

A Deweyian Notion of Children's Participation Rights and its Implications for Education

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Abstract

The 1989 United Nation's Convention on the Rights of the Child (UNCRC) "is the most widely and rapidly ratified human rights treaty in history" (UNICEF 2006, para 9). It has been ratified by all but two nations in the world; the USA and Somalia. Even these two nations have signed it, signalling their intention to ratify it in the future. Thus, there appears to be widespread agreement that children do have rights. However, there is much uncertainty about the nature and implications of children's rights. Children's participation rights, such as the right to inquire or the right to freedom of expression, are particularly contentious and ambiguous and are often overlooked in research and policy related to children's rights (Habashi, et al. 2010; Hinton, et al. 2008; Freeman 2007; Smith 2002; Shier 2001). This lack is educationally problematic because if such rights exist, they have significant implications for curriculum and pedagogy, in that some pedagogies and curricula are going to be more facilitative of participation rights, such as the right to freedom of thought, than others. If we accept that children have such rights, and we are genuinely committed to upholding them, we should be committed to promoting the types of pedagogies and curricula that are most facilitative of them. Thus, a comprehensive theory of children's participation rights would provide a framework for comparing and evaluating competing curricula and pedagogies and may help overcome the problem of 'pedagogical relativism' - the belief that it is acceptable for different teachers to have different and, often conflicting, pedagogies (Cook 1992). If it was shown that certain pedagogies and curricula were more supportive of children's participation rights than others, there would be a moral, and even a legal basis, for discouraging some approaches, while promoting others.

In this paper, I will draw on the educational and political ideas of John Dewey to outline a theory of children's participation rights. I will then explore some of the educational implications of this theory. Even though Dewey himself didn't outline a theory of rights, I believe Dewey's ideas may be valuable for developing a theory of children's participation rights because he proposed a participatory notion of democracy as a form of communal inquiry. In Dewey's work, we can find justification for the belief that participation in communal inquiry is so essential to human flourishing that it should be recognised as a basic human right. Another reason for looking to Dewey in order to develop a theory of children's participation rights is that Dewey also wrote extensively about education, growth and children and his educational and political ideas are closely aligned. Furthermore, Dewey's ideas have influenced the Philosophy for Children movement (Bleazby 2011, 2006; Lipman 2008; Cam 2008). Philosophy for Children (hereafter P4C) has a specific focus on education for freedom, democracy, human rights and peace. For these reasons, it has been endorsed by the United Nations Educational, Scientific and Cultural Organization, partially for its potential to foster children's rights through enabling them to participate in classroom communities of inquiry (UNESCO 2007). It will be argued that Dewey's philosophy supports the notion that children have a right to participate in communal inquires and that this right imposes certain obligations on schools and teachers. It will be argued that one way schools can begin to meet these obligations is through enabling all children to participate in philosophical communities of inquiry.

Participation Rights

The rights contained within the UNCRC are commonly categorised as follows:

1. *Protection rights*, which protect children from potential harm, such as exploitation, physical abuse, discrimination and neglect
2. *Provision rights*, which ensure the child is provided with access to essential services and goods, such as food, health care and education

3. *Participation rights*, which state that the child has a right to participate in particular types of activities

As mentioned, participation rights are the most contentious and ambiguous of the three types of rights (Habashi, et al. 2010; Hinton, et al. 2008; Freeman 2007; Smith 2002; Shier 2001). Examples of some of the UNCRC's participation rights are:

- Article 12 – “States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child”
- Article 13 - “The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice”
- Article 14 - “States parties shall respect the right of the child to freedom of thought, conscience and religion” (UN 1989).

If we take article 14 as an example, it is not clear what the “right to freedom of thought” entails for the individual who has the right or for the society that must uphold it. In contrast, a right to be protected from physical abuse is much less ambiguous in terms of the entitlements and obligations it imposes on people.

