

## Roadmap and Initial Reflections on CHR's Final Report in the Philippines National Inquiry on Climate Change

*A Systematic and Searing Indictment of the Carbon Majors; a Stark Warning to the Financial Sector; and  
a Vital New Tool for Courts and Human Rights Bodies*

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In December 2015, the Philippines Commission on Human Rights (CHR) launched a landmark National Inquiry on Climate Change in response to a petition filed by Greenpeace Southeast Asia and individual petitioners from across the Philippines. The petition asked the Commission to examine the impacts of climate change on the human rights of the Filipino people and to consider the role of 47 major fossil fuel producing companies (the Carbon Majors companies) in driving the climate crisis, obstructing climate action, and contributing to resulting climate harms. On May 6, 2022, the Commission released its [final report](#) on that nearly seven-year inquiry.

Spanning some 160 pages, the final report undertakes a comprehensive and systematic analysis of climate science; the human rights dimensions of climate change; the severe and mounting impacts of climate change on the human rights of Filipinos; the contribution of the Carbon Majors companies' products and operations to climate change and its resulting harms; and the overwhelming evidence that the Carbon Majors companies and the fossil fuel industry have been on notice of climate risks from their products for more than half a century, but misled investors, regulators, and the public about climate risks for decades. The Commission analyzed that evidence against global human rights standards applicable to States and to business entities in the Philippines and worldwide.

This roadmap briefly summarizes the process to date, and distills the Commission's analysis, findings, and recommendations, with a focus on issues of corporate accountability for present and future climate harms. Except as otherwise noted, all references are to the associated page numbers of the final report. Headings and noteworthy passages are **bolded** for ease of reference. This document is an initial draft and subject to further review and revision.

### Preface

Acknowledges Inuit petition as first case. This petition is the first before a National [human rights] HR body and second overall. (2) Notes the legacy of Haiyan as a backdrop for the inquiry (3)

When this petition was filed, there was no established precedent to help the Commission navigate the case (3)

Rejects the idea that climate is not a matter of civil and political rights because all human rights are related (4)

Rejects Carbon Majors' assertion that CHR may only inquire into entities operating within the Philippines (4)

**“Stripped of legal niceties, the contention was that our Commission, or, indeed the Philippine State...may only inquire into the conduct of corporate entities operating within Philippine territory, even if the corporations' operations outside our territory were negatively impacting the rights and lives of our people.**

**We cannot accept such a proposition.”** (4)

CHRP is mandated by the Philippines Constitution with a duty to investigate and inquire into allegations of human rights violations suffered by our people (4)

### I. Mandate of the Commission

*(not summarized here)*

### II. Matter before the Commission

Petitioners posit that, under both domestic and international law, private enterprises, not just States, have an obligation to respect and protect human rights.

Petitioners pray this Commission declare respondents—by extracting, producing, and selling fossil fuels—accountable for either impairing, infringing, abusing, or violating human rights.

### III. Admissibility

CHR notes under customary international law the interrelatedness and indivisibility of human rights. (10) Climate change affects the Right to Life, which is a fundamental civil and political right. (10-11)

There is no doubt that Commission has authority to investigate violations of human rights of the Philippine people, even when occurring outside Philippine territory. (11)

#### IV. History of the Inquiry

- Petition filed Sept 2015. Accepted Dec 2015. Apr 2016 Amended petition filed
- Aug 2017-2018 community dialogues and fact-finding missions
- Carbon Majors companies refused to engage with Commission despite numerous invitations to do so but Business & Human Rights Resource Centre (BHRRC) compiled 11 responses from Carbon Majors companies
- Thirteen amicus curiae briefs from a wide range of experts, organizations, and institutions
- 2018-12 public hearings held in Philippines, United States, and United Kingdom
- 65 witnesses plus additional expert resource persons
- Extensive documentary evidence
- July and September 2019, petitioners' formal offers of evidence filed

#### V. Findings

**Climate Change is Real** – Reports of IPCC provide unequivocal evidence of global warming. (27) For 2001-2020, mean surface temperatures were 1.09°C higher than baseline. (28) Oceans have warmed and marine heatwaves have doubled in frequency and become longer and more intense. (29) Global mean sea levels have risen by 20 cm on average since 1901 and the rate of sea level rise is accelerating. (29) Oceans have become more acidic over the last four decades. (30) The earth's cryosphere is shrinking. (30) "Climate change has also significantly affected the frequency, intensity, extent, duration, and timing of extreme weather and climate events." (30)

