

MORAL ASPECTS OF SEGREGATION IN EDUCATION

The English word "segregation" has many nuances and implications. In some situations, men are separated from women. In competitive educational systems, good students are segregated from the weaker. The wealthy, by residence, segregated themselves from others. Members of some religious sects segregated themselves at times, from non-members. Segregation may be voluntary or involuntary.

In this paper, our discussion is limited to the involuntary segregation of Negroes. Other racial and national groups such as Orientals or Mexicans also experience segregation. But the segregation to which Negroes are subjected is greater in intensity and touches many more individuals. And our study will be further restricted to the segregation experienced by Negroes in the schools in the United States.

That species of segregation in the United States constitutes a social and political situation of great magnitude. It also presents a grave question to the theologians. In concrete circumstances, it is either morally good or morally evil.

The culprits who remotely can be accused as responsible for this condition were the persons who started the slave trade to North America and those who inaugurated the institution of slavery on this continent. The Negro was snatched from a primitive culture, enslaved and settled as a slave, here in an alien civilization. His was the lowest rung on the social and economic ladder. Because of his distinguishable color, his status became crystallized. He acquired a caste status. His color became identified with slavery and a lowly position.

From the birth of the United States until the Civil War, not only did those slaves fail to obtain education but the civil laws prohibited any person from teaching them even to read or write. After that bloody conflict when public schools were established in the South, attendance was limited to white children. Wherever an

effort was made to provide education for Negro children, possibly because of the difference of literate background, separate schools were established. Contrary to the common opinion, historical data indicates it was only at the end of the 19th century that there developed the existing racial animosity along with insistence upon separation in trains and public places. That intense insistence upon separation begot the enactment of much of the legislation requiring that the races be separated in conveyances and public places. The separate school for Negroes was made obligatory by law.

That involuntary segregation in schools in the South, in the border states and even in some sections of the North continued for many decades. What harm was done to the Negro? What rights were violated? Proportionately, much less of the public funds were expended upon the Negro child. That was, it appears, a violation of a civil right. It was morally wrong. Few would publicly defend it. Were there other wrongs? His liberty was restricted. Did that involve any natural right? By natural law did he have an inchoate right of access to schools with white children in the appropriate school district? If he had such a right, did the civil government have the power to limit that right?

Prior to the year 1954, Southern states and border states by statute, demanded that the races be separated in the schools, but they specified that the schools be equal. "Separate but equal," was the phrase. By statutory law, the liberties of both white and Negro children were restricted. It was explained that such a practice was essential to preserve public peace. In 1896, in a famous case, *Plessy vs Ferguson*, the Negroes before the United States Supreme Court, challenged the constitutional validity of those statutes. But the Supreme Court ruled that where separate but equal facilities on public conveyances were necessary in the judgment of the state legislatures for the preservation of public peace, then the statutes were valid. That legal position became an established legal doctrine and dominated the decisions of American courts until the year 1954.

As a principle, theologians hold that civil governments may restrict and modify some specific liberties of citizens and even of

certain groups of persons when the public welfare and peace demand it; provided that such restrictions are necessary and equitable. Such restrictions are so numerous that they attract very little attention. In the light of that theological principle, if the separation of the two races was necessary to preserve public peace, one might argue that such legislation was not immoral and the object of the natural right to liberty was not unjustly restricted. That may have been the inchoate thinking of some Catholics about the morality of the school segregation, though few moralists explicitly treated the matter. But there is a proviso to that theological principle which is easily overlooked; namely, that provided other more basic natural rights of an individual or of a group are not violated.

One basic right of the Negro violated, was the right to a proportionate share of public funds for schools. That inequitable practice characterized in the past, much school segregation. There may have been other rights violated which will be examined later.

But in May, 1954, that attempted moral justification of educational segregation, was undermined. The Supreme Court, in the case of *Brown vs. The Board of Education of Topeka*, ruled that all segregation in public schools based upon the separation of races was unconstitutional and that consequently, all such statutes and ordinances were legally invalid. It struck down the rule, "separate but equal." That decision of the Supreme Court now necessarily is the civil law of the land. It is the legal doctrine which all courts, federal or state, must follow in specific instances. By that decision, there was restored to the Negro (if he ever lost it) the civil right to attend any public school in the proper school district. It should be noted though, that the Supreme Court delayed for months issuing specific decrees while it sought from the various state officials involved, counsel by which the decrees could be prudently implemented. After the waiting period, it allowed the lower courts to delay actions until practical difficulties were overcome; thus permitting the gradual elimination of segregation.

