



LEGAL AID OFFICE - COMMITTEE FOR WELFARE OF PRISONERS

# A Snapshot of who is Behind Bars in Sindh's Prisons: A Profiling of Under Trial Prisoners

Ali Hamza Memon  
Barrister Haya Emaan Zahid





# Legal Aid Office

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The aim of this report is to provide cross sectional profiling of Under Trial Prisoners (UTPs) from the research conducted by the Legal Aid Office (LAO) between May 9th, 2013 and February 8th 2014. The report analyses the profiling of 2,333 UTPs interviewed by the LAO team during 1,013 jail visits in a period of 9 months. The data is collected by LAO lawyers while interviewing UTPs inside the prisons and the pool of prisoners interviewed includes both those represented by private counsel and by LAO's lawyers. The raw data has been analysed to generate socio demographic variables and trends which may assist in further research. LAO is grateful to all those that participated in the interviews and acknowledges the assistance and facilitation provided by the Office of the Inspector General Prisons – Sindh without which this exercise would not have been possible and LAO's research Associates Hira Saleem, Ramsha Rais and Natasha Bharucha.

### Limitations & Methodology

The following are the 17 prison facilities in which LAO lawyers have conducted interviews for the purposes of this profiling exercise:

Serial No	LAO Office Location	Types Of Prisons	No Of Interviews Conducted
1	Karachi	1. Central Prison, Karachi 2. Women Jail, Karachi 3. Juvenile Jail, Karachi 4. District Prison, Malir	1374
2	Hyderabad	1. Central Prison, Hyderabad 2. District Prison, Hyderabad 3. Women Jail, Hyderabad 4. Juvenile Prison, Hyderabad	514
3	Sukkur	1. Central Prison, Sukkur 2. Women Jail, Sukkur 3. Juvenile Jail, Sukkur 4. District Prison, Ghotki	179
4	Khairpur	1. Central Prison, Khairpur	68
5	Larkana	1. Central Prison, Larkana 2. District Prison, Shikarpur 3. Women Jail, Larkana 4. Juvenile Prison, Larkana	198

Interviews conducted represent adult men and women and juvenile under trial prisoners incarcerated in Central Prisons, District Prisons and Special Prisons located in Karachi, Hyderabad, Sukkur, Larkana, Ghotki, Khairpur and Shikarpur. The interview form requires a series of essential questions such as: the age of the UTP; area of residence and/or origin of the UTP; type of crime charged; the profession of the UTP; monthly income of the UTP in Pakistani Rupees/month, use of narcotics and religious and or political affiliation.

A certain limitation as to the authenticity/accuracy of the data is the presence of a prison official during interviews that might have affected the concerned interviewee who may have given socially desirable answers. Thus answers given to questions pertaining to affiliations with religious or political groups may not be correct due to threats from or loyalty to those groups, again affecting the validity of the research. Measurement errors also need to be accounted for, such as, reluctance of the UTPs in answering certain personal questions, differences in the interpretation of questions among the interviewers and the UTPs and possible data processing errors.

## Grand Total Profile:

From May 9th 2013 to February 8th, 2014 a total number of 2,333 UTPs were interviewed by the lawyers of LAO across 17 Prisons in Sindh. From the total number of UTPs interviewed, 1812 (77.67%) were given legal representation by LAO.

