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**Cautionary note**: The terms 'child prostitution' and 'prostituted children' are used in this text to denote children that are sexually exploited and sexually trafficked. The connotative manner in which these definitions are perceived and analyzed may differ due to linguistic, cultural, and perceptual differences.

### **MALAWI**



**POPULATION** 

18,6 million



GDP PER CAPITA

338.5 USD



**POLITICAL SYSTEM** 

Parliamentary Regime



HUMAN DEVELOPMENT INDEX

170th rank among 187 countries



**GENDER INEQUALITY INDEX** 

145<sup>th</sup> rank among 147 countries



**CORRUPTION PERCEPTIONS INDEX** 

122<sup>nd</sup> rank among 180 countries

Malawi is а country of origin, destination, and transit for trafficking and prostitution. The combination of economic, social, and climatic changes that the country has undergone in recent years has lead to an increase in prostitution and sexual exploitation. This increase, which is as significant outside of the country as it is inside, is mainly due to poverty, the main factor leading to prostitution. This vulnerability is compounded by a succession of factors such as the significance of tradition, gender issues, environmental challenges and dependence of income on agricultural activities, all of which explain the entry of women, men and children into human trafficking networks.

No reliable statistics on victims of prostitution and trafficking for sexual exploitation are currently available in Malawi to date. However, civil society organizations including the NGO People Serving Girls at Risk (PSGR), estimate that approximately 600,000 persons are

victims of prostitution. According to *PSGR*, this number is constantly increasing and predominantly concerns women. The price of a trick per night is about 700 Malawian Kwacha (MWK) (USD 0.93) (*Ventures Africa*, March 31, 2016).

Despite an increase in prostitution, Malawi is characterized by the growing efforts of the government and national organizations to combat trafficking and prostitution. The 2017 US Department of State report on Trafficking in Persons classified Malawi in Tier 2. This means that the government is taking appropriate measures to combat this phenomenon. For example, the government has put in place national action plan to combat trafficking, worked with border foreign governments to repatriate victims, organized a first meeting of a 'National Coordination Committee' and encouraged cooperation between district and national police forces. The implementation of the anti-trafficking law of 2015 is one of the most important measures to prosecute traffickers. Despite these achievements, Tier 2 means that the country does not yet meet the minimum standards required to eliminate trafficking. Efforts to assist survivors and victims remain to be seen. Protection should not only be provided by NGOs. In December 2017, the government launched an anti-trafficking (Trafficking in Persons Fund) as required by the 2015 anti-trafficking law. The fund, intended to finance the provision of protective services, shelter rehabilitation and repatriation, has yet to be credited with the budgeted funds (US Department of State, June 2018).

# Partially implemented legislation, proving that Malawi has the means to achieve its ambitions

Prostitution is illegal Malawi. in According to Section 145 (1) (a, b) of the Penal Code, "a person who knowingly lives wholly or in part on the earnings of prostitution or in any public place persistently solicits or importunes for immoral purposes shall be guilty of a misdemeanor." A procurer, being a person who owns, controls, manages, supervises or keeps, alone or in association with other persons, a house or a prostitution business, may be charged and imprisoned for up to 14 years (section 147(1)(a)). Malawi has also put in place various laws and policies to protect women and children from nuisance, abuse, exploitation and gender inequality. As such, a 'National Gender Policy' was established in 2013. A report on trafficking in persons, accompanied by an anti-trafficking law, as well as an act of protection and justice were also introduced in 2015. All of these decisions highlight the government's desire to tackle these issues. a regional and international perspective, Malawi is a signatory to several treaties that also aim to promote

the rights of women and children. The country has ratified the Palermo Protocol, the Convention on the Elimination of Discrimination against Women (CEDAW), and the African Youth Charter.

Training and awareness-raising efforts been carried out with police, administrative and judicial institutions (US Department of State, June 2017). The Malawi Police Service (MPS) has conducted anti-trafficking training at the Limbe, Mtakata and Mlangeni Police Schools, as well as at the Zomba Police College. The Ministry of Immigration has trained new immigration officers on identifying and assisting potential victims of trafficking. A judge, in partnership with the Malawi Women's Judges Association, sensitized magistrates to the prevalence of trafficking in the country and the 2015 anti-trafficking law, focusing on sanctions. The Ministry of Gender and the Secretariat of the Southern African Development Community (SADC) trained 39 law enforcement officials, including police, immigration officers, social workers and prosecutors on the legal instruments available. Nevertheless, there is a need to continue to train police investigators, prosecutors, magistrates and immigration officers on the Trafficking in Persons Act and how they can enforce it.

