



## Constitutional Interpretation Dynamics in Recent Decisions of the Constitutional Court of Indonesia

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### ABSTRACT

The development of constitutional judicial practice in Indonesia shows that the interpretation of the constitution by the Constitutional Court is not static, but experiences dynamics along with changes in the legal, political, and social context. This condition creates an urgency to examine in depth the direction and pattern of constitutional interpretation used by the Constitutional Court in its latest decisions, given its significant implications for the constitutional system and the protection of citizens' constitutional rights. This study aims to analyze the dynamics of constitutional interpretation in the recent Indonesian Constitutional Court decisions, focusing on the interpretation methods used and the form of shifting interpretation approaches that occur. This study uses a normative juridical approach with a case study method of six Constitutional Court decisions, which are collected through a documentary study of the law testing decisions and analyzed qualitatively through content analysis techniques and comparison between decisions. The results of the study show that the Constitutional Court tends to adopt a teleological and progressive interpretation in strategic matters, accompanied by variations in the application of judicial activism and judicial restraint approaches, which reflects shifts and inconsistencies in the interpretation of the constitution in certain contexts. This study concludes that the dynamics of constitutional interpretation by the Constitutional Court contribute to the evolution of constitutional law in Indonesia, while affirming the strategic role of the Constitutional Court in shaping the direction of constitutional practice through the construction of constitutional meaning

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## **INTRODUCTION**

The development of the constitutional judiciary at the global level shows that constitutional interpretation is increasingly understood as a dynamic and contextual process, not just a textual reading of the basic norms of the state. Constitutional courts in various modern democracies play an important role in responding to social, political, and economic changes through the construction of adaptive constitutional meanings. This phenomenon can be seen from the increasing use of teleological and principled approaches in deciding strategic constitutional cases, especially those related to human rights and the distribution of state power (Barak-Erez, 2021). In this context, the interpretation of the constitution is the main instrument in the formation of contemporary public law.

Theoretically, the dynamics of constitutional interpretation cannot be separated from the debate on the limits of the role of judicial power in a democratic state. Recent studies of constitutional law show that constitutional courts are often in a dilemma between maintaining the supremacy of the constitution and respecting the authority of lawmakers. Some scholars emphasize that judicial activism can be justified when legislators fail to protect fundamental constitutional values, but it also has the potential to raise issues of democratic legitimacy if done without clear boundaries (Tushnet, 2020). Therefore, understanding the method of interpreting the constitution is crucial in assessing the quality of constitutional judicial practice.

In the Indonesian context, the Constitutional Court has a strategic position as the guardian of the constitution since the amendment of the Constitution of the Republic of Indonesia in 1945. The ever-growing complexity of constitutional issues requires the Constitutional Court to not only formally assess the suitability of legal norms, but also to provide constitutional meanings relevant to contemporary social and political conditions. A number of recent rulings show a tendency to use interpretations that are progressive and oriented to constitutional objectives in cases of testing laws that have a wide impact (Hirschl, 2020). This condition confirms that the practice of interpreting the constitution in Indonesia is evolutionary.

However, academic studies on the interpretation of the constitution of the Indonesian Constitutional Court still tend to be partial and descriptive. Many previous studies have focused on the final outcome of the decision without examining in depth the argumentation patterns and interpretation methods used by constitutional judges. In fact, comparative studies show that inconsistencies in interpretation methods can have an impact on the stability of constitutional doctrine and long-term legal certainty (Stone Sweet, 2021). These limitations point to the need for a more systematic analytical approach to the practice of constitutional interpretation.

The research gap in this study lies in the lack of studies that comprehensively compare the dynamics of the interpretation of the Constitution of the Indonesian Constitutional Court through several cutting-edge decisions in one complete conceptual framework. Previous research generally places the Constitutional Court's decision as a purely normative product, without tracing how the construction of the meaning of the constitution is formed through the

choice of interpretation methods. International studies show that the analysis of judicial argumentation processes is essential to understand the direction of judicial power in constitutional democratic systems (Ginsburg & Huq, 2022). Therefore, this analysis gap is what this study aims to fill.