**Climate Change is Anthropogenic** – IPCC AR6 states that it is unequivocal that climate change is caused by human activity. (31) Atmospheric CO<sub>2</sub> concentrations are higher than at any time in the last two million years and concentrations of methane and nitrous oxide are higher than at any time in the last 800,000 years. "These increases in GHG concentrations are unequivocally caused by human activities since around 1750." (32)

The warming of the atmosphere and oceans, ocean acidification, cryosphere loss, sea level rise, and increase in the frequency, intensity, extent, and duration of extreme weather events "can all be traced

back to the influence of human activities on the climate." (32)

**Climate Change is a Human Rights Issue** – "Anthropogenic climate change is 'the greatest human rights challenge of the 21<sup>st</sup> century.' It negatively affects a host of, if not all, human rights. **Climate change impacts, including the degradation of the environment; deprivation of resources; prevalence of life-threatening diseases; widespread hunger and malnutrition; and extreme poverty, among others, prevent an individual from living a dignified life.**" (33)

Climate change adversely affects the individual rights to life, food, water, sanitation, and health, and collective rights to food security, development, self-determination, preservation of culture, equality, and non-discrimination. (33) Climate change also impacts vulnerable populations, including women, children, Indigenous Peoples, older adults, persons with disabilities, as well as the rights of future generations. (33) "Climate change is also now a major cause of migration and a threat to global security." (33)

"The effects of extreme weather events attributed to climate change dehumanizes the human person. The combination of loss of lives, deprivation of basic needs, material loss, emotional trauma and hopelessness that these survivors experience strip them of their dignities." (34)

#### Adverse Impacts of Climate Change in the Philippines

The Philippines is the fifth most climate change affected country in the Global Climate Risk Index, yet accounts for only 0.3 percent of global emissions. "It is evident that the burden of climate change falls disproportionately on the Filipino people." (35)

**Right to Life** – A study prepared for Climate Vulnerable Forum found climate change responsible for an estimated 400,000 deaths per year due to the direct effects of extreme weather events, flooding, heat waves, disease, and water and food insecurity." Increases in "malnutrition, malaria, dengue, diarrhea, and heat stress" will cause an additional 250,000 deaths per year between 2030 and 2050. (36)

In the Philippines, Super Typhoon Haiyan in 2013 resulted in 6,300 dead, nearly 29,000 injured, and nearly 1,100 missing from a single event. (37) As witness and survivor Emilio Onate recounted: "one moment people were reaching above the water, fighting for

their lives, and the next moment, they were gone.” (37) As other witnesses testified, the grief of losing loved ones is compounded because “their bodies remain missing up to this day.” (Test. of Amalia Bahia, TS Washi Survivor, 37)

*“My two (2) younger siblings and I waited for our parents and older brother but they never came....”* (Test. of Honeylyn Gonzales, TS Washi Survivor, 38)

“These are just three of the thousands of similar stories spanning decades of extreme weather events. **Filipinos carry the brunt of anthropogenic climate change by paying with their lives.**” (38)

**Right to Health** – “Climate change negatively affects the right to health because humans are vulnerable to shifts in weather patterns.” (39) An increase in heat for example, can cause dehydration, heat cramps, heat stroke, and increased risk of death from respiratory, cardiovascular, and other chronic diseases. It can also increase transmission of food and waterborne diseases, and diseases borne by insects. (39-40) Extreme weather events that degrade water and sanitation infrastructure can also lead to outbreaks of diseases. (40)

**“Climate change also impacts the mental health of individuals and communities,”** including through post-traumatic stress disorder and depression among survivors. (40) **“Finally, climate change also causes the collapse of all determinants of human health ‘such as food and nutrition, housing, access to safe and potable water, and adequate sanitation, safe and healthy working conditions, and a healthy environment.’”** (40)

Climate change “has and continues to impinge on the Filipinos’ [constitutionally protected] right to health.” (40)

**“...We couldn’t also bear the thought of eating fish that may have fed on the dead bodies of our dead neighbors and the people we know.”** (Test. of Marinel Ubaldo, Haiyan survivor, 42)