Legal and legislative frameworks are in place. Nevertheless, the increase in trafficking and prostitution in the country in recent years is an evidence of the ineffectiveness of these measures. Indeed, penalties are rarely or partially applied and convictions are reduced to simple fines. Sanctions are certainly necessary but are insufficient for traffickers and very procurers, who are far from deterred by measures. Life imprisonment, recommended by the law in some cases of trafficking, has never been imposed. In 2016, data collected by the MPS made it possible to study the application of the 2015 anti-trafficking law. Among 34 police stations, seven sent monthly information and reports on trafficking in their districts to headquarters police for the 30 alleged traffickers were prosecuted and arrested by the MPS under the antiof 2015. trafficking law 18 convicted. Among them, some were sentenced to 14 years' imprisonment and others were handed suspended sentences. These sentences were handed down by the Ministry of the Interior, a group of officials from the Ministry of Public Security and Immigration. The figures have decreased compared to the year before the study. traffickers were prosecuted These 58 convicted. fiaures are contradictory in relation to the prostitution observed on the field. They illustrate a shift of the prostitution phenomenon to other structures less visible than the street.

Impunity persists in Malawi. Despite numerous reports in the country's media that police, health and immigration officials are complicit in the trafficking of young women in Kuwait (US Department of State, June 2017), the government has investigated, prosecuted or convicted these officials. Similarly, in November 2016, a US Court in Maryland issued a default iudament awarding more USD 1 million in damages to a domestic worker who sued her former employer, a Malawian diplomat, for trafficking. The diplomat left the USA in 2012 and now works in the Malawian Foreign Service. The government has taken no action to date to prosecute him.

However, prostituted persons are arrested. Most often, they are sentenced and subsequently fined as 'undesirable' or for 'vagrancy.' They must pay a penalty on the spot. Amounts can be between USD 1 to 20. In 2016, 19 prostituted persons were tried for receiving income from prostitution (*The Nyasa Times*,

September 9, 2016). The judge in charge of the case, Judge Zione Ntaba of the High Court of Zomba, overturned the conviction of these women. This decision has been debated within the country. The judge questioned the fact that sex buyers were not penalized. In addition to this unusual decision, the judge ordered that the victims of prostitution be compensated. They had already paid MWK 7,000 (USD 9.73) to the State.

### The different forms of prostitution in Malawi

Following the anti-trafficking law of 2015, prostitution in the country has decreased on the streets, however it has increased in brothels, bars, and nightclubs. The tricks are often made inside or behind the clubs, in rooms that the sex buyer can reserve. Depending on the location, sex buyers are recruited through procurers that facilitate the exchange or by prostituted persons directly. Regarding payment, procurers are paid by sex buyers, by prostituted persons or sometimes both.

The main prostitution areas are found in urban, peri-urban and business areas. The cities of Lilongwe, the capital, and Blantyre, a city located in the south of the country, concentrate the majority of prostitution networks and trafficking. The majority of those employed are women or young girls from rural areas who wish to find a job in the city. Most of them are between 15 and 25 years old.

Several forms of prostitution are observed within the country: prostitution destined for South Africa or other countries bordering Malawi, prostitution destined for Europe and lastly prostitution internal to the country, consumed by tourists and locals. The International Organization for Migration (IOM) uses this typology, but it is only a categorization that does not exhaustively represent all forms of sexual

exploitation present in the country (IOM, May 2003).

Prostitution designated for South Africa or other border countries, such as Tanzania, Mozambique or Zambia, is one of the most widespread forms of exploitation. The exchanges are facilitated by porous borders and a lack of any specific administrative procedure to cross. The journey is most often made aboard trucks, with truckers carrying goods. The first destination for victims of trafficking in this region of southern Africa is Johannesburg. Victims' testimonies show that recruitment is often linked to a promise of marriage, a very important act for the victim and her family, who hope for a secure future for their child.

