

Governing the Labour Market: The Impossibility of Corporatist Reforms

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1. NEO-CLASSICAL RATIONALITIES FOR LABOUR MARKET GOVERNANCE

This paper argues that a return to corporatist governance structures is impossible in Pakistan. Section 1 outlines neo-classical labour market regulation rationalities presented by Hayek, Wieser, and Sen. Section 2 compares and contrasts Fordist and Post-Fordist modes of labour market regulation. And Section 3 seeks to establish the impossibility of institutionalising corporatist governance structures in the labour markets of Pakistan.

Neo-classical theory sees relations between labour and the representatives of capital ('managers') as relations created spontaneously by individuals in the pursuit of their rational self-interest. The capitalist individual, be he labourer or manager, defines 'maximisation of utility' as his 'rational self interest', and order within the labour market requires a reconciliation of individual (the labourer's) and aggregate (the manager's) utility maximisation (with aggregate utility maximisation being represented by shareholders value). Labour market order is thus impeded if:

- The worker is not committed to utility maximisation—a normal characteristic of non capitalist societies.¹
- The manager is not committed to the maximisation of share holders value (the agency problem).
- Strategies for maximising individual utility frustrate strategies for maximising shareholders' value or vice versa.

As Menger argues (1963: pp. 17–44), the establishment of capitalist property² is expected to erode all three impediments and the regulatory role of the state in the

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¹In pre-capitalist societies the fundamental unit of production and consumption is the extended household. Neither is the worker within the household committed to utility maximisation nor are duties and entitlements within the household and among households distributed on the basis of the profit maximisation principle.

²Capitalist property is property (a) dedicated to accumulation (b) subject to valuation by financial markets on the basis of its contribution to capital accumulation and (c) controlled by a technocratic élite which specialises in accumulative skills (managers). Normally capitalist property takes the form of corporate property [Meszaros (1995), pp. 66–69].

labour market, as elsewhere, is focused on giving legal and political legitimacy to capitalist property rights. This is the established neo classical position in contradistinction to the classical view that capitalist property may engender conflict between capital and labour.

Neo-classical economics presumes capitalist individuality in a way in which classical economics does not. In abstracting from the specific social and historical context within which economic activities take place, neo-classical economics developed a pure or abstract theory of rational choice which presumes an asocial rationality of utility maximisation. It sought to show how the rational utility maximising individual ought to behave and measured the behaviour of all individuals within capitalist society on the basis of this ideal. The norms of neo classical theory thus formally circumscribe its positive analysis.

Almost all major neo classical pioneers recognise that the “rational” world as pictured in pure neo classical theory did not—and could not—exist and that the application of neo classical principles to real world problems necessarily involved the advocacy of reforms to correct the ‘distortions’³ which impede the achievement of the harmonious equilibrium defined by pure theory. Neo classical economics thus played a vital role in defeating the “new union” militancy of 1880–1900 especially in Britain, France and Austria [Cliff (1989), Chap. 7]. Neo-classical economists within the national labour movements sought to demonstrate the necessity and possibility of reform as an alternative to the revolutionary overthrow of capitalist order. Neo-classical economics offered a distinct theory of society in order to justify capitalist order.⁴ Neo-classical economics is primarily concerned with understanding the need for and the limitations of state regulation of (utility and profit maximising) commodity and factor markets.⁵ Above all neo classical economists within the European labour movements sought to identify the scope for state regulation of the capital-labour relationship.

However neo classical economics is fundamentally handicapped in its quest for identifying the extent and form of legitimate state regulation of labour management relations. “Relations of production” are formally outside the ambit of neo-classical analysis because production is seen as purely a technical process in which “factors of production” are employed in technically determined proportions. Marginal productivity theory can identify the utility/profit maximising wage rate within a general equilibrium price determination system—but identifying the conditions of work and the intra and inter market organisational processes which generate this “equilibrium” wage is quite another matter. Those among neo-classical economists who studied the question of labour market regulation recognised that conditions in the labour market do not permit supply side decisions to be spontaneous and unconstrained expressions of individual (utility maximising) rationality. Moreover forcing the individual labourer to accept a wage the

³The question, where did these “distortions” come from, was addressed by the sister discipline of sociology which developed roughly in the same historical epoch as neo classical economics (roughly 1870 to 1925).

⁴It is therefore simplistic and naive to accept neo-classical economics’ claims that it is merely a method of technical analysis devoid of any metaphysical and socio-political assumptions.

⁵Joseph Stiglitz may be seen as inspired by the pioneer neo-classical marginalists in his concern to legitimate the role of state intervention within the context of a neo-classical policy paradigm (2002 chap 1 and 3 *passim*). A more “political” version of this same argument is presented by Gray (1999).

opportunity cost of which is starvation may be against the interests of capitalist order as a whole (as this may impede aggregate utility/profit maximisation).⁶

Regulation of the labour markets is legitimate if it reduces the ‘distortions’ that prevent equalisation of wages with the marginal productivity of labour. The labourer must be enabled to participate in genuinely utility maximising exchanges. The price he gets for his labour must be a genuinely freely chosen price, at least in the sense that the consumer in the goods market “chooses” the price for the good he purchases. In principle no neo classical economist could object to such regulation for all of them vehemently rejected the ‘wage fund’ theory according to which wages were shared out of a fixed sum [Schumpeter (1949), pp. 343–344] as well as the view that profits are residual.⁷ For wages to be a “natural”, i.e. legitimate category, it must be freely chosen by the labourer in quest for utility maximisation. It must not be arbitrarily fixed or related to the prices of other factors of production. It must be labour’s own reward for the contribution it makes to aggregate utility maximisation. If the labour market failed to generate such a wage then conditions of competitive equilibrium must be restored through state regulation. We now discuss the views of three economists regarding the justification and extent of such labour market regulation.

1.1. Hayek

Hayek’s labour regulation policy is based on his own ideal version of liberal order. He is critical of the neoclassical understanding of the free market economy in terms of ‘general equilibrium’. In Hayek’s view the ‘general equilibrium conception of liberal order’ ends up with an endorsement of expanded government intervention. [Hayek (1967a)]. This is so because ‘Walrasian’ neo-classicals admit the possibility of centralisation of knowledge in one mind or institution, and hence endorse the possibility of ‘central planning’. Hayek offers his own theory of liberal order which has two ingredients: (a) evolutionary interpretation of all phenomena of culture and mind⁸ and (b) limits of the powers of human reasoning.⁹ According to this view, whatever knowledge an external observer has must be limited, and as a society grows more technical and complex, the proportion of knowledge available to the individual becomes smaller. Hayek recognises the existence of a ‘division of knowledge’—the knowledge (of *time and space*) dispersed among merchants and traders in decentralised markets which allows them to respond to events more efficiently than a centralised planner can [Barry (1979)].