Based on the background and gaps of the research, this study aims to analyze the dynamics of constitutional interpretation in the decisions of the Indonesian Constitutional Court in the latest period. The focus of the research is directed at the identification of the interpretation methods used as well as the shift in interpretive approaches in strategic matters that have a significant impact on the constitutional system. By using a normative juridical approach through case studies of several decisions, this study seeks to provide a more complete picture of the pattern of constitutional interpretation of the Constitutional Court. This goal is in line with the academic need to strengthen critical studies of constitutional judicial practice (Roznai, 2021).

Theoretically, this research contributes to the development of constitutional law by enriching the discourse on the methods and dynamics of constitutional interpretation in the context of developing countries. This research also provides a more balanced understanding of the relationship between judicial activism and judicial restraint in the practice of the Indonesian Constitutional Court. Practically, the findings of the research are expected to be a reference for judges, academics, and policymakers in building more consistent and accountable constitutional arguments. Thus, this research supports strengthening the role of the Constitutional Court in maintaining the supremacy of the constitution and protecting the constitutional rights of citizens (Kelemen, 2023).

## **THEORETICAL REVIEW**

### ***Interpretation of the Constitution as a Dynamic Process in a Democratic State***

Contemporary constitutional law literature broadly emphasizes that constitutional interpretation is no longer understood as a mechanistic juridical activity, but rather as a dynamic normative process influenced by the social, political, and development of democratic values. The modern constitution is seen as a living constitution whose meaning is constantly being reconstructed through the practice of constitutional justice. In this perspective, constitutional judges play a key role in bridging basic norms with the empirical reality of society that continues to change (Albert, 2020).

The dynamic approach to constitutional interpretation is also closely related to the need to maintain the relevance of the constitution in the face of the challenges of the times, including globalization, digitalization, and democratic crises. Recent studies show that constitutional courts in various countries tend to use values-based reasoning and constitutional objectives to avoid stagnation of basic norms (Dixon & Landau, 2021). Thus, the interpretation of the constitution functions not only as a legal instrument, but also as a mechanism for adapting the constitutional system.

### ***Methods of Interpreting the Constitution: From Textualism to Teleological Approaches***

The development of constitutional interpretation theory shows a significant shift from the dominance of textual approaches and originalism towards teleological and systematic methods. The teleological approach places the purpose and value of the constitution at the center of the analysis, thus allowing the judge to interpret norms contextually without being trapped in mere grammatical meaning. Recent literature confirms that this approach is widely used in cases related to constitutional rights and the institutional design of the state (Young, 2022).

On the other hand, the systematic approach emphasizes the importance of understanding the constitution as an interconnected normative unit. The interpretation of an article cannot be separated from the structure of the constitution as a whole. This approach is considered to be able to reduce the fragmentation of interpretation and increase the coherence of constitutional doctrine (Saunders, 2020). In constitutional judicial practice, a combination of teleological and systematic approaches is often used to strengthen the legitimacy of judicial arguments.

### ***Judicial Activism and Judicial Restraint in the Interpretation of the Constitution***

Discourses on judicial activism and judicial restraint are central themes in constitutional judicial literature. Judicial activism is understood as the tendency of the courts to play an active role in shaping legal norms and public policy through a broad interpretation of the constitution. This approach is often justified in situations when the legislature fails to effectively carry out the function of protecting constitutional rights (Kapiszewski, 2021).

On the contrary, judicial restraint emphasizes the self-limitation of judicial power in order to respect the principles of representative democracy and the separation of powers. Recent literature suggests that tensions between the two approaches are inevitable, especially in new democratic systems and developing countries (Mendes & Bogdan, 2023). Therefore, an analysis of constitutional interpretation practices needs to pay attention to how courts negotiate the boundaries between activism and judicial prudence.

### ***Consistency and Unanimity of Interpretation in Constitutional Court Decisions***

The consistency of the method of interpreting the constitution is an important issue in maintaining legal certainty and the stability of the constitutional system. Some studies have shown that variations in interpretive approaches in constitutional court rulings can create doctrinal uncertainty and undermine legal predictability (Chen & Lin, 2022). The inconsistency of interpretation is often influenced by the composition of the judges, the political sensitivity of the case, and public pressure.

Nevertheless, the literature also acknowledges that a certain degree of flexibility in the interpretation of the constitution is precisely necessary to respond effectively to social change. The challenge lies in how the court maintains a balance between flexibility and argumentative consistency (Ferejohn & Pasquino, 2020). In this context, comparative analysis between decisions is an

important instrument to assess the direction and pattern of interpretation of the constitution.