The precariousness of the Malawian population is leading more and more people to leave rural and agricultural areas, which no longer allows them to meet their needs. People who are separated from their families and communities seek other sources of income in the city, whether in Malawi or abroad. The main targets of recruiters are people who want to leave the country. The proposals are diverse: leaving the country to take up job opportunities in hairdressing salons, clothing educational shops or opportunities (scholarships) in Europe or the Middle East. Prostitution is never mentioned. These mostly Malawians recruiters are Nigerians. The Nigerian traffickers use the power of women, called 'Moms' or 'big mamas' to recruit. Among those involved, some have never been confronted with the prostitution phenomenon. Others recruited directly from brothels and think they can access another future abroad. One of these Nigerian recruiters was arrested in 2012 for trafficking women for prostitution and sentenced to pay a fine of USD 500. The main countries of destination for these women are the United Arab

Emirates, Qatar, Kuwait, the Netherlands, Belgium, Italy and Germany. Women arriving in Europe are sold for an average of USD 10,000. The debt burden often amounts to USD 40,000. Victims' testimonies attest that once they arrive in their country destination, their passports confiscated. A vicious circle is set up: the victim must repay her debt and send money home under pressure from both the procurer and his peers, but also from all the rites and magic used to threaten them. The Minister of Labour, Patrick Kabambe, 2016 to underline spoke in determination to fight against these false recruitments exploiting unemployed Malawians.

The North of the country is a tourist area where Lake Malawi is home to many hotels. Some tourists are sex buyers and engage in prostitution during their stay. The main sex tourists come from Germany, the Netherlands and England, according to researchers (IOM, May 2003). Others use these prostituted people to feed pornographic websites. A minority of tourists recruit victims to repatriate them to their country before integrating them into European or Middle Eastern networks. The promise of scholarships removes any suspicion from the family unit.

Children are also affected by sexual exploitation. While Malawi has legislation that partly incorporates United Nations recommendations, setting the age of majority at 18 and designating sexual exploitation as one of the worst forms of child exploitation, the phenomenon still affects very young populations. NGOs report cases of 10-year-old victims already in networks (PGSR, December 2017). These organizations distinguish between two types of children present in brothels. On one hand, they describe the situation of children in prostitution alongside their mothers. The testimonies reveal an extreme state of vulnerability. Younger children are sometimes put to sleep with alcohol or drugs while the older ones are exposed to traffickers for whom they are easy prey. The education of these children is an additional issue. According to *UNICEF*, Malawi's literacy rate among 15-24 years old is 72%. Among child victims of trafficking and prostitution, the illiteracy rate is over 30%. On the other hand, there are children and adolescents directly involved in prostitution.

The main cause of entry into prostitution is endemic poverty. The country suffers from an increased lack of employment, a large population and structural economic problems leading the majority of the population to live in extreme poverty. However, the perversion of cultural practices and the early sexualization of the population are also factors encouraging entry into prostitution.

## Malawi's hyenas: institutionalized sexual exploitation

Within Malawian society, inequalities between men and women, seen through the prism of sexuality, are glaring. A woman must fulfill a role assigned to her from a very young age: to respond to men's sexual pleasures. Sexual learning is therefore an integral part of girls' education from their first menstruation. To do this, in some cultures (Sena and Yao), families recruit men called 'hyenas' or 'fisi' in Chichewa language (Le Monde Afrique, July 23, 2017). These men are paid by families to initiate their daughters into sexual practices by having unprotected intercourse at least once. Another type of teaching is possible and takes place within holiday camps. The young girls, mostly from rural areas, are sent to these camps run by women, during which the hyenas intervene. Testimonies tell how girls learn to "please men" by practicing oral sex with wooden sticks or by

using techniques to hide their menstruation

in order not to "disgust men" (Le Monde Afrique, July 23, 2017). Traditions are also taught. Non-compliance with rituals can lead to curses on them and their families. However, no lessons about contraceptive use are organized. Hyenas are also called when other tragic events occur in a woman's life: loss of husband, brother, father, son, a move or unwanted sexual relations. This ritual is a way of purification, a traditional law called 'kusasa fumbi,' which, according to testimonies, "prevents the soul of the deceased from prowling around the matrimonial home" (Le Monde Afrique, July 25, 2017).