⁶Keynes made much the same point in his discussion of under full employment equilibrium and deficient consumption (1967, pp. 311–317).

⁷Jevons wrote “I conceive that the returns to capital and labour are independently determined” (1970, p. 177).

⁸The central idea behind this version of liberalism is that ‘under the enforcement of universal rules of just conduct, protecting a recognisable private domain of individuals, a spontaneous order of human activities of much greater complexity will form itself than could ever be produced by deliberate arrangements’ [Hayek (1967a), p. 162].

⁹The justification of such a liberal social order is largely based on Hayek’s theory of knowledge which emphasises man’s *ignorance* [Hayek (1946)]. His thesis of man’s limited knowledge is not merely an empirical one. It is not a contingent fact about men which may be altered by some technological advancement. It is a philosophical thesis about the form in which knowledge exists in the world and about the way in which the mind becomes aware of this knowledge. The sum total of knowledge, to Hayek, existing in any society will be fragmented and dispersed throughout the members of that society which cannot be centralised in a single mind or institution.

To Hayek, capitalist markets, including labour markets, are formed by self-generating *spontaneous order* in social affairs based on abstract rules which leave the individual, whether he be consumer, employee or employer, free to use his own knowledge and skills for rational ends. He contrasts this spontaneous order with what he calls *organisation* or *arrangement* based on commands. He proposes the use of the term '*catallaxy*' for an order which is independent of socially determined ends emerging spontaneously from the voluntary transactions of individuals.¹⁰ One area where he applies this idea of catallaxy is in the field of '*distributive justice*' related to input markets. Since catallaxy does not serve any social purpose, therefore the 'just-remuneration' or 'just distribution of income' would be one which forms itself spontaneously in the labour market in the absence of fraud, violence and privileges. According to Hayek, rights based conceptions of justice (e.g. Rawlsian) make sense only within an 'organisation' whose members act under command in the service of socially determined ends. It has no meaning in catallaxy or spontaneous order. Within catallaxy, distribution of income is not designed by any single individual's intentions and no individual can foresee what each participant will get, therefore any distribution of income cannot be regarded as just or unjust unless proved that it was created by fraud, violence or privilege. It is for this reason that Hayek proposes the term 'dispersion' rather than 'distribution' of income because no one distributes income in a spontaneous market order [Hayek (1967a)]. Thus, 'all endeavors to secure a regime based just distribution must be directed towards turning the spontaneous order into an organisation' [Hayek (1967a), pp. 171].

It is for this reason that Hayek rejects *trade unions*, which he calls labour monopolies. He believes that trade unions are a greater threat to the smooth functioning of competitive market order than monopoly firms [Hayek (1960)]. Trade unions are usually given special privileges—privileges not enjoyed by any other association or individual in capitalist societies—in the form of complex discriminatory laws which are used mainly against the workers themselves by denying them the right of free association and free movement. Labour market distortions are also enhanced by faulty monetary policy [Hayek (1967b)]. The idea that it is the responsibility of the state to create additional spending power to mop up unemployment, hands over to the unions massive economic power that would not have emerged from the voluntary transactions of individuals in a *catallaxy* [Hayek (1960), pp. 327-328]. Hayek argues that such powers of unions are not a result of anything *they* can do, but a result of the general acceptance in the field of labour policy of the view that 'ends justify means'. This is further enhanced by the fact that 'public policy is guided by the belief that it was in the public interest that labour should be as comprehensively and completely organised as possible, and that in the pursuit of this aim the unions should be as little restricted as possible' [Hayek (1967b), pp. 281].

Another labour market tendency that Hayek believes is a serious threat to spontaneous capitalist market prosperity is the complaint about the injustice of results generated by market order. The most important of these complaints is not against the

¹⁰Hayek stresses that such a 'multi-objective' spontaneous order should be called '*catallaxy*' and not '*economy*' because the latter term carries with it a sense of deliberate organisation of a stock of resources in the service of a single order of ends, while the defining feature of a catallaxy is that it neither seeks to enforce a unitary scale of concrete ends nor attempts to secure some particular view to govern society on the principle of 'what is important and what is less important' [Hayek (1967a), p. 165].

extent of inequality of the rewards, 'but the demand for protection against an undeserved descent from an already achieved position. More than by anything else the market order has been distorted by efforts to protect groups from a decline from their former position...in the name of social justice' [Hayek (1967a), pp. 171-172]. New privileges have been created.¹¹ In a competitive market, the fact that a group of people have reached a certain relative position cannot be used to make a justice claim for maintaining this position because it is not possible to defend this rule by applying it to all. 'The aim of economic policy', according to Hayek, 'of a free society can therefore never be to assure particular results to particular people' [Hayek (1967a), p. 172]. Thus state financed unemployment benefits, health insurance services, downward wage floors etc. do not fit into the Hayekian scheme of labour market regulation. Such policies augment wage rigidities and create inflation [Hayek (1967c)]. For Hayek, 'government actions must not be made to serve particular ends' [Barry (1979), p. 109]. Incomes policy by fixing the price of labour differently from its market price must lead to the direction of labour to ends considered desirable by government. According to Hayek, an ideal spontaneous order is guaranteed only when the enforcement of the rules of 'just conduct' is strictly observed and the coercive powers of government are restrained by the *rule of law*.

There are some labour market interventions that Hayek regards as desirable. One interesting example comes from a much debated question of *licensure*—the practice of permitting only those with the prescribed qualifications to enter into certain professions [Hayek (1960), p. 227]. This may seem to imply discrimination in law between individuals, but Hayek believes that licensure is consistent with the rule of law if conditions required are laid down in the form of general rules and if everyone possessing those necessary skills has the right to practice the trade in question.

