

Muslim Institutional Development in Jerusalem: The role of *waqfs*

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In 1988, at the height of the Palestinian uprising against Israeli rule, the Jordanian government announced that it was disengaging from the Israeli-occupied Palestinian territory of the West Bank. This was a belated recognition of the dominance of the PLO there and a signal to the Israeli government that the so-called "Jordanian option" was henceforth closed. It was a decision of enormous political significance. However, there was an important caveat: Jordan would continue to be responsible for the administration of *waqfs* and the holy places in Jerusalem and the West Bank. It would continue also to supervise and pay the salaries of the Awqaf Administration, the body responsible for managing the extensive *waqfs* in the city which supported not only the holy places but also a wide range of charitable and educational services. In July 1994, the Jordanian interest in the *waqf* and holy sites was confirmed by the Washington Declaration and the subsequent Israel-Jordanian peace treaty. The treaty states that Israel "respects" and "will give high priority" to the Jordanian role in the maintenance of the holy places. These are just two examples of how the Muslim holy places and the supporting *waqf* system continue to play a prominent role in the politics of the city. This paper sets out to analyse why this is the case and what are the antecedents for the current manoeuvrings over the control of the *waqf* institution in Jerusalem.

In considering the continuing role played by the *waqf* institution in Jerusalem, three sets of questions come immediately to mind: First, in view of the adverse circumstances of invasion

and rule by non-Muslim authorities in the 20th Century, why has the Muslim *waqf* institution survived to the extent that it has? Why is that in contrast to neighbouring states the *waqfs* of Jerusalem continue to play a prominent role? What historic features have made it part of the Islamic fabric of the city so that one can hardly speak of Jerusalem or of Muslim holy places without also speaking of the *waqf* institution. In sum, how are we to understand the salience of the Muslim *waqf* in Jerusalem today?

Second, how has the historic development of *waqfs* and *waqf* administration in the city led to an association between the *waqf* in Jerusalem and Palestinian identity and nationalism. To what extent has this element contributed to the Palestinian claim for political rights in the city? A final set of questions will only be briefly touched on in this paper but is of no less interest in the face of the importance of urban centres as the location of religious revivalism in the Middle East. It will also help us place the events in Jerusalem in a wider context. These are: what elements are there to the holiness of a city and how do they relate to municipal administration, urban development and political authority? What can the case of Islamic Jerusalem tell us about the nature of holy cities?

In order to find answers to these questions, this paper will examine three inter-related areas which appear to be crucial. Each area will constitute a separate section of the paper. The first section will examine the extent and nature of the *waqf* institution in Jerusalem to determine how it operated and impinged upon the life of the city. There is thus a considerable emphasis on economic aspects of the *waqf* institution. The second section will discuss the relationship between its administration and the governing authorities to see if there are any general patterns in dealing with the *waqf* institution. The third section deals with and the changing role of the religious elite in the city. A final section will draw together the main patterns and observations thus delineated and attempt to answer the questions posed above. The

main focus of discussion will be on the late Ottoman period until the present day.

Before embarking on the analysis proper some preliminary background as to the nature of the *waqf* institution and an introduction to some terms is required. This is a highly technical area, but for the sake of brevity this paper will make some generalisations which may offend some specialists in this field, for which I apologise. *Waqfs* are endowments registered formally in the shari'a court. They were normally created by wealthy benefactors who wished to support a particular religious facility such as a mosque or pilgrim hostel, but they also supported schools, orphanages, fountains, hospices, seminaries and many other charitable purposes. Income from designated land and property, such as orchards or shops and warehouses, was endowed in perpetuity to support these purposes. An administrator, or *mutawalli*, was appointed and the shari'a court had supervisory powers. Some *waqfs* were created for public purposes and were known as *waqf khayri*, others were restricted for the benefit of the endowers family and were known as *waqf ahli* or *dhurri*. Over time the proliferation of *waqfs* led governing authorities to combine the administration of certain types of *waqfs* with those that had been established by the Sultan or his officials. In the Ottoman period these became known as the *waqf madbut*. Those that remained outside the official administrative structure were called *waqf mulhaq*.¹ In the British Mandatory period these official functions were taken on by a specially created body known as the Supreme Muslim Council. After 1948 the SMC was replaced by the Jordanian government with a body which became known as the Awqaf Administration.