**Right to Food Security** – Experts confirmed that in the Philippines, there is dwindling fish catch and reduction in agricultural produce due to climate change. Rice production declines by 10 percent for every 1°C increase in night temperatures. Fruits and vegetables also have substantial yield reductions. (43) “These result in food supply challenges, higher food prices, higher malnutrition and food insecurity.” (44)

**Right to water and sanitation** – “Extreme weather events, sea level rise and rising temperatures result in water scarcity and increased competition for clean water

resources, disruption to sanitation systems, contamination of drinking water, and exacerbation of spread of diseases.” (45)

Smaller islands and coastal communities with limited freshwater resources are especially susceptible as sea level rise causes saltwater intrusion into fresh water sources. (45)

The rise in temperature and extreme heat has caused drinking water sources to dry up. (45)

Extreme weather events damage sanitation and infrastructure. (45)

**Haiyan survivor Marielle Trixie J. Bacason testified that after Typhoon Haiyan “she had to walk several miles to a relative’s house, passing dead bodies on the way, just to access clean water.”** (46)

**Right to Livelihood** – IPCC notes that climate change affects both access to and the quality of natural resources that sustain livelihoods. (47) Experts and witnesses confirmed agricultural impacts from increased pests and diseases, inundation and destruction of crops, and drastically reduced yields. (48) Fisherfolk testified to reduced fish abundance and catches, and increased risks to safety. (48) Urban jeepney drivers testified that they could now work only a few hours a day in summer months. (49)

**“Indubitably, the impacts of climate change rob individuals and communities of their ability to make a living. It places a heavy burden on workers ...who face job insecurity, lower income, poor working conditions, and increased poverty.”** (49)

**Right to Adequate Housing** – “In the Philippines...climate change is driving internal displacement and homelessness.” (50) **“Because it is a danger zone and climate changes, typhoons are stronger, waves are stronger, we are told to leave our houses.”** (Test. of Pablo Rosales, fisher, 51)

**Right to Preservation of Culture** – Climate change endangers preservation of culture. **“Traditional livelihoods and ancestral traditions of many indigenous peoples’ communities which are dependent on natural resources are threatened or may even be extinguished by climate change.”** (53)

**Self-Determination and Development** – **“Climate change prevents the realization of the right to self-determination and development when victims thereof are trapped in an endless cycle of dealing with its adverse impacts. Their lives are spent surviving one climate change impact after**

another....” (54)

**“We lost everything again, everything that mattered to us. ...How can we survive? When would this process of recovering and rebuilding end?” (Test. of Veronica Cabe, Ketsana survivor, 55)**

### Right to Equality and Non-Discrimination

***Women and Girls*** – “Climate change impacts Filipino women in several significant areas including agriculture production, climate-induced migration, and post-disaster gender-based violence.... **Over the last two decades, 15 times as many infants have died in the 24 months after typhoons than in the typhoons themselves. Of those infants, 80% were girls.**” (57)

***Children*** – “In the case of typhoon Haiyan, we know that almost six (6) million of the fourteen (14) million people affected were children.” (Test. of Joni Pegram, 58)

“[A]n estimated additional seventy thousand (70,000) Filipino children will be malnourished by 2050 due to the impact of climate change.” (59)

Rising temperatures also increase incidence of vector-borne diseases, such as malaria and dengue fever, with the heaviest disease burden falling on children. (59)

***Indigenous Peoples*** – “Indigenous communities are uniquely at-risk.” (60) **Climate driven environmental degradation “doubly affects” Philippines’ est. 14-17 million Indigenous Peoples “as the environment is a natural extension of their livelihood, survival, and cultural identity.”** (61)

***Older persons*** – Older adults are among the most vulnerable during extreme weather events, particularly when separated from their families and caregivers. (62) Their livelihoods, social, and cultural activities can also be affected. (62)

***People Living in Poverty*** – “The country’s poorest communities are especially vulnerable because of the shortage of socio-economic resources necessary to cope with climate impacts. **The poor are more likely to forego food, health, or education in order to finance their recovery from climate disasters.**” (64)

***LGBTQIA+*** – “The LGBTQIA+ community, because of social stigma and discrimination, is especially vulnerable to exclusion, violence, and exploitation.” **These vulnerabilities are aggravated by climate change as LGBTQIA+ persons are often denied access to social opportunities and infrastructure needed to cope with climate impacts.** (65)

