Assessing through history, all the papers and discussions on human rights, ranging from the theories of natural law, ancient and modern constitutions, revolutionary state administration and defense of citizen's rights, in average associate the issues of human rights with the systems of government, applicable politics and power, and the relationss between government and citizens.⁷

It is explained that, in each constitution, it states the protection to Human Rights. Human Rights are derived from the terms of *Droits de l'home* (French), Human Rights (English), *Menslijke Rechte* (Dutch), and *Fitrah* (Arabian). In the terminology, human rights are the the natural rights attached to human beings as the creatures of God Almighty in which the rights arise since the birth of the human beings. Human Rights are not the gifts from the state or humans.⁸

In the 1945 Constitution made by the Founding Fathers, there is no specific article regulating human rights, but it appears in the existing articles implicitly. It occurs since the 1945 Constitution was born prior to the Declaration of Human Rights.

Referring the fourth paragraph of the Preamble of the 1945 Constitution, it says:

² M.Hutauruk,SH., Tentang Dan Sekitar Hak Asasi Manusia Dan Warga Negara (about and around Human Rights and Citizen), Jakarta: Erlangga,1982, p.9.

³ Ibid,h.14.

⁴ Ibid.

⁵ Suroto, Hukum dan Hak Asasi Manusia, Semarang: Fakultas Hukum Untag, 2009, h. 233.

⁶ Wahyono,Padmo,ed.Masalah Ketatanegaraan Indonesia Dewasa ini, Jakarta : Ghalia Indonesia,1984,h.323.

⁷ Ibid.

⁸ Isnanto, Urgensi Jaminan Hak Asasi Manusia (HAM) Dalam Konstitusi, Jurnal Konstitusi, Volume II Nomor 1, Juni 2010,h. 45.

"....., then the Indonesia's national independence was drafted in a Constitution of the State of Indonesia, which was formed in an arrangement of the Republic of Indonesia based on the sovereignty of the people by the Almighty God and so forth......", then, the State of Indonesia is a country based on Almighty God according to the fair and civilized humanity. It means that the Indonesian people believe in God Almighty in which the belief in One God is not merely a spiritual wealth heritage of Indonesian people, but more than that, it is a conviction of Indonesia that man was created by God Almighty. In addition, human beings are created by God Almighty solely to worship the Creator, that is, the Most Merciful God.

As a consequence, we also need to appreciate and love all creatures, including love the universe and everything in it.

With the Amendments to the 1945 Constitution, the settings on Human Rights are contained in Chapter XA, in Article 28 A through J. In those articles, Human Rights are translated broadly.

Concerning the belief, Article 28 E of paragraph (2) of the 1945 Constitution states that:

"Anyone has the right to freedom of adhering beliefs, to express opinions and attitude, according to his/ her conscience."

Referring to Article 28 E of paragraph (2) of the 1945 Constitution, it is very clear that adhering a belief is included into rights, but until now it is still causing problems in social life.

As we know, there are clauses in the 1945 Constitution that can not be implemented directly in practice because they require a lower regulation. Therefore, Act No. 39 of 1999 on Human Rights was issued.

The meaning of Human Rights under Article 1 paragraph 1 of Law No. 39 of 1999 on Human Rights, as follows: Referred to as Human Rights according to Article 1 point 1 of Act Number 39 of 1999 on Human Rights, it says: "Human rights are a set of inherent rights and the existence of human beings as the creatures of God Almighty and it is a gift that must be respected, upheld and protected by the state, law, Government and every person for the honor and protection of human dignity and prestige.

Furthermore, Article 22 of Act Number 39 of 1999 stipulates that:

"Anyone is free to embrace his or her religion and to worship according to his/her religion and belief."

Human Rights has 2 (two) sides; the sides of rights and obligations. On the one hand, a person has human rights over himself, but on the other hand, he/ she is obliged to respect the human rights of others. With the existence of these two side, whenever there is a violation of the human rights of others, law will apply.