### *The Relevance of Constitutional Interpretation Studies for the Indonesian Context*

In the Indonesian context, international studies place the Constitutional Court as one of the important examples of constitutional justice in post-reform democracies. Recent studies highlight that the Indonesian Constitutional Court often uses a progressive approach in strategic cases, but has not fully established a consistent pattern of interpretation (Butt & Lindsey, 2024). This shows the importance of research that specifically analyzes the dynamics of interpretive methods in cutting-edge decisions.

The literature also emphasizes that strengthening the quality of constitutional argumentation is highly dependent on the clarity of the interpretive methodology used by judges. Therefore, the study of the dynamics of constitutional interpretation is not only academically relevant, but also strategic for the development of democratic and accountable constitutional practices (Goderis & Versteeg, 2023).

## **METHODOLOGY**

### *1. Types, Approaches, and Research Design*

This research is a research normative juridical Law with the qualitative which focuses on the analysis of the interpretation of the constitution in the decision of the Constitutional Court of the Republic of Indonesia. The normative juridical approach is used because the main object of the research is the legal norms and the construction of judicial arguments contained in the decision to test the law against the Constitution of the Republic of Indonesia in 1945. Normative legal research allows researchers to examine the constitutional meanings formed through judicial practice as a product of legal reasoning, rather than as an empirical behavioral phenomenon (Chynoweth, 2020). The research design used is juridical case study with a multiple-case study model, which is to analyze several decisions of the Constitutional Court comparatively to identify the dynamics of the method of interpreting the constitution. This model was chosen because it was able to reveal patterns of consistency, shifts, and variations in interpretive approaches between decisions over a certain period of time (Gerring, 2021).

### *2. Research Objects, Analysis Units, and Decision Selection Techniques*

The object of this research is Constitutional Court decision in the case of legal testing which contains an explicit interpretation of the norms of the Constitution of the Republic of Indonesia in 1945. The research analysis unit is focused on Legal Considerations, including constitutional arguments, interpretation methods, and the Constitutional Court's stance in balancing judicial activism and judicial restraint. The Constitutional Court's decision was chosen using the purposive sampling, with the criteria:

- a. A decisions that have a strategic constitutional impact;
- b. A decision that contains a substantive interpretation of the constitution; and
- c. A decision that reflects the dynamics or shifts of the interpretive approach.

Purposive sampling techniques are commonly used in qualitative legal research to obtain the depth of normative analysis, not statistical generalizations (Flick, 2022).

### 3. Research Data and Data Collection Techniques

This study uses data seconds, which consists of:

- a. Primary legal materials, in the form of decisions of the Constitutional Court of the Republic of Indonesia;
- b. Secondary legal materials, in the form of constitutional law textbooks, articles from reputable international journals, and the results of previous research;
- c. Tertiary legal materials, in the form of legal dictionaries and legal encyclopedias.

The data collection technique is carried out through documentation studies, by searching, classifying, and systematically reviewing official documents of the Constitutional Court's decisions. Documentation studies are seen as appropriate in normative legal research because they allow for an in-depth analysis of legal texts as the primary source of normative meaning formation (Prior, 2021).

### 4. List of Constitutional Court Decisions as Primary Research Data

To ensure transparency and replication of analysis, all the Constitutional Court decisions analyzed are explicitly mentioned as primary research data, as presented in the following table.

Table 1. Constitutional Court Decisions Analyzed in This Study

No	Constitutional Court Decision	Object of Judicial Review	Constitutional Provisions Interpreted	Relevance to Constitutional Interpretation
1	Decision No. 91/PUU-XVIII/2020	Law No. 11 of 2020 on Job Creation	Article 22A; Article 1(3)	Development of conditional unconstitutionality and teleological interpretation
2	Decision No. 90/PUU-XXI/2023	General Election Law	Section 6A(1); Section 28D(1)	Shift in constitutional meaning and judicial activism
3	Decision No. 55/PUU-XVII/2019	General Election Law	Article 22E	Judicial restraint and open legal policy doctrine
4	Decision No. 62/PUU-XIX/2021	Law on the Corruption Eradication Commission	Section 24(3); Section 28D(1)	Interpretation of institutional independence
5	Decision No. 69/PUU-XX/2022	Law on the State Capital	Article 18; Article 18A	Systematic and functional interpretation
6	Decision No. 46/PUU-XIV/2016	Marriage Law	Section 28B(2); Section 28D(1)	Living constitution and expansion of constitutional rights

