



## Legal Protection For Victims Of Criminal Violations (Case Study Of Violence Against Children In Buleleng District)

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ARTICLE INFO	ABSTRACT
<p><b>Keywords:</b> Child; Legal Protection; Criminal Act; Violence</p> <p><b>How to cite:</b> Putu Rai Yuliantini, Ni (2019). Legal Protection For Victims Of Criminal Violations (Case Study Of Violence Against Children In Buleleng District). 2(2). hlm. 30-41</p>	<p>This research aims to analyze the form of legal protection against child victims of violence in Buleleng. In addition, this research also analyzes the obstacles and efforts made by Buleleng police in uncovering cases of child abuse in Buleleng. This research is an empirical study with a study that sees law as a reality that includes social reality, reality of culture and others (examine law in action). This empirical law study aims to examine legal issues in its practical dimensions, especially related to legal protection for victims of violent crime in Buleleng district. This research uses primary data and secondary data with research location in Buleleng. Technique of collecting data is done through observation and interview. The collected data is then processed and analyzed qualitatively. The results of this study indicate that the Buleleng police prepare by receiving reports or complaints from victims of violence, whether orally or in writing as a form of regulation. The place for report or complain is on the section integrated police service center. Basically legal protection against child victims of violence is conducted in accordance with the Child Protection Act. Basically legal protection against child victims of violence is conducted in accordance with the Child Protection Act. While related to obstacles faced by Buleleng police in revealing cases of violence that occur to children that investigators often have difficulty in finding the perpetrators, lack of information from perpetrators or victims, chronology is often covered, not conformity information between perpetrators and victims. In addition, investigators find it difficult to obtain information or information from traumatized victims, lacking evidence, obstacles to finding witnesses, and the results of their visum. Furthermore, related to the efforts made, Buleleng police conducted the process of receiving reports or complaints from families of victims who experienced violence. In addition, assistance was also provided by the integrated service center for the empowerment of women and children in Buleleng, in the case of violence that occurred was accompanied, mainly related to cases of sexual violence. The involvement of an integrated service center for the empowerment of women and children is to further strengthen the mental victim through psychological support. Not only get assistance from integrated service centers for women and children empowerment but also receive</p>

## 1. Introduction

Children are a mandate as well as the gift of God Almighty, which must always be maintained because in him the inherent dignity, dignity, and rights as human beings must be upheld. Child rights are human rights contained in the 1945 Constitution, in terms of the life of a nation and child state is the future of the nation and the future generation of the nation's ideals, so that every child has the right to survival, to grow and develop, participate, and entitled to protection from acts of violence and discrimination based on applicable laws and regulations. Law is an absolute thing that belongs to a country regardless of the system used by the country, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that the Indonesian state is based on law, not based on mere power.<sup>1</sup>

Recognition of the existence of children as the subject of *sui generis* (rights holders as *sui generis*) is marked when the Convention on the Rights of the Child has been ratified by 196 countries. Thus as many as 196 governments have accepted their obligation to take all legislative, administrative, social, and educational measures properly to protect children from all forms and manifestations of violence (Article 19 paragraph (1) of the Convention on the Rights of the Child 1990).<sup>2</sup>

Legal protection for children can be interpreted as an effort to protect the law against various freedoms and fundamental rights and freedoms of children as well as various interests related to child welfare. The validity of human rights in a person, starting from the time he was born and ending when he died, even a child who is still in the womb of his mother can be considered as the bearer of rights. Law Number 39 of 1999 concerning Human Rights has stated clearly that the rights of a child must be protected. Because in principle human rights are a set of rights attached to human existence as God's creatures.<sup>3</sup>

Violence against children is one of the most dominant cases and is often found anytime, anywhere, and almost everywhere.<sup>4</sup> Violence that occurs against children includes not only physical, but also psychological. Various forms of violence certainly cause various negative impacts on children. Violence is often carried out together with one form of crime such as a threat. Violence can befall anyone, both men and women, from children

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<sup>1</sup> Winarta, Frans Hendra, (2000), *Bantuan Hukum: Suatu Hak Asasi Manusia Bukan Belas Kasihan*, Jakarta: Elex Media Komputindo, p. 192

<sup>2</sup> Pasal 19 Ayat (1) Konvensi Hak-Hak Anak Tahun 1990.