As a consequence, any attempt now to justify morally, permanent segregation in schools must be planted upon something other than the action of the civil government, promoting public peace and welfare. Practically, the Court has declared that the Negro

possesses a civil right, emanating from the federal government, to attend public schools in the proper district.

To justify segregation now, some might argue that this action of the federal government is unjust and that citizens, either by public opinion or by legislative forms, may continue involuntary segregation. There is, obviously, a moral presumption against such a position. But presumptions are merely protective devices which fall before situations whose morality is above dispute. The reasons for such a position then, warrant analysis and examination.

It is argued that segregation is necessary for the protection of the morals and health of white children. Truly, the incidence of bad morals and lack of cleanliness is higher among the Negroes. But it is not so high that those qualities may be predicted of all the members of the group. That fact would warrant segregating the unsanitary, (and logically segregating the unsanitary white children.) Another reason cited is that the academic level of the Negro schools is so low, presently, that the entrance of a large group of Negroes into a white school would substantially destroy the scholastic work with white children. The low academic level of colored schools can be explained by the fact of segregation under which much less money was spent on Negro schools. In some areas that inequality has been corrected. But where the schools are now equal that reason would not be valid. In other instances, the more gifted Negroes could be integrated as was done in some schools.

But the fundamental reason, though not formulated, is the discomfort and unhappiness the white person experiences when he is forced to attend the same schools with Negroes. This discomfort is a curious weave of acquired prejudices, hatreds and fears such as of social degradation. Involved are judgments, strong attitudes and much emotion. It is something very real and something which warrants earnest consideration by moralists.

In the relationship between two antagonistic individuals, the standard theologians have given sober consideration to the intensity of feeling and allied factors. Vermeersch observed that physical aversion may at times become so strong that it completely dominates a man and consequently, objectively uncharitable actions, such as the refusal to speak to a neighbor may, for a short time, be

inculpable. (Vol. II. p. 63). Some theologians have also taught that at times a grave inconvenience or unpleasantness experienced in the observance of affirmative laws of minor moment excuse from compliance with the laws, since a man is entitled to a reasonable amount of happiness. Tanqueray declared, "Laws cannot command what is too arduous or difficult, since what is promulgated for the common good ought to be proportioned to the weaknesses of human nature. (Vol. II, p. 158). And Lehmkuhl declared that if compliance with minor affirmative laws would deprive a man of happiness through a long period of time, then the laws may be regarded as suspended for the individual. (p. 149). It is pertinent to recall also, that the theologians in their examination of restitution for an injustice, recognized that conditions justify at times, long postponement of restitution. The loss of social position was one of the factors alleged, provided however, the creditor is not suffering a similar damage. Thus, consideration has been given by them to the loss of conventional necessities, the deprivation of which causes serious mental anguish and sadness because of a long-standing habit.

In a moral discussion then, the feelings of the white group must be weighed and evaluated. But the Negroes too, have feelings. So consideration must be given to their feelings. It is a fact that though the segregated school may be thoroughly equal, many Negroes nevertheless resent it. And their feeling of resentment is much greater in these decades than in the nineteenth century. They have a feeling of being humiliated, dishonored, of being treated as an inferior. In this connection it is interesting to observe the change in thinking of our highest judicial body. In the famous *Plessy vs. Ferguson* case, (U. S. Reports, V. 163, p. 537) the Court declared, "We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If that be so, it is not by reason of anything found in the act, but solely because the colored race chose to put that construction on it."

In 1954, however, the same judicial body with other personnel, declared, "To separate them (children in grade and high schools) from others of similar age and qualifications solely because of their race, generates a feeling of inferiority as to their status in the com-

munity that may affect their hearts and minds in a way unlikely to be undone." (U. S. Reports, 347). Similar opinions by state supreme courts also were quoted. It appears to us that this later opinion conforms more fully with reality. Actually, many white people judge Negroes to be inferior. From that opinion grows prejudice; and prejudice begets segregation.

