

Children and participation in South Africa: Exploring the landscape

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Much of the literature on children's participation distinguishes sharply between "informal" and "formal" forms of participation, which although analytically convenient, may limit possibilities for theorising. This paper examines tensions and links between children's informal and formal participation, and looks at how participation is constituted in and by different social spaces in South Africa. Some of the ways in which children have participated in public matters prior to and following the advent of democracy in South Africa are examined, e.g. through public protest, school governance, law and policy development and service delivery. Shifts in the political landscape since apartheid are shown to have both opened and closed spaces and opportunities for children to influence decision making. Ultimately, a shrinking of informal spaces and the limited functioning of formal spaces due to popular attitudes and socio-economic factors has resulted in a constrained participation environment. Small shifts, however, in acknowledgement of the multiple ways that children collectively and individually contribute to the unfolding of everyday life, the emergence of new informal spaces and a broadening of the focus of participation initiatives, may herald an opportunity to move beyond often formulaic "formal" participation in governance to a broader inclusion of children in decision making.

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Two decades have passed since the almost universal ratification of the United Nations Convention of the Rights of the Child (CRC) (Office of the High Commissioner of Human Rights, 1989). During this period, both the concept and the practice of children's participation, though slow in the initial uptake, have gathered increased international attention and support. Outlined in articles 12 and 13 of the Convention, children's participatory rights comprise their right to seek information and express their views freely in matters affecting them, and for these to be given due weight in decisions affecting them. This broad conceptualisation of children's participation has been differently interpreted and practised within and between countries, and has come to refer to a range of practices that not only have different goals, but take place in different contexts, often with varying implications for the relationships between the children and adults involved (Moses, 2008).

There has been limited scholarly attention to children's participation in South Africa and their contributions to South African society (see Bray, 2002; Moses, 2008). In an overview, Moses (2008) describes the legislative, socio-economic and normative context in which children's participation takes place in contemporary South Africa and, against this backdrop, examines some of the ways in which children participate in public arenas (elaborated on in this paper). She concludes by cautioning against apolitical and ahistorical models of children's participation (see, for example Hart, 1992; Lansdown, 2001)

Building on the earlier work of Moses (2008), the purpose of this paper is to sketch some of the ways in which South African children's participation has been experienced, undertaken and interpreted, and to draw attention to the socio-political, cultural and historical factors shaping these processes. Much of the

literature on children's participation distinguishes sharply between "informal" and "formal" and between individual (private) and public (civic) forms of participation. Convenient though such distinctions may be for analytical purposes, an examination of the interface between supposedly separate domains provides fertile ground for theorising children's participation. Here we begin examining tensions and links between children's informal and formal participation, and ways in which participation and agency are constituted in and by different social spaces.

South Africa has a long and multi-layered history of colonialism, culminating in over four decades of legalized discrimination under the apartheid state. The result is a society rife with inequalities. Chronic poverty stands to impact directly on adults' and children's exercise of agency and their sense of participation in society. Overcrowding at home is a problem for more than a quarter of the country's children (Hall, 2010), posing challenges to privacy and domestic relationships. Low levels of literacy result because the majority of children are schooled in a language other than their mother tongue (Heugh, 2000). In general, the standard of education remains extremely poor (Bray *et al.*, 2010) and one fifth of children live in households where there is insufficient food (Berry *et al.*, 2010). High rates of HIV and AIDS have rendered very poor families and children more vulnerable to material destitution and social exclusion (Giese & Meintjes, 2005; Wilson, 2006). Ongoing high levels of violence and rape remain a cause for grave concern (Jewkes, 1999).

Despite a celebrated Constitution (Government of South Africa, 1996a) write in full for first reference, list in reference list, indicate year for all references in text) and processes of social and political transformation, South Africa remains a country traumatized by exclusion, violence and chronic poverty, and is structured around notions of difference. It is with a keen eye to the particularities of this terrain that we consider the nature of children's civic engagement in contemporary South Africa.

The paper has three main sections. First, we delineate the status of children and their participatory rights in current national legislation. Second, we sketch forms of children's participation in four different domains, examining some of their interfaces. We begin with the historically prominent, informal space of children's public protest and then consider more formally constituted spaces of school governance, law and policy development, and service delivery. Finally, in the concluding discussion, we consider two areas of fertile terrain for expanding conceptualizations of participation by children.