<sup>3</sup> Pasal 1 Angka 1 Undang-Undang Nomor 39 tahun 1999 tentang Hak Asasi Manusia.

<sup>4</sup> Almasasmita, Romli, (1995), *Peradilan Anak di Indonesia*, Bandung: Mandar Maju, p. 165

to adulthood, especially if violence occurs in the household sphere, often this act of violence is called hidden crime because both the perpetrator and the victim try to keep the act confidential from the public view, sometimes also called domestic violence.<sup>5</sup>

Based on data from the Indonesian Child Protection Commission (KPAI), violence against children always increases every year. The highest case with the number of cases occurred from 2011 to April 2015. First, children faced with the law until April 2015 there were 6006 cases. Furthermore, cases of care for 3160 cases, education for 1764 cases, health and drugs 1366 cases and pornography and cybercrime 1032 cases (Indonesian Child Protection Commission). However, KPAI reported that in 2016 the number of violence against children in Indonesia increased. KPAI noted that the increase in violence against children increased by 15 percent compared to 2015.<sup>6</sup>

In addition, children can become victims or perpetrators of violence with 3 locus of violence in children, namely in the family environment, in the school environment and in the community. The results of monitoring and evaluation of KPAI in 9 provinces showed that 91 percent of children were victims of family violence, 87.6 percent in the school environment and 17.9 percent in the community. Furthermore, 78.3 percent of children become perpetrators of violence and mostly because they have been victims of previous violence or have seen violence committed to other children and imitated it.

Related to acts of violence against children found in the province of Bali, the Legal Aid Institute of the Indonesian Women's Association for Justice (LBH APIK) in Bali noted that cases of violence against children and women reached 100 cases in 2016 in the Province of Bali. Data until November has more than 100 cases accompanied by police handling until the court. The number increased in 2015 and previously there were 87 cases.<sup>7</sup> Based on data obtained from the protection unit of women and children in the Buleleng Police, the acts of violence against children that occurred in 2014 amounted to 32 cases, in 2015 there were 31 cases, and in 2016 there were 19 cases.

Although the acts of violence that occurred in Buleleng decreased from year to year but this remains a concern because in accordance with applicable legal regulations, children must be given legal protection against various freedoms and children's rights as well as various interests related to the welfare of children so that acts of violence Against children occurs again in Buleleng Regency. This is because children are the future of the nation and the future generation of the nation's ideals, so that every child has the right to survival, to grow and develop, participate, and has the right to protection from acts of violence and discrimination based on applicable laws and regulations.

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<sup>5</sup> Soeroso, Moerti Hadiati, (2010), *Kekerasan Dalam Rumah Tangga Dalam Perspektif Yuridis Viktimologis*, Jakarta: Sinar Grafika, p. 1

<sup>6</sup> Ditjen Bina Pembangunan Daerah Kementerian Dalam Negeri.

<sup>7</sup> BeritaBali.com, *Selama 2016, 100 Kasus Kekerasan Anak Terjadi Di Bali*, 28 November 2016, URL: <http://beritabali.com/read/2016/11/28/201611280003/Selama-2016-100-Kasus-Kekerasan-Anak-Terjadi-di-Bali.html>, diakses pada tanggal 14 April 2019.

The Buleleng Regency Police as the party who became the informant related to this research, in accordance with Article 13 of Act No. 2 of 2002 concerning the National Police, contains the main duties of the police to maintain security and order, enforce the law, and provide protection, protection and implementation to the community, to The National Police are demanded to always appear sympathetic and pleasing to the public, while in law enforcement tasks the National Police must be firm, strong and powerful even though it is enforced by using violence. The task of the national police is very important in maintaining the supremacy of human rights in social life as contained in Law No. 2 of 2002, that the Indonesian National Police must maintain and protect public security, order and law enforcement and human rights. In addition, the Indonesian National Police must also maintain public security and property rights, as well as avoid violence in maintaining the discipline of society by respecting the supremacy of human rights.

