



Indian Constitution and Women Empowerment: A Critical Review

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Abstract:

The Indian Constitution, as the supreme law of the land, has laid the foundation for gender equality and women's empowerment through various provisions, including Fundamental Rights, Directive Principles of State Policy, and affirmative action measures. Despite this constitutional framework, the lived reality of Indian women reflects persistent socio-economic inequalities, gender-based discrimination, and violence. This paper critically reviews the role of the Constitution in advancing women's empowerment, highlights gaps between constitutional ideals and societal practices, and assesses the impact of legal provisions on women's status in contemporary India. The analysis draws upon constitutional debates, legislative enactments, judicial pronouncements, and scholarly discourse. Findings suggest that while constitutional safeguards have created enabling conditions, structural barriers and patriarchal norms hinder full realization of gender justice.

Keywords: Indian Constitution, Women Empowerment, Gender Equality, Fundamental Rights, Social Justice, Patriarchy.

Introduction:

Women empowerment is a multifaceted concept encompassing social, political, economic, and educational dimensions. In India, the Constitution provides a legal framework for achieving gender equality, recognizing women as equal citizens. From guaranteeing equality before law (Article 14) to ensuring protection against discrimination (Article 15), and mandating equal pay (Article 39(d)), the Constitution envisions an inclusive society. However, the gap between constitutional guarantees and social realities remains wide. Women still face systemic inequalities in access to resources, representation, and decision-making. This research critically examines the constitutional provisions, their implementation, and the challenges in realizing women empowerment.

Review of Literature:

Neera Desai and Usha Thakkar (2001) in *Women in Indian Society* emphasized that constitutional provisions laid the foundation for gender justice but required socio-political movements for realization.

Lotika Sarkar (1999) discussed the inadequacy of legal measures in addressing deep-rooted patriarchy, pointing out that women's rights often remain symbolic.

Flavia Agnes (2004) highlighted judicial activism in cases like *Vishaka v. State of Rajasthan* (1997) as a milestone in protecting women's rights.

Bina Agarwal (1994) in *A Field of One's Own* argued that empowerment must go beyond legal frameworks to address control over resources.

Recent reports (**NITI Aayog, 2020**) suggest India's low Global Gender Gap Index ranking reflects the gap between constitutional ideals and societal implementation.

Objectives:

O₁: To examine the constitutional provisions related to women's rights and empowerment.

O₂: To critically analyze the impact of these provisions on women's social, economic, and political status.

O₃: To identify the challenges and gaps in translating constitutional guarantees into practical empowerment.

O₄: To provide recommendations for strengthening women's empowerment through constitutional and policy measures.

Hypotheses:

H₁: Constitutional provisions have significantly contributed to women's empowerment in India.

H₂: Despite constitutional safeguards, patriarchal structures and socio-economic inequalities limit women's empowerment.

Methodology:

Nature of Study: Qualitative, analytical, and critical review.

Sources of Data:

Primary sources: The Constitution of India, judicial pronouncements, parliamentary debates.

Secondary sources: Books, journal articles, government reports, National Commission for Women (NCW) publications.

Method of Analysis: Content analysis and critical review of legal provisions, supported by case studies and statistical data.

Discussion:

The Indian Constitution provides an extensive framework for women's rights and empowerment. It has been discussed under the following heads like Fundamental Rights, Directive Principles of State Policy, Judicial Interventions and Legislative Measures.

Fundamental Rights:

Article 14: Equality before law, Equal protection of the laws

Article 15(1): Prohibition of discrimination on the basis of sex.

Article 15(3): Special provisions for women and children.

Article 16: Equal opportunity in public employment.

Directive Principles:

Article 39(d): Equal pay for equal work.

Article 42: Maternity relief.

Article 45: Free education for children, indirectly empowering women.

Judicial Interventions:

Cases like *Vishaka v. State of Rajasthan* (1997) established guidelines against workplace harassment,

Shayara Bano v. Union of India (2017) struck down instant triple talaq, strengthening women's rights.

Legislative Measures:

Dowry Prohibition Act (1961),

Protection of Women from Domestic Violence Act (2005) and Reservation for women in local bodies (73rd and 74th Amendments).