These practices, previously carried out throughout the country, are now mainly practiced in the south. They are becoming increasingly criticized and questioned in more urbanized areas. However, the two main places where hyenas remain active are Nsanje and Chikwawa, not far from Blantyre. Those areas are the most known for their high prostitution, except for the capital. These regions are also among the poorest and most remote in the country. Sexual initiation by a hyena is a factor that encourages entry into prostitution.

These traditions were also practiced in Kenya and Tanzania before these countries legislated the practice to the point of prohibiting it. Malawi has followed this approach. In 2013, a law banned the use of hyenas. Unfortunately, community law prevails over central state law in the remote southern regions of the country. The application of this law is also problematic because it is not translated into local dialect. Therefore, some NGOs carry out translation work in order to inform women of their rights (Le Monde Afrique, July 27, A woman 2017). representing community is then appointed to raise awareness among other members of her community about the evolution of this tradition.

In November 2016, the first conviction of a man engaged in this activity was pronounced against Eric Aniva (Le Monde Afrique, July 26, 2017). He was sentenced to two years in prison and hard labor for having had sexual relations 104 women. In 2016, 4 other hyena men were arrested according to a Mulanje police chief. Two of them were convicted. However, the fight is not in vain in view of the testimonies of Louis Foté, who is also a hyena in Malawi: "It's easy money, and women enjoy it!" (Le Monde Afrique, July 26, 2017). Paid between USD 4 and USD 7 per person, this practice has been generations in accepted for communities and seems to be an integral part of the culture. This practice "certifies the transmission to young girls of the knowhow necessary for the reputation of good wives and even promises protection against diseases and misfortunes" However the practice continues to infect people with HIV/AIDS every day (Jeune Afrique, November 22, 2016).

What to do about tradition? It is unthinkable to question a tradition that is an integral part of women's integration into their community. Disobedience to these traditions may result in rejection by their community. The priority of all the programs of local and international organizations is not to cause or increase the exclusion and vulnerability of the population being assisted. However, due to the transmission of HIV/AIDS through this tradition, a thorough reflection is necessary Malawian and foreign NGOs operating on the field. Respect for the population's wishes and the refusal of victimization are benchmarks that must constantly measured by the NGO before any intervention.

On one hand, when dealing with victims, it is important to study this practice through the norm and not through deviance, a reading that could disrupt experiences. Didier Fassin explains that the expression "rape culture" is "a weapon before it is a concept" (France Culture, December 6, 2017). D. Fassin advises one to: "(...) think of sexual violence in cultural and not individual terms, not as a pathological exception, but as a practice inscribed in the norm that makes it possible by tolerating it or even encouraging it" (France Culture, December 6, 2017).On the other hand, when dealing with those responsible for such violence, the courts and governments must be firm. When Eric Aviva's lawyer claimed that: "The whole procedure is based on the qualification of rape, whereas my sex buyer's sexual relations were not. Who can define a sexual relation as rape and not as a cultural practice?" (Le Monde Afrique, September 2017). It must 8, remembered that this traditional practice remains a violence, at once physical, psychological and symbolic, which reflects the domination of one gender over another. The use of hyenas also encourages young girls to enter prostitution at an early age and causes early marriage, pregnancy and school dropouts. According to Human Rights Watch (HRW), about half of all girls marry before the age of 18 in Malawi (HRW, June 16, 2017). In 2015, a bill was introduced to raise the legal age of marriage from 15 to 18 years old. This could have changed the legal age for one's first sexual intercourse, which in the country is carried out very young. The law was not passed, so the minimum age for marriage remains 15 years of age.

#### "Climate survival prostitution" in Malawi

Today, only 2% of greenhouse gases come from the African continent. Yet it has the

population who is, and will be, most affected by environmental challenges. Less responsible, yet the first victims of climate change, Africans are gradually adapting to environmental changes. They are looking for solutions, not to ensure the sustainable livelihood of future generations, but to support current generations. Developing the resilience of these populations is a key issue.

The Malawian population predominantly hails from rural areas and lives mainly from subsistence agriculture. Since 2013, droughts followed by severe flooding have affected the country. They were caused by climate patterns of El Niño, followed by those of La Niña. El Niño increased surface water temperature, creating a change in climate and leading to droughts. Then, La Niña caused severe flooding, ruining farmland and future harvests. Climate change is added to these two phenomena, heightening periods of aridity (France Culture, September 30, 2016).