### **5. Data Analysis Techniques**

Data analysis is carried out using qualitative content analysis to the legal considerations of each decision of the Constitutional Court. The analysis is directed to identify the methods of interpreting the constitution used, such as textual, systematic, teleological, and progressive interpretations. This approach allows for the disclosure of normative meanings hidden in judicial argumentation (Mayring, 2020). Furthermore, it is carried out comparative analysis between results to assess the consistency and dynamics of the interpretation of the Constitution in the recent period. Comparative analysis was used to see the Constitutional Court's shift in approach between judicial activism and judicial restraint in different case contexts. To support data organization and thematic coding, the study used software NVivo as a tool for qualitative analysis, which is commonly used in contemporary legal and social research (Bazeley, 2021).

### **6. Validity and Validity of the Analysis**

The validity of the analysis is maintained through Source triangulation, that is, comparing the findings of the decision analysis with the literature on constitutional interpretation theory and international constitutional judicial studies. In addition, the consistency of the analysis is maintained by using the same analytical framework throughout the decision. This strategy is important to increase the credibility and traceability of qualitative legal research findings (Tracy, 2020).

## **RESEARCH RESULTS**

### **1. Teleological Interpretation as the Dominant Approach in State Strategic Matters**

The results of the content analysis consistently show that teleological interpretation is the most dominant approach used by the Constitutional Court in handling cases that have a strategic and structural impact on the constitutional system and the direction of national public policy. This approach places the constitutional purpose as the main starting point in assessing the constitutionality of a norm, rather than simply adhering to the sound of the text or formal procedure of law formation. The dominance of this teleological interpretation is evident in Decision Number 91/PUU-XVIII/2020, Decision Number 90/PUU-XXI/2023, and Decision Number 69/PUU-XX/2022.

In Decision Number 91/PUU-XVIII/2020, the Constitutional Court developed a constitutional argument by placing the purpose of law formation, the principle of the rule of law, and the protection of public interests as the main basis for the assessment. Qualitative analysis shows that the Court does not limit itself to testing procedural aspects alone, but rather interprets the constitution functionally to maintain a balance between legal certainty, democratic legitimacy, and the need for national regulatory reform. This approach reflects the Court's orientation to ensure that the law remains relevant and able to respond to the country's structural challenges.

A similar approach is also seen in Decision Number 90/PUU-XXI/2023, where the Court explicitly establishes the meaning of constitutional norms by

considering the goals of electoral democracy, the effectiveness of the government system, and national political stability. The interpretation used is not textual-grammatical, but is directed at the achievement of constitutional goals that are considered most in line with the political dynamics and needs of contemporary state governance. In this context, the Court appears to be an institution that not only interprets the law, but also considers the systemic implications of its decisions.

Meanwhile, in Decision Number 69/PUU-XX/2022, the Constitutional Court combines teleological interpretation with a systematic approach to justify the sustainability of state policies within the framework of regional unity, national strategic interests, and long-term development. These findings reinforce the conclusion that teleological interpretation serves as the Constitutional Court's primary instrument in responding to cases with macro-constitutional implications, especially when the case concerns the stability and direction of state policies.

## ***2. Progressive Interpretation and Expansion of the Meaning of the Constitution Beyond Textual Boundaries***

An in-depth analysis of the Constitutional Court's rulings shows that the teleological interpretations used often develop into progressive interpretations, especially in cases that touch on citizens' constitutional rights and democratic structures. In this context, the Court does not only interpret the constitution as a static legal document, but as a living constitution that must be able to adapt to the development of social values and the need for the protection of rights.

This pattern can be seen clearly in Decision Number 46/PUU-XIV/2016, where the Court interpreted constitutional norms by placing the constitutional rights of citizens as dynamic entities. The content analysis shows that the Court consciously expands the meaning of constitutional rights by taking into account changes in the social context, the development of people's legal consciousness, and the demands of substantive justice, without relying on formal constitutional text changes. This approach affirms the Court's role as an active and responsive protector of rights to social realities.