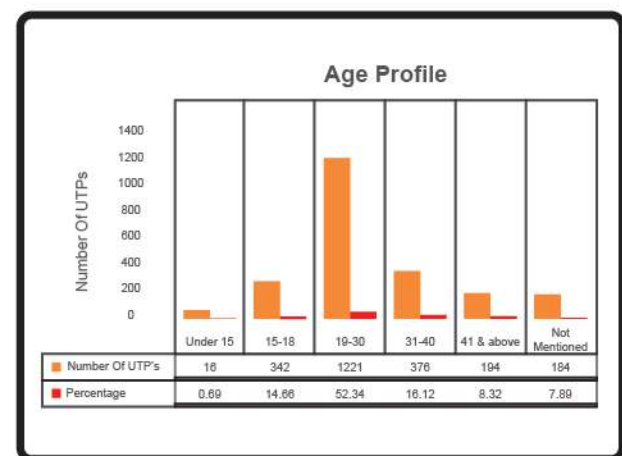
It is important to mention that there are major delays in case proceedings in the province of Sindh. LAO's research and observation indicates an average adjournment rate of 55% in criminal proceedings (1). This is primarily attributed to non production of accused prisoners in courts due to a lack of vehicles for providing conveyance, which have delayed 16.94% LAO case proceedings (2). Other reasons include: Judges taking leaves which have delayed 13.15% LAO case proceedings and strike calls by Bar Associations and/or lawyers which have delayed 10.55% LAO case proceedings (3). Furthermore, adjournments are frequently sought without any reasonable cause under Chapter XXIV Section 344 of the Code of Criminal Procedure 1898. According to Insaf Network Pakistan, adjournments are sought for reasons as simple and vexing as "I had a headache last night" or "I didn't have time to prepare"(4) and how many lawyers in Pakistan are known and marketed for their abilities for delaying case proceedings (5). Lastly, there is non-availability of witnesses in Interior Sindh which gives reasonable cause to judges to adjourn a case proceeding until witness(es) are produced under Section 344 of the Cr.P.C.

These are only some of the reasons which add to prolonging the overall exposure time of first time offenders incarcerated alongside potentially hardened criminals and/or violent extremists in prisons. LAO is striving everyday to expand and gain access to as many underprivileged UTPs as is possible with a view to analyse the target population, exposure time and measure its own progress towards steady state.

## Demographics:

### Age :

The age profile shows that 1221 (52.33%) UTPs are in the age range of 19-30 years. The research also shows that people belonging to this age group are most likely to be arrested by the police for the suspicion of committing a crime. Furthermore it has been found that as the age range increases, the number of UTPs decrease and the likelihood of a person being arrested for the suspicion of committing a crime decreases.



1 This data was collected between May 9th, 2013 and February 8th, 2014. A total of 12,439 LAO case proceedings were adjourned between these dates.

2 Ibid

3 Ibid

4 The Crisis of Legal Aid in Pakistan. Insaf Network Pakistan. Yasser Latif Hamdani – Legal Consultant. Can be found on:

<http://inp.org.pk/sites/default/files/job%20description/%20/The%20Crisis%20of%20Legal%20Aid%20in%20Pakistan.pdf>. Access Date: 04/14/2014.

5 Ibid



The trends for age in Sindh confirm with the crime indexes of Age Specific Arrest Rates and Race Specific Arrest Rates for Selected Offences 1993-2001 published by the U.S. Department of Justice in 2001<sup>(6)</sup> in which the Crime Indexes in the United States of America indicate a spike in arrests from the younger segments of the population and a quick rate of decline after the age of 30.

High crime rates in the age range of 19-30 can also be attributed to the fact that there are fewer opportunities for young people and that they are rarely in positions of authority. Furthermore, the working class youth is most likely to be low skilled and low paid, therefore criminal behavior is constantly used as a source of income. As the age range enters 31-40 we often see a steep drop in crime because persons in these age groups often start taking on new roles, such as a wage-earner, parent, spouse etc. The possibility of imprisonment is taken more seriously because the consequences include high impacts/disruptions on personal life in addition to legal punishment.

These trends in a person’s lifestyle are universal and they provide an important structure on the mindset of a person regardless of their socio-economic status<sup>(7)</sup>.

## Locality:

Locality	Number Of UTPs	Percentage
Karachi	549	23.53
Interior Sindh	1051	45.05
Balochistan	57	2.44
Punjab	183	7.84
Kyber Pakhtunkhwa	244	10.46
Azad Kashmir	10	0.43
Foreigner	56	2.40
Not Mentioned	183	7.84
<b>TOTAL</b>	<b>2333</b>	<b>100.00</b>

The locality profile shows that 1051 (45%) UTPs originate from Interior Sindh and 549 (23.5%) originate from Karachi. This profiling exercise shows no surprise due to the fact that LAO runs its operations in the province of Sindh. However, on an interesting note most of the 56 Foreigners that were interviewed originated from Afghanistan. According to the lawyers of LAO working in Interior Sindh, there have been many cases of Afghan Nationals entering the cities of Sukkur, Ghotki and Karachi by first illegally crossing the border into Khyber Pakhtunkhwa, entering Punjab and heading south into Sindh. For example, the LAO office in Sukkur has recently received a case involving 10 Afghan Nationals, including 3 juveniles, that were caught by the police in Ghotki for illegally entering Pakistan.