Ethically involved here, then, is an apparent conflict of rights; that of the white person to be free from great unpleasantness and that of the Negro to be free from dishonor. But patently, there can be no true conflict in the field. One of the rights must have ceased. Which one?

In the making of the decision, in addition to feelings, there are two other factors which must be weighed and evaluated. They touch the public welfare. One is that the Negroes cannot be kept in a permanent quarantine. They are citizens of the land. Increasingly, they work with white persons, they serve on public boards, they hold public office. Those contacts will, and must, increase. One function of a school, surely, is to train both races for additional co-operation. Separation in a school does not provide effective training. Rather it is our opinion that it tends to perpetuate existing forms of segregation. The other factor is the international situation. The United States stands as the strongest opponent against Communism. In India, in Africa and some parts of the Orient the non-Caucasian races are closely watching the United States. They judge us by our actions. The United States must endeavor to influence them. They must be won to our side. Yet, the condition for securing greater international co-operation is the genuine and evident practice of brotherhood between two races at home.

The intensity of the prejudice of white persons is real. It is grave. It warrants serious consideration in a moral discussion. Yet the other three factors cumulatively outweigh it. In our opinion, the segregation in schools as a permanent and long-time policy is immoral.

This opinion is not something impractical or purely academic. Integration has been achieved. It too, is a reality. Some schools

are being integrated in border states and in some sections of the South, even in parts of Texas.

Support for this opinion may be found in principles enunciated by our Holy Father, Pope Pius XII. In his encyclical, *Summi Pontificatus*, (October 20, 1939), he wrote of, "a marvelous vision which makes us see the human race in the unity of one common origin in God; One God and Father of all Who is above all and in us all; in the unity of human nature which in every man is equally composed of material body and spiritual, immortal soul; in the unity of the immediate end and mission in the world; in the unity of dwelling place; the earth of whose resources all men by natural right avail themselves to sustain life and develop life; in the unity of the supernatural end." In 1942, the same Pope, in his Christmas allocution declared, "He who would have the Star of Peace shine out and stand over society, should co-operate for his part in giving back to the human person the dignity given it by God from the beginning."

Individual American bishops by action and word have opposed segregation in schools. Five or more years before the decision of the Supreme Court, they acted to eliminate segregation. In his lucid book, "Catholic Viewpoint on Race Relations," Father La Farge, S.J., has cited a number of instances. Under the leadership of Archbishop Boyle, the Catholic schools in Washington had been enrolling children regardless of race since 1949. In North Carolina, the Catholic schools in 1954, were instructed by Bishop Walters to accept students no matter to what race they belonged. In St. Louis, Missouri, under Archbishop Ritter, the Catholic schools were integrated in 1947. Archbishop Rummel of New Orleans, in a pastoral letter in 1956 declared; "Racial segregation is morally wrong and sinful because it is basically a violation of the dictates of justice and the mandate of love—to deny to members of a certain race, just because they are members of that race, certain rights and opportunities, civil or economic, educational and religious—imposes upon them indefinite hardships and humiliations."

Attention should, however, be given to the procedure established by the Supreme Court to effect its decision. It recognized that there are practical difficulties which must be overcome in

effecting integration and allowed for that. The decision of the Court was given on May 17, 1954. But the cases were remanded to the docket so that the attorney generals of the respective states might later offer suggestions to the Court as to the manner by which the decision would be implemented. In instructions to the lower courts, the judges asserted that, "while giving weight to public and private considerations, the courts, (the lower courts) will require the defendants to make a *prompt and reasonable* start toward full compliance with our ruling. Once such a start has been made, the courts may find that additional time is necessary to carry out the ruling in an effective manner. The burden rests upon the defendants to establish that such time is necessary in the public interest and is consistent with good faith compliance at the earliest practical date." Later the Court used the phrase, "*with all deliberate speed.*"

To that action of the Supreme Court, most moralists would subscribe, recognizing that in some specified situations, some delay is warranted provided that good faith was present and something specific is being done. The theologians used the word prudently. The judicial phrase, "with deliberate speed," is a happy synonym. Where delay may be temporarily warranted there is also a serious moral obligation on officials to work for integration. American history furnishes a vivid warning about the danger in delay. In the first half of the nineteenth century, groups in the South held tenaciously to the institution of slavery and willed to make it permanent. As a consequence, the entire nation suffered. Lincoln, in his second inaugural address, observed that the war may have been a punishment on both the North and the South permitted by Divine Providence for the continuation of the injustice.