1.2. Wieser

Wieser was among the neo-classical pioneers who spelt out most clearly the regulatory requirements for sustaining equilibrium in the labour markets. His neo classical credentials are impeccable. He termed the values derived by neo classical pure theory "as natural values for the value of a good depended only on its scarcity relative to human desires. In the same way the theoretical values of wages, rent and profit depend solely on the scarcity and productivity of the factors of production to which they correspond" [Weiser (1951), p. 184]. According to Wieser, "the general price (identified on standard neo classical principles) is found to be the just or equitable price where the general conditions are considered satisfactory and morally and legally correct" [Wieser (1951), p. 181].

However Wieser did not find "the general conditions" prevalent in the twilight years of Habsburg Austria to be "satisfactory and morally and legally correct". He therefore developed the sub discipline of "social economics"¹² to study the social

¹¹According to Hayek, 'the position(s) thus protected were the result of the same sort of forces as those which now reduce the relative position of the same people, that their position for which they now demand protection was no more deserved or earned than the diminished position now in prospect for them, and that their former position could in the changed position be secured to them only by denying to others the same chances of ascent to which they owed their former position' [Hayek (1967a), p. 172].

¹²"Social Economics" has now largely collapsed into mainstream sociology which is perhaps natural for Wieser's writings had a greater impact on Max. Weber's thought than the work of any other single author.

framework of capitalist economic activity. Wieser studied the distribution of income and wealth, labour market conditions, causes of unemployment, problems associated with the growth of poverty and the conditions of the sick. He sought to study the capitalist social infrastructure on the basis of the neo classical analysis of capitalist markets. Essentially this is an elaboration of Menger's effort to trace the origins of capitalist institutions—exchange, the division of labour, money etc—to individual behaviour. For Wieser—as for Weber as well to a lesser extent for Schumpeter¹³—the imperfections of capitalism's institutional structure arise from the fact that capitalist economic order is based on the pursuit of personal interests but this makes it possible for individuals to use their power to over ride the general interest (maximisation of total utility / profit) of capitalist order. The central task of theory is thus to identify conditions in which individual power ought to be curbed because it was in opposition to the general interest of capitalist order—a problem at least partially recognised by several neo classical economists in their discussion on monopoly.

Curbing individual power required reforms centered on the labour market for according to Wieser “almost everywhere in Europe the proletariat has come forward with such strength that must be considered and a counter reform of the economic order should be proposed” [Wieser (1951), p. XVII]. The purpose of this “counter reform” is “to refute the socialist reform of the prevailing order” [Wieser (1951), p. 411]. Wieser develops a theory of the “simple economy” where all individuals adopt a “rationalistically utilitarian point of view” [Wieser (1951), p. 11]. It is only in this “simple economy” that the optimum allocation of resources is achieved spontaneously through the equalisation of relative marginal utilities. Capitalist property is absent from the “simple economy”. Capitalist property confers power on its owners and controllers and neo classical theory fails to take account of this fact.¹⁴ Hence “an economic theory that should suffice for our times is in-conceivable without a social theory that is consistent with the fact of power” [Wieser (1951), p. 144].

Power according to Wieser bestows a favourable market position on its holder—the owner and manager of capitalist property. The isolated abstract individual is not present in the typical capitalist market where “the individual's needs, impulses and egoism are dominated by social forces” [Wieser (1951), p. 154]. Economic rationality is embedded in the norms of capitalist society and through education and organisational discipline “individual egoism (can be) transformed into social egoism” [Wieser (1951), p. 160]. This “social egoism” can subordinate individual egoism in normal times and in the absence of “crises and panics”.¹⁵

¹³It is interesting to note that Wieser's *Social Economics* was part of a series of books edited by Max Weber which was subsequently to include both Weber's *Economy and Society* and an earlier German version of Schumpeter's *History of Economic Analysis*.

¹⁴Wieser calls attention to the dangers of pure neo classical economics. “It has supplied the most important elements of the (socialist) argument ... (by) vindicating capitalist dominance” [Wieser (1951), p. 411].

¹⁵Wieser writes “the normative regulation of egoism means that ... (in) .. a (social) economy... production values are unified and concentrated and their individual apportionment to the individual branches of production takes place as (if) by a social plan. The spirit of a social economy is complied with ... (thus) where the general conditions are considered satisfactory... the general price is found also to be the just or equitable price” (1951, pp. 206, 184).

However Wieser argued that polarisation of power in the labour market is too great for such normative restraint to be effective. He believed that “over competition” among the poor forced down wages and “over competition” among capitalists led to over production. Regulatory control of both product and factor markets was therefore necessary. Moreover regulation of competition is also necessary because the typical outcome of competitive straggles is increased monopoly—this leads to a proletarianisation of the middle classes and de skilling of labour. The capitalist employment contract also erodes labour’s willingness to work as proletarian misery becomes too glaring [Wieser (1951), pp. 383, 384, 391, 405 and passim]. Thus extremes of wealth and poverty, class polarisation, over work and unemployment, centralisation and concentration of capital, overproduction and cultural deprivation are characteristic of mature capitalist society. These are described in graphic detail in the later chapters of his book *The Social Economy*.

Reforms are needed to eliminate the abuse of power from capitalist society. Unlike von Mises and Hayek, Wieser did not see this abuse of power emerging from state intervention, union power, ignorance and monopolisation. It arises in Wieser’s view from intensified competition within capitalist markets¹⁶ and from under regulation of the market by the state. He argued strongly for an extension of the legal and administrative regulation of the labour market. A brief list of labour market related reforms advocated by Wieser would include [Wieser (1951), pp. 391, 410, 415, 462–464, 474–79, XII–XIV and passim]:

- promotion of trade unions and recognition of the right to strike,
- employment and income protective legislation,
- factory legislation for regulating the conditions of work,
- compulsory social insurance for all employees,
- a state housing policy covering the working class,
- establishment of municipal enterprises,
- establishment of state enterprise in key economic sectors,
- control of land speculation and associated tenurial reforms,
- rigorous state regulation of financial markets.

These reforms would eliminate the abuse of power in capitalist labour markets without impeding the flourishing of capitalist individuality, capitalist property and associated transaction forms. In Wieser’s view expanding the boundaries of state regulation of the labour market would strengthen capitalist order for the deficiencies that lead to the abuse of power were not inherent in capitalist order. According to Wieser the capitalist economy alone is able to allocate resources efficiently so that production is maximised. However capitalism “is a system of rules which distributes very unequally the enormous gains to which it is instrumental. (Nevertheless) it is much more beneficial to the mass of the citizens than another (economic system) doling out its much smaller proceeds” [Wieser (1995), p. 385]. Wieser’s thought thus represents something of a bridge between orthodox liberal and social democrat

¹⁶Wieser’s criticism of monopoly is essentially a critique of monopolistic competition and oligopolistic collusion.

thinkers.¹⁷ An advocacy of competition restrictive reforms does not require a rejection of the neo classical paradigm. It can be grafted onto this paradigm as we will also see in our discussion of A. K Sen's views.