The Extent, Nature and Role of the *Waqf* Institution in Jerusalem

The primary role of *waqfs* in Jerusalem were to support places of worship and of religious learning located within the city walls. The majority of *waqfs* were entirely dedicated or allocated the greater proportion of their income to the maintenance of al-

Aqsa Mosque, the Dome of the Rock or *Al-Haram al-Sharif* compound as a whole. By the same measure endowments to support seminaries or *madradas* to stem the rise of popular Sufism were commonplace among the Sunni establishment. The spiritual and cultural *raison d'etre* of the institution in Jerusalem is indisputable.

However, in trying to answer the first two sets of question, that is to understand how the *waqf* institution became part of the fabric of the city and closely associated with political transformations of the last 150 years one needs to recognise that it had a number of other important functions. These were largely infrastructural and economic, and an examination of a few examples will illustrate how the institution played an important role in the urban development and economic growth of the city.

According to Muqaddasi, the medieval Muslim geographer, the first known endowment in the city was by the Caliph Uthman who endowed the Siloam pool and the gardens around it to the poor of the city. The significance of this endowment is clear and highly symbolic. The pool and spring was an important water source upon which many inhabitants were dependent and it was essential for the development of the city that it was maintained and remained accessible. By creating an endowment access to the pool was embedded in the public domain and its proper administration became a religious duty.

This emphasis on infrastructural development was an important feature in the creation of other *waqfs*. Salah al-Din - known to the West as Saladin - created *waqfs* as a means of re-Islamizing the city after the Crusader period. Mosques, seminaries, fountains and hostels for pilgrims and the destitute were built and supported by endowed lands and properties. The ensuing construction boom stimulated further Muslim immigration. The most famous of Salah id-Din's *waqfs* was the *Khanqah Salahiyya*, created in 1189 CE. It was designed to attract Sufi mystics to the city and was supported by four tracts of land, four wells, three warehouses and a public bathhouse.²

The Ottoman period exhibits a similar concern for infrastructural development on the part of the city's rulers. As the population of the city grew, the existing springs, wells and cisterns were an insufficient and unreliable supply of water. If Jerusalem was to be a centre for worship and learning that reflected the importance of the al-Aqsa mosque in Islam, and if it were to be successful as a pilgrimage centre and be able to accommodate the sudden influxes of pilgrims, it required a more plentiful and regular supply. The construction of an aqueduct from Solomon's Pools outside Bethlehem to Jerusalem was a turning point in the development of the city.³ This project was made possible by a series of endowments which provided the capital, the legal and administrative structure for their maintenance and religious legitimacy in the face of local resistance.

More recent examples of the economic function of the *waqf* institution can be seen in the period of Jordanian rule in the city between 1949 and 1967. The division of the city into two sectors following the 1948 war resulted in what was formerly the main commercial area along the Jaffa Road being in the Israeli-held part. The response of the Jordanian controlled Awqaf Administration and family *waqfs* was the establishment of a successful commercial centre between the Damascus and Herod Gates and along Salah id-Din Street. Hotels, shops and offices were built and the income accrued to the *waqfs* of the city and thus to the upkeep of a number of holy places and charitable institutions.⁴ This economically active role continued into the post-1967 period where the Awqaf Administration initiated an extensive programme of refurbishing Islamic monumental building in the city. Not only did the programme employ a large number of professionals and labourers but it also sought to regenerate dilapidated areas by providing modern facilities.⁵

An additional aspect to these infrastructural and economic activities has been the way in which *waqfs* have historically channelled capital from the immediate region and the wider Islamic world into the city. An example of this is the

Khaski Sultan *waqf*. This was a *waqf* begun in 1552 by Roxelana, the wife of Sultan Suleiman and was well-known throughout the Eastern Mediterranean not only for its famous soup-kitchen which continued to operate until the end of the Mandate but also for the amounts of land endowed. It was an enormous endowment which supported a large complex housing a mosque, 55 rooms for pilgrims and others, a Khan for travellers and a soup kitchen providing food and bread on a daily basis for the poor of Jerusalem and for pilgrims to up to 400 people. The *waqf* specified the employment of at least 20 people from mosque officials and attendants, to cooks, to bakers to millers and dishwashers. At its hey-day, the impact it had upon the social and economic life of the city was considerable. Financial support for this *waqf* came from 25 villages in Palestine as well as from properties in Tripoli and Lebanon.⁶