Buleleng is one of three regencies in Bali with a level of violence against children and women that is a concern compared to other regions on the island of Bali. The emergence of acts of violence, due to factors of education and economic disparity.<sup>8</sup> Cases of violence against children are reported cases, but many cases of violence against children and women are not reported or only arrive at the mediation process. There are many cases of violence against children and women because there are still not many people who understand the category of violence itself.<sup>9</sup> In addition, the increase in cases is generally due to the opportunity to commit acts of violence and lack of parental supervision of their children.<sup>10</sup>

Looking at the existing empirical and factual conditions as described, the author sees a gap between theory and practice. The law clearly stipulates that girls are subjects that must be protected by all their rights from all forms of violence and discrimination. But in reality in many communities children get violence both physically and non-physically from family and outside the family environment. Seeing this condition, the authors are interested in analyzing more deeply the forms of legal protection and efforts from the police to uncover cases of violence against children in Buleleng regency. Furthermore, the author gave the title in this study, namely "Legal Protection for Victims of Violent Crime (Case Study of Violence Against Children in Buleleng Regency).

Based on the background description above, the problems in this study can be formulated as follows:

- a. What is the form of legal protection for children victims of violence in Buleleng Regency?

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<sup>8</sup> Singarajafm.com, *Lingkungan Dan Ekonomi Pengaruhi Kekerasan Terhadap Anak*, 28 November 2016, URL: <http://singarajafm.com/lingkungan-dan-ekonomi-pengaruhi-kekerasan-terhadap-anak/>, diakses pada tanggal 14 April 2019.

<sup>9</sup> TribunBali, *Kasus Kekerasan Anak Dan Perempuan Banyak Ditemukan Di Buleleng, Poligami Penyebabnya*, 27 November 2016, URL: <http://bali.tribunnews.com/2016/11/27/kasus-kekerasan-anak-dan-perempuan-banyak-ditemukan-di-buleleng-poligami-penyebabnya?page=2>, diakses pada tanggal 14 April 2019.

<sup>10</sup> AntaraBali.com, *Polisi Catat 74 Kasus Kekerasan Di Buleleng*, 25 Agustus 2015, URL: <http://www.antarabali.com/berita/77120/polisi-catat-74-kasus-kekerasan-di-buleleng>, diakses pada tanggal 14 April 2019.

- b. What are the obstacles and efforts made by the Police in uncovering cases of violence against children in Buleleng Regency?

## 2. Method

This research is included in empirical research with studies that view law as a reality that includes social reality, reality of culture and others (reviewing law in action).<sup>11</sup> This empirical legal research aims to examine legal issues in its practical dimension, especially related to legal protection for victims of violent crime in Buleleng Regency. This study uses primary data and secondary data with research locations in Buleleng Regency. Data collection techniques are carried out through observation and interviews.

## 3. Main Heading of the Analysis or Results

### Form of legal protection for children victims of violence in Buleleng Regency

Legal protection against victims of violence given by the government in the form of legal products with the existence of the Child Protection Act, namely Law No. 35 of 2014 concerning Amendment to Law Number 23 Year 2002 concerning Child Protection is all activities to guarantee and protect children and rights -the right to be able to live, grow and develop, participate, optimally in accordance with the dignity and dignity of humanity, and get protection from violence and discrimination.

Protection of victims of violence is one of the problems that has received international attention. Citing the results of the UN Congress VII of 1985 in Milan on the Prevention of Crime and the Treatment of Offenders, it was stated that victims' rights should be seen as an integral part of the entire criminal justice system. Protection of victims of violence as part of the problem of protecting human rights and this is closely related between the two.<sup>12</sup> Victims due to violence must be protected, because victims have the right to demand retaliation from perpetrators, victims can determine the amount of compensation related to their actions.<sup>13</sup>

The international consensus developed by the international community is related to the need for an instrument that regulates explicitly the special and special rights of a child. The United Nations then in 1989 through the General Assembly adopted the Convention on the Rights of the Child. The Convention on the Rights of the Child, in some respects, raises international standards regarding children's rights. This Convention explains and legally binds some children's rights which are included in the previous instruments. Recognition of the right to protection held by a child is not limited to the Convention on the Rights of the Child 1989. There are also other instruments from the United Nations and instruments from other international bodies that also regulate the rights of a child.