1.3. Sen

Sen's neo-classical roots are reflected in his acceptance of the view that the market economy is the most effective means for allocating resources and attaining development. Sen identifies state neglect as a principle cause of social deprivation [Sen (2001), p. 127]. The core of Sen's conception of justice is 'to favour the creation of conditions in which people have real opportunities of judging the kind of lives they would like to lead' and to focus 'particularly on people's capability to choose the lives they have reason to value' [Sen (2001), p. 63].¹⁸ Sen's conception of justice, thus, endorses state intervention in the labour market to enhance capabilities.

Sen seeks labour market intervention for eliminating unemployment because the unemployed suffer not only loss of income, but also psychological distress, loss of motivation, skill and self-confidence, disruption of family relations and social life etc. [Sen (2001), p. 94]. Unemployment leads to the social exclusion of the unemployed. Sen argues that the ideal of a free market in which a large number of buyers and sellers interact with none having significant influence is no longer an accurate description of capitalist markets [Cole, Cameron, and Edward (1983)]. Therefore, decisions about 'who is to be employed' and 'at what wage' are not the outcomes of anonymous market forces. These decisions are the products also of power struggles where people are discriminated against. Sen points to the existence of *interest groups* reflecting the fact that market outcomes depend not only on what markets do, but also on what they are allowed to do by those whose established interests are hurt by the smooth functioning of markets [Sen (2001), p. 120]. Sen's multi-sided approach to development provides justification, for state intervention beyond state-financed income-support policies. The protection of jobs through expansion of labour's collective rights is legitimated. Restricting 'employment at will' management practices is also justified [Sen (1997)].

The task of identifying marginalised individuals and groups in capitalist societies is a central theme in Sen's discourse. Labour market practices specially in developing countries can lead to major deprivation and denial of human rights [Sen (2001), pp. 112-116]. Bondage labour exists in many countries in Asia and Africa as does child labour. Both are regarded as 'virtual slavery' by Sen who argues that it is not sufficient to abolish these forms of labour exploitation. The state must provide resources to ensure that existing and potential victims have the resources to refuse such labour contracts. The freedom of women to seek employment away from the family is another major concern for Sen. For him 'the denial of the right to work outside the home is a momentous violation of women's liberty' and the state must devise effective policies to change the prevailing public conceptions of 'normality' and 'appropriateness' related to social responsibilities of women so as to ensure their effective participation in labour markets.

¹⁷Foreshadowed by J. S. Mill and T. H. Green in the nineteenth century and currently represented by authors such as Jeffery Sachs and Joseph Stiglitz.

¹⁸Sen calls this the '*Capability Approach to Justice*' as opposed to the utilitarian approach. Sen equates capabilities of a person with his opportunities to make use of alternative choices.

Many of these policies could be interpreted by Hayekian policy makers as means for eliminating 'fraud, violence and privilege' and therefore not requiring expansion of labour's collective rights. However Sen's clear emphasis on expansion of the state's responsibilities in determining labour's income and conditions of work reflect his acceptance of the view that in capitalist markets the individual labourer is relatively unfree and the law and state practice must provide resources for mitigating this relative deprivation of power.

2. FORDIST AND POST-FORDIST REGIMES OF LABOUR MARKET REGULATIONS

Both Fordist and post Fordist labour market regulatory regimes accept the rationality of capitalist order but they reflect different interpretations of neo classical theory with regard to labour market governance. The term 'Fordism' first appears in the writings of Antonio Gransa (1971) and Fordist regulation was widely practiced (in different variants in most Western European and North American countries during (1935–1980)).¹⁹ The main features of Fordist regulatory order are.

- Increased regulation of financial, labour and (to a lesser extent) of commodities markets by the state.
- Development of complex managerial hierarchies and the bureaucratisation of decision making within the firm.
- The growth of nationally organised trade union federations also organised in a bureaucratic manner.
- Emergence of nationally organised federations of employers' associations.
- The recognition of trade unions as legitimate participants in national governance and the emergence of a corporatist state.
- Institutionalisation of collective bargaining at the firm and the industry level.
- The dominance of the economy by the manufacturing sector, which concentrates a disproportionally large section of workers within a small number of manufacturing industries.
- Agglomeration of major industries within distinct regions of the national economy.
- A rapid and sustained increase in the economically viable size of the firm, in terms of both employees and fixed assets in the leading industries.
- Dominance of the national economy by monopolies.
- State policy is legitimated by modernisation and nationalistic references. This usually results in the creation of the structures of a social democratic welfare state.
- The pursuit of a high wage policy by both the state and the firm.

In the early 1980s the Fordist regulatory order was rapidly dismantled. In Europe this process of dismantling began with the collapse of Mitterand's original policies and despite trade union resistance labour's collective rights have been significantly eroded in

¹⁹Fordism of course has implications wider than the regulation of the labour market. These are described in detail in Lash and Urry (1987, pp. 1–17) and Rupert (1995).

subsequent decades.²⁰ A new form of labour market regulation has emerged described as 'flexible specialisation' or 'Post Fordism [Amin (1999)]. The main features of the Post Fordist mode of regulation may be summarised as follows.

- Growth in the relative importance of world markets, multinational companies and international financial institutions in national decision making impacting on labour market outcomes.
- Decline in the authority of national governments in economic policy making.
- Decline in the share of the manufacturing and extractive sectors in production and employment in all metropolitan capitalist countries.
- The rise of service sector workers and large scale decline in union density.
- The decline in labour's collective consciousness especially in the service sector and decline in the political significance of the labour movement.
- The emergence of alternative single issue movement which do not focus on the capitalist employment contract but on issues such as environmental depletion, poverty, women's 'exploitation' etc none of which are central to the capitalist organisation of production and exchange.
- The consolidation of an education based stratification system which fosters individual achievement and mobility and reduces collectivistic (especially class) solidarities.
- Decline in the share of manual workers in total employment.
- Decline in the salience of national level collective bargaining systems and the emergence of company and plant level negotiation procedures and processes.
- Spread of privatisation of state monopolies and associated dismantling of collective bargaining procedures and processes. General withdrawal of the government from wage and conditions of work determination processes.
- Significant reduction in the provision of welfare services by the state.
- Multinational control of major industries located in underdeveloped capitalist countries.
- Americanisation of governance forms and regulatory procedures governing accounting, trade, quality standards, labour and capital market regulation etc.
- Reduction of plant size and increased contracting out of non core activities by major firms.²¹
- Increased use of contract labour.