The status of children in national legislation

The South African government is duty-bound to actualise children's rights to be heard in matters that affect their lives via its ratification of the CRC (1989) in 1995 and the African Charter on the Rights and Welfare of the Child (1990) in 2000. Although the South African Constitution (1996) does not name specific participation rights, it requires that courts to refer to international law when interpreting constitutional rights (s. 223). Given this requirement, the article in the Constitution (1996) detailing that the child's best interests are paramount could be argued to necessitate consultation with children in order to define their best interests.

Since 1994, a number of legislative amendments have enabled children to participate and make decisions in matters affecting them. These relate to legal proceedings such as custody and adoption cases, consent for medical treatment, as well as access to state grants and care-giving rights for children in charge of households. Laws that stand to enforce the constitutional rights of children are mostly age-contingent, however, and leave few opportunities for children in their pre-teenage years to participate in decisions affecting their lives (Moses, 2008). Exceptions are the Choice on Termination of Pregnancy Amendment Act no 92 of 1996 (Government of South Africa, 1996b) which allows girls of any age to access termination of pregnancy without parental consent, and the Children's Act no 38 of 2005 (Government of South Africa, 2005) which provides for children under the age of 12, who are deemed to be of sufficient maturity, to consent to their own HIV testing without parental consent.

Despite legislative changes in the direction of greater decision-making power in the hands of the young, even older children rarely participate in the ways specified in medical or legal scenarios. As Moses (2008:330) notes:

Perceptions of children's (in)competence, concerns about protecting children from being burdened with too great responsibility, non-child-friendly institutional cultures, procedures and structures as well as a lack of adult skills for engaging children, all continue to limit children's meaningful participation in court proceedings.

Initial consultations with medical professionals around the new provisions for engaging children about their health point to both a lack of skills for and understanding of participatory practice, as well time and human resource constraints (P. Proudlock, pers. comm.).

Popular concerns about children's incompetence in assessing what is best for them are intertwined with fears about the implications for society of relinquishing a traditionally authoritarian approach to children. For example, parliamentary debate of the Child Justice Bill in 2007/2008 focused on which categories of crime should entitle a child to diversion services. A persistent sense of panic around violent children and the need for more punitive approaches resulted in legislation allowing for lengthy sentences and an over-formalisation of diversion (Skelton & Gallinetti, 2008). Similarly, provisions banning corporal punishment in the home were removed from the final Children's Amendment Act of 2007 (Government of South Africa, 2007a) through lobbying by religious and traditional leaders¹. This decision reveals the differing and often contradictory perspectives on children's rights in relation to those of adults, that simmer just below the surface in many sectors of South African society.

In short, long held beliefs about children's place in society contribute to the minimal and slow translation of government obligations into enforceable laws and policies regarding participation. Where change does occur, it is not through a sea-change in public opinion, but through the action of special interest or advocacy groups who use their legal mandate to champion a particular cause. It appears that advocacy is more successful where the interests of children and adults converge, and both stand to benefit. For example, significant policy change in the age extension of eligibility for the Child Support Grant (Hall, 2010) and changes in the types of documentation needed to access this grant were achieved in part by drawing on the views children and adults affected (Lund, 2008). Legislative and policy change in which children are the sole or primary beneficiaries, such as child justice discussed above, appears more difficult to achieve.

Forms of children's public participation in South Africa

In the early years of democracy, South Africa was strongly committed to public participation. The moral imperative to consult citizenry, including children, was consistent with the broader rights-based ethic of the Constitution (1996). While these were powerful forces that stimulated children's engagement in a number of important legal and policy processes (discussed below), they have not been incorporated into the *modus operandi* of state departments or into civil society. In the following sections we examine and critique five arenas and mechanisms, both "formal" and "informal", through which children have expressed their views or are trying to influence decision making.