Then, Act No. 26 of 2000 on Human Rights Court was issued to prosecute serious human rights violations in the General Courts.

Concerning belief, since ancient time, in many areas, customs and cultural traditions which then grows cult continues to live and thrive with many followers.

Furthermore, Article 29 of the 1945 Constitution asserts:

- 1) The State is based upon Almighty God.
- 2) The State guarantees the freedom of each citizen to profess his/ her own religion and to worship according to his/ her religion and belief.

The acceptance of the principle of Almighty God, as referred to in Article 29 paragraph (1) of the 1945 Constitution, is a proof to the existence of the diversity of religions and beliefs in Indonesia.

To present, most of the Indonesian people still maintain ancestral teachings in the form of belief in God Almighty. Some followers are individuals and some others are the communities/ groups with different names; and the school is called the Belief in God Almighty

There are those who think that believing in God Almighty must be with religion, so they argue that those who do not embrace a religion are Atheists, while the believers of Belief refuse to be called Atheists because they believe in God Almighty, though not a religion.

Laws on the service to the believers of Belief have already existed, but in practice deviations occurred. The irregularities cause confusions, namely the absence of the rights to obtain the juridical-material recognitions for those who have the right to believe in God Almighty, through not a religion. Some unfair treatment must be felt by the believers of Belief. The example of the rights violations faced by the believers of Belief in God Almighty was on the existence, identity, education of faiths, the marriage among the seekers, and the issue of burial for the believers.

Associated with the Article 29 paragraph (2) of the 1945 Constitution, then, on the one hand, the belief means the belief associated with religion. On the other hand, the belief means the belief in God Almighty, which refers to Article 29 paragraph (1) of the 1945 Constitution.

In other words, on the one hand, they say that Article 29 paragraph (2) of the 1945 Constitution is only about one substance, namely religion, while other parties say that Article 29 paragraph (2) of the 1945 Constitution consists of two substances, namely religion and belief.

The words "belief" in Article 29 paragraph (2) of the 1945 Constitution means the belief in God Almighty, as previously stated in the Decrees of the House of Representative (Tap MPR) in 1973, 1978, 1983, 1988 and 1993.

In relation with the belief in God Almighty, then those who embrace faith in the Almighty God or known as the seeker of belief in God Almighty divided into 2 (two), namely:

- 1. The believers of belief in God Almighty who also adheres to a particular religion;
- 2. The believers of the Belief in God Almighty who merely live up to the trust of the God Almighty, in the sense of not or do not adhere to a particular religion, but not Atheists.

For the first group did not experience problems in performing daily life, for example in matters of religious education, filling the column of religion on identity cards (KTP), if it will carry out the marriage, or if they died, because they are religious, so apply a rule by religion adheres.

In contrast, the second group has difficulty in implementing their beliefs in all fields of life, because they have to carry it on religious grounds, while they are not religious.

The cult that is ruled by the group consists of two (2) types. The first type is a cult whose group is registered as a Society Organizations (CSOs) in the office of National Unity, Politics and Public Protection (hereinafter will be referred to Kesbangpolinmas), so for this group given the Registration Certificate (SKT).

The cult of the second type is a cult that is not shaped CSOs but registered in the Directorate of Faith Against the believers of God Almighty (Dirbinhayat) of the Ministry of Education and Culture (now the Ministry of National Education) and they were given the Signs of Inventory.

Both types of groups that cult, the data is contained in each Kesbangpolinmas Office City / District.

In Sragen, it has also ever happened. *Pondok Pasujudan Bumi Arum Santri Al Luwung* require ritual of reconciliation with shower naked in the pool at midnight to his followers. Because they teach a cult, then after going through the process of dialogue between the caretakers, the public and local officials on October 4, 2013 Building lodge itself battered by the caretaker.⁹

The Decree No. II / MPR / 1993 on the Guidelines of State Policy in the field of Religion and Belief in God Almighty clause 4 states:

"Cultivated in order to continue to grow the necessary means for the development of religious life and belief in God Almighty, including means of religious education at all lines, types and levels of education, including preschool, whose implementation in accordance with the legislation in force.