This aspect of acting as a channel for external capital continued into the 20th Century. The Supreme Muslim Council, the administrative body that ran public *waqfs* during the British Mandate sought funding from as far afield as India for the renovation of the Dome of the Rock.⁷ The Abu Midyan *waqf*, established to provide for poor Maghrebi pilgrims and residents in the city, lost much of its income after 1948 as a result of the village of *Ayn Karim* falling into Israeli hands. In the early fifties, the *mutawallis* of the *waqf* visited North Africa soliciting funds to renew the endowment which they invested in Jerusalem.⁸ More recently funds have been made from various Arab and Islamic bodies to the Awqaf Administration in order to extend and improve its various welfare, educational and cultural activities.⁹ Similar donations have also been made to charitable organisations which have subsequently been converted to *waqfs* at the request of the key donors.¹⁰ There was thus an "endowment hinterland" which allowed Jerusalem to live beyond the means of its own resources and productive base.

Relations between the *waqf* institution and the governing authorities

Relations between *waqfs* and the ruling authorities of the day were complex and changed as the 20th Century approached but in general can be characterised by the term ambiguity. Apart from their religious role *waqfs* were created to provide welfare and charitable services that the state would or could not. The provision of orphanages, homes for the elderly, soup-kitchens, schools, hospitals and water supply were all part of this. As we have seen rulers used the institution to further their own policies of settlement and reconstruction and expansion. Nevertheless, the provision of services for the wider community was generally seen as being the domain of personal piety.

However, as *waqfs* proliferated throughout the Islamic world the need for some form of state intervention became greater and greater. They became platforms for wealthy benefactors to have influence and establish power bases. The role of *mutawalli* of a large *waqf* afforded great scope for acquiring wealth and powers of patronage. Imagine the authority vested in one's hands if you were the *mutawalli* of the Khaski Sultan *waqf* in Jerusalem. As the Ottoman authorities sought to centralise the administration of the empire, these political enclaves had to be dealt with. This fillip to regionalism and centrifugal forces will be examined in greater detail in the next section.

There also was an increasing need for regulation of the management of *waqfs*. Mismanagement, corruption, nepotism led to the *waqf* institution being a byword for decline and inefficiency. *Waqfs* properties were left to fall into disrepair, long-leases were never renewed and forgotten, rents not collected or siphoned into the pockets of the administrators and whole properties were acquired by powerful families who either managed or resided in them. The poor management of *waqf* land and the resultant loss in revenue was seen as one reason why the Ottoman state finances were so weak.

Finally, changes in the conception over the role of the state led to greater intervention in the management of the *waqf* institution. As governing authorities increasingly took on educational and social welfare roles, some form of rationalisation and co-ordination was necessary to make the most efficient use of the disparate services provided by individual *waqfs*. The rapid growth in population this century was a further impetus for state intervention in these areas and *waqfs* either were incorporated into state bureaucracies or disbanded.

In this context we can understand the thrust of reforms in the late Ottoman Empire. The administration of the *waqf* system in Palestine was re-organised in the 1840s. Already in 1831, the Khaski Sultan *waqf* had been confiscated from the Husayni family by Muhammed Ali of Egypt during his brief rule over Syria. On regaining control over these provinces in 1840 the Ottomans introduced reforms one of which was retaking control over the Khaski Sultan *waqf*.¹¹ The new system was along the lines of provincial jurisdictions. A director, or *mudir*, of *waqfs* in the *mutassirief* of Jerusalem had under him three deputies, known as *ma'murs*, in charge of the districts of Jaffa, Gaza and Hebron. The *mudir* was required to examine *waqf* receipts and expenditure and approve repairs and improvements. It is important to note that this framework applied only to *waqf* madbut, that is *waqfs* whose management was already to some extent under the authority of the Ottoman bureaucracy. A large number of *waqfs* remained outside this framework, particularly those in urban areas such as Jerusalem.