***Right to a Healthy Environment*** – The UN Human Rights Council’s (HRC’s) recognition of the human right to a safe, clean, healthy, and sustainable environment “affirms the Filipinos’ constitutionally-guaranteed right to a balanced and healthful ecology in accord with the rhythm and harmony of nature. However, with climate change, this rhythm and harmony has been disrupted.” (66)

***Future Generations and Intergenerational Equity*** – Impacts of climate change are long-term and widespread, and greenhouse gases persist in the atmosphere for centuries – thus denying future generations their “right to inherit the same diversity in natural and cultural resources enjoyed by previous generations and to equitable access to the use and benefits of these resources.” (67)

### VIII. States Duty to Protect Human Rights

States’ duty to protect human rights necessarily includes regulating the conduct of non-State actors, and protecting individuals from abuses from such actors. (70) This includes providing effective judicial and non-judicial remedies for victims seeking accountability for abuses by businesses. (71)

States’ duty to prevent human rights abuses may extend beyond its territory. (73) States are obliged to act if activities in their territory cause serious human rights violations in the territory of another State. (75)

**The universality principle of international law acknowledges that actions that are uniformly harmful to States and their subjects necessitate the recognition of authority of all States to punish such acts wherever they occur, even if there is no relation between the State and the parties or acts in question. “There is a rising consensus that this concept extends to abuses against human rights.”** (79)

### Special Duty of States to Protect Human Rights in Context of Climate Change

States have a procedural obligation, *inter alia*, to enable affordable and timely access to justice and effective remedies for all, to hold States and businesses accountable for fulfilling their climate change obligations. (80)

States have substantive obligations to, *inter alia*, abstain from all action that infringe on a person’s basic human rights as a result of their environmental consequences, and implement punitive laws against environmental harm to protect human rights from violation by third parties, particularly businesses. (80)

Acknowledging the critical 1.5°C limit identified by the IPCC, the Commission found that States must “drastically reduce the carbon footprint of not only State activities, but also of non-State actors. **This involves drastic reductions in the use of fossil fuels and the transition to renewable energy sources by 2030.**” (87)

### Carbon Majors

**The Commission's systematic and searing indictment of the Carbon Majors is a stark warning to businesses that finance or fuel ongoing climate-driven human rights violations.**

The Commission conducted an open, transparent inquiry adhering closely to recognized standards of Due Process. The 47 respondent Carbon Majors companies were given every opportunity to engage in that process to share their evidence and their perspectives. They refused.

Published, peer reviewed studies found that roughly 368 GtCO<sub>2</sub>e – more than 21% of all global emissions from fossil fuel combustion and cement production – were from products sold by the 47 respondent Carbon Majors companies. (99)

Evidence unearthed by CIEL, Inside Climate News, the LA Times, Kert Davies, the Union of Concerned Scientists (UCS), Ben Franta, Naomi Oreskes, Geoffrey Supran, and others, demonstrates that “the Carbon Majors had early awareness, notice, or knowledge of their products' adverse impacts on the environment and climate system.” (100)

Industry scientists were aware of climate risks posed by CO<sub>2</sub> from fossil fuels as early as the 1930s and by no later than 1965. (101)

**Despite this knowledge, the “Carbon Majors engaged in willful obfuscation and obstruction to prevent meaningful climate action.” (104) Singly and in concert, companies took “measures to convince the public that the use of their products would not lead to significant harms.” (105)**

The Commission concludes that “Through the [American Petroleum Institute] API, some of the carbon majors perpetrated massive climate denial campaigns.” (105) This included a detailed roadmap to undermine the Kyoto Protocol laid out in API's 1998 Global Climate Science Communications Action Plan.