"With the publication of the Decree No. I/ MPR/ 2003 on Preview to the Material and Legal Status of the Decree of the Temporary MPR and the Decree of the People's Consultative Assembly of the Republic of Indonesia of 1960 until the Year 2002, in Article 6 states that the Decree No. IV / MPR / 1973, the Decree No. II / MPR / 1978, the Decree No. IV / MPR / 1978, the Decree No. II / MPR / 1983, and the Decree No. II / MPR / 1988, the Decree No. IV / MPR / 1993 included into the MPR which do not need to do any further legal action, since it has the nature of einmalig (final), has been revoked, or has been completed.

In the world of education every school pupil should receive religious instruction and follow the religion lessons. But in reality, not all high school students to embrace one of the 6 (six) government-recognized religions. This creates difficulties in the pupils who adhere the belief in God Almighty, because in the schools religious instruction only government-recognized religions.

With the existence of it, then the children become adherents of belief in God Almighty difficult to implement their belief life because there is no "room" for it. In fact, they are required to attend religious instruction there.

At the beginning of 2017 there was a student of Vocational School (SMK) in Semarang who can not sit final exams for subjects of religion is of no value. This is due in question does not follow religious instruction in schools because of the cult.

Next the children of the believers of belief who have entered the age of 17 years, at the time of taking care of Identity Card (hereinafter will be referred to as KTP) difficulty filling an identity on the religion column, because the options available are the names of government-recognized religions. About charging the column of religion on the ID card even once caused trouble in the believers who are attending the test job. Just as in the field of ID card written Belief in One God (at that time unheard of charging the religion column in the column ID card with the writing) at this stage of the interview as the last stage penghayat That faith will not be accepted, while some stages of previous tests have been undertaken and escapes.

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⁹ Newspaper Suara Merdeka, 5 October 2013.

In relation with the difficulties faced by the seeker of confidence in filling the columns ID, then Minister of Domestic Affairs in 1975, Minister of Domestic Affairs has issued Circular No. 477/74054 dated January 18, 1978 on Guidelines for Completion of the "religion" in Appendix Decree No. 221-a Minister of Domestic Affairs of 1975 by writing a dash (-) in the column in question.

In 1993, in the religion column in the ID card of the believers of the Belief written in the letters / numbers O. Next in 2007, the religion column in the ID card of the believers of the Belief written Others said, because at the time KTP on the option to fill it only contained six (6) Other religious and final selection. Therefore they are not religious, so they choose Other.

Prior to the enactment of Act No. 1 of 1974 on Marriage, marriage for the people of Indonesia are governed by rules that have been imposed since the colonial era. At that time, valid for 5 (five) kinds of rules about marriage that essentially anyone can carry out procedures for marriage in accordance with applicable law for themselves, for example, for a Muslim to ordinances of Islam, those who are Christian based Huwelijks Ordinance Christen Indonesier etc.,

Especially for those who do not adhere to one religion, can perform marriages according to custom.

With the enactment of Act No. 1 of 1974 on Marriage, implementation according to the custom of marriage has no place in the Act or in other words the execution of customary marriages under no legal effect anymore.

Article 2 of Act No. 1 of 1974 on Marriage states that:

- 1. Marriage is legal, if done according to the law of each religion and belief.
- 2. Each marriage is recorded in accordance with the legislation in force.

As execution issued Government Regulation No. 9 of 1975 on the implementation of Act No. 1 of 1974 on Marriage, which in Article 2 paragraph (2) states:

"The listing of the marriage of those who hold marriage according to their religion or belief that religion other than Islam, carried out by marriage Registrar employee at the Civil Registry Office as set forth in the various legislation on registration of marriages.