However, by 1883, the Ottoman state involvement in the administration of *waqfs* had led to the creation of a Ministry of *Waqfs* which subsequently took over additional *waqfs* on the grounds that they were mismanaged. The particular *waqfs* targeted were those supporting mosques, Sufi hostels and religious schools and the income from them re-directed toward establishing a state educational system. This indicated the government's desire to exercise greater authority over the provision of education and social welfare and confirmed its

centralising tendencies. The Ministry also took over family *waqfs* whose beneficiaries had died or which in some other way had lapsed.

The Young Turks accelerated these reforms in their attempt to build a modern state structure. They sold off derelict and unproductive *waqf* land and properties and transferred the profits to the Treasury. They continued the confiscation of *waqfs* of public interest and speeded up the transfer of lapsed *waqfs* from the existing *mutawallis* to the Ministry of *Waqfs*. Finally they extended the practice of commutation, that is collecting and distributing *waqf* tithes on behalf of *mutawalli*, to four large family *waqfs* in the Jerusalem region - Nabi Da'ud, Nabi Musa, Shaikh Ahmad Dajani and Abu Midyan *waqfs*.¹²

Thus we can see that on the one hand the governing authorities recognised the useful function *waqfs* served in providing welfare and educational needs of the population under their control, yet on the other hand they were anxious that these services did not furnish the platform for a political power base they could not control or for mismanagement and the wasting of productive assets.

There was also another element to this ambiguity which is particularly pertinent to Jerusalem in the 20th Century. To some extent the religious and historical importance of Jerusalem made it difficult for the governing authorities to assert total control over the *waqfs* of the city. This can be clearly seen in the operations of the Supreme Muslim Council between 1921 and 1937 which can be seen as a kind of "Golden Age" in terms of Palestinian control over *waqfs* in the city. Established by the British Mandatory government it was given full authority to manage all the *waqf* system as bequeathed by the Young Turks, and permitted to extend its responsibilities by incorporating previously independently managed *waqf* into its administration, and purchasing or bringing *waqf* land into production. Part of the reason of this was to do with late British imperial policies of allowing native populations as much self-government as was consistent with British hegemony, particularly in areas of religion

and personal status. In part it was an attempt to mollify Palestinians in their disappointment and hostility to the Jewish national home policy enshrined in the Mandate for Palestine charter. Whatever the reason, however, it is clear that the end result was to allow the Palestinian leadership a considerable degree of autonomy over religious and *waqf* affairs in the city.¹³

In some respects the Israeli period after 1967 has similarities with the Mandate period, with the important difference that the ultimate aim of Israeli governments has been to establish full control and absorb Jerusalem fully into the Israeli state. The similarity consists in the acceptance of realpolitik and deferring the take-over of the Awqaf Administration to a later more propitious moment. Soon after the Israeli occupation in 1967, an attempt was made to apply Israeli laws pertaining to *waqfs* in Israel, declare their assets as Absentee Property and hand over the administration to the Custodian of Absentee Property. Palestinian leaders acted swiftly and effectively in setting up an alternative structure and refused any co-operation in this attempt, and the Israelis were obliged to back down and bide their time. In the meantime, despite total Israeli military control over the city, the Awqaf Administration is afforded relative autonomy in administration of the holy places and of *waqfs* under its control.

A similar pattern of ambiguity can also be seen in the Jordanian period. The government introduced important reforms which resulted in the greater integration of the *waqf* institution into the state bureaucracy. The Supreme Muslim Council was abolished in 1951 and its powers transferred to the Prime Minister's office and its income to the central treasury. A new body which became known as the Awqaf Administration, was set up and subordinated to the Chief *Qadi* in Amman. Hereditary posts in the management of public *waqfs* were abolished and their responsibilities transferred to the Awqaf Administration upon their death.¹⁴ All these reforms pointed to a tighter government control over the *waqfs* of Jerusalem. However, the ambiguity can be seen in two ways: First, the government

recognised the special status of Jerusalem as the site of *al-Haram al-Sharif* and accepted the evolution of practice whereby the Awqaf Administration in Jerusalem was run as a parallel department to that in Amman rather than being directly accountable to it. Second, that the Awqaf Administration and private *waqfs* were given the primary role in bringing about the construction of the new commercial centre mentioned previously. One can also point to the continued existence of private *waqfs*, in contrast to Syria and Egypt which abolished them, as an indication of the Jordanian government's recognition of their important role in the city.