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<sup>11</sup> Ali, Ahcmad dan Heryani, Wiwie, (2012), *Menjelajahi Kajian Empiris terhadap Hukum*, Jakarta: Kencana Prenada Media Group.

<sup>12</sup> Arief, Barda Nawawi, (1998), *Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum Pidana*, Bandung: Citra Aditya Bakti, p. 2

<sup>13</sup> Reksodiputro, Mardjono, (1994), *Kriminologi dan Sistem Peradilan Pidana*. Buku Kedua. Jakarta, Pusat Pelayanan Keadilan dan Pengabdian Hukum Universitas Indonesia, p. 75-76.

The implementation of protection for children who are victims of violence must fulfill the requirements that the parties in providing protection for children who are victims of violence must have appropriate understandings relating to the issue of child protection so that they can act and act appropriately in dealing with and overcoming problems related to the implementation of child protection. In addition, child protection must be shared by every citizen, community members individually and collectively and the government for the common good. Furthermore, cooperation and coordination are needed in carrying out rational, responsible and beneficial child protection activities among the participants concerned.<sup>14</sup>

Legal protection for children is regulated in Law No. 39 of 1999 concerning Human Rights, specifically in Article 52 it has been stated that every child has the right to protection by parents, family, society and the state. Children's rights are human rights that are recognized and protected by law even in the womb. Furthermore, Article 58 also states that every child has the right to obtain legal protection from all forms of physical or mental violence, neglect, ill-treatment and sexual harassment while in the care of their parents or guardians, or any other party responsible for the care of the child.

Legal protection is also given in the juvenile justice process which is a juridical process whereby the law is enforced by not ruling out the freedom to issue opinions and defense where decisions are taken by having a certain motivation, therefore protection of children needs a condition where every child can implement the rights and obligations, and wherever possible must be sought in various fields of life in the country and society.

Other protection provided to children who are victims of violence can also be carried out in the form of a reporting or complaints process. In responding to the problem of cases of violence against children, the Buleleng Regional Police can receive reports or complaints from families of victims of violence. The most important element that really helps the police, especially the Buleleng police in providing legal protection for children victims of violence is the existence of reports and notifications from the families of victims, both verbally and in writing.

The process of reporting / complaints cannot be carried out by children who experience acts of violence directly. Children who are victims of violence must complain to their parents first or to the trustees, as well as people who are trusted. This is because children who are not yet 18 years old have not been able to report, the next process is parents, guardians, or trusted people who report to the police, if the child is a victim of violence in a sub-district, then report it to the sector police (police) where a crime takes place, but it can also be allowed to report the matter to the administrative area above it, for example to the police, regional police, or police headquarters.

At the police station, the place to carry out reports / complaints is in the SPKT section (integrated police service center) which is an element of the implementation of the main tasks in the field of police services. SPKT has the

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<sup>14</sup> Gosita, Arif, (1989), *Masalah Perlindungan Anak*, Jakarta: Akademika Pressindo, Ja, p. 19

task of providing services to public reports / complaints. Furthermore, after making a report / complaint at the SPKT, it will be directed to the part that handles in accordance with the report / complaint submitted. In the case of child abuse in the Buleleng police station, it is handled by unit IV, namely the ministry of women and children. After being directed to unit IV, an investigation is carried out to determine whether an event is a child or female criminal event or not. After finding a crime involving children and women, an investigation will be carried out until the final process, namely filing to the Public Prosecutor, namely P21 as a notification that the results of the investigation are complete.

Basically, in the women's and children's services unit contained in the Buleleng police station, that all children will definitely get legal protection, protection is a form of service that must be carried out by law enforcement officers to provide physical and mental security to victims and witnesses. Legal protection for child victims of violence is in accordance with the Child Protection Law, namely Law No. 35 of 2014 concerning Amendment to Law Number 23 of 2002 concerning Child Protection.