6 Age Specific Arrest Rates and Race Specific Arrest Rates for Selected Offences 1993-2001. Uniform Crime Reports, 2003. Federal Bureau of Investigation, U.S. Department of Justice. Found on: [http://www.fbi.gov/about-us/cjis/ucr/additional-ucr-publications/age\\_race\\_arrest93-01.pdf](http://www.fbi.gov/about-us/cjis/ucr/additional-ucr-publications/age_race_arrest93-01.pdf). Accessed on 06/11/2013.

7 Explanations for Patterns of Crime: Age. Sociology Central. Found on: <http://www.sociology.org.uk/pblsdca.pdf>. Accessed on 06/11/2013

## Income:

Income	Number Of UTPs	Percentage
Rs.0 to Rs.5000	355	15.22
Rs.5001 to Rs.10000	1404	60.18
Rs.10001 to Rs.15000	357	15.30
Rs.15001 to Rs.20000	66	2.83
Rs.20001 & Above	41	1.76
Not mentioned	110	4.71
<b>TOTAL</b>	<b>2333</b>	<b>100.00</b>

The income profile shows that 1404 (60.18%) UTPs fall in the income range of Rs. 5,001/- to Rs. 10,000/- per month. Subsequently, 357 (15.3%) of the UTPs are in the next income range of Rs. 10,001- Rs. 15,000 per month. It has been explained in the Handbook of Crime Correlates written by Lee Ellis, Kevin Beaver and John Wright that socio-economic conditions, such as income, wealth and years of education have a direct correlation with crime. Their study shows a negative correlation in which persons of higher socio-economic status are less likely to commit crimes (8) . The trends generated by LAO with regards to income also show that there is a correlation with the socio-economic status of a person and the likelihood of being accused, arrested and charged for the suspicion of committing a crime.

Although the official unemployment rate in Pakistan has stayed stagnant at around 5% since 2006 (9) , most wage earners in Sindh do not earn more than the minimum wage of 10,000 Rupees/month(10) which is not enough to support the average family size of 6.5 persons (11) with the most basic necessities.

Taking into account the socio-economic conditions of Pakistan, it is easy to see why criminal behavior is often used as a source of income.

For example, the low levels of pre-arrest earned salary amongst the women prisoners should be of a major concern. A total of 101 UTPs were interviewed from the Women Jail in Central Prison, Karachi and 55.5% of them were in the income range of Rs.0-Rs. 5,000 and 35.6% of them were in the next income range of Rs.5,001-Rs. 10,000 per month. Given the gender bias in current Pakistani culture, it is impossible for a low-skilled woman to survive and take care of her children without the support of a male earner because access to work is limited for a woman.

Furthermore, according to general Shari'ah principles, a woman who has been widowed has the right to inherit 1/8th of her former husband's assets if she has children and 1/4th if she does not have children. Due to a lacuna in Pakistani legislation, there is no codified law relating to a woman's right to inherit although the general rule set out in the Shariat Application Act of 1962 lays out that inheritance is to be divided according to principles of Shari'ah. Moreover, a woman does not receive a share of her former husband's assets if he divorces her for any reason whatsoever. This further fuels the economic disparity between low skilled single working mothers and middle class married women.

8 Lee Ellis; Kevin M. Beaver; John Wright (1 April 2009). Handbook of Crime Correlates. Academic Press. ISBN 9780123736123.

9 Where is unemployment rate the highest? International Labour Organization. Can be found on:

[http://www.ilo.org/global/research/global-reports/global-employment-trends/2014/WCMS\\_233936/lang-en/index.htm](http://www.ilo.org/global/research/global-reports/global-employment-trends/2014/WCMS_233936/lang-en/index.htm). Accessed on 04/15/2014.

10 Minimum Wage Increased to Rs10, 000, no additional tax on Rs2.5 million income. The Express Tribune. Published by APP on June 21, 2013. Can be found on:

<http://tribune.com.pk/story/566389/minimum-wage-raised-to-rs10000-no-additional-tax-on-rs2-5-million-income/>. Accessed on 07/11/2013.