Fundamental Rights and Women Empowerment in India:

Article 14: Equality Before Law

Article 14 of the Indian Constitution declares that *"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."* This Article is the pivot of the right to equality, embodying two main principles:

1. **Equality before law** — which means that every individual, regardless of gender, caste, creed, or status, is subject to the same laws of the land.
2. **Equal protection of the laws** — which obliges the State to provide equal legal protection to all individuals in similar circumstances.

For women, Article 14 guarantees that they stand equal to men in the eyes of law. It has been used to challenge discriminatory practices such as unequal pay, gender bias in employment, and exclusionary laws. The judiciary has played a proactive role in interpreting this article in a liberal and progressive manner.

For example, in ***Air India v. Nargesh Meerza* (1981)**, the Supreme Court struck down discriminatory service conditions that forced air hostesses to retire upon marriage or first pregnancy, citing violation of Article 14. Similarly, in ***Anuj Garg v. Hotel Association of India* (2008)**, the Court invalidated Section 30 of the Punjab Excise Act that prohibited women from working in bars, emphasizing that protectionist measures should not become instruments of oppression.

Thus, Article 14 forms the foundation of gender justice and sets the constitutional standard for equality in all spheres—social, economic, and political.

Article 15(1): Prohibition of Discrimination on Grounds of Sex

Article 15(1) explicitly prohibits the State from discriminating against any citizen “*on grounds only of religion, race, caste, sex, place of birth or any of them.*” This provision ensures that women are not denied access to public spaces, opportunities, or services merely on the basis of their gender.

The constitutional intent was to eliminate traditional patriarchal practices and societal structures that excluded women from equal participation. The framers of the Constitution were aware of the deep-rooted gender bias prevalent in Indian society, and therefore, they constitutionally mandated gender neutrality in governance, employment, and public welfare.

This article has empowered women to challenge discriminatory norms. For instance, restrictions on women’s entry into temples (e.g., the **Sabarimala case, 2018**) were contested as a violation of Article 15(1) in conjunction with Article 25 (freedom of religion).

Hence, Article 15(1) plays a vital role in the legal architecture for women’s emancipation, aiming to dismantle gender-based barriers and guarantee equal rights in public life.

Article 15(3): Special Provisions for Women and Children

While Article 15(1) prohibits discrimination, Article 15(3) empowers the State to make *special provisions* for women and children. This clause recognizes that formal equality alone is insufficient in a society where women have historically been disadvantaged.

It allows for **positive discrimination** or **affirmative action** — measures like reservations, special welfare schemes, and protective laws. Examples include:

- Reservation of seats for women in local self-government institutions (Panchayats and Municipalities) under the **73rd and 74th Constitutional Amendments (1992)**.
- Special benefits like maternity leave, free education for the girl child, and exclusive employment schemes for women.

The rationale behind Article 15(3) is **substantive equality** — not merely treating everyone the same but providing special support to uplift those who have been marginalized. The judiciary has consistently upheld this spirit.

In **Dattatraya v. State of Bombay (1953)**, the Bombay High Court ruled that special provisions for women do not violate the principle of equality but strengthen it by addressing real-world disadvantages.

Article 16: Equality of Opportunity in Public Employment

Article 16 guarantees equality of opportunity in matters relating to employment or appointment to any office under the State. Clause (2) reiterates that no citizen shall be discriminated against on grounds of sex, among others.

This article ensures that women have equal access to jobs in government and public institutions. It mandates merit-based selection and prohibits gender-based exclusion from services. However, to promote genuine

equality, the State can adopt special recruitment drives or relaxation of norms for women candidates, aligning with Article 15(3).

The judiciary has repeatedly emphasized that gender cannot be a disqualifying factor for any public employment. For example, in **C.B. Muthamma v. Union of India (1979)**, the Supreme Court struck down service rules that discriminated against married women in the Indian Foreign Service, affirming that such bias was unconstitutional under Articles 14 and 16.

Therefore, Article 16 operationalizes the broader equality principles by ensuring women's participation in the public workforce and decision-making bodies.

Directive Principles of State Policy (DPSP):

Article 39(d): Equal Pay for Equal Work

Article 39(d) directs the State to ensure that men and women receive equal pay for equal work. Although not enforceable by courts, this Directive Principle has been judicially recognized as a constitutional right under Article 14.