This contentiousness and ambiguity may be one of the reasons that there is relatively little research devoted specifically to children's participation rights. Much of the research in this field has been conducted by legal scholars who focus more on children's protection and provision rights than participation rights, which are difficult to define for legal purposes and to protect under the law. For example, majority of the papers in the law focused journal, *The International Journal of Children's Rights*, are about protection and provision rights. The small but emerging philosophical literature on children's rights is dominated by debates about whether or not children have rights at all and if they do, whether or not rights protect their interests or their capacities (e.g. Freeman 2007; Roose, R. & Bouverne-De Bie 2007; Archard 2003; Brennan 2002; Bandman 1999; Purdy 1992; O'Neill 1988; MacCormick 1982; Wring 1981). Those philosophers that do argue for children's rights tend to stop at merely justifying children's rights in general, rather than articulating in any detail what rights children do have and what the educational implications of these rights are. They also tend to focus on protection and provision rights. One exception is Bandman's comprehensive defence of children's participation rights (1995). However, he fails to provide an in-depth discussion of the educational implications of participation rights. Thus, while some philosophers have argued that children have rights, including a right to education, they say little about what type of education children have a right to.

A Deweyian Theory of Children's Participation Rights

Dewey himself didn't outline a theory of rights. As Betz (1978) points out, rights theory is associated with traditional liberalism, which Dewey was critical of because of its focus on rugged individualism, essentialist notions of the self and absolutism. Dewey thought that liberalism's individualistic concept of the self encouraged avarice and fierce competition for limited resources, resulting in vast inequalities (Dewey 1930, pp. 249-250). As Dewey states:

But when men act, they act in a common and public world. This is the problem to which the theory of isolated and independent conscious minds gave rise: Given feelings, ideas, desires, which have nothing to do with each other, how can actions proceeding from them be controlled in a social or public interest? Given an egoistic consciousness, how can action which has regard for others take place? (2004, p. 285)

This individualistic notion of the self inevitably leads to the notion of individual rights, which are seen as necessary to protect individuals from each other. By entering into a social contract with the state, citizens surrender some of their freedom in exchange for state sanctioned legal rights, which enable them to act in accordance with their own idea of the good so long as they don't interfere with the rights of others to do the same. This contractual model of society has been widely criticized by contemporary philosophers, particularly feminists and communitarians, for promoting an undesirable ideal of citizenship based on

conflict and competition, rather than interconnectedness, care and altruism (Held 1995, p. 210). It is claimed that appeals to absolute rights enable individuals to make dogmatic and aggressive demands upon others. For this reason, Sandel argues that the adversarial nature of rights may actually cause conflict and delimit care and altruism (1982, pp. 28-35). Such rights are also thought to imply that we only have a negative responsibility not to interfere with others and, as such, they don't encourage individuals to care for each other (Kiss 1997). This is particularly problematic for those who are most vulnerable or dependent. As Elshtain states, in the contractual model 'children, old people, ill and dying people who need care are nowhere to be seen' (1995, p. 266). Thus, rights are often seen a particularly inappropriate for familial and child-adult relationships.

While I agree that this notion of absolute and inalienable rights is problematic, like Betz, I believe Dewey may have been too quick to dismiss the notion of rights, as rights may have significant pragmatic value as a means to fostering the sort of society and education that Dewey desired. As Betz argues, it's puzzling that Dewey didn't reconstruct the concept of rights, in much the same way he reconstructed other equally problematic concepts like "truth", "community", "democracy" and "experience". I believe simply dismissing rights discourse is a mistake, given the dominance of this discourse in contemporary political debates and amongst the general population. The widespread acceptance of the UNCRC and other UN human rights conventions is an indication of how popular and ingrained the notion of rights is. Rights can, and have been, powerful political and social tools, especially for oppressed and marginalised groups. Furthermore, the persistent ambiguity that surrounds the concept of rights, particularly children's participation rights, makes them particularly amenable to reconstruction. Given Dewey's focus on community and his pragmatism, I believe a Deweyian notion of children's participation rights, may actually help resolve some of the problems with traditional theories of rights.