The role of the Palestinian religious elite

In examining the role of the Palestinian religious elite in contributing the continued salience of the *waqf* institution in Jerusalem, one need only concern oneself with the mid-19th Century onwards. As in previous sections, this paper is not concerned with specific details of each historical event or change but in trying to identify general patterns which allows us to understand the current situation. It is possible to start with the general observation of a symbiotic relationship between on one hand the holiness of the city and the administration of its *waqfs*, holy sites, the pilgrim trade and other associated services and, on the other hand, the private interests of the Palestinian religious elite.

Before going any further in trying to identify patterns and trends we need to make a few remarks on the definition of "religious elite". Gabriel Baer was able to compile a list of names for the period 1805-1814 based on a number of criteria.¹⁵ These were: the frequency of mentions in the *sijill*; whether they were founders of large *waqfs* or similar types of endowments; whether they were *mutawallis* of public or private *waqfs* and whether they were mentioned by the historians Muradi and Shim'oni. Due to the fact that we are dealing with a longer period and that there were numerous social changes, not to mention political upheavals of 1948 and 1967 which led to migration and dispossession, a

comparable approach is not possible. A much looser definition is required. For the purposes of this paper I have included as part of the religious elite those families who achieved high status in Jerusalem politics and society through their positions in the shari'a courts, the bureaucracy that evolved around the administration of services around *al-Haram al-Sharif* and the regulations of *waqfs* both state-controlled and private, be it the Ottoman administration, the Supreme Muslim Council or the Awqaf Administration.

During the course of the 19th Century, key families which can be safely but not exclusively mentioned as part of the elite would be the al-Alami, Budayri, Dajani, Daqqaq, Ansari, Husayni, Jarallah, Ja'uni, Khalidi, Nashashibi and Nusayba. The Khalidis, for instance, retained the office of chief clerk to the shari'a court in their family for generations. They also held the post of Superintendent of *al-Haramayn* (al-Aqsa Mosque in Jerusalem and al-Ibrahimi Mosque in Hebron) for a long period and controlled a number of major *waqfs* in the city. Together with their positions in the Jerusalem council, and later as Mayor of Jerusalem and in other levels of the Ottoman and Mandate bureaucracy, they were among the most influential families in Jerusalem.

For their part the Husayni family held the prestigious posts of Hanafi Mufti in Jerusalem and *Naqib al-Ashraf*. They ran the enormous Khaski Sultan *waqf* until it was confiscated by Muhammad Ali, but controlled other major *waqfs* including the *waqf* of Nabi Musa. They also dominated the Jerusalem council by securing the headship for two decades.¹⁶

Over the course of the 19th Century there were changes, naturally, in which were the dominant families in this elite. The Budayris and Ja'unis may have been more prominent in the earlier part, to be replaced by the Nashashibis as the main rivals to the Khalidis and Husaynis. After 1948, the role of these families were largely but possibly only temporarily eclipsed by other families, due to the loss of property and land and the dissolution of the political and administrative frameworks which had given

them their position. This can also be seen in the changing patterns of urban growth in Jerusalem. As the city expanded in the 20th Century and overflowed the city walls, the rural land in the immediate vicinity of the walls was developed. Consequently other families such as the Nusayba, Khatib, Shitaya and Khalili who owned land and administered *waqfs* in these areas became more prominent. A further reflection of the way in which leading families retained their involvement in the *waqf* institution has already been briefly mentioned above: that is the conversion of public associations into *waqf* in the post-1967 period. As the population of the city increased in the 19th Century and the existing charitable services of *waqfs* were unable to react swiftly enough to the new pressures thrown up by dispossession, enforced migration and financial and legal instability, new public associations were created to deal with them. This brought different families to the fore as leaders and administrators as well as returning the more established families to the hitherto prominent role. For example, in 1979, the Dar al-Tifl al-Arabi, headed by Hind Husayni registered the assets of the association as a *waqf*. In 1982 the same action was taken by the Jil al-Amal association, headed by Anwar Nusayba.¹⁷

In turning to the extent to which the religious elite played a part in associating the *waqf* institution with the Palestinian national movement and Palestinian identity, there are a number of trends that can be distinguished. Succeeding governing authorities were clearly intent on either marginalising or co-opting the Palestinian religious elite. They were seen by the Ottoman authorities part of the regionalism determined to protect vested local interests against the centralisation and modernisation of the state. Incorporating large *waqfs* into the state bureaucracy and introducing greater regulation of *waqf* administration were all ways in which the state intervened to marginalise the Jerusalem elite.