It has been the tradition of Catholic theology that the moral theologians have not contented themselves with a judgment about the general morality of a practice. Rather, specifically, they have attempted to assay the moral responsibilities of the persons involved. Parenthetically, if a slang phrase may be used, it may be said that the theologians, "try to put the finger on an individual." The critics of the Church do not give them credit for that practical approach. A social or economic institution does not exist apart

from individuals. Consequently, if there is a studied practice to perpetuate permanent segregation in schools, the blame for the violation of the rights of the Negroes rests upon definite white individuals.

In conformity with the theological tradition then, some effort might be made to pass judgment upon the actions of white persons who are responsible for the continuation of segregation. The members of the executive and legislative branches of state governments are guilty of an objective sin of injustice, positively, if they encourage segregation, negatively, if they remain inactive. Their primary obligations are the protection of natural rights and the promotion of the common good. Guilty also of injustice are the vociferous moulders of public opinion who influence citizens to perpetuating the institution in schools. Then the conscience of white parents may also be burdened if they try to arouse public opinion by inflammatory statements.

In the searching light of the general judgment, most probably it will be revealed that almost every white person in both the North and the South in the United States has been infected with some of the sinful virus of race prejudice. Despite oral declaration of fidelity to principle, there are situations where there is hesitancy and sometimes default. In Southern States the exposure to the virus is greater and the infection is deeper and more widespread. Consequently, in the South and border states the struggle to be loyal to Christian principles is much more difficult. In the North then, the Christian attitude should be one of admiration for the courage and moral effort that has been shown by many Southerners. Even before the Supreme Court's decision, bishops and priests in some sections of the South had effected some segregation in parochial schools and a fair number of the Catholic laity have followed that leadership despite the noisy dissent of a few. People of other faiths have also shown magnificent courage.

In both North and South in this matter of segregation, it is the conscience of the white group that is burdened, not to any appreciable degree, that of the Negro, though he may sin in other respects. The first requisite is humility and a contrite recognition that involuntary segregation is not in conformity with the teaching

of Christ. The entire group, North and South, in this instance must struggle to overcome a passion in the way that men struggle to master fierce assaults from some of the capital sins. In this decade, though, they are aided by a growing perception of the evil on the part of the entire nation. A cataract seems to be falling from the eyes of the Caucasian group. Actions are now perceived as evil which fifty years ago impressed many as indifferent.

In that earnest struggle, the Catholic will be aided by the grace which comes to him from assistance at Holy Mass and the reception of Holy Communion. Through the ineffable Eucharistic Sacrifice, the entire human race can again be united with Christ.

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Digest of the Discussion:

The first question was posed by *Father Matthew Herron, T.O.R.*, of Steubenville, Ohio, who asked whether the same problems involving segregation existed in the Southwest as in the Southeast. Monsignor Gilligan said that as far as he knew the basic problems were the same. One important difference, however, is the fact that the Mexicans in the Southwest, the center of racial tensions there, can be more easily absorbed once their intellectual and economic level is raised.

Father Paul Decker, O.M.I., of San Antonio, Texas, further clarified the problem of segregation as it affects the Mexicans in the Southwest. He pointed out that it is unfair to compare their situation with that of the Negroes in the Southeast. For one thing, he said, there is no legal segregation affecting Mexicans but only a factual segregation and this exists only in places that can get away with it. Such segregation is disappearing now because it is too expensive for communities to maintain double facilities. Thus there is no segregation of Mexicans any longer in the Texas schools. Some small communities still maintain a segregation policy in restaurants and theaters. There is no segregation of Mexicans in the parochial schools, except where parishes are formed along national lines. Sometimes, too, in the first grade, a sort of segregation occurs because the Mexican children do not know enough English to start with the others. The real problem lies in the fact that the Mexicans do not get enough total education; it is usually necessary for them to leave school at the age of thirteen or fourteen and secure jobs in order to help support their impoverished families.