Industrial relations systems typically combine features of Fordist and post Fordist modes of regulation, with one set of characteristics (Fordist or post Fordist) dominating the other. A classical Fordist regulatory regime has not existed in any phase of Pakistan's

²⁰Several studies on the causes of the disintegration of the Fordist mode of regulation have been produced during the 1990s—the most important by the French neo-Marxist Regulation theorists [Agleitta (2000)]. These studies have been evaluated in Ansari (2001).

²¹A particularly apt description of Post Fordist order is provided by the Neo-Schumpeterian school. The Neo-Schumpeterian approach to post-Fordism is based on the theory of Kondratiev waves. John Schumpeter modernised this concept. The theory holds that a "techno-economic paradigm" characterises each long wave. Fordism was the techno-economic paradigm of the fourth Kondratiev Wave, and post-Fordism is the techno-economic paradigm of the fifth, which is dominated by Information Technology.

history but labour's collective rights were significantly enhanced during Bhutto's rule (1972–1977) and a future populist regime may seek a modification of the IR system to consolidate its social base and to counter mass movements which seek to foster anti capitalist identity consciousness in Pakistan. The next section argues that significantly expanding labour's collective rights is not possible due to the global commitments of a modernising state in Pakistan.

3. LABOUR MARKET REGULATION IN PAKISTAN: THE IMPOSSIBILITY OF EXPANDING LABOUR'S COLLECTIVE RIGHTS

The section begins with a brief description of changes in labour market regulation as a prelude to outlining the arguments against the possibility of instituting a Fordist regulatory regime in Pakistan.

3.1. Labour Market Regulation in Pakistan, 1947–2006

In 1947 Pakistan inherited only 9 percent of the industrial establishments of the subcontinent [Ansari (1999), p. 52] and workers covered by industrial legislation totaled about 480,000 (about 65 out of 10,000) in both East and West Pakistan [Amjad (2001), p. 67].²² Trade union density was low and the trade union movement was also extremely weak, especially, in West Pakistan.²³ Civilian governments during 1947–1958 enacted labour legislation mainly as minor amendments to British India laws promulgated during the 1940s.²⁴ During 1850 to 1926 British labour legislation had mainly been concerned with legitimating indentured and slave labour in British tea plantations and collieries. State intervention during 1850 to 1926 took the form of imposing slave like conditions on labourer.²⁵ During the 1920s amendments to the Factory Act, the Workman's Compensation Act and to laws on trade unions (which had been legalised since 1926) initiated the process of labour protective legislation and the piece meal recognition of labour's collective rights.

Legislation during the 1947–58 period carried on the British emphasis on minimal state interference in determining employment conditions and strong discouragement of and control over strikes especially in the utility services sectors. The state did not seek to

²²Units covered by Factory Act legislation employed 181,752 workers, mines 9413, railways 135,000; dockyards 15,000, non factory industrial (distributive) establishments 16,000 and shipping 125,000 [Amjad (2001) p. 67].

²³Although strong unions existed in the Karachi Electric Supply Corporation, the Karachi Port Trust and several cement plants in Karachi. Those excluded from labour legislations were agricultural labourers, workers in cottage industries, inland water transport and small commercial establishments.

²⁴British labour legislation originates in the law of contract ('the law of master and servant') and all industrial relations regulations are considered by orthodox jurists (and by the World Bank which has a strong preference for Common Law) as deviations from common law [Jenks (2000)] and violation of the principles of 'laissez-faire'. State regulation of wages and working condition were legitimated in the wake of European revolutionary upheavels of the 1840s and the rights to form unions and to strike were legally recognised during this period [Engels (1976)]. The first British large scale enterprise in India—the Fort Gloucester Mill was set up in 1813 and the first industrial strike action against British employers was taken by transport workers (palki bearers) in Kolkota in 1827. The first piece of industrial legislation dates from 1850 (The Apprenticeship Act (Act IV of 1850) [Cole (1952)]).

²⁵This was the purpose of the following legislation (a) Apprenticeship Act 1850 (b) Merchant Shipping Act 1859 (c) Workers Breach of Contract Act 1859 (d) Dispute Act 1860 (e) Indian Factories Act 1881 (f) Transport of Native Labourers Act 1873 amendment.

determine through statute wages or working conditions but set up an adjudicatory process to resolve disputes. During 1958-68 the adjudicatory process became an effective replacement of collective bargaining and Industrial Courts subordinated union activism. They became a permanent feature of the judicial system and terms and condition of employment were determined by these Industrial Courts²⁶ when disputes arose. Large scale labour unrest during the dying days of Ayub Khan's dictatorship lead to a spate of legislation involving statutory determination of wages and conditions of employment.²⁷

The Industrial Relations Ordinance 1969 (IRO 1969) represents something of a legislative watershed. The underlying spirit of this Act was to determine more and more disputes through statutory provisions and leave as little scope as possible for collective bargaining and resolution of disputes through strike action. IRO (69) presented itself as a radical departure from the Industrial Disputes Ordinance 1960 which severely restricted union and collective bargaining rights. IRO 69 formally recognised the negotiating role of a popularly elected Collective Bargaining Unit (CBU).²⁸ IRO (69) however excluded from it's ambit workers in civil administration and services 'connected' with defense. Categories of workers banned from forming unions were wider under IRO (69) than in any previous legislation. The Bhutto regime—the only one in Pakistan's history claiming widespread union support—amended IRO (69) on several occasions. These amendments widened the scope for adjudication, increased restrictiveness of CBU recognition and made conditions for union registration²⁹ more stringent [Hussaini (1976)]. The powers of the Registrar of Trade Unions were enhanced by the Bhutto regime. Under IRO (69) registered unions enjoyed limited legal immunity against tort cases during strikes although only CBUs had the right to raise industrial disputes and serve strike notices. According to a 1997 judgment of the Supreme Court the right to strike cannot be recognised as a fundamental right under Section 17(1) of the Constitution and in the opinion of the Supreme Court several legal anomalies have been created by IRO (69)'s amalgamation of the law governing trade disputes and the law regulating trade unions [PLD (1997), SC 781].³⁰

IRO (69) legitimised state interference in the election of union officials and the determination of the CBU. It also institutionalised CBU dependence on management by the introduction of a "check off" system.³¹ All non CBU unions were effectively incapacitated under IRO (69)—they had no functions except to challenge the CBU at the end of its tenure. IRO (69) did not recognise the right of the unions to set up political

²⁶There was no effective statutory determination of wages or terms of employment during 1958-68.