Child-led political action

The most visible and powerful expressions of children's public participation in South Africa to date are street-based protests against government. The prominent position of children in South African history owes much to their leadership of resistance during the peak of apartheid's repressive regime. Guided by struggle politics, on June 16 1976 school children in Soweto marched in protest against government's insistence that all lessons be taught in Afrikaans (neither the first or second language of these nor the vast majority of South Africa's children). The South African Minister of Bantu Education and Development, MC Botha, issued a decree in 1974 that made the use of Afrikaans as a medium of instruction in black schools compulsory from Standard 5 onwards [from the last year of primary school to the last year of high school] (<http://africanhistory.about.com/od/apartheid/a/AfrikaansMediumDecree.htm>). The African

¹ Corporal punishment in schools is prohibited by the 1996 South African Schools Act.

Teachers Association (ATASA) launched a campaign against the policy, but the authorities implemented it anyway. The government responded with bullets, injuring 220 children and killing 23. Outraged, children and adults across the country took to the streets and over 500 children were killed in clashes that year (Truth and Reconciliation Commission (TRC), 1998).

Children's involvement in active resistance to apartheid continued into the 1990s, gaining momentum after 1984. They confronted illegitimate government structures in their immediate environment by rejecting Bantu education and instituting boycotts of school, rent for municipal housing, and consumer goods purchased in white-owned stores. They also attacked municipal beer halls in protest against their fathers spending money on alcohol, money that swelled government coffers (Carter 1991; Cole 1987; Marks 2001; Ngcokotho 1990; Ntsebenza 1993; Seekings 1993). The government and its allies responded with uncompromising brutality (Detainees' Parents' Support Committee (DPSC), 1986; Haysom, 1985; TRC, 1998; Reynolds, 1995a, 1995b, 2005; Ross, 2003). According to the Truth and Reconciliation Commission Report (1998: 261):

All the available figures indicate that the largest number of children and youth was detained between 1985 and 1989, during the two states of emergency. Of 80, 000 detentions, 48, 000 were detainees under the age of twenty-five.

In the popular imagination during the struggle, youth came to be regarded in polar opposite terms as at once 'heroes' (of the liberation struggle) and 'villains' (violent, threatening and uncontrolled). The heroic image of South Africa's urban youth was founded on their prominent role in leading resistance to apartheid. The opposing image of young 'villains' was promulgated by the government and by children's involvement in extreme ways of enforcing consumer boycotts and in meting out 'justice' in people's courts (Kentridge, 1990; Seekings, 1993). Research undertaken in the late 1980s and 1990s attempted to move beyond the generalised stereotypes of young 'heroes' or 'villains' (for example Carter, 1991; Marks, 2001; Ntsebeza, 1993; Seekings, 1993; Straker 1992; Van Kessel, 2000). Reynolds (1995a, 1995b, 2005) and Ross (2003) demonstrate how children and young adults were drawn in large numbers into violent encounters with the government, the extent of their commitment to the struggle often depending on their family histories, their critical self-consciousness as activists and their unfolding ethical commitment to support one another.

In the years since the advent of formal democracy in South Africa, anecdotal evidence and media reports suggest that public protest has persisted sporadically as a mechanism for children's participation in matters of public concern. Over the last few years, there have been several reports of learners protesting publicly over school governance issues. The response by schools has generally been heavy handed, and the reactions of teachers and parents suggest that in democratic South Africa this form of engagement by children is becoming increasingly delegitimized, especially where the concerns of children are not shared by (powerful) adults.

For example, Bray *et al.* (2010) discuss how in 2007 in Cape Town, learners at a secondary school took to the streets in protest against their deputy principal's unexplained decision to prohibit their attendance at a sports fixture for which many had already paid. Summoned by the deputy principal, police confronted learners with rubber bullets. While learners expressed moral justification for their actions and felt that their protest had worked in the interim, in that the deputy principal was temporarily recalled from his position, they also feared that sponsors would be deterred from supporting the school, and that the government might halt plans to build a new high school. Dominant adult discourse suggested children had expressed their views inappropriately, and that children's participation would be legitimate only in alignment with adult agendas. Refusing to go to school is seen as failing to live up to the tenets of responsible citizenship within South Africa's new democracy. Thus, to be viewed in the (adult) public domain as protesting 'heroes' no longer appears possible for the current generation of children, because the 'new' South Africa is considered to offer freedom, opportunity and access to government to those who were previously oppressed. Yet the grievances around poor schooling and the lack of basic service delivery in poor areas remain compelling and unresponsive, and inaccessible decision-making structures

limit children's options for "formal" participation (see Pendlebury, Lake & Smith, 2009; Seekings & Nattrass, 2005).