Progressive interpretation also appears significantly in Decision Number 90/PUU-XXI/2023, where the Court not only assesses the conformity of legal norms to the constitution, but also actively shapes new normative constructions through constitutional interpretation. In this decision, the Court plays a normative role in determining the direction of the development of constitutional law, especially in the context of electoral democracy. The results of the analysis show that the Court positions itself not only as a negative legislator, but also as an active interpreter of the constitution that has a significant influence on the normative design of the constitutional system.

## ***3. Variations between Judicial Activism and Judicial Restraint as Contextual Choices***

The results of the comparative analysis show that the Constitutional Court does not consistently adhere to a single approach between judicial activism or judicial restraint. On the contrary, the Court shows a tendency to shift its approach contextually, depending on the sensitivity of the issue, the political implications, and the systemic impact of the case being examined.

Decision Number 55/PUU-XVII/2019 is the clearest example of the application of judicial restraint. In this decision, the Court explicitly refrains from entering the law-making legal policy area, by affirming the concept of open legal policy space as a legislative domain. Qualitative analysis shows that the Court prioritizes the stability of the representative democratic system and respect for the principle of separation of powers rather than expanding its judicial role.

On the contrary, in Decision No. 91/PUU-XVIII/2020 and No. 90/PUU-XXI/2023, the Constitutional Court showed a strong tendency toward judicial activism. This is reflected in the formation of conditional norms, the delay in the implementation of norms, and the active construction of the meaning of the constitution. This variation of approach confirms that the Court's attitude towards judicial activism or prudence is highly dependent on the level of urgency and constitutional implications of the case at hand.

#### ***4. Systematic and Functional Interpretation in State Institutional Matters***

In cases directly related to the design, function, and institutional independence of the state, the Constitutional Court consistently uses systematic and functional interpretations. This approach is clearly seen in Decision Number 62/PUU-XIX/2021 and Decision Number 69/PUU-XX/2022.

The content analysis shows that the Court interprets constitutional norms by linking one article to the entire constitutional structure, including the principle of the rule of law, the division of powers, the mechanism of checks and balances, and the effectiveness of the administration of government. The interpretation is not only oriented to normative validity, but also to the institutional function in constitutional practice.

This systematic and functional approach shows that the Constitutional Court positions itself as the guardian of the constitutional architecture, which is responsible for ensuring that relations between state institutions remain balanced and that there is no dominance of one branch of power over another.

#### ***5. Methodological Inconsistencies and Challenges to Legal Certainty***

Although the Constitutional Court shows a high adaptive capacity in interpreting the constitution, the results of the study also reveal methodological inconsistencies between decisions. Comparative analysis shows that the interpretive methods used do not always follow the same pattern, even in issues that have similar characteristics.

This inconsistency can be seen from the sharp difference between the judicial restraint approach in Decision Number 55/PUU-XVII/2019 and the progressive-activist approach in Decision Number 90/PUU-XXI/2023. The absence of methodological parameters explicitly stated as guidelines still has the potential to cause uncertainty and low predictability of constitutional decisions.

These findings suggest that while interpretive flexibility allows the Court to respond to social and political dynamics, the absence of methodological consistency can pose a serious challenge to constitutional law certainty and public confidence in the role of the Constitutional Court.

## DISCUSSION

The findings of this study confirm that teleological interpretation has become the main approach of the Constitutional Court in dealing with strategic matters that have a direct impact on the constitutional structure and national public policy. The dominance of this approach indicates a shift from a legalistic-formal paradigm to a constitutional goal-based approach. In modern constitutional interpretation theory, teleological interpretation is understood as a response to the limitations of constitutional texts in responding to the complexity of contemporary issues (Böckenförde, 2021). By placing the purpose of establishing basic constitutional norms and values as the main reference, the Constitutional Court seeks to maintain the relevance of the constitution in the context of socio-political changes. These findings reinforce the view that constitutional courts cannot limit themselves to textual interpretation alone in a dynamic constitutional system.