²⁷Minimum wages for unskilled workers was determined for the first time by the Minimum Wage Ordinance 1969. Social security entitlement, compulsory gratuity, and profit participation were recognised by statute during this period.

²⁸From among the unions present in an enterprise, the CBU was to be elected through a secret ballot. Recognition of trade unions by employers as stipulated in the Trade Unions Ordinance of 1966 was rejected.

²⁹According to the amended IRO (1969) only those unions can be registered whose members consist solely of employees at the plant where it is registered, although a quarter of the officials can be outsiders.

³⁰The anomaly is that the Supreme Court recognises collective bargaining as a fundamental right but does not recognise the use of labour's main collective bargaining instrument, the right to strike, as a fundamental right.

³¹Under the check off system union dues from members are deducted directly from their salary and transferred to CBU accounts. Other powers of the Registrar with respect to CBUs under IRO 69 are described by Amjad (2001, pp. 87-88).

funds or to nominate candidates in national or local elections. Collective bargaining authority of the CBU was annulled by the award of Wage Commissions set up under the law. IRO (69) recognised no rights of unions to directly participate in cases of unfair dismissal.³² The CBU did not have the right to raise disputes about enforcements of rights and claims under law.

IRO (69) may thus be seen as an attempt at an institutionalisation of state regulated collective bargaining within a diminishing proportion of the non agricultural formal large scale sector workforce.³³ There was no recognition of labour's collective rights in the appropriation of capitalist property at the level of the state. Bhutto's regime was socialist in rhetoric and enjoyed considerable worker support during its rise to power—but it did not envisage formal trade union participation in its governance structures [Jones (2003), Chap 6] or in the governance structure of the state it ruled. Moreover even before the Industrial Relations Ordinance 2002 [IRO (2002)] was implemented one of Pakistan's most senior trade union leaders, Muhammad Sharif President Pakistan National Federation of Free Trade Union (PNFTU)³⁴ went on record saying "collective bargaining for determining wages and working conditions has never really been practiced in Pakistan because the law does not provide for it". The CBU does not in practice have the right to strike—since on the service of strike notice the dispute is taken over by the Labour Department conciliator (and) on failure of conciliation the union is obliged to file a case for adjudication. The dispute proceeds for years. This is collective begging" [Sharif (2003), p. 68].

IRO (2002) has been widely criticised among social democratic circles as a retrogressive step [Ansari and Arshad (2006), pp. 210–211]. Worker representation in plant level management has been reduced and the Management Committee and the Joint Management Board in which workers had fifty percent representation have been abolished. Even within the Joint Works, Council workers have only a forty percent presence. The head of the Works Council must be from management. The Joint Works Council, with minority workers representation monopolises all worker related decision making including dispute settlement. The adjudication process has been restructured to reduce the authority of the Labour Courts established under IRO (69). IRO (2002) has been seen as a major instrument for union disempowerment and the institutionalisation of human resource management systems, at the expense of collective bargaining. IRO 2002 has not significantly reduced the level of state regulation of industrial relations as far as statutory and mandatory requirements for union recognition, collective bargaining, dispute settlement and labour participation in plant organisation is concerned. It has been accompanied by accelerated exclusion of segments of the workforce from the ambit of labour legislation.³⁵ It has made collective bargaining a farce and legal strike action virtually impossible. On the other hand IRO (2002) provides a framework for

³²A worker may however authorise his CBU to represent him in such proceedings under Article 25A of IRO 69.

³³In 2001 Amjad estimated that only about 50 percent of the formal large scale workers were covered by industrial legislation [Amjad (2001), p. 171].

³⁴PNFTU is the main social democratic union federation in Pakistan recognised by the International Confederation of Free Trade Unions (IFCTU).

³⁵Particularly employees of companies both national and multi national located in Export Processing Zones who enjoy no rights at all.

accelerating liberalisation and privatisation and for reducing employee obligations for providing social security coverage and acceptable working conditions and guaranteed employment tenure.³⁶ Reduction of overtime pay, increase in working hours specially for women, abolishing of annual leave and legalisation of contract labour have all been made possible by the two pronged policy of (a) restricting trade union rights and (b) freeing management to unilaterally determine wages and conditions of work and institutionalise an “employment at will”³⁷ policy [Ansari and Arshad (2006), pp. 207–222].

3.2. Is Corporatism Feasible in Pakistan?

Corporatism³⁸ played a key role in the production of capitalist individuality throughout Europe [Lash and Urry (1989), Chap 1] and in India [Bean (1996): pp. 73–84]. Extending labour’s collective rights increases the working class commitment to the functionality of capitalist order and (in countries such as Pakistan) counters the growth of anti capitalist identities, which may seek the overthrow of capitalist order rather than appropriation of a larger share of gains through participation in the control of capitalist property. Mass mobilisation for transforming religious society into civil society and for the delegitimation of religious values has often required capitalist acceptance of expanded collective rights for labour as a containment strategy.³⁹ Expanding labour’s collective rights is likely to be an important element on the agenda of populist modernising movements in Pakistan.

We argue that a significant expansion in labour’s collective rights and a fundamental reorganisation of the labour market regulatory regime is not feasible primarily due to the global commitments of the Pakistan state. Several authors have noted the “post colonial” character of the Pakistan state [Sobhan (2002), Racene (2002), Ahmad (2004)] and its dependence on foreign (both military and economic) aid. It was the availability of foreign support which guaranteed the relative autonomy of praetorian and quasi praetorian⁴⁰ regimes that have ruled Pakistan since 1953 and allowed these regimes to sponsor a business class through patronage (including subsidies and strategic policy interventions not least in the labour market). Foreign donors strengthened the autonomy of the military bureaucratic state which they saw—and continue to see—as a key player in the social modernisation process. This encouragement of state autonomy is at odds

³⁶IRO 2002 is part of the overall strategy to reduce resistance to privatisation by removing disputes regarding labour retrenchment from the ambit of the jurisdiction of the Labour Courts (which have been subordinated to the Provincial High Courts under IRO 2002). Through a deeming clause in the Federal Service Tribunal Act workers of state enterprises have been designated as ‘civil servants’ whose terms and condition of employment become the exclusive jurisdiction of the Civil Services Tribunal by virtue of Section 2A in the Federal Services Tribunal Act. Similarly amendments in banking laws were made to severely restrict employees’ rights prior to the privatisation of United Bank and Habib Bank.