The Supreme Court in **Randhir Singh v. Union of India (1982)** held that “equal pay for equal work” is not merely a Directive Principle but a constitutional goal enforceable through equality provisions. This principle has guided labour laws and wage reforms, aiming to eliminate gender-based wage disparity — a persistent issue in India's workforce.

It promotes both **economic justice and gender equality**, ensuring that women's labour is not undervalued due to social prejudice or occupational segregation.

Article 42: Maternity Relief

Article 42 directs the State to make provisions for securing just and humane conditions of work and for maternity relief. It acknowledges women's biological role in childbirth and their need for protection during maternity.

This article has been the foundation for laws like:

- The **Maternity Benefit Act (1961)** and its amendments (especially in 2017, extending paid maternity leave to 26 weeks).
- Workplace facilities like crèches, restrooms, and medical support.

The objective is to ensure that motherhood does not become a barrier to women's employment or advancement. The article reflects a humane and compassionate approach to gender equality by safeguarding women's reproductive rights within the workforce.

Article 45: Free Education for Children

Article 45 originally directed the State to provide free and compulsory education for all children up to the age of 14 years. The 86th Constitutional Amendment (2002) later transformed this into a Fundamental Right under Article 21A.

This provision indirectly empowers women by:

- Promoting female literacy and reducing gender disparity in education.

- Breaking the intergenerational cycle of discrimination.
- Enhancing women's participation in socio-economic and political spheres.

Education serves as the foundation for women's empowerment—improving awareness of rights, health, and opportunities. By educating girls, Article 45 lays the groundwork for a more equitable and progressive society. [The Constitution of India. Government of India, Ministry of Law and Justice, Updated 2023 Edition]

Judicial Interventions for Women's Rights:

The judiciary has played a pivotal role in strengthening women's rights through landmark judgments:

1. Vishaka v. State of Rajasthan (1997): This case arose from the brutal gang rape of a social worker in Rajasthan. The Supreme Court, in the absence of specific legislation, laid down the Vishaka Guidelines to prevent sexual harassment at workplaces, treating it as a violation of Articles 14, 15, 19, and 21. These guidelines later formed the basis for the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

2. Shayara Bano v. Union of India (2017): The Court struck down the practice of instant triple talaq (talaq-e-biddat) as unconstitutional, violating women's dignity and equality under Articles 14 and 21. This judgment marked a historic step in reforming personal laws that discriminate against women and paved the way for the Muslim Women (Protection of Rights on Marriage) Act, 2019.

These cases highlight the judiciary's active role as the guardian of constitutional morality, ensuring gender justice and protecting women's dignity. [Supreme Court of India Judgments: Vishaka v. State of Rajasthan (1997); Shayara Bano v. Union of India (2017)].

Legislative Measures for Women's Empowerment

Over the decades, the Indian Parliament has enacted several progressive laws to safeguard and promote women's rights:

1. Dowry Prohibition Act (1961): Prohibits the giving or taking of dowry in marriage. It aims to curb the social evil of dowry-related harassment and violence.

2. Protection of Women from Domestic Violence Act (2005): Provides a comprehensive legal framework to protect women from all forms of domestic abuse — physical, emotional, sexual, or economic — ensuring residence rights and protection orders.

3. Reservation for Women in Local Bodies (73rd and 74th Amendments, 1992): Mandates 33% reservation for women in Panchayati Raj Institutions and Urban Local Bodies. This has significantly increased women's political participation and leadership at the grassroots level, fostering empowerment and gender-sensitive governance.

Together, these legislative measures reflect India's commitment to translating constitutional ideals into practical protections for women. [Sarkar, L. (1999). Women and Law in India, Vikas Publishing.]

So, it can be said that the combined force of Fundamental Rights, Directive Principles, Judicial Interpretations, and Legislative Measures has created a robust constitutional framework for gender equality and women's empowerment in India.

The above discussion about the fundamental rights, Directive Principles of State Policy, Judicial Interpretations and Legislative Measures on the basis of constitutional provisions clearly supports the Objective-1 (O₁) and Objective-2 (O₂) as well as Hypothesis-1 (H₁).

Despite these, following challenges persist and these are Implementation gaps, Patriarchal mindset, Female literacy rate in recent years, Economic inequalities, Female labor force participation and Representation deficit.