In 2015, following repeated droughts and floods, 2.8 million Malawians were affected by hunger crises, mainly in the southern regions of the country. The government, constrained to respect a budget deficit close to zero, is trying to manage the situation with limited resources. 2016, President Peter Mutharika declared a state of emergency following the cumulative impact of several natural disasters. It had been 30 years since the country had experienced such a drought. In addition, Mary Shawa, the Secretary for Gender, Childhood, Disability and Social Welfare, pointed out that: "As a result of climate change, which has led to increased poverty and lower crop yields, many having extramarital relationships to feed their families" (Equal Times, October 6, 2015).

Indeed, women's lifestyles are being particularly transformed in the face of

challenges. ln 2008, environmental researchers from the Stockholm Environment Institute (SEI) conducted a field survey in a town near Lilongwe: Bwemba. testimonies of local women recounting their journeys were collected (SEI, 2010). They explain that low rainfall results in both very low harvests and reduced incomes. Under these conditions, men leave the home to fetch food, water or wood from other remote areas. Meanwhile, women find themselves alone, faced with the obligation to feed their children, and are sometimes forced to engage in prostitution. These cross-sectional studies between climate change, poverty and the environment make it possible to understand the spiral of vulnerability in which certain communities themselves find trapped (Oxfam International, 2009). Hunger crises inevitably lead to population displacements. The Dzaleka camp illustrates this. It hosts more than 25,000 refugees in a location not far from Lilongwe; many women from the camp travel to Lilongwe to be prostituted there.

Another link between climate change and HIV/AIDS can be established based on the analyses of researchers such as Pablo Suarez from Boston University. In a 2008 report Suarez examines these links, both insidious and direct. On average, a sick person needs 50% more nutrition and energy, including 15% more protein than a non-ill person (The World Bank, May 2008). The physical weakness of these people often prevents them from carrying out their work and their income is therefore considerably reduced. Without adequate means of healing, sufficient food and enough rain to grow their crops, these people enter a vicious and sometimes deadly cycle.

The environmental question is a multidimensional problem that must be analyzed and understood in all its

dimensions in order to better respond to the challenges it poses. Currently, no purely environmental conflict really exists. However, environmental issues are superimposed on existing conflicts and primarily affect the poorest people. Tensions over resource sharing will continue to rise. Kenyan Wangari Maathai's 2004 Nobel Peace Prize symbolizes the need to take the environment into account in combating a large number of crimes, including trafficking and prostitution.

### The HIV/AIDS challenge: considerable but achievable

Malawi has one of the highest HIV/AIDS prevalence rates in the world: 9.2% of 15-64 years old were living with the virus in 2016, according to UNAIDS, or about million individuals. 24,000 people died from this disease in 2016. Trafficking and sexual exploitation are responsible for much of the spread of the disease (Ventures Africa, March 31, 2016). Among the population of prostituted persons, 24.9% are reported to be infected with HIV/AIDS. This figure is significantly lower compared to the 77% that were infected in 2006. Only about 85% of them use a condom. However, progress has been made in recent years and it is notable.

First, the government has committed itself to the 90/90/90 target set by UNAIDS. By 2020, countries following this program commit to helping 90% of people living with HIV to know their status. 90% of screened and infected with people HIV/AIDS must receive antiretroviral treatment. And finally, of those people on treatment, 90% must manage to have a suppressed viral load. Currently, 70% of the population knows that they suffering from HIV/AIDS, of those 66% are on treatment and 59% have a suppressed viral load. Further progress therefore still

needs to be made. NGOs participate in joint efforts jointly with the government.

Similarly, the World Organization (WHO), in partnership with local stakeholders, proposed in 2017 to distribute self-tests enabling people to know their status for themselves. Lack of confidentiality, discrimination against people who know their status and distance from hospitals are all reasons as to why Malawians never take the test. However, the earlier the disease is diagnosed, the greater the patient's ability to fight it and heal. Malawi is also the first African country to benefit from a new UNICEF program. Drones will travel across the country to reduce the time it takes to transfer blood samples in order to detect more people in a smaller amount of time (RFI Afrique, January 4, 2017). If this trial period gives conclusive results, the air corridors reserved for this use will be maintained and extended. They can be used in the future to monitor harvests or to develop aid in the most remote regions of the country. Lastly, at the end of 2017, researchers have introduced a still-experimental drug (BBC News, December 4, 2017): an intrauterine ring that women could wear without disclosure, as it is imperceptible to men during sexual relations and could help stop the spread of HIV/AIDS. This antiretroviral treatment in the form of a ring allows women to be treated "in secret."