³⁷That is recognising employers’ right to hire and fire at will and denying that labour has any tenurial rights in capitalist property.

³⁸Corporatism is embedded in two phenomenon (a) labour participation at the level of the state or at the apex of the economic system in the co-determination of wages and conditions of employment and (b) trade union immunity from tort action against damages caused by strikes. Lash and Urry (1989, p. 6).

³⁹This has specially been the case in France, Italy and other South European countries where the influence of the Catholic Church had been strong [Heberle (1971)].

⁴⁰i.e. formally democratic regimes constrained and sustained by military power such as those which followed the dismissal of Khawaja Nazimudin’s government during 1953–58 and the Benazir Bhutto and Nawaz Sharif governments of the 1990s.

with the liberalisation of the global trade and investment regime which calls for a reduction of state subsidisation of domestic business. The post WTO trade and investment regime partially disempowers the post colonial state and reduces its capacity to affect market outcomes especially in weak civil societies [Migdal (1995)]. Regulating the supply side of the labour market through a recognition and enforcement of labour's collective right is not a viable policy option for a (partially) disempowered post colonial state⁴¹ given the structural weakness and the configuration of social power to which such states are typically subject [Etienne (2002)]. Except in the early 1970s labour has never been a major contender in the struggle for power in Pakistan.⁴² Thus Asad Sayeed in his wide ranging review of the changing social sources of state power during 1947–2000 does not mention labour (not even in his discussion of the Bhutto period) (2002, pp. 211–241).

There are thus no domestic social pressures for the expansion of labour's collective rights and strong global systemic restraints on the adoption of such policies. The labour market cannot be insulated from globalisation and regulating third world labour markets will remain a major concern for international economic policy. As evident in the case of the core EU countries globalisation pressures induce a major reduction in labour's social entitlements, exacerbate the trend towards long term unemployment, reduce state control over the labour practices of both national and multinational firms and significantly weaken the trade union movement [Blackburn (2005), pp. 90–92]. Labour's power in the national economy is weakened as financialisation⁴³ increases systemic volatility and financial market prices develop weaker anchorages with prices in product markets. Eichengreen notes that macroeconomic management becomes increasingly difficult as the share of foreign assets in M2 rises (2002, pp. 36–38).

This “disorganisation” of third world states is an essential element of globalisation. Making claims of justice—expanded labour collective rights for example—in a state which has partially ceded economic sovereignty to the WTO, the IMF, the global financial rating agencies and international product quality and accountancy standard setters is an exercise in futility. In a globalised world the forces determining wages and conditions of work routinely overflow national borders and the post colonial state has

⁴¹Specially for the Pakistan state which is (a) partially disempowered (b) post colonial and (c) a front line state in America's war in the Middle East.

⁴²In 2005–2006 the civilian labour force totaled about 51 million of which 47.6 million were employed. Self employed and domestic employees were about 31.1 million so that those in formal employment equaled about 38 percent (about 19.4 million) of the labour force. The share of the sectors in which labour organisation and trade union presence is focused—manufacturing, transport, utilities and banking—was estimated at about 21 percent of all employed persons. This share showed stability and there was little fluctuation during 1990–2002. The share of manufacturing employed persons as a percent of total employed persons fell consistently from 13.91 percent in 2002 to 13.80 percent in 2006 (GOP 2006 A. Statistical App p 108 and GOP 2006 B). There were in 2002, 1201 registered unions with a membership of 1.38 lacs. Unions numbered 1635 with a membership of 3.41 lacs in 1995—union membership has thus fallen by about 60 percent during these seven years where as union numbers fell by a little over 25 percent. Thus unions are now much smaller. Official strikes have virtually disappeared and man days lost due to “wildcat” industrial action have fallen from 63626 in 1995 to 12160 in 2002—a fall of over 80 percent. Excluding the self employed and domestic workers the employees totaled a little over 18.5 million, so that the union density rate (union members to total employed minus self employed and domestic workers) was extremely low in 2002. (See Appendix Tables 1 and 2). Most observers believe that the decline in union membership has continued during 2002–2005 [Hussain (2005)].

⁴³Financialisation reflects a rise in the ratio of financial assets to real assets in GDP and a concomitant rise in the political power of financial interests relative to real economy interests including labour.

neither the power nor the intention to resist this globalisation of civil society. Nancy Frazer argues that the provision of social justice in the globalised world requires an abandoning of the “Keynesian Westphalian state form”⁴⁴ and developing a policy frame which can allow labour to effectively participate at the global level in decisions which affect labour market outcomes—a utopian proposal on no one’s agenda [Fraser (2004), pp. 13–15]. Global agencies determining labour market outcomes—multinationals, multilateral agencies and private international standard setters regard national legislation institutionalising labour’s collective rights as “the principle obstacle to full employment (which) should be dismantled to improve competitiveness” [Supiot (2006), p. 119]. “Globalised” labour legislation legitimates decollectivisation of labour. Globalised state and multilateral regulatory and advocacy agencies have become partisans of management whose externalisation of social costs is increasingly tolerated. Wilkinson (2005) argues that flexible labour markets and their governance rights undermine labour’s capacity to exercise its formally recognised collective rights and Alston (2005, pp. 173–181) shows that these collective rights are usually denied to the most vulnerable sections of labour, the contract workers and those subject to the Personal Employment Contract.