Father John Harvey, O.S.F.S., of De Sales Hall in Hyattsville, Md., then wondered whether we should not question the phraseology used in the Supreme Court decisions cited by Monsignor Gilligan. He felt that emphasizing the "construction" colored people would put on segregation policies, or the "feelings of inferiority" that might be fostered were not the real reasons why segregation should be opposed. Wouldn't we, as Catholics and theologians, seek rather a basic argument that would be metaphysical? An argument from the psychological effect on a group would at best have only a secondary value; our primary stress would surely be on the dignity of the human person. This approach seems to be lacking in the Supreme Court decisions, Father said.

Monsignor Gilligan agreed that we could wish that the Supreme Court decisions of 1896 and 1954 had been better expressed with a better basis in metaphysics. He noted, however, that the Court does say that segregation is a denial of a right and that is the real basis for the decision, however it may be phrased. We certainly agree that the civil law can specify a civil right. But the real question is this: does the Negro have a natural right, apart from specification by the civil government, to be immune from a process he judges dishonorable to himself? This is the point of our interest.

Father John Ford, S.J., of Weston College and Catholic University, also commented on this point. He agreed that segregation as we know it is unjust and a violation of commutative justice. He admitted that expressions like "feelings of inferiority" sound psychological, but actually the fact concerns dishonor, and dishonor is treated by the theologians as something involving commutative justice. That human beings are entitled in commutative justice to a certain amount of honor is the real theological principle involved here.

Father Ford then went on to make some further observations relative to commutative justice as it applies to this problem. First of all, he remarked, before we accuse anybody in particular, such as a prefect of discipline or school administrator, of a violation of commutative justice, it is necessary to weigh the circumstances in each concrete case. We cannot conclude that just because commutative justice is involved that each individual is guilty of a grave sin of commutative injustice in every case and that there are no excusing factors.

Secondly, Father Ford urged a particular point of stress important for all of us as priests, theologians, and Christians. He observed that the doctrine of Christ inculcates more insistently the notion that we should *give* rights in commutative justice; nowhere does Christ encourage us to *fight* for what is our due. It would be better for theologians and priests generally to preach to whites that they should give rights due to the Negroes, rather than to urge the Negroes to press for the rights that are their due. Otherwise we might be encouraging fights and violence.

Thirdly, Father Ford suggested that any educational campaign be

based more on the concept of charity than on commutative justice. Charity stresses unity and is based on the unity of human beings. Commutative justice, on the other hand, has in it the idea of *alteritas*, of claims we have against one another. Justice, in emphasizing *alteritas*, tends to keep alive the notion of segregation: the Negro group has rights against the white group. Therefore, even though commutative justice is involved in racial problems, it is better to stress charity instead. It is too hard to pinpoint the guilt of injustice and the practical problems can be better solved by stressing charity as a force for unity.

Father Augustine Rock, O.P., of Dubuque, then made reference to some well-known situations in Northern cities where Catholic people themselves were engaged in serious racial strife, even to the point of stoning Negroes as they left the Catholic Church. Yet Catholic pastors did not raise their voice. What then, Father asked, would be the practical positive obligation of a parish priest to speak out against such things even when obvious practical inconveniences are present?

Monsignor Gilligan replied that in cases where the disorder would be so acute, then the pastor certainly has some moral obligation to commit himself in public and in church. We do this sort of thing with regard to the movies and theaters so there is precedent for it. Christian morality, after all, embraces more commandments than the sixth.

Father McLaughlin, of Huntington, Long Island, pursued this point by observing that we might also consider the obligation of avoiding scandal. The attitude even of good Catholics in this matter is often scandalous. As an example, Father cited the case of a religious superior who simply refused to admit Negro candidates.

Monsignor Gilligan agreed but he also pointed out that his paper should have been entitled: "Some" Moral Aspects of Segregation. Many moral questions are certainly related to the problem of segregation. He suggested that the Society treat the whole question of scandal at some future meeting, since its precise reference is so often vague.