I believe Dewey's notion of the self and growth supports the idea that all people, including young children, have a right to participate in communal inquiries. I don't believe this a natural or an absolute right but I believe it is a basic human right. In order to understand how Dewey's philosophy supports this conclusion, we need to understand his notion of the self and growth. Drawing on Darwin, Dewey recognised that the most fundamental interest that all living things have is an interest in effectively interacting with their environment. Without the ability to effectively interact with one's environment, no living organism could satisfy its needs and desires, including basic physical needs, such as the need for food or protection from the elements. While, all living organisms are able to mutually adapt themselves and their environment in some basic, instinctive way, most human beings have a more sophisticated capacity for mutual adaptation. As Dewey (1916; 1930; 1938; 1958) explains, it is our capacity for inquiry or reflective thinking that enables us to intelligently interact with our environment, satisfy our needs and desires and flourish. Inquiry is initiated when we encounter situations that are unfamiliar, fragmented or incomplete in some way. Such problematic situations occur when our habitual or instinctive way of interacting with our environment becomes ineffective. Inquiry is the process of imagining the problematic situation as meaningfully reconstructed and constructing, evaluating, testing and applying solutions so as to realise this imagined possibility. Thus, the aim of inquiry is to connect up the fragmented parts of the situation and transform it into a unified, coherent and determinate whole, reinstating a degree of harmony between the individual and their environment. Thus, inquiry is a process of interacting with one's environment in a reflective and transformative manner. According to Dewey, "inquiry" is synonymous with "reflective experience" (1916, p. 139).

It is through the process of inquiry that the individual self is constituted and grows. As a result of undertaking such inquiries, individuals internalise those actions, beliefs and attitudes that they find useful for meaningfully reconstructing experience and they eliminate from the self those that are detrimental to their own growth, survival and happiness. These habits, beliefs and attitudes constitute the self (Dewey 1930b, p. 25). Thus, growth consists of the development and transformation of habits through the process of inquiry (Dewey 2004a, p.47). However, habits and beliefs should always be open to further reconstruction, as they may become ineffective in the future. Growth is continuous because every reflective experience or inquiry results in individuals

and their environment being transformed. Consequently, the individual will then interact with their environment differently, inevitably leading to them having more unfamiliar experiences that will provoke further inquiry and growth. Thus, the self is always in a process of becoming (Dewey 2004, p. 40).

It is not just individual inquiry that Dewey identifies as essential to human flourishing but communal inquiry. Since our environment is necessarily social and cultural, we must take into account the perspectives, interests and actions of others in order to effectively reconstruct problematic experiences (Dewey 2004, pp. 11-12). Others can act as either obstacles or supports to our actions. Thus, Dewey argues that communal inquiry is preferable to individual inquiry. In communal inquiry we collaboratively investigate shared problems, test out ideas and cooperatively reconstruct experience and construct common meanings, what Dewey calls “culture” (2004, pp.11-15). Knowledge that results from such communal inquiry is also more objective and useful because it has been tried and tested in a wider, more diverse field of experience. Not only is communal inquiry the preferred method of inquiry, Dewey believes it facilitates the capacity for independent thinking. Much Like Vygotsky, Dewey argues that the capacity to think for oneself is the result of our internalising the logical moves and processes which characterize communal inquiry. When we encounter others with differing perspectives we are provoked to critically reflect on our own beliefs, compare alternatives, and search for reasons to justify our beliefs to others or self-correct. The internalisation of this process gives rise to thinking, which is a type of internal dialogue (1958). However, not all communities are equally facilitative of inquiry. When Dewey talks of communities as facilitating inquiry he means democratic communities, which are communities that embrace diversity and intercultural inquiry. Dewey argues that democratic communities have a ‘freer interaction between social groups’ which leads to ‘continuous readjustment through meeting the new situations produced by varied intercourse’ (2004, pp. 82-83). As Dewey explains, such exposure to diverse opinions gives rise to new situations and problems, which leads to continuous reconstruction through inquiry. This is why Dewey believed that democracy was not just a form of government but the mode of associated living most facilitative of growth (Dewey 2004, p. 74).