With the enactment of Act No. 1 of 1974 on Marriage is national, it does not mean everything is resolved marriage issues. Problems that can not be resolved by the Marriage Law is intermarriage (interfaith), a marriage that is not recorded (marriage under the hand) and marriage for the cult. ¹⁰

In some areas, the implementation of the marriage of cult believers was hampered by their wrong opinion on the interpretation of Article 2 of Act No. 1 of 1974 on Marriage.

Marriage is considered valid if done according to the law of each religion, resulting in the rejection of some of the Civil Registry to record the marriage if it is not carried out according to the religion.

Civil Registry should not reject the application for registration of marriages of Cult Believers. Civil Registry is open to all Indonesian citizens regardless of religion. The difference in treatment is only done for Indonesian citizen marriage with foreigners, because of differences in legislation in force of both countries.

Of the cases of rejection of applications of the believers' marriage such, it appears that there are government officials, in this case the Civil Registry Office which does not fully understand what is meant by rules and legislation in force, so there was things that are not desired by the cult believers.

Looking at the description above, registration of marriage to a fellow believers of Belief that does not adhere to one religion, carried out by the Registrar of Marriage Officer at the Civil Registry Office.

Legitimacy of marriage, because it is done according to customary law in accordance with his beliefs, only recording is being done at the Civil Registry Office.

Every person, whoever he has the same rights since she was in the womb until death.

In relation with funeral, for the first time issued Government Regulation No. 9 of 1987 On Provision and Use of Land for Purposes Cemetery which was enacted on May 5, 1987.

Article 4 paragraph (1) of Government Regulation No. 9 of 1987 On Provision and Use of Land for Purposes Cemetery provides that:

"Everyone gets the same treatment to be buried in the General Cemetery."

The government regulation, the City / County followed by the making of regional regulations.

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¹⁰ Newspaper Kompas, 3 January 1994.

Considering that the belief in God Almighty is one of the social capital in the development of behavior that convinced the cultural values that were born and grew out of the ancestral nation of Indonesia, in 2009 was issued the Joint Regulation of the Minister of Interior and Minister of Culture and Tourism

No. 43 Year 2009 on Guidance Services To the Believers in God Almighty.

No. 41 Year 2009

In article 1 point 1 of the Joint Regulation states:

"Service is a service provided by the Head of Region / Deputy Head of Region to the Believers of the God Almighty in relation to the administration of the organization, funerals, and *sasana sarasehan* or other designations."

Article 1 point 2 of the Joint Regulation states:

"Belief in the One God is the statement and execution of a personal relationship with God Almighty based on the beliefs embodied with the behavior of devotion and worship of God Almighty and the practice of virtue which his teachings derived from local wisdom of the Indonesian nation."

Article 1 point 3 of the Joint Regulation states:

"Believers of Belief in one God, hereinafter called *Penghayat Kepercayaan* is everyone who acknowledges and believes in the values of Believing in God Almighty."

While Article 1 point 4 of the Joint Regulation states:

"Faith Trust Organization, is a container of the Trusted Trust listed in the Ministry of Home Affairs and is inventoried in the Ministry of Culture and Tourism."

Referring to article 1 point 4 of the Joint Regulation, it should be noted that the various beliefs with various names as described above incorporate into an institution. In the past, the container was called the Association of Cult Believers (HPK).

Right now, groups of trust flows join the organization called Majelis Luhur Kepercayaan Indonesia (MLKI).

The types of services provided by the Regional Government as described in Article 2 point (2) of the Joint Regulation include:

- a. Administration of Cult Believer Organization;
- b. Understanding; and
- c. Sasana Sarasehan or other names.

Based on the Joint Regulation, the believers buried in the public cemetery whose land can be provided by the believer, facilitated by the Regent/ Mayor.

However, it turns out the belief that there are believers who have difficulty at the time will bury the bodies of believers. This happened in Siandong Village, Larangan Sub-district, Brebes District when Jaodah Sapto Darmo died and was rejected by the people to be buried in local public graveyard (TPU), so it was finally buried in the yard of his own house.