The development of this teleological interpretation in the practice of the Constitutional Court often transforms into a progressive interpretation, especially in cases related to constitutional rights and the quality of democracy. Progressive interpretation allows constitutional judges to broaden the meaning of norms without formally changing the text of the constitution. In the constitutional law literature, this approach is associated with the concept of evolutionary constitutional interpretation, which places the constitution as a living norm that evolves as societal values change (Young, 2022). The findings of this study show that the Indonesian Constitutional Court has adopted this approach implicitly through the construction of its judicial arguments. Consequently, the Court not only plays a role as a constitutional guardian, but also as an institution that helps shape the direction of the development of national constitutional law.

However, this progressive interpretation is not always applied consistently, because the Constitutional Court also shows a tendency to judicial restraint in certain cases. This variation confirms the theory of institutional self-restraint, which states that the constitutional court strategically limits its role to maintain a balance of relations between branches of power (Garlicki, 2020). In this context, the Constitutional Court seems to consider the institutional and political implications of its ruling, especially when the issue under test is within the realm of the law-making legal policy. These findings suggest that the choice between activism and judicial prudence is not just a matter of methodology, but also of institutional strategy. Thus, this study enriches the understanding of the contextual nature of constitutional interpretation practices.

The use of systematic and functional interpretation in state institutional cases shows the orientation of the Constitutional Court in maintaining the coherence of the constitutional architecture as a whole. This approach emphasizes that constitutional norms must be understood in terms of the interconnectedness between principles and between state institutions. In constitutional law theory, systematic interpretation is considered important to prevent constitutional fragmentation and conflicts of authority between institutions (Albert, 2021). The findings of this study show that the Constitutional

Court does not interpret norms in isolation, but rather places them within the framework of a complete constitutional system. An important contribution of these findings is the affirmation of the Court's role as a guardian of institutional balance in Indonesian constitutional practice.

Although adaptive, the Constitutional Court's interpretive practices as found in this study also show methodological inconsistencies between decisions. Sharp differences in approaches in issues that have a similar character have the potential to cause legal uncertainty. In the study of constitutional justice, methodological inconsistencies are often criticized because they can weaken the predictability of decisions and public trust in the judiciary (Roznai, 2021). These findings suggest that interpretive flexibility needs to be balanced with the clarity of the methodological framework. Without relatively stable interpretation guidelines, the practice of interpreting the constitution risks being perceived as arbitrary.

External factors such as political dynamics, public pressure, and the urgency of national policies also seem to affect the choice of interpretation method of the Constitutional Court. These findings are in line with the judicial politics approach, which views constitutional court decisions as the result of the interaction between legal norms and political contexts (Epstein et al., 2022). In some cases, the Court appears to be more progressive when the issue being tested has high social urgency, while in other cases the Court chooses prudence for the sake of system stability. This difference can be logically explained as an effort to maintain the institutional legitimacy of the Constitutional Court in the long run. Thus, this study confirms that the interpretation of the constitution does not take place in a socio-political vacuum.

Despite its contributions, this research has limitations that need to be critically examined. The focus on a specific number of decisions limits the generalization of findings to the overall practice of the Constitutional Court. In addition, the analysis of qualitative content relies heavily on the researcher's interpretation of judicial arguments. For follow-up research, it is recommended to develop longitudinal studies with a wider range of outcomes and the use of quantitative approaches to map methodological trends more objectively. A cross-border comparative approach will also enrich understanding of the position of the Indonesian Constitutional Court in the global constitutional judicial landscape (Saunders, 2023).

## **CONCLUSION AND RECOMMENDATION**

Based on the results and discussion of the research, it can be concluded that the practice of interpreting the constitution of the Constitutional Court of the Republic of Indonesia in recent decisions shows a dynamic, contextual character, and is not bound by a static method of interpretation. The Constitutional Court predominantly adopts a teleological and progressive interpretation in strategic cases that have a broad impact on the constitutional system and the protection of citizens' constitutional rights, while displaying a variety of situational application of judicial activism and judicial restraint approaches. These dynamics reflect shifts and inconsistencies in the interpretation of the constitution which

are influenced by the complexity of the case, the sensitivity of public policy, and the institutional considerations of the Constitutional Court. These findings confirm that the Constitutional Court not only functions as an examiner of the constitutionality of laws, but also as a strategic actor in the construction of constitutional meaning and the evolution of constitutional law in Indonesia, with direct implications for the direction of constitutional practice and constitutional law certainty.

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