1. Implementation Gaps: Laws Exist but Enforcement is Weak

India has an impressive array of constitutional safeguards and legislative measures designed to protect and empower women — such as the Dowry Prohibition Act (1961), Protection of Women from Domestic Violence Act (2005), and the Sexual Harassment of Women at Workplace Act (2013). However, the gap between law and practice remains wide.

The major challenge lies in weak enforcement mechanisms. Many cases of domestic violence, sexual harassment, and dowry deaths go unreported due to fear of stigma, lengthy legal processes, and lack of institutional sensitivity. Law enforcement agencies often lack adequate gender-sensitization training, leading to victim-blaming or procedural lapses. Moreover, the judiciary is overburdened, resulting in delayed justice, which discourages women from seeking legal remedies.

Hence, despite progressive legislation, implementation deficits undermine their effectiveness. Bridging this gap requires strong political will, administrative accountability, and continuous monitoring of law enforcement practices.

2. Patriarchal Mindset: Deep-rooted Cultural Practices Override Legal Norms

Even with constitutional guarantees of equality, India's deep-rooted patriarchal mindset continues to influence social behavior and decision-making. Traditional gender roles often place women in subordinate positions, emphasizing dependence, obedience, and sacrifice.

Such attitudes manifest in various forms — preference for sons, restrictions on women's mobility, control over reproductive rights, and tolerance of gender-based violence. In many communities, customary norms override legal rights, discouraging women from claiming property, education, or employment benefits guaranteed by law.

True empowerment thus demands not only legal reforms but also a cultural transformation — through education, awareness, and gender-sensitive upbringing — to replace patriarchal values with principles of equality, respect, and mutual dignity.

3. Constitutional Provisions and Women Empowerment indicators in India:

This table presents a consolidated view of women's development indicators in India—female literacy rate, female labour force participation rate (LFPR), and women's representation in Parliament (Lok Sabha)—compiled from official national data sources. It visually supports the critical review of constitutional provisions and their practical implications for women's empowerment.

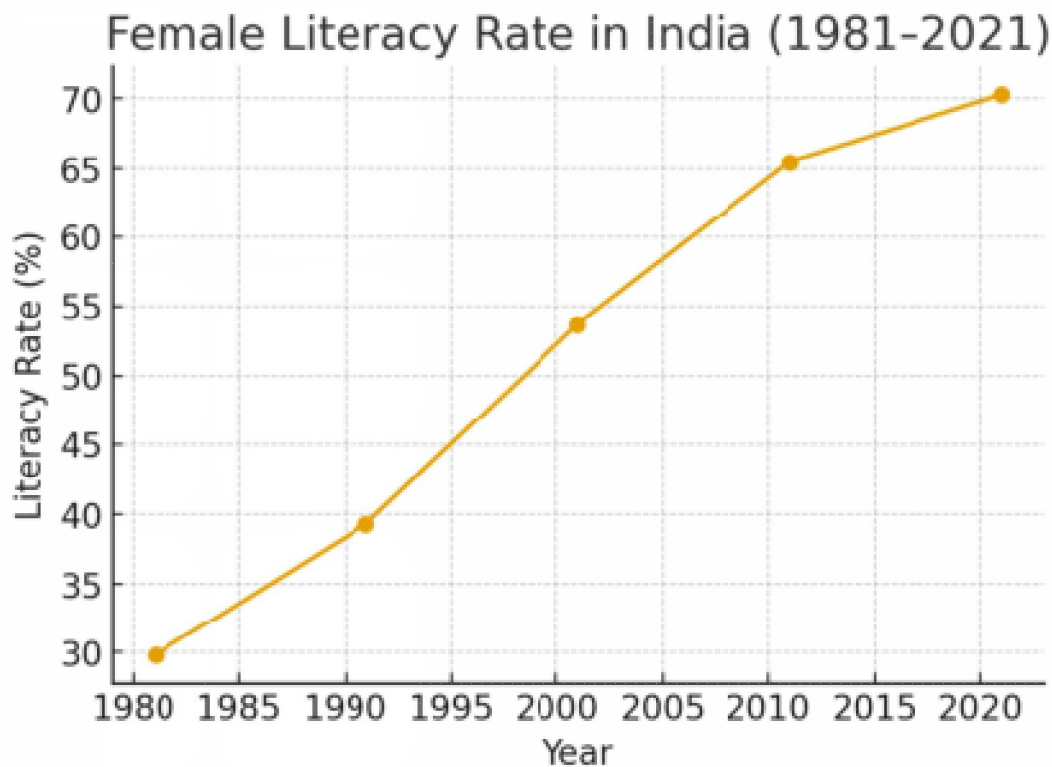
Year	Female Literacy Rate (%)	Female LFPR (%)	Women MPs in Lok Sabha (%)
1981	29.8	-	-
1991	39.3	-	-
2001	53.7	-	-
2011	65.5	-	-
2021	70.3	-	-
2005	-	32.0	-
2010	-	29.0	-
2015	-	27.0	-
2020	-	21.0	-
2023	-	24.0	-
1952	-	-	4.4
1980	-	-	6.0
2000	-	-	8.0
2014	-	-	11.0
2019	-	-	14.4
2024	-	-	15.2