Formal participation in school governance

The gap between legislation and reality around children's participation in school governance illustrates the dilemma facing children seeking to influence public spaces which affect them. Principals are *legally mandated* by the South African Schools Act (SASA) no. 84 of 1996 (Government of South Africa, 1996c) to enable secondary school learners to elect representatives onto the School Governing Body (SGB), which governs the management of the school. Practical and attitudinal obstacles related to meeting times and the value and skills ascribed to children by the adults in charge, often preclude children's meaningful engagement (Heystek, 2001). Carrim (2010, this issue) suggests that the forms of representation specified in the SASA directly determine modes of participation, and he goes so far as to claim that, rather than promoting participatory democracy, SGBs have turned into an exercise in marginalization. Authoritarian practices within SGBs also impede the realization of the democratic intent of law (Bentley, 2010, this issue). The protest action of high school learners must therefore be read alongside their general dissatisfaction at the tokenistic nature of their membership of SGBs and the absence of any meaningful influence in day-to-day school affairs (Bray *et al.*, 2010).

Children are not alone in their exclusion from school governance, however, and a full understanding of this phenomenon requires attending to the high levels of parental non-participation in school affairs in poor neighbourhoods: poor parents value education very highly, but rarely attend meetings or make informed choices around which school their children attend (Bray *et al.*, 2010). Among reasons for their self-exclusion mentioned by Bray *et al.* (2010), some relate to low levels of parental education and perceptions that the government education department has the expertise to deliver quality education and is therefore the legitimate force for change. If parents do not see themselves as having a legitimate role in shaping education, then it is not surprising that children's role is also marginalised.

Children's participation in law reform and policy development

Despite the apparently facilitatory legal framework offered by the Constitution (1996), CRC and the African Charter (Secretary General of the African Union, 1990), in South Africa there are no formal mechanisms in place for children's involvement in policy and law reform (Moses, 2008). That said, it was the South African Law Commission, a government body, which in 2001 consulted children on the first draft of a prospective revision of the Child Care Act of 1983 (Government of South Africa, 1983)) and, in collaboration with the University of the Western Cape, commissioned a review of the impact of the consultation of children (Community Law Centre, 2002).

In subsequent years, university-based researchers and NGOs have consulted children in HIV/AIDS policy, child labour law, policy on social grants and the new Children's Bill, a revision of the Children's Act (Clacherty, 2001d, 2003; Giese *et al.*, 2002; Mniki & Rosa, 2007). The child labour law consultation was commissioned by government; in the other instances consultation was initiated by researchers or non-government organisations (NGOs). These processes have necessarily engaged with small groups of children and thus raise questions as to how representative these groups are of the wider child population. Moreover, the nature of children's engagement has varied over time, according to the willingness of the relevant government department to incorporate children's views into decision making, and according to the decisions of researchers or advocates around the means of gathering and communicating children's perspectives.

Some early initiatives did not give children the opportunity to voice their opinions directly to decision makers, but instead relied on adults leading the consultation processes to communicate children's ideas to decision makers (Clacherty, 2001d; Community Law Centre, 2002). The extent to which this communication used children's own words may have had an impact on its effectiveness. For example, children's ideas about the effects of firearms on their everyday lives were presented to the parliamentary committee responsible for the Fire Arms Control Bill (Government of South Africa, 2006) using only

the children's words, ages and genders. In the opinion of members of the NGO which commissioned the consultation, this presentation of children's experiences motivated a shift in thinking within the committee, and the legislation providing for stricter gun licensing procedures was passed (G. Clacherty, pers. comm.).

More recent initiatives involved children in direct engagement with adult decision makers around reforms to child labour and child social service legislation. Researchers facilitating this engagement point to a lack of buy-in regarding the concept and the value of genuine children's participation amongst politicians that manifest in the failure to take children's views seriously (Clacherty, 2003; Mniki & Rosa, 2007). The trivialization of children's perspectives and their right to be involved imply a normative environment in which children are not deemed able to operate in the sphere of law. It is academic researchers (in collaboration with the NGO sector), rather than members of government bodies who are pursuing an agenda of children's participation. Reflecting on these processes, some have recommended the presence of adult mediators to ensure that children have influence over policy development (Mniki & Rosa, 2007). In so doing, researchers are effectively saying that their involvement is critical to children's participation in the policy sphere, at least at this point.