11 Size of Average Households and its Composition By Sex and Quintiles. Social Statistics, Government of Pakistan. 2007-2008. Can be found on:

[http://www.pbs.gov.pk/sites/default/files/social\\_statistics/publications/hies07\\_08/table1.pdf](http://www.pbs.gov.pk/sites/default/files/social_statistics/publications/hies07_08/table1.pdf). Accessed on 07/11/2013



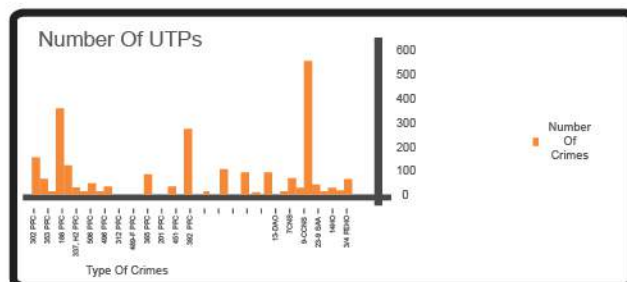
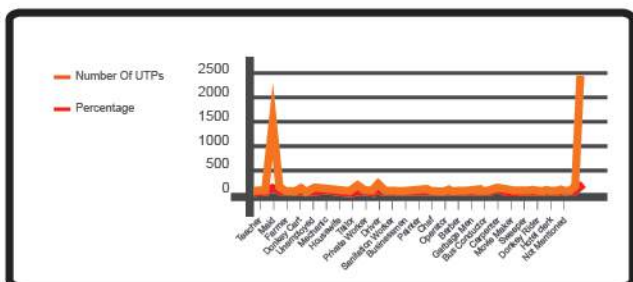


### Profession :

The occupation profile shows that 1197 (51.3%) UTPs are Laborers. From this it can be concluded that blue-collar workers, such as laborers, are more likely to be accused, arrested and charged for the suspicion of committing a crime. Furthermore, low-wage workers in Sindh are more likely to be victims of fraudulent First Information Reports (FIRs) made by the Police or by other persons when issues of enmity arise. It must also be mentioned that most, if not all, Laborers in Pakistan are paid in the range of Rs.5,001-10,000 per month. Therefore, it is not surprising to see the trends in income correlating with the trends generated in the professions of the UTPs.

### Crime :

The Sindh Government has recently enacted the Sindh Arms Act, 2013 which provides for a harsher penalty of up to 14 years imprisonment for carrying an unlicensed firearm as compared to the 7 years imprisonment provided by the former Section 13-D of the Arms Ordinance, 1965. The crime profiling shows that 14.2% of UTPs are charged with drug related crimes and 27.6% are charged with crimes relating to carrying unlicensed firearms. Also noteworthy is that Section 324 PPC (attempt to murder) is at 13.7% of the total crimes. This is not surprising as crimes relating to carrying unlicensed firearms and the offence of attempt to murder are usually coupled together by the police. The large number of crimes relating to carrying an unlicensed firearm can be attributed to the recent crackdown on unlicensed firearms conducted by the police and military police in Karachi.



## Legal Aid:

Legal Aid Required	Number Of UTPs	Percentage
Yes	1812	77.67
No	514	22.03
Not mentioned	7	0.30
<b>TOTAL</b>	<b>2333</b>	<b>100.00</b>

Although the Constitution of Pakistan provides that "The State shall ensure inexpensive and expeditious Justice" (12), the fact remains that provision of legal aid is elusive at best. The non-existence of pro bono or "low bono" legal work amongst lawyers in Sindh is infelicitous in spite of amendments to the Legal Practitioners and Bar Council Act of 1973 which makes it the Pakistan Bar Council's function to "provide free legal aid". The Canons of Professional Conduct and Etiquette (CPCE) state that "in fixing fees it should never be forgotten that the professional [the advocate] is a branch of the administration of justice and not a mere money-making trade"(13). On the other hand, the CPCE also states that "In fixing fees, [an] Advocate should avoid charge, which over estimate their advice and services, as well as those, which undervalue them." It must be stated in fairness that a lawyer is not obligated to undertake cases for free although the socio-economic conditions of Sindh merits for some consideration of a pro bono legal culture amongst lawyers. In order to expand on this, the Free Legal Aid Scheme of 1988 was amended to incorporate the Pakistan Bar Council Free Legal Aid Rules of 1999.