### **Constraints And Efforts Made By The Police In Uncovering Cases Of Violence Against Children In Buleleng Regency**

The obstacles faced by the Buleleng police in uncovering cases of violence that occurred against children occurred in the investigation process. Investigators often experience difficulties in finding perpetrators of acts of violence against children, lack of getting information from the perpetrators and victims, both the perpetrators and victims often cover up the actual chronology, not the suitability of the information between the perpetrators and victims. Furthermore, the obstacle experienced by investigators is that it is difficult to obtain information or information from traumatized victims, lack of evidence, obstacles to finding witnesses, and the results of their post mortem results from old tears.

The police also experienced problems when the party who became the perpetrator of the crime of violence against the child knew that he had been reported or complained of by the victim or the victim's family to the police. Actors who have been reported or complained will usually run away and hide in certain areas / cities before being arrested by investigators. Investigators often have difficulty in finding perpetrators who have fled and become fugitives. Investigators from the Buleleng police station coordinated with various parties to look for perpetrators of criminal acts of violence on children who often fled. The location which according to the investigators was the most difficult to find the perpetrators who escaped was when the perpetrators fled to other areas.

Investigators also experience problems because they have difficulty tracking or finding the whereabouts of those who fled without knowing the faces of the perpetrators of violence. The information obtained by investigators is very minimal related to the whereabouts of the perpetrators because they are limited to information about their physical characteristics, home address, etc. This causes the investigator to find out clearly the existence of the perpetrators. The information obtained by the investigator

provided by the relatives of the perpetrator, the victim, the family of the victim is often different from the results of the investigation by the investigator in the field. In addition, the investigators also have problems related to the limited time in processing files from criminal acts of violence against children. With the limited time given to uncover the crime of violence, the investigators have difficulty in completing case files at the same age as the target or the time specified. The next obstacle is related to the lack of adequate facilities and infrastructure in the process of investigating and disclosing criminal acts of violence against children.

Reports or complaints related to acts of violence against children are also still quite small. This is caused by victims who do not report their cases on the grounds that there is a feeling of fear of a threat and the consequences that will be received from the perpetrators. Apart from the victim's side, there were acts of manipulation carried out by the perpetrators by refusing the allegations that he was the culprit. This is used by the perpetrator as a strategy by accusing the victim of making lies and making engineering for the actions that occur.

Sometimes in cases of violence, victims' families often assume that violence against children, especially related to sexual violence is a shameful shame if revealed in public, as well as the assumption that matters relating to family affairs are not worthy of being interfered with by others. Furthermore, the community did not know clearly the signs of children as victims who experienced acts of violence, especially in cases of sexual violence because there were no visible physical signs and the community still did not know for sure and clearly about the procedures for reporting or complaints that can be done.

The Buleleng police station has made various efforts in responding to cases related to violence against children through the process of receiving reports or complaints from families of victims of violence. The most important element that really helps the police, especially the Buleleng police in providing legal protection for children victims of violence is the existence of reports and notifications from the families of victims, both verbally and in writing. This will simplify and speed up the investigator in completing the case in question. After the police receive a report or complaint, then at the next stage the investigator section will carry out a series of actions in accordance with the procedures stipulated in the law by collecting evidence, making a certificate or introduction to the hospital for evidence, providing counseling towards children who are victims of violence, provide protection and protection for children who are victims of violence, and arrest the perpetrators of violence.

The efforts made by the police in uncovering cases of violence against children in Buleleng Regency are in addition to going through the investigation process, investigators also make efforts to approach victims of violence and perpetrators to uncover acts of violence that have occurred. In addition, assistance was also provided by the Integrated Service Center for Women's and Children's Empowerment (P2TP2) in Buleleng Regency, the case was carried out with assistance, mainly related to cases of sexual violence. P2TP2's involvement is to strengthen the mentality through the

help of a psychologist. Not only received assistance from P2TP2 but also received assistance from the social service.

The investigators also collaborated with police from various regions to look for whereabouts and secure the perpetrators of acts of violence who had fled. In addition, for children who are victims of violent crime, especially sexual violence who experience severe physical and psychological trauma, the investigator provides assistance from a psychologist.

Assistance by parents, psychologists, lawyers or people trusted by victims greatly helps a child in the recovery period and helps the investigation process take place so as not to cause fear for victims of acts of violence. Investigators also make efforts for parents of children who are perpetrators or victims of violent crime specifically related to sexual violence in children to be able to provide motivation and provide the best solution for the lives of children. The solution given to the perpetrators and victims, each of whom is still a child, is to solve the problem in a family manner so that it does not proceed to prosecution and trial.