**Based on the evidence presented, The Commission “is of the opinion that the strategies described in the communications action plan were actually deployed, politicians were funded, and front groups were**

**created to oppose regulations under the guise of grassroots support.” (106)**

“These campaigns were not confined to the United States, but were also conducted at the international plane, particularly through the efforts of the Global Climate Coalition (GCC), an organization of... trade associations, such as the API, including many of the carbon majors.” (107)

**Industry carried out these campaigns even as internal GCC documents admitted that “the scientific basis for the Greenhouse Effect and the potential impact of human emissions of [GHGs] such as CO<sub>2</sub> on climate is well-established and cannot be denied.” (108)**

Drawing on groundbreaking research and analysis by Naomi Oreskes and Geoffrey Supran, the Commission singled out ExxonMobil for carrying out “one of the most documented efforts of obfuscation ...perpetrated by” any Carbon Majors company. (108)

The Commission highlighted research showing that, over a 37-year period, more than 80% of ExxonMobil's peer-reviewed papers and internal documents acknowledged that climate change is real and human caused, while 80% of its ads in the New York Times expressed doubt.

**CRITICAL FINDING: “From the foregoing, the Commission agrees that the Carbon Majors, directly by themselves or indirectly through others, singly and/or through concerted action, engaged in willful obfuscation of climate science, which has prejudiced the right of the public to make informed decisions about their products, concealing that their products posed significant harms to the environment and the climate system. All these have served to obfuscate scientific findings and delay meaningful environmental and climate action.” (108-109)**

**Moreover, the Commission observes that industry climate change denial and delay efforts are still ongoing. “[T]hese obstructionist efforts are driven, not by ignorance, but by greed.” (110)**

“Fossil fuel enterprises continue to fund the electoral campaigns of politicians, with the intention of slowing down the global movement towards clean, renewable energy.” (110)

Carbon Majors within Philippines jurisdiction may be compelled to undertake human rights due diligence and, significantly, to provide remediation. (110)

**This responsibility extends not only to “the whole group of companies of each Carbon Major” but also**

**to other business enterprises in their respective value chains. These companies “need to know and be able to show” that they respect human rights in the climate context. (112-113)**

Where it is found that a business enterprise has caused or contributed to adverse human rights impacts, that enterprise must provide for or cooperate in the remediation of those impacts. (113) They can be held accountable in the Philippines if they fail to do so. (114)

**The Commission CONCLUDES that, humanity must urgently transition the global economy towards clean energy. “And all acts to obfuscate climate science and delay, derail, or obstruct this transition may be bases for liability. At the very least, they are immoral.” (115)**

**“States may, as part of their duty to human rights, enact and/or enforce laws to overcome these kinds of undertakings and hold parties accountable for them.” (115)**

The Commission recommends that States put a price on pollution, provide penalties for emissions, and establish “legal frameworks to compensate victims of climate change impacts, through courts or quasi-judicial bodies, with revenues derived directly from polluters.” (121)

It calls on Carbon Majors companies and other industries to publicly disclose due diligence and climate and human rights impact assessment results and the measures companies take in response. (130)

**“The public has the right to know the specific climate risks that each Carbon Major contributes to or may be involved in through the continued production, sales, and use of their products.” (130)**

The Commission urges Carbon Majors companies to stop undermining climate science, acknowledge that their products have widely contributed to climate change, denounce all forms of climate denial propaganda, and stop funding lobbies, politicians, and others that spread false information. (131)

**“Once and for all, they should let science tell the truth about climate change in order to hasten the global effort towards transitioning to clean and renewable energy.” (131)**

**“Carbon Majors must stop further exploration of new oil fields or other sources of fossil fuels. The existing glut in reserves will only become stranded assets in the future.” (131)**

They should contribute to funds for implementing mitigation and adaptation measures not only in the jurisdictions where they operate and in areas that bear the brunt of climate impacts, and finance measures to alleviate the plight of those affected by climate driven harms. (131)

**The Commission notes that Financial Institutions and Investors' “role as financiers of sectors and projects that generate GHG emissions, including and most significantly, the fossil fuel industry, make them similarly accountable” for climate change. (132)**

“Financial Institutions must refrain from financing fossil fuel-related projects.” (133) They must refuse “to inject capital into activities related to fossil fuel extractions and conventional fossil fuel-based power generation.” (133)

Investors must exert pressure on the fossil fuel industry to transition by divesting fossil fuel assets. (134) “The Commission fully supports the Fossil Fuel Divestment Movement as a strategy to mitigate climate change. ... [It] hopes that this movement will gain maximum global traction and inspire more investors to use their economic power to support climate action.” (135)

It calls on human rights bodies worldwide to undertake a more significant examination of businesses’ human rights responsibilities, (138) and commit to achieving climate justice, particularly for those acutely impacted who have contributed least to the crisis. (140)