Within government, an Office of the Rights of the Child (ORC) was initially established in the presidency. This office had as its core-function to "mainstream a child-centred approach to policy, planning, programming, communication and funding process in government" (www.thepresidency.gov.za). In 2009, the ORC was incorporated into the newly created Department of Women, Children and People with Disabilities, with the mission "to create an enabling environment to ensure the facilitation of constitutional obligations, policies and legislative frameworks to realise all children's rights" (www.wcpd.gov.za). This change, while maintaining a focus on children's rights, seems to mark a shift away from the rhetoric of participation implied by ideas of child-centred planning. Furthermore, both the ORC and the new ministry have been conspicuous by their absence in government and civil society efforts to create an environment in which children can participate in policy decisions that stand to affect their lives.

Interestingly children may have begun to identify new "informal" spaces for voicing their opinion about laws that affect them when formal spaces are not provided. Using internet and cell phone chat forums, children organised in protest around clauses of the Sexual Offences Act (Government of South Africa, 2007b) that banned teenage kissing. These activities have not been formally researched in South Africa, and their efficacy is unclear. In this case, the Sexual Offences Act is yet to be revised.

Participation in community services for children

Although in the last two decades, a number of NGOs have attempted to adopt participatory approaches in their decision making and service-delivery, children typically have very little input in the design or delivery of services that are supposedly geared to meet their needs. Adults might uphold the notion of 'participation', but consider it inappropriate to involve children in the planning stages of service delivery, because they assume they know what children need, in a way that children themselves do not (Moses, 2006).

While strong notions of status difference based on age persist in this arena also, such views are also part and parcel of a more general attitude towards 'the deserving poor' regardless of their age. One of the lasting influences of apartheid is a welfare approach to social and economic development, including service delivery, that seems to be premised on the need for previously advantaged (white) middle class people to 'give back' to previously disadvantaged (black) people (Patel, 2005). A welfare and paternalistic approach to development can prevent people making real shifts towards participatory engagement, even when these are espoused (Hickey & Mohan, 2005).

Longer-term consultative processes are used by some NGOs to provide children with a platform to articulate their needs, views and experiences, in some cases laying the foundation for children's self-advocacy (Moses, 2008). For example, having gained confidence as individuals and a detailed knowledge of their legal status through participating in advocacy around new child social service legislation (the revised Children's Act) (Government of South Africa, 2005), several children in their own neighbourhoods

initiated advocacy around children's rights, school fee exemptions, the impact of HIV on children, and invited adult participation (Mukoma, 2007).

These limited activities were child-led and supported by adults, sometimes parents or teachers who had little prior knowledge of the legal arena, and sometimes by the researchers who facilitated the projects through which children developed skills and awareness. Where researchers facilitated, their attitudes were biased towards children's legitimacy and competence to act in this public arena. Relationships of trust had been developed over several months or years of regular interaction. In the case of facilitation by parents, neighbours and local adults in positions of authority, trust may be established, but these adults were not part of a process in which the meanings of children's legal rights to information and the expression of views were debated. Unfortunately there have been no detailed analyses of the impact of these activities and we do not know whether differing notions of children's engagement in the public sphere, or their capacities to act, were obstacles to their advocacy efforts.

Discussion

South African activists and leaders who guided the early years of transformation from apartheid prioritised human rights and inclusive participation in matters of public concern. More recently however, participation, whether of children or adults, appears to have slipped down the political agenda. At the same time, there are patches of fertile ground for broadening conceptual notions of 'participation' and contexts in which perceptions of children begin to acknowledge their roles as social actors who shape public spaces through their interaction in "informal" spaces of families, neighbourhoods and increasingly in the virtual worlds of internet and cell phone chat forums. Here we outline two broad areas of conceptual and practical development that deserve further exploration.