[Data Sources:

1. Census of India (1981–2021): Female literacy rate data.
2. National Sample Survey Office (NSSO) / Periodic Labour Force Survey (PLFS, 2005–2023): Female LFPR data.
3. Election Commission of India and Lok Sabha Secretariat Reports (1952–2024): Data on women Members of Parliament.
4. NITI Aayog, India Gender Equality Reports (2020–2023): Supplementary validation.]

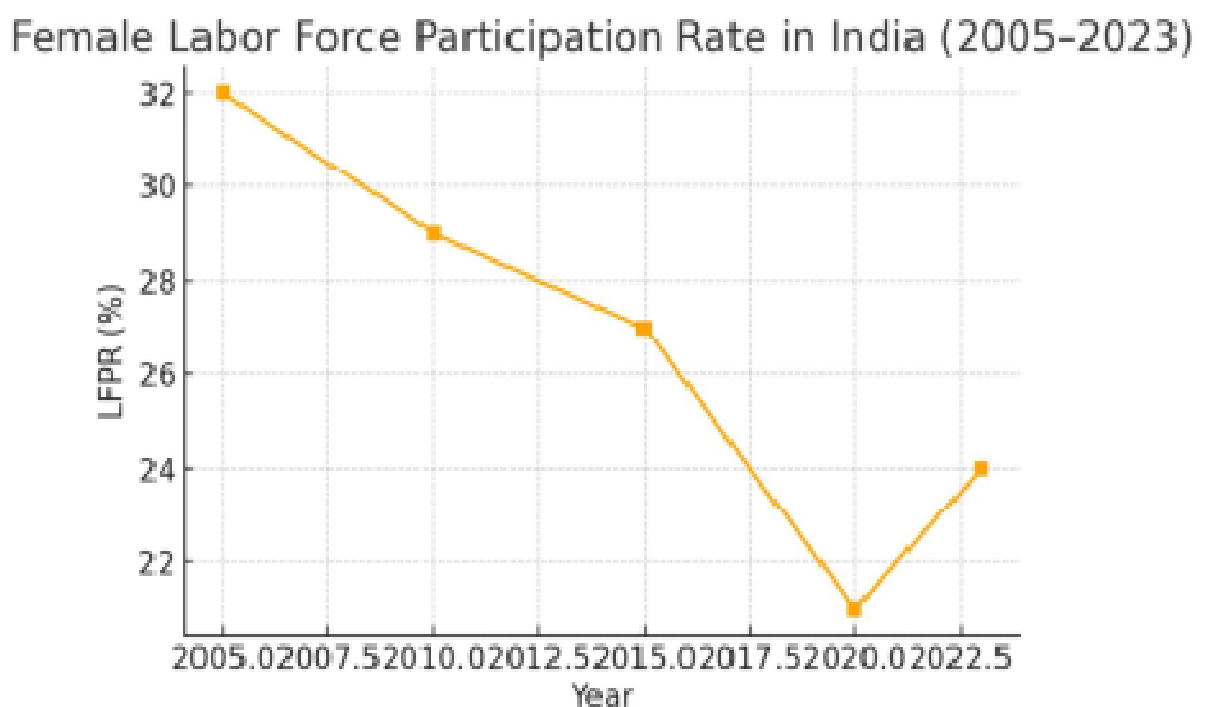
Female Literacy Rate (1981–2021):

Shows steady progress, from under 30% in 1981 to over 70% in 2021.