Police or investigators can also establish communication and provide oversight of the perpetrators or victims of criminal acts of violence against children who have finished serving a sentence. This is done as a form of prevention of criminal acts of violence against children so that they are not repeated in the future and provide a deterrent effect for perpetrators of acts of violence. The police or investigators also made efforts to increase personnel so that the perpetrators and victims and their families who wished to complain about criminal acts of violence did not wait too long to process complaints and made efforts to submit improvements to facilities and infrastructure in the form of mediation rooms and maximizing children's investigation rooms.

The police or investigators also make other preventive efforts by conducting search activities or visiting places in certain areas which are vulnerable points of violent crime, especially sexual violence such as prostitution sites, karaoke places and other areas that become a place prone to acts of violence against children. This location is a critical point because it starts from a location like that sometimes acts of violence, especially sexual violence against children can occur.

#### **4. Conclusion**

Legal protection against child victims of violence can be done directly aimed at children, such as protecting children, educating, accompanying children, fostering, and so forth. Furthermore, indirect protection of children is carried out with activities that are not directly aimed at children, but others who do / are involved in child protection efforts. Legal protection is also given in the juvenile justice process, where each child can exercise his rights and obligations in the process. Buleleng Police can receive reports or complaints from families of victims of violence, both verbally and in writing as a form of protection provided. The place to carry out reports / complaints is in the SPKT section (integrated police service center) which is an element of implementing basic tasks in the field of police services. SPKT has the task

of providing services to public reports / complaints. Furthermore, after making a report / complaint at the SPKT, it will be directed to the part that handles in accordance with the report / complaint submitted. Furthermore, an investigation is carried out. After finding a criminal offense involving children and women, an investigation will be carried out until the final process, namely filing with the Public Prosecutor as a notification that the results of the investigation are complete. Basically, in the women's and children's services unit contained in the Buleleng police station, that all children will definitely get legal protection, protection is a form of service that must be carried out by law enforcement officers to provide physical and mental security to victims and witnesses. Legal protection for child victims of violence is in accordance with the Child Protection Law, namely Law No. 35 of 2014 concerning Amendment to Law Number 23 of 2002 concerning Child Protection.

Constraints faced by the Buleleng police in uncovering cases of violence that occur against children occur in the investigation process. Investigators often experience difficulties in finding perpetrators of acts of violence against children, lack of getting information from the perpetrators and victims, both the perpetrators and victims often cover the actual chronology, not the suitability of the information between the perpetrators and the victims. Furthermore, the obstacle experienced by investigators is that it is difficult to obtain information or information from traumatized victims, lack of evidence, obstacles to finding witnesses, and the results of their post mortem results from old tears. The police also experienced problems when the party who became the perpetrator of the crime of violence against the child knew that he had been reported or complained of by the victim or the victim's family to the police. Actors who have been reported or complained will usually run away and hide in certain areas / cities before being arrested by investigators. In addition, the investigators also have problems related to the limited time in processing files from criminal acts of violence against children. Reports or complaints related to acts of violence against children are also still quite small. This is caused by victims who do not report their cases on the grounds that there is a feeling of fear of a threat and the consequences that will be received from the perpetrators. Furthermore, related to the efforts made, the Buleleng Regional Police carried out the process of receiving reports or complaints from families of victims of violence. The most important element that really helps the police, especially the Buleleng police in providing legal protection for child victims of violence is the existence of reports and notifications from the families of victims, both verbally and in writing, followed by the investigation process. The efforts made by the police in uncovering cases of violence against children in Buleleng Regency are in addition to going through the investigation process, investigators also make efforts to approach victims of violence and perpetrators to uncover acts of violence that have occurred. In addition, assistance was also provided by the Integrated Service Center for Women's and Children's Empowerment (P2TP2) in Buleleng Regency, the case was carried out with assistance, mainly related to cases of sexual violence. P2TP2's involvement is to strengthen the

mentality through the help of a psychologist. Not only received assistance from P2TP2 but also received assistance from the social service.

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