And it calls on Courts to interpret the law in conformity with international obligations and act as enforcement tools of States’ international obligations – including those related to climate change. (141)

“In the determination of claims and liabilities, courts may take judicial notice of the findings of [National Human Rights Institutions] NHRIs or other similar bodies.” (143)

Finally, it calls on the Philippine government to declare a climate emergency, strengthen its climate action plan, and adopt measures to improve access to justice and access to remedy for those harmed by climate impacts. (152-160)

## **Reflections on the Report’s Significance**

The National Inquiry was systematic, careful, and comprehensive. Through fact-finding missions, community dialogues, expert reports and testimonies, and a dozen hearings conducted on three continents, the Commission gathered the largest, most comprehensive body of official, sworn eyewitness and expert testimonies, documentary evidence, and legal analysis publicly

available anywhere in the world with respect to the climate responsibilities of Carbon Majors companies.

Even before this report, that body of evidence comprised a unique and extremely valuable resource in efforts to understand and document the actions and impact of Carbon Majors companies and to hold them accountable.

One important and immediate benefit of this report is that it provides a roadmap to that evidence, not only for the people of the Philippines, but for lawyers, judges, human rights bodies, and affected people worldwide.

In synthesizing that evidence and analyzing it in light of applicable human rights standards that apply within the Philippines and in countries around the world, the Commission has created a roadmap and a resource for investigations and litigation everywhere.

The conclusions it reaches with respect to the profound and pervasive human rights impacts of climate change are compelling, carefully documented, and as tragic as the testimonies of the survivors who informed them.

They are also damning.

The Commission's analysis demonstrates that, through their products and their operations, the Carbon Majors companies have contributed to the global climate crisis at a scale that is quantifiable and significant, both globally and historically.

The Commission has documented that the Carbon Majors companies, and the larger fossil fuel industry of which they are a part, was on notice of the climate risk of its products by no later than 1965.

Despite this notice, companies spent decades and untold millions of dollars sowing uncertainty about climate science and actively obstructing urgently needed climate action. It finds that the Carbon Majors, singly and in concert, engaged in "willful obstruction and obfuscation to prevent meaningful climate action." And that these efforts were driven "not by ignorance, but by greed."

But they are not, and cannot be, without consequences.

The Commission found that Carbon Majors companies have ongoing and undeniable responsibilities to respect human rights in their operations, to conduct due diligence to ensure their operations are not violating human rights, and to provide remedy when violations occur.

As the Commission said, these companies "need to know and be able to show" that they respect human rights in the climate context. When they fail to do so, they can be held accountable in the Philippines and likely beyond.

Accordingly, the Commission found that faced with the urgent need to transition the global economy, "acts to obfuscate climate science and delay, derail, or obstruct this transition may be the basis for liability, at the very least they are immoral."

Indeed, the Commission concluded that this obfuscation arguably violates applicable standards of honesty and good faith under already existing Philippine law.

Just as significantly, the Commission extended this accountability and responsibility not only to the Carbon Majors themselves, but to the business enterprises that are part of their value chain. This includes the financial sector, whose investments in fossil fuels give them accountability similar to the Carbon Majors themselves.

The fossil fuel industry and its apologists may seek to dismiss the Commission's inquiry and downplay the report by arguing that this was a factfinding procedure, not an adjudicative one, undertaken by a human rights institution in a vulnerable country rather than a court in a wealthy one. This would be a serious error.

The Commission's analysis and the evidence it marshaled to inform and support that analysis has immediate relevance, value, and persuasive weight not only for courts currently confronting climate litigation but for the growing universe of courts worldwide that will be addressing similar questions in the years to come.

Moreover, given widespread and sustained interest in this inquiry within the global human rights community, the Commission's call to national human rights institutions in other countries to take up similar investigations of their own will likely be heeded.

Accordingly, Carbon Majors companies that ignore this report and its implications do so at their peril. They need better lawyers and better leaders.

None of this would have been possible without the diligence and perseverance of the Commission in undertaking this work with limited resources, and completed it against the backdrop of COVID's catastrophic impacts on the Philippines.

And it would not have been possible, without the courage and extraordinary perseverance of the petitioners themselves. The Philippines owes them a debt. We all do.

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