Other health problems are related to drug and alcohol use, which is widespread to support the difficult pace of life and suffering of prostituted persons. NGOs note the use of cannabis, mandrax, cocaine and aphrodisiacs. Not only do these substances have long-term effects on women, but also on their children.

#### Initiatives and recommendations

In recent years, NGOs have supported the creation of numerous groups of

prostituted persons in order to put pressure on the police and judicial institutions and put an end to the discrimination that affects them. For the NGO *PSGR*, setting up exchange sessions is one of the best ways for these women to talk about their suffering while thinking about their future.

Civil society organizations call for field studies to be conducted in order to lead better advocacy campaigns and raise public and government awareness. As Amnesty International notes, NGOs must be careful that the government, who wants to change legislation in order to exercise greater control over their activities, will not change their status (Amnesty International, 2018). An intrusive and excessive focus on the actions of NGOs on the field could prevent them from carrying out their missions. In 2014, Aida Deleza was appointed UN Ambassador for Women's Rights (Le Monde Afrique, July 27, 2017). Deleza, an activist and traditional leader of the Mulanje region, has launched an awareness campaign against kusasa fumbi and campaigns against child marriage. She defends her position: "We are behind the world. Societies are changing, we must also change" (Le Monde Afrique, September 8, 2017).

**There** have been notable developments in the religious field. In 2015, Jenny Trinitapoli of the University of Chicago produced an analysis studying the HIV/AIDS relationship between religious life, which showed that religious leaders were increasingly inclined to talk about sexuality during their religious services (INED, 2015). Thus, even if traditional Malawian norms evolve slowly and are more subject to traditional local regulations than to the usual legal system, things will emerge in several spheres of society.

While there is a palpable tremor and initiatives are being taken be the

local government and various international organizations, the most urgent and important reforms are related to the protection of victims. The 2017 US Department of State report on Trafficking in Persons recommends, for example, that a list of victim support and protection centers be written in the official newspaper. This ambition is also reiterated in government documents (Ministry of Gender, Children, Disability and Social Welfare, December 2014). The government must also better support NGOs, which could develop greater information sharing with these organizations. Raising awareness trafficking and prostitution issues essential. The 2018 US Department of State report on Trafficking in Persons also advocates that the anti-trafficking law of 2015 be fully implemented. The provisions relating to prosecutions and convictions must be respected and sufficiently severe. The government could also increase support and funding for police and justice services to carry out their work. Improving data collection on trafficking and prostitution would also be one of the objectives. Lastly, increased border control is recommended.

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The Global Report is produced by the International Observatory on Sexual Exploitation, in collaboration with internal and external experts (magistrates, lawyers, social workers, NGO leaders...), and the support of local NGO correspondents or international researchers.



The Fondation Jean et Jeanne Scelles, recognized as a public utility since 1994 and as a consultative status with ECOSOC, is an independent, non-profit organization based in Paris (France) dedicated to fight the system of prostitution and the exploitation of prostituted persons, through information, analysis, advocacy, trainings, awareness initiatives and legal actions. The Fondation Jean et Jeanne Scelles is a co-founding member of the Coalition for the Abolition of Prostitution (CAP International) which was launched in 2013 and today brings together 28 abolitionist NGOs from 22 countries.

The International Observatory on Sexual Exploitation (Observatoire international de l'exploitation sexuelle) is a worldwide hub which allows for information exchange on the system of prostitution. The hub is regularly consulted by French and foreign experts including NGOs, institutions, journalists, lawyers, researchers and those involved in the defense of human rights. The goals of the International Observatory on Sexual Exploitation are:

- to analyze all the aspects of the phenomenon: prostitution, sex tourism, procurement, child pornography, sex buyers, human trafficking for the purpose of commercial sexual exploitation...
- to encourage reflection and to take a stand
- to inform the public who are interested in these issues

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