First, as discussed above there have been some instances of effective use of the legal imperative towards children's rights enshrined in the Constitution (1996) and some progressive consultative processes that have led to effective policy change. The weaknesses of child participation processes in the public arena include their dependence on champions, both employees of the state who prioritise their mandate to include children and the individual researchers and consultants who facilitate these processes and their *de facto* status as useful additions, rather than critical components to policy reform. The result is a handful of small-scale, intensive processes that may create substantial internal energy and shape decision making at a moment in time, but fail to motivate a more general shift towards an inclusive approach in state or voluntary sector policy and program design. Perhaps due to the precise directives of their original rationale (e.g. to inform a White Paper on child labour), these groups of children and adult facilitators rarely engage with or question the broader realities of children's civic status across the urban, rural and cultural terrains of South Africa. Yet, in light of the close and trusting relationships built up within these groups of children and adult facilitators, they may be best placed to grapple with questions that demand interrogation of tacit power relations, and the influence of gender, class, culture, race and religion on the ascription of role and status. There is scope here for considering how the nature and style of relationships between adults and children in these spheres of interaction may differ from relationships between children and the adults they encounter at home, at school, at church, in the clinic, the police station or sports club.

It is in these more ordinary and everyday spheres of interaction that we observe the second area of fertile terrain for expanding conceptualizations of participation by children. South Africa's cultural heterogeneity underlies the range of adult conceptions of childhood. At the same time, patriarchal values hold sway across the class and cultural spectrum and underscore a marked disparity in power and status between children and adults (Bray *et al.*, 2010; Clacherty & Donald, 2007). Recent qualitative work with children from three culturally and economically diverse communities in Cape Town revealed that varying cultural and religious metaphors may operate in different contexts to shape lines of authority between adults and children (Bray *et al.*, 2010; Shelmerdine, 2006). For example, notions of parental responsibility for socializing children to be responsible citizens limits children's autonomous decision-making in white middle-class families, whereas cultural and religious ideas about *ukuhlonipha* or respect for elders, appear to operate in working class black African and coloured families. Differences in cultural

metaphors notwithstanding, evidence suggests that children from a variety of backgrounds experience a stark power disparity in their relationships with adults. Children from a variety of backgrounds state that they are seldom asked their opinion, listened to, respected or taken seriously by adults within the home and beyond (Bray *et al.*, 2010; Clacherty and Associates & Donald, 2002; Moses, 2006).

This positioning of children appears to underpin some of the resistance to participation and progressive legislation discussed above. There is, however, evidence that some shifts are occurring and that children's sustained engagement with and contribution to their households and neighbourhoods is starting to be recognised. For example, evidence is scanty, but poor parents in urban and rural settings with increasing adult fragility wrought by AIDS-related sickness and death are questioning long-held notions of children's capacities to understand and to act (Dawes, Bray, Kvalsvig, Kafaar, Rama & Richter, 2004; Henderson, 2006). HIV positive mothers are contravening usual practices of avoiding talk about sickness and death with children, by disclosing their status and discussing its implications with very young children (Bray & Brandt, 2006). Moreover, these women recognise children's contributions to nurture in the home and enact values of respect that are more reciprocal in nature than assertive of rigid status differences between adults and children (Bray *et al.*, 2010). Gender seems influential in that there is more latitude to enact consultative relationships with children amongst women than amongst men. Research to further probe such shifts in attitude and discourse would shed light on the extent to which this is occurring and how these changes might be harnessed to create more spaces (both formal and informal) for children to influence decision making.

Conclusion

This paper has provided an overview of some of the ways in which children participated in public matters prior to and following the advent of democracy in South Africa. Moving away from the sharp distinctions between "formal" and "informal" to examine both public protest, as well as more formal access to governance and decision making enables us to think about what opens and closes spaces for engagement. Liberal democracy seems to have de-legitimised informal public protest by children, even in the eyes of fellow adult community members, as government power has been legitimised. In the absence, however, of the meaningful opening of other more formal spaces and significant shifts in the socio-economic circumstances of people's lives, children are left with a de facto oppressive situation and few mechanisms for engaging power structures.

Despite this constrained environment however, in the presence of adult champions, children do seem able to access formal structures, and small shifts in acknowledgement of the multiple ways in which children collectively and individually contribute to the unfolding of everyday life are evident among adults who are facing new health and socio-economic challenges in contemporary South Africa, that have brought children's roles into sharper relief. These shifts and opportunities could herald an opportunity to broaden the focus of participation initiatives to engage with tacit power relations that ascribe certain roles and positions to children in the public domain and thus to move beyond the often formulaic "formal" participation in governance.

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