Supiot has argued that at the heart of globalised labour legislation is International Trade Law which takes the restriction-less cross border flow of goods and capital as a fact decreed by nature. The legal configuration of markets sanctioned by International Trade Law has “an infinitely greater impact upon employment than (domestic) labour legislation” (2006, p. 112). National labour legislative systems are forced into competing with each other on a global market of norms established by global capital. Dismantling of tariff and non tariff barriers at the behest of the WTO are likely to have much greater impact on employment in a particular industry than changes in labour contracts.⁴⁵ Compliance with WTO and ISO regulations determines wage rates and terms of employment. A recognition of labour’s collective rights simply cannot be afforded if WTO and ISO rules, premised as they are on conventional neo liberal norms, construct (and not merely constrain) national regulatory systems. International Trade Law decrees an international division of labour based on the Heckscher-Ohlm model within which there is no room for recognition of labour’s collective rights. The globalised international trade regulatory regime necessarily reverses the juridical principles established by Keynesian social democracy. In the globalised world terms and conditions of employment do not depend on labour legislation and regulation. Quite the contrary, labour legislation is dependent on International Trade Law and on the international division of labour it sanctions. The spirit of International Trade Law is reflected in its fundamental premise that while the legal framework of commerce is sacrosanct, worker’s rights are variable subject to adjustment in line with the requirements of competition and accumulation. In global order expanding the market is the *Grandnorm* of every national regulatory system. Law is simply one instrument among many for regulating global competition and normative. Darwinism is expected to ensure the destruction of inefficient regulatory regimes [Freidman (2000), pp. 73–81]. This view is supported by the World

⁴⁴Since the Treaty of Westphalia the nation state was seen as the arena within which effective participation resulted in a fair distribution of resources of all effective participants.

⁴⁵The collapse of the Sub Saharan poultry industry during 2000–2002 following the withdrawal of protection granted by the Lome Accord is a case in point. These protective barriers were removed to comply with WTO regulations.

Bank whose annual *Doing Business* reports rate labour legislative systems in terms of their “rigidity”⁴⁶ and have developed a bench marking system for ranking national labour regulatory regimes from the perspective of global capital. The World Bank exhorts every country to use labour law for disciplining its workforce to adapt to the requirements of global financial markets <www.doingbusiness.org>. Attempts to reform company law so that non shareholder stakeholders—employees, suppliers, community representatives—play a role in corporate decision making have been defeated in almost all OECD countries and are not under consideration in any client state.

4. CONCLUSION

Expanding labour’s collective rights is not feasible primarily due to Pakistani’s commitments to the global trade and investment regime. No government—praetorian or populist—which seeks to avoid marginalisation from global product and finance systems can significantly expand labour’s collective rights in Pakistan.⁴⁷ Social democratic advocacy of labour’s collective rights appears to be an aspect of elite politics (as is the women’s “movement”, consumer rights advocacy, environmentalism etc.) which is incapable of implementation.

This creates a serious dilemma for modernising policy makers. Capitalist individuality has been engineered in Europe and Japan through adversarial struggles between organised labour and management over appropriation of capitalist property. Alternatively, as in America [Moore (1969)] and China [Han (2005)], the emergence of capitalist individuality is a response to an explosive growth of mass consumption sustained over several decades and sufficiently high to ameliorate the increase in income inequality which such growth typically engenders. We have argued that subordinate integration within global capitalist order effectively closes the corporatist route for creating mass capitalist individuality.⁴⁸ A future populist regime will have to adopt the same (immenserising) growth acceleration strategy that has been articulated by the present pretorian regime. Will subordinate incorporation within global capitalist order facilitate or impede sustainable mass consumption growth in Pakistan? Or will the pursuit of this strategy strengthen anti capitalist religious identity consciousness to the extent that

⁴⁶The 2005 *Doing Business Report* ranks 155 countries in terms of difficulties and costs of hiring and firing and restrictions on increasing working hours. A “rigidity index” downgrades countries that recognise ‘too many’ collective rights, have social insurance for part time workers and minimum wage legislation “Rigid” systems also limit the working week to less than 66 hours and require employers to give notice of the dismissal of a worker to his union [World Bank (2005)].

⁴⁷Nor is there any significant domestic political pressure exerted by organised labour on incumbent or viable successor regimes. Privatisation defeats, cataclysmic decline in union density, the erosion of effective industrial action capability at the level of the plant and the inability to organise contract labour illustrate labour’s systemic weaknesses. The crucial difference between Pakistani social democracy and Latin American social democratic movements lies in the essentially elitist character of the former. Morales, Lula and Chavez have emerged from mass labour struggles [Gott (2005), Gonzalez (2005), Trinidad (2005)] and therefore (partially) distancing themselves from global markets and policy regimes is a viable policy option for these leaders. The acceptance of subordination to Bhutto by labour leaders deserting NAP (Bhashani) and the old Azad Pakistan Party in 1968 and 1969 fundamentally eroded the mass proletarian character of Pakistani social democracy. Pakistani social democracy cannot therefore afford to break its links with global governance structures.

⁴⁸Global capital and the system hegemon—America—will of course not be passive by standards. They may seek the deconstruction of the Pakistani state to thwart its dissociation from global capitalist order. Such a strategy may or may not succeed.

a distancing from global capitalist order becomes unavoidable. These are some ponderables for Pakistan's enlightened moderate modernisers manning both praetorian and successor populist regimes.

Appendix

Table A1

Union Membership by Industry 1995 and 2002 (Top Ten Industries)

S. No	1995		2002	
	Industry	No. of Union Members	Industry	No. of Union Members
1	Textiles	63658	Textiles	46710
2	Food	33677	Transport	20642
3	Banks	29951	Docks	14766
4	Muniplaties	28733	Mining	8730
5	Transport	19327	Banks	7424
6	Irrigation	18750	Muniplaties	6760
7	Docks	16658	Tobbaco	5590
8	Mining	16235	Commerce	4520
9	Electricity	11202	Insurance	4503
10	Engineering	11107	Chemical	3307
	Total of Top Ten Industries	249298		122952
	Participation in all Industries	340569		138456
	Participation Rate of Top Ten Industries in Total Union Membership	73.20%		88.80%

Source: Pakistan Economic Survey 2005-2006.

Table A2

Decline in Union Membership 2002 over 1995

Industry	Decline in Union Membership 1995 over 2002 (in Percent)
Textile	-26.6
Transport	+6.8
Docks	-11.4
Mining	-46.2
Banks	-75.2
Municipalities	-76.5
Electricity	-69.5
Tobbaco	-1.0
Commerce	-10.2
Chemicals	-65.4
Food	-86.6
Total	-59.3

Source: Appendix Table A-1 and Pakistan Economic Survey 2005-2006.

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