If communal inquiry is necessary for independent thought, autonomy and human and social flourishing then we ought to put in place conditions which protect one’s ability to participate in communal inquiry. The notion of rights is useful here because rights are already well entrenched in dominant political discourses and used to protect fundamental human interests. Recognising a basic human right to participate in communal inquiry would acknowledge the importance of communal inquiry and provide groups and individuals with a clear basis and powerful language for challenging any conditions, policies or structures which unnecessarily limit or reduce their capacity to engage in communal inquiry. I think rights could have much the same nature and play much the same role in fostering communal inquiry that logical principles do for Dewey. Dewey argues that logical principles originate in inquiry, denying that they are apriori principles applied to inquiry from without (1938, p. 11). When we reflect on the process of inquiry itself the logical forms that characterize inquiry are disclosed to us (Dewey, 1938, p.4). This is why Dewey describes logic as ‘inquiry into inquiry’ or the ‘theory of inquiry’ (1938, p. 20). By undertaking a metacognitive inquiry we identify the inferences and thinking moves that have been used to successfully reconstruct experience. Logical principles are just the formalization and generalization of these previously effective thinking moves. Their purpose is to enable us reproduce thinking that has been successful in past inquiries and eliminate previously fallacious thinking. Recognising a basic human right to participate in communal inquiry and any subsidiary rights that follow from this, would have much the same regulative purpose. Such rights would act as a general rules that guide and regulate individual behaviour, social interaction, policies and social systems and structures. Through reflecting on past experience we can see that communal inquiry fosters human flourishing and, as

such, we can foster communal inquiry in the future by recognising a universal right to participate in communal inquiries.

Like Dewey's logical principles, such rights would not be absolute. As Betz argues, absolute rights, would be inconsistent with Dewey's pragmatism (1978, p. 34). There are clearly some situations in which we would deny one the right to participate in communal inquiry. For example, we would be justified in excluding someone from a communal inquiry if they were aggressive, insulting or spoke over the top of others because such a person is likely to discouraging others from participating. In this case, it is ultimately still the right to inquire that is being protected. In such situations, allowing the person to exercise their right to participate in communal inquiry would be self-refuting as their behaviour would likely shut down communal inquiry anyway. This highlights the fact that such a right entails positive responsibilities for the rights bearer. The right to participate in communal inquiry implies that we treat others with respect and care so as to build the trust and reciprocity that is needed for communal inquiry to take place. There are also other situations in which undertaking an inquiry is clearly less facilitative of growth than habitual or instinctive action, such as in an emergency. In these situations it would also be appropriate to deny a person the right to inquire. As Betz points out, growth is the overriding factor for Dewey. When the right to participate in communal inquiry is actually unlikely to lead to growth it should be denied. Thus, just as Dewey thought logical principles were fallible because it was always possible that in future situations they may fail to be effective at guiding inquiry and facilitating growth, rights should also be considered contextual and subject to revision in case they ever undermine growth. This doesn't strip logical principles or rights of their power and usefulness because in calling something a right or principle we are recognising that in past experience it has been, and in most situations will continue to be, a highly effective and reliable means of fostering human flourishing.

Should the right to participate in communal inquiries be extended to children? It seems clear that like adults, even very young children have both an interest in inquiring and some capacity to inquire. Children have an interest in making sense of their experiences, of living in harmony with their environment and of satisfying their needs and desires. If communal inquiry is the means to doing this, then all children have an interest in participating in communal inquiry whether they are aware of this interest or not. In fact, if we consider the fact that the social-cultural environment is less familiar to children than it is to adults and that children have less knowledge and fewer habits than most adults, children probably have an even stronger interest in engaging in communal inquiry than most adults. While the child's capacity for inquiry is generally less developed than the adults, they clearly have some capacity to inquire in the Deweyian sense. A common reason given for rejecting children's participation rights is that children may make decisions or perform actions that harm their immediate or long term interests because they lack the rational or emotional capacities to act in their own best interests. However, the fact that children generally have a less developed capacity for inquiry seems to make it even more pertinent that we recognise the child's right to participate in communal inquiry since the capacity to inquire develops through practice – that is, through engaging in communal inquiry with others and internalising the thinking moves, values and behaviours that characterise communal inquiry.

Children's Participation Rights and Education

Such a theory of children's participation rights provides us with clearer grounds for discouraging some pedagogies and curricula, while promoting others. Students, parents, teachers and other stakeholders could use the powerful language of rights and the UNCRC as a basis for challenging some pedagogy and curriculum and promoting others. Curricula or pedagogy that is likely to interfere with the child's right to participate in communal inquiry should be limited, if not disallowed altogether, unless it can be defended on

the grounds that it fosters growth in some other way. While pedagogy and curricula that are likely to foster the child's right to participate in communal inquiry should be encouraged.