Formerly around 1970 TVRI as the only television broadcasting in Indonesia has regularly broadcast the program of *Mimbar Kepercayaan* nurtured by Zahid Husein, but now no longer exists. Up to this day on television broadcasts is a religious pulpit.

Concerning coaching by the Government on religion and belief in God Almighty is different. Guidance on religions is done by the Directorate General of their respective religions, but for the belief in Almighty God is done by the Directorate whose position is under the Directorate General.

Actually this belief is also like other religions. They have rules for the attitude of life and the ordinances of worship. They also have a "space" to hold a meeting called *Sarasehan Sarasehan Sasana* is a place used by Believers to do their activities.

The existence of 15 principles of human rights in the 1945 Constitution is clearly a commitment of this country to Human Rights. However, this commitment does not necessarily reflect the existence of human rights in real terms in society, even the existence of the principles of human rights in the 1945 Constitution can also be seen as "possession paradox", in the sense of having Human Rights but not enjoying Human Rights because of its weakness respect for Human Rights. ¹¹

For example, evidence of a lack of respect for human rights in the field of trust is still the occurrence of some cases of misinterpretation of the laws and regulations applicable to the Believers of the Belief. The first case is the non-existence of *Penghayat Kepercayaan* following the selection of village apparatus and other government officials by the Government of Cilacap Regency because the Believers are not religious. In this case there is a false interpretation by the authorities against the rules applicable to the Believers of Faith, which resulted in the believer not getting the material jurisdiction to carry out the belief. ¹²

¹¹ Ni'matul Huda,HTN, Kajian Teoritis dan Yuridis Terhadap Konstitusi Indonesia (Theoretical and Juridical Studies on Indonesian Constitutio), Yogyakarta: Gama Media, 1999, p.119.

¹² Muhamad Ridlo Susanto, Di Cilacap, Penghayat Kepercayaan Tak Boleh Jadi Perangkat Desa

Not long ago in Brebes District there was a case of 4 (four) children under the age of a believer believer Sapto Darmo were islamized by the caretaker of the mosque of Darussalam, Kersana Sub-District, Brebes District without their father's knowledge.

Understanding of a child under the age without the knowledge of his father violates the law, because underage children are still under the authority of parents.¹³

The Indonesian nation must recognize that the Belief lives in society and its believers cannot be forced to embrace any of the religions because the right to believe in God Almighty is part of Human Rights.

The believers of the Belief should be grateful that on November 7, 2017 the Constitutional Court of the Republic of Indonesia through a panel of judges chaired by Prof. DR. Arief Hidayat, S.H., M.S. granted the lawsuit of the Believers of the Beliefs proposed by Nggay Mehang Tana, Pagar Demanra Sirait, Arnol Purba et al who sued in order that the believers can write their beliefs in the ID cards. From now on, the Believers of the Beliefs are recognized and can be written in the religion columns on ID cards. According to the Constitutional Court, Religion and Belief are equal. ¹⁴

Hopefully, later on, there will be changes leading to the similarities of perceptions made by the Government towards the issue of the education for the Believers of God Almighty, the marriage among the Believers, and the funeral problems for the Believers so that the realization of the harmony between the people with religions and Believers in Indonesia can be realized.

Conclusion

The believers encountered obstacles in living their life of belief because of the inconsistencies in the application of some provisions which were actually made by the Government as a means for the existence of regularity in the life of society, nation and state. In other words, religious harmony with the believers requires a high tolerance from all parties believing in God Almighty, and does not necessarily have to embrace a religion.

The Government should make a regulation that can accommodate the aspirations of the community regarding the appreciation of the Belief in God Almighty, which is socialized to the wider community along with the growth of a new generation who might have not known about that, in Indonesia, other than religious people, there are believers of God Almighty (*Penghayat Kepercayaan*).

To realize the harmony between the people with religions and the believers of the Belief, it requires active coordination among the government agencies that have to do with the implementation of life of Belief in God Almighty until the lowest level so that no more problem arises on the implementation of the life of the Belief in God Almighty due to wrong interpretation.

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