The new Rules were devised to provide meriting underprivileged people with free legal aid, however, the Pakistan Bar Council has found it difficult to find lawyers that were willing to represent a client, pro bono, and exercise the same diligence and commitment that he or she would with a regular paying client (14). Unfortunately, it was because of this reason that only 2-3% of the applicants received free effective legal aid (15). This can be compared with the results of LAO where 1812 (77.67%) of the UTPs interviewed in Sindh were desirous of legal aid (16).

## Drug Users:

Narcotics	Number Of UTPs	Percentage
Yes	182	7.8
No	2151	92.2
Not mentioned	0	0
<b>TOTAL</b>	<b>2333</b>	<b>100.00</b>

The breakdown of habitual drug users shows that 182 (7.8%) UTPs admitted to LAO Lawyers that they habitually use narcotics. Heavy users of heroin could also be ascertained by LAO lawyers upon inspecting the arms for any scarring caused by syringe needles. Most of the UTPs that admitted to drug use were from a Youthful Offenders Industrial School (YOIS) as it was easier for a young person to trust the lawyers of LAO and build a bond.

12 Constitution of Pakistan 1973, Article 37(D)

13 Canons of Professional Conduct and Etiquette. Chapter II (10).

14 The Crisis of Legal Aid in Pakistan. Insaf Network Pakistan. Yasser Latif Hamdani – Legal Consultant. Can be found on: <http://inp.org.pk/sites/default/files/job%20description/%20Executive%20The%20Crisis%20of%20Legal%20Aid%20in%20Pakistan.pdf>. Access Date: 04/14/2014.

15 Ibid

16 However, it is important to note here that the policies of LAO do not allow legal aid to be given to offenders accused of and charged with heinous crimes or hardened /repeat convicted criminals. Secondly, due to an understanding with the Karachi Bar Association, LAO does not provide legal aid to anyone who is already being represented by private counsel or after LAO's intervention a private lawyer is engaged.



Furthermore, this trend found amongst the YOIS prisoners also seems to be confirmed by a report conducted by the United Nations Office on Drugs and Crime (UNODC) where their generated trends showed that regular cannabis users in Pakistan are predominately young persons (17). It was concluded that a higher number of drug related crimes indicated that there was a higher likelihood of UTPs admitting to LAO Advocates during the interview that they are habitual drug users.

The most popular narcotic amongst the UTPs was Gardaa, a variation of Charas, which is primarily made in Afghanistan using dried cannabis leaves. Gardaa is a notoriously famous narcotic in Pakistan that usually enters Pakistan through Peshawar and quickly becomes readily available in every major city of Pakistan.

### Political Party/Religious Group Affiliation:

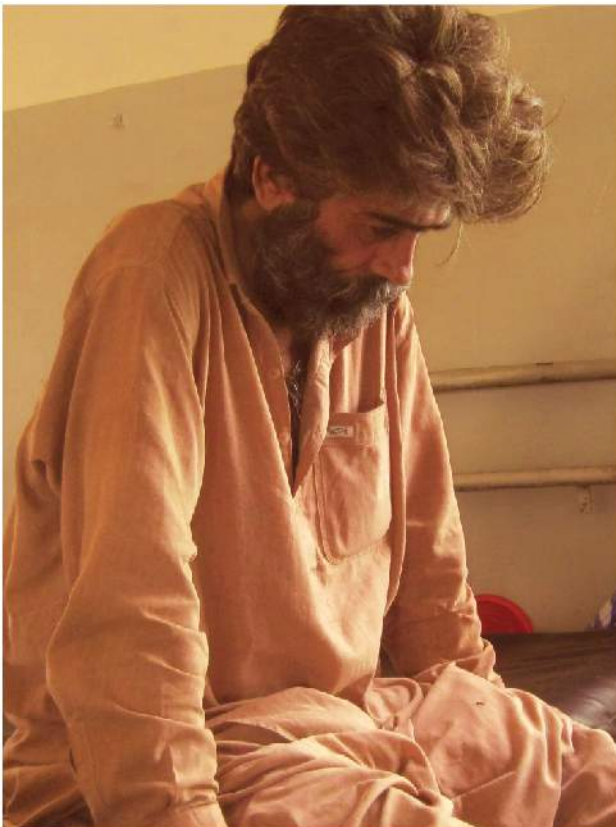
Political Parties	Number Of UTPs	Percentage
PPP	41	1.76
MQM	12	0.51
ANP	5	0.21
PML-N	4	0.17
JSS	4	0.17
Lasbella Committee	2	0.09
PTI	1	0.04
Sunni Tehreek	1	0.04
None	2239	95.97
Not Mentioned	24	1.03
<b>TOTAL</b>	<b>2333</b>	<b>100.00</b>