There are several ways in which current pedagogies and approaches to curriculum appear to interfere with the child's right to inquire. For example, traditional teacher-centred pedagogies, especially those that emphasise rote learning, are likely to interfere with the student's right to participate in communal inquiry. Although, such traditional teacher-centred pedagogies have been widely criticised, they are also still widely practiced and defended. For example, such ideas underpin the popular 'return to basics' and 'core knowledge' ideologies, which tend to emphasise student's accumulating masses of established facts in an uncritical manner (e.g. Quirk 2005, Hirsch 1987). Such teaching methods discourage collaboration between students and between students and teachers and, as such, they don't foster classroom communal inquiry. This approach also involves presenting students with readymade truths or facts to be memorised, which doesn't enable students to participate in any critical reflection, imagining, questioning and problem-solving. If inquiry is initiated by *problematic* experiences, students must be provided with material that is contentious, problematic and open to criticism and reconstruction.

This type of pedagogy and curriculum is also associated with the systematic or social efficiency approach to curriculum, which stresses standardisation and accountability through centralised state or national curriculums; the rigid alignment of learning outcomes with curriculum content, pedagogy and assessment; and high stakes testing (Kelly 2009). This approach is currently being promoted by governments in Australia, the United States and England. It can result in schooling that is content heavy, teacher-centred, and predictable, with many teachers simply "teaching to the test" and students rote learning 'facts' (McNeil 2009; Lingard 2009; Berliner 2009; Kelly 2009; Nussbaum 2010). Complex capacities like critical thinking and imagination are frequently sidelined as the curriculum is narrowed to focus on skills and content that can be easily assessed in standardised tests, such as basic literacy and numeracy skills and the recall of facts. The most efficient way to prepare students for such tests is through rote learning and drill. Even just very content heavy curriculum that doesn't involve high stakes testing may interfere with the child's right to participate in communal inquiries because teachers may have to resort to facilitating rote learning in order to cover all the content. There may simply not be the time for critical inquiry, dialogue and collaborative problem solving. High stakes testing may also discourage collaboration by promoting individualism and competitiveness.

However, the right to participate in communal inquiry may also be violated by schooling that is very student-centred, such as A.S Neil's *Summerhill School*. While Neil thought pedagogy was unimportant, he defended a completely student-centred curriculum because at the *Summerhill School*, students can decide how to spend their time and can opt out of attending classes altogether. While *Summerhill* is unique, many schools allow students of all ages to have a lot of control over what and how they learn. Many teachers also seem to believe that classroom discussion is a means for students to express their opinions without being challenged and that all contributions to such discussions are equally valuable and correct. This hardly fosters communal inquiry, as students are less likely to have their beliefs or interests problematised and, as such, they are less likely to have to engage in communal inquiry as a way of solving perplexities and coordinating their actions and aims with others. Such schooling just doesn't actively provide students with the experiences that provoke collaborative inquiry.

Such pedagogies and curricula may not always lead to children failing to engage in communal inquiry. One may even argue that they have some limited place in schools as long as students have other opportunities to participate in communal inquiries. It may also be argued that methods like rote learning and high stakes testing restrict the child's right to participate in communal inquiry in the short term in order to maximise their future potential to engage in communal inquiry – e.g. by giving students lots of basic knowledge they need in order to participate more effectively in communal inquiries in the future. The concern here is that students may be developing bad habits that actually reduce their long term capacity for engaging in communal

inquiry. They may become so accustomed to memorising or competing that they become incapable of thinking for themselves or collaborating. Thus, perhaps such approaches need not be banned altogether but it seems clear that they should be limited and that more time should be devoted to approaches that actively foster communal inquiry.