However, there was also a recognition of the limits of the state's ability to implement policy without the co-operation of local leadership and to that extent there was also a policy of co-

optation into the system of control and regulation. This policy of co-optation was particularly in evidence during the British Mandate period with the setting up of the Supreme Muslim Council. The policy ultimately ended in failure since from the British perspective the SMC identified too closely with Palestinian resistance to Zionist settlement and the Mandatory authorities were obliged to take over the direct running of the SMC until their departure in 1948.

At the same time, the other side of the coin of this process was the constant attempts of the religious elite to reposition themselves throughout the changing political circumstances we are covering. It is clear that during the late Ottoman period, reforms did clip the wings of the religious elite and their relative autonomy over *waqf* administration, but the elite were also quick to seize the opportunities available in the Jerusalem council and the regulatory bureaucracy which was replacing the previous system. During the Mandatory period there were different approaches in dealing with the new political regime. While one faction sought to accommodate British interests another moved towards outright resistance, but it was not until the mass immigration of Zionist settlers in the mid-30s that repositioning was seen as inappropriate. Repositioning was more difficult during the Jordanian period due to the dispossession and displacement following the 1948 war, but also due to the Jordanian policy of placing its own supporters in key posts.

The overriding point to be made is that wherever the emphasis of state policy lay, marginalisation through to co-optation, Palestinian involvement in *waqf* administration was necessary, and that administration reflected in some measure the aspirations of the community as a whole. So long as interest in the Muslim holy places continued, and so long as endowed land and property was required to support them and their attendant charitable institutions, a Palestinian identity would be attached to their operations. As Palestinian consciousness grew in other spheres, the identification of the *waqf* institution in Jerusalem, the

administration of property and services all came to be seen as part of the Palestinian patrimony and heritage. Even the Jordanian government, which, as we have seen, wished to retain an involvement in the future of the holy places, has insisted that its purpose in continuing to supervise the Awqaf Administration was to protect it from Israeli expropriation and ensure its smooth running until the Palestinian National Authority was in a position to replace it.¹⁸

Turning to our third set of questions, briefly we can see how central has been the presence of holy places in the continuing power and influence of the religious elite. The administration of services in these places, the administration of *waqfs* supporting them and the pilgrim trade, provided the controlling families or the members employed in this way with a relatively secure source of income that is independent of the productivity of the city or its hinterland. They also have provided opportunities over time for actual physical control over significant areas of urban real estate which is to some extent protected by religious association. Of course, these factors may be found in many other cities in the Middle East and the Islamic world, but as the case of Jerusalem indicates, the larger concentration of *waqfs* in holy cities provides a cumulative dynamic which heightens the role of the religious elites and their influence.

Conclusion

We are now in a better position to answer the three sets of questions posed at the start of this paper. The first set focused on the conundrum of the continued relevance and salience of the *waqf* institution in Jerusalem in the late 20th Century. From the examination we can see that it has played an important role in the urban development and economy of the city. In addition successive ruling authorities have recognised its role and ceded considerable responsibilities to it. Finally, the religious elite, despite the transformations and setbacks it has experienced has

seen the *waqf* institution as central to its interests and sought to preserve its role and functions.

The second set of questions revolved around the role of the *waqf* institution in the Palestinian national movement. It is clear that the simple physical extent of *waqf* land and property has created a perception that this territory is part of the Palestinian heritage and patrimony. The inability of successive governments to totally monopolise control over the institution has also meant that through the processes of co-optation and repositioning Palestinian influence over the administration has been maintained.

The final set of questions dealt with the extent to which the Jerusalem case helps us formulate some general observations on the nature of holy cities in the Middle East. It should be clear that the presence of holy places and the *waqfs* that support them have an impact upon the urban development of holy cities and how they are administered. In addition, they provide the religious elite of the city with a relatively secure financial base, which gives them certain autonomy and weakens the leverage the state has over them. The pilgrimage trade and external funding through endowments or donations to the holy places provide holy cities with international contacts, capital and a measure of protection. The extent to which these features can be replicated in Qom, Najaf, Kerbala or Makkah will be the subject of future research and another paper.

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