Religious Group	Number Of UTPs	Percentage
Sunni	82	3.51
Deobandi	5	0.21
Shia	4	0.17
Ahl-e-Hadees	3	0.13
Jammat-UI-Sunnat	2	0.09
Not mentioned	2237	95.88
<b>TOTAL</b>	<b>2333</b>	<b>100.00</b>

In terms of the categorization of the religious groups, it should be noted that when a LAO lawyer asks a UTP whether they belong to a religious group, the response of the UTP is usually based on his or her perception. These perceptions become very important when we analyse them in terms of countering violent extremism. For example, a UTP belonging to Jammat-UI-Sunnat will most likely not consider himself or herself to be a part of the Sunni sect even though they technically are. In fact, this is the ideological block which generates the trend of violent extremism. Due to the religious education imparted to them the UTPs cannot differentiate between the basic religious sects of which they belong. In this case, the UTP belongs to the Sunni sect while he or she claims that their sect is not by itself a fundamental entity but it is a subset of Jamaat-ul-Sunnat (Deobandism). These facts go to show the cultural travesty that infringes on the religious knowledge and information which violent extremism brings, diverging an extremist from understanding the fundamentals of his or her beliefs to which they may subscribe.

17 Drug Use in Pakistan 2013 Technical Summary Report. United Nations Office on Drugs and Crime. Ministry of Narcotics Control Pakistan Bureau of Statistics – Government of Pakistan. Published in 2013.

In terms of affiliations with political parties, 41 (1.76%) UTPs disclosed that they are a part of Pakistan's People Party (PPP) and 12 UTPs (0.51%) disclosed that they are a part of the Muttahida Quami Movement (MQM). It is surprising that more UTPs in Interior Sindh did not disclose that they were a part of PPP as it was once an influential political force in Pakistan with its stronghold based in Sindh. It is equally surprising that more UTPs in Karachi did not disclose that they were a part of MQM as MQM currently has a strong influential political force in Karachi. Perhaps the reason for this can be attributed to the presence of a prison official during interviews that might have affected the concerned interviewee and he or she may have given socially desirable answers. Thus answers given to questions pertaining to affiliations with religious or political groups may not be correct due to threats from or loyalty to those groups.



## Conclusion:

UTPs that are awaiting the conclusion of their trial typically come from poor, underprivileged families who have had to work day and night in order to earn a living. They are usually between the ages of 19-30 and fall under the income bracket of Rs. 10,000/- to Rs. 15,000/- per month. Although carrying a firearm without a license leads in the "Crime Breakdown" (above), the fact remains that the majority of the UTPs are first-time offenders and have the potential to be rehabilitated back into society. It is pertinent to mention in the concluding remarks that although the Pakistan Prison Rules provide for a separation of convicted first time offenders from hardened and/or repeat convicted prisoners, there is no such provision in existence for the separation of UTPs. As the current situation stands, first time UTPs that are being charged for non-violent offences are detained in the same barracks as UTPs that have been previously convicted and/or being charged for a violent/heinous crime. It is imperative for the Government of Sindh to focus on rehabilitating UTPs by focusing on separating prisoners under trial for a non-violent offence and providing them with vocational opportunities in order to reduce recidivism. In order to achieve this, the laws regarding the prisons and police need to be revised and effectively implemented by all three branches of Government.





# Legal Aid Office

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Legal Aid Office

LEGAL AID OFFICE  
SPANISH HOMES APARTMENT  
MEZZANINE FLOOR  
PLOT A-13, PHASE I  
DHA  
KARACHI

Phone: 021-99266011-4

Fax: 021-99266011-5

Email: [laocpkhi@hotmail.com](mailto:laocpkhi@hotmail.com)

Website: [www.lao.org.pk](http://www.lao.org.pk)

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