Philosophy for Children and the Child's Right to Participate in Communal Inquiry

Matthew Lipman's Philosophy for Children pedagogy and curriculum is one type of pedagogy and curriculum that certainly seems to foster the child's right to participate in communal inquiry. P4C is influenced by many of Dewey's philosophical ideas, particularly his notion of participatory democracy as a form of communal inquiry (Bleazby 2011, 2006). P4C involves transforming the classroom into a Deweyian style Community of Inquiry (Lipman 2003; Sharp 1991). A typical P4C class begins with the shared reading of a text, viewing of a film, or observation of some art work or an object that contains or suggests some philosophical problems or ideas. This stimulus material is intended to provoke a collaborative inquiry that usually takes place with students and teachers sitting in a circle. It is common to begin the inquiry by having students take turns formulating questions about the stimulus material with the questions recorded on the board. The community then takes a vote on which question they will inquire into first. Thus, the teacher-selected stimulus material and the student's questions set the agenda for the inquiry. Once, the agenda has been set, the members of the community set about trying to clarify and answer the questions by offering possible solutions, further problems or questions, examples, arguments, opinions, criticisms, reasons, analogies, criteria for making judgments, definitions of concepts, etc. The aim should be to develop a better understanding of the issue and possibly some form of a solution or settlement to the problems raised. In general, the aim is to gain meaning that will lead to more reflective and intelligent action (Lipman 2002; Splitter and Sharp 1995; Sharp 1987). The fact that members of the classroom community of inquiry have a shared interest and goal, as well as common procedures and guiding principles (logical and social), combined with the understanding that they depend on each other's contributions, is thought to foster the kind of democratic community that Dewey promoted – a community that values inquiry, diversity, inclusiveness and the reconstruction of experience.

While Dewey identified scientific inquiry as the model of communal inquiry, Lipman thought the discipline of philosophy was most apt for fostering the capacities for reflective thinking and participatory democracy. There are several reasons for this. Firstly, the subject-matter of philosophy is highly contentious. It problematises and questions beliefs that most other disciplines take for granted, such as the belief that we can have knowledge. As such, it is ideal for provoking inquiry across the disciplines. Furthermore, philosophy is the only discipline that has an entire sub-discipline devoted to study of inquiry itself. The metacognitive nature of logic permeates every other aspect of philosophy. Philosophers constantly move between substantive and procedural inquiries. Philosophy can provide teachers and students with a language, theories and tools for critically inquiring into the procedures of thinking itself. Philosophy also incorporates the sub-disciplines of ethics and political philosophy, which enables children to critically examine concepts like rights, freedom, peace, justice, right and wrong, and the nature and effectiveness of their own classroom community. Such inquiries enable children to develop critical and in-depth understandings of their own and other's rights and of different political and social ideals and problems. It is for such reasons that UNESCO has long expressed a commitment to the teaching of philosophy and, more recently, specifically to Philosophy for Children (UNESCO 2007). In a recent report on the teaching of philosophy around the world, UNESCO made a direct link between Philosophy for Children and children's participation rights:

An interest in Philosophy for Children (P4C) naturally leads to a consideration of the legal corpus relating to children's rights, and in particular to each child's right to develop personal opinions and to be assisted by his or her school in this process. Here we are drawn to the United Nations Convention on the Rights of the Child, adopted in 1989, which among other specific

rights accords the child ‘the right to express [his or her] views freely’ (Article 12), ‘the right to freedom of expression [...] to seek, receive and impart information and ideas of all kinds’ (Article 13) and to ‘freedom of thought’, (Article 14). The text of the Convention is resolutely innovative on a philosophical and political level, in that it proposes a concept of children as not only needing of special protection, but also as requiring specific services and deserving to be considered active participants in their own lives. It stipulates that education must be carried out within the context of a body of rights: a maltreated child cannot be a truly active participant, even less the author, of his or her own life. (2007, p. 3)

While P4C’s community of inquiry pedagogy and philosophical pedagogy has some clear benefits in terms of fostering children’s participation rights, it also has some potential weaknesses. P4C doesn’t generally involve the transformative action that is an essential aspect of Dewey’s notion of inquiry, nor does it necessarily involve intercultural inquiry that characterises Dewey’s notion of democracy. P4C’s curriculum is also narrowly focused on just one area of knowledge. However, P4C also offers suggestions for fostering these other aspects of the child’s right to inquire. P4C’s community of inquiry may be an ideal model for conducting both intercultural inquiries and transformative social action (Bleazby 2005). The community of inquiry can also be implemented in other subject areas - it is possible to conduct historical, scientific, literary, aesthetic and mathematical communities of inquiry that also foster children’s participation rights. Thus, P4C is at least a good starting point for identifying and developing other pedagogies and curricula that foster the child’s right to participate in communal inquiry.

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