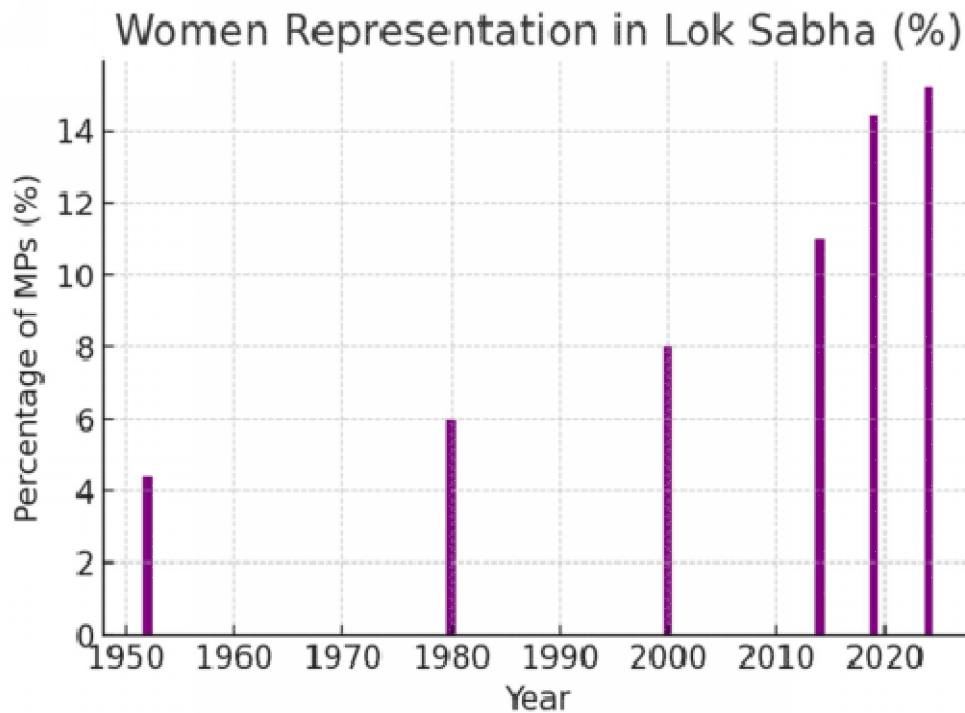
Female Labor Force Participation Rate (2005–2023):

Reflects a declining trend, dropping from 32% in 2005 to only about 24% in 2023, despite rising literacy.



Women's Representation in Lok Sabha (1952–2024):

Reveals gradual improvement—from only 4.4% in 1952 to around 15% in 2024, still below global averages.



Therefore, the above statistical charts regarding Female Literacy Rate (1981–2021), Female Labor Force Participation Rate (2005–2023) and Women’s Representation in Lok Sabha (1952–2024) validate and strengthen the discussion and vividly supports the Objective-3 (O₃) and Objective-4 (O₄) as well as Hypothesis-2 (H₂). While challenges remain — including persistent patriarchy, wage gaps, and underrepresentation — the Indian Constitution remains a living document that continues to evolve toward its vision of justice, equality, and dignity for all women.

Findings:

1. The Constitution laid a strong foundation for women’s empowerment, but implementation remains uneven.
2. Legal reforms and judicial activism have advanced women’s rights, yet structural and cultural barriers persist.
3. Empowerment is more visible in urban, educated sections; rural and marginalized women face multiple layers of discrimination.
4. Constitutional provisions require stronger enforcement mechanisms, coupled with social transformation.

Conclusion:

The Indian Constitution remains a progressive document in guaranteeing gender equality and empowering women. However, empowerment is not merely a legal-constitutional issue but also a socio-cultural challenge. While constitutional safeguards have enabled progress, true empowerment requires dismantling patriarchal structures, improving political representation, and ensuring economic independence. And the rising female literacy rate in recent years in India is gradually showing a glimmer of hope. A holistic approach—combining legal reforms, effective implementation of constitutional provisions, social awareness regarding women empowerment, and educational empowerment—is necessary to bridge the gap between constitutional ideals and societal realities.

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