At this juncture, *Msgr. John Murphy*, of Little Rock, Arkansas, arose to make some comments. His announcement of his identity and special provenance was greeted with a burst of spontaneous applause. He began by saying, as one who had lived through the racial tension in his home state, that it seems important to consider not merely the right of the civil government to maintain peace but also the real danger of violence. It was his opinion that such danger did not exist in Little Rock prior to the incident involving the national guard. The point could be debated, *Msgr.* said, but there were many people in Little Rock who agreed that it was the calling in of the guard that produced the tension. Up to a year ago, he thought, about eighty-five per cent of the people could be described as ready to accept integration. The school superintendent had talked to many groups and this helped to prepare the minds of the better citizens. But it seems now that the social level of those addressed was

not low enough to engage the ones most inclined to resist. As a consequence of the incidents of the past year, Msgr. thought that presently about eighty-five per cent of the people are not prepared to accept integration peaceably.

Msgr. Murphy then went on to comment on the position of the Church in the controversy. As far back as 1954 Bishop Fletcher had held a conference with the clergy and had subsequently published a pastoral letter to the effect that no Catholic child was to be deprived of an education on the basis of color. Msgr. mentioned also that the diocesan regulations concerning attendance at Catholic schools were very strict. Almost all the Catholic students are in Catholic schools. Of the approximately two thousand pupils in Central High School in Little Rock only six or seven are Catholics. Thus the Church had no direct interest in Central High.

This does not mean that the Church had no interest in the community or its difficulty, Msgr. hastened to add. On the contrary, when the civil authorities recommended an hour of prayer to seek divine guidance in the crisis, Bishop Fletcher co-operated and instructed all the pastors to conduct such services. Despite the fact that the Catholics constitute only six per cent of the population, their numerical participation far exceeded that of other religious groups.

Likewise when public hearings were held on the sovereignty bills before the last session of the state legislature, Msgr. stated that Monsignor O'Connell and himself had been sent by the Bishop to voice their opposition. This took no little courage in the face of the many members of the White Citizens' Councils who packed the hearings. Despite these matters of positive action, Msgr. stressed the fact that much more understanding is going to be needed to work out the difficulties in achieving ultimate and permanent desegregation.

Msgr. asked that in the meantime Northerners try to bring understanding and tolerance to their discussion of the problem; that they try to realize that Catholics in the South are aware of the principles involved. Msgr. noted that the North may very soon have to face the same problems. He pointed out that up until now the Northern cities have avoided a great deal of racial tension simply because people move out of a neighborhood when undesirable neighbors move in. In the South, segregation on a neighborhood basis is more voluntary; Negroes seem to want to form their own neighborhoods. So it happens that there are Negro schools where Negroes predominate. Finally, Msgr. said, a certain academic and social adjustment is necessary to make integration a success. Consider, for example, that more than two hundred Negroes applied for admission to Central High but of these only nine survived the academic screening process.

Msgr. concluded with a few remarks on the state of the tension at present. The violence in the beginning was greatly exaggerated, he

thought. It was restricted to a few blocks and might better be described as the formation of a mob with the threat of violence. At present the tension is so high that it cannot be heard, somewhat like a dog whistles of high pitch. Most people, with the exception of the extremists, are reluctant to talk about it. One could say, Msgr. concluded, that communication between the races has been lost.

A burst of appreciative applause was accorded this first hand report by Msgr. Murphy. Monsignor Gilligan expressed thanks to Msgr. Murphy in the name of the entire group. He went on also to express the thanks of the priests of the North to the priests of the South and their esteem for the courage of their Southern colleagues, together with an act of contrition and recognition that our own hands are not all clean.

Father Gerald Kelly, S.J., who had his hand raised earlier, was asked to make his observations at this time. Father said that he merely wanted to highlight the speculative difficulty. As theologians our biggest problem is to analyze the situation to discover whether there is reductively a violation of a negative natural law. There is some metaphysics in the 1954 Court decision, even though its authors may not have realized it. The question involves the contempt of the Negro and this would be a violation of a negative natural law and not just an affirmative law. These are the questions that theologians must discuss: Is the situation implicitly one of direct scandal or only of the indirect scandal that could be tolerated? What is the pattern here? Is there real dishonor to the Negro? That would be one thing. Or is there the quite different matter of a delay in fulfilling an affirmative command and obtaining some eventual benefit?

Father Kelly concluded with a word of encouragement for priests to be honest in the matter. It is obvious that some are just not convinced. Father said that in his experience he saw a tendency among younger priests to want to break the segregation question wide open. But there are some older priests for whom the problem will be solved only by death. On this mournful note, a very interesting, frank, and stimulating discussion came to an end.

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