



Media Bias And The Efficacy Of Legislative Measures In Addressing Gender Disparities In India

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ABSTRACT

In the recent years, alongside the expansion of the media and related industries, there has been rapid technological advancement, social change, and the waning and eroding of some traditional systems of authority and control. Social transformation and representation in the media are closely related. Both ancient and contemporary societies rely heavily on the media for the development and dissemination of social understanding and social imagery. Therefore, it is argued that the media can be used as "an instrument," a potent and adaptable one, to persuade people to adopt particular socially acceptable modes of belief and understanding. The pursuit of gender equality remains a pressing issue in contemporary society. Achieving this ideal necessitates a multifaceted approach that addresses the complex interplay between societal norms, legislative frameworks, and media representation.

However, an analysis of the gender dimensions present in society reveals that the media falls short of fulfilling its function. The media has an enormous impact on gender issues as well, which is one of the most significant challenges of our time. Among many challenges with gender disparity, the major primary concern is the objectification of women. This paper aims to analyse the objectification of women in media and explore the effectiveness and lacunas of the present legal regime in India. This paper delves into the concepts of equality, gender disparity, legislation, media, and society, exploring how these elements intertwine with media bias and the efficacy of legislation in tackling gender disparity.

Keywords: Equality, Gender disparity, Legislation, Media, Society

1. INTRODUCTION

The portrayal of women in media has long been a topic of scrutiny and critique, often highlighting the ways in which media perpetuates and reinforces patriarchal norms and stereotypes. Rather than being seen as individuals with agency and autonomy, women are usually depicted as objects of male desire, existing solely for the pleasure and consumption of men. This objectification extends across various forms of media, from traditional outlets like print and television to newer platforms such as the Internet and social media. The media industry has undergone significant transformations, particularly with the advent of digital technology. While traditional forms like newspapers and magazines have experienced declined circulation, newer mediums such as online streaming services and social media platforms have risen in prominence. These changes have reshaped how information and entertainment are consumed and produced, yet the underlying issue of gender representation persists.

I. Dismantling Disparity: Unveiling Media Bias and the Efficacy of Legislation in Achieving Gender Equality

It's crucial that a shared understanding is established by examining the concepts within the specific context in which they will be utilized.

Equality: A Level-Playing Field

Equality denotes the state where individuals possess equal rights, opportunities, and outcomes regardless of gender. In an ideal world, men and women would experience equal access to education, employment, political participation, and leadership roles. However, the reality often presents a different picture, marred by entrenched gender disparities.

Gender Disparity: The Unequal Distribution of Power and Resources

Gender disparity refers to the unequal distribution of resources, opportunities, and outcomes experienced by men and women. These disparities manifest across various domains, including:

- **Economic:** Women often earn less than men for the same work and face greater challenges in accessing leadership positions within industries.
- **Educational:** While strides have been made, girls in some parts of the world still face barriers to accessing quality education.
- **Political Participation:** Women remain underrepresented in political spheres, hindering their ability to advocate for policies that address their specific needs.

Legislation: A Framework for Change

Legislation represents the process of creating and enacting laws. Anti-discrimination laws and policies promoting equal pay, parental leave, and access to education are appropriate examples of legislative efforts to bridge the gender gap. Effective legislation can establish clear benchmarks for equality and provide mechanisms for holding institutions accountable for discriminatory practices.

Media: Shaping Perceptions and Reinforcing Norms

Media encompasses various communication channels such as television, newspapers, radio, and the internet. This powerful tool plays a significant role in shaping public perception and influencing societal norms. Media content can either challenge or reinforce existing gender stereotypes, impacting how individuals understand and interact with the world around them.

Society: A Tapestry of Norms and Expectations

Society can be defined as a group of people living together in a particular way and establishing norms and expectations regarding gender roles. These expectations can be deeply ingrained and influence how individuals within that society behave and operate.

For example, traditional societal norms may dictate that men pursue careers while women prioritise domestic duties. Media content can either reflect or challenge these societal norms. The public-private dichotomy still exists and requires sincere efforts to overthrow the division of labour within the strict borderlines of public and private space.

II. Overview of the Media Industry

In examining the role of media in shaping societal perceptions of women, it's essential to consider the power dynamics at play. Women are often relegated to passive roles, serving as objects of visual pleasure or supporting characters in narratives driven by male protagonists. This perpetuates the notion that women's worth lies primarily in their appearance and ability to fulfill male fantasies rather than their intellect, skills, or achievements. Moreover, the commercial nature of much media further complicates matters, as content is often tailored to cater to specific demographics and maximise profits. This can result in the hypersexualization and objectification of women, as sensationalism and shock value are prioritised over nuanced and respectful portrayals. However, it must be acknowledged that progress has been made in challenging these harmful representations. Initiatives promoting gender equality and diversity in media have gained attraction, increasing visibility and representation for women from diverse backgrounds.

Additionally, the rise of grassroots movements and online activism has provided platforms for the marginalised voices to speak out against injustice and demand change. Ultimately, addressing the issue of gender representation in media requires a multifaceted approach that involves not only media producers but also consumers, educators, policymakers, and society at large. By challenging stereotypes, promoting inclusive storytelling, and holding media accountable for harmful practices, we can work towards creating a more equitable and empowering media landscape for women and girls.

III. The Perilous Pitfall: Media Bias and its Impact

Media bias occurs when information is presented in a way that favours a particular viewpoint, intentionally or unintentionally. This bias has a profound impact on the way gender issues are portrayed and can hinder progress towards equality:

- **Perpetuating Stereotypes:** Media can contribute to gender disparity by reinforcing stereotypical portrayals. Women may be primarily depicted in domestic roles, focused solely on appearance, while men are stereotypically portrayed as the stoic breadwinners. This constant reinforcement of traditional roles limits men and women from pursuing their full potential.
- **Underrepresentation:** The underrepresentation of women in leadership positions within media outlets can lead to a lack of diverse female voices and perspectives in the mainstream. When women are missing from the decision-making table, the resulting content is more likely to perpetuate existing biases.
- **Sexualization:** The hyper-sexualization of women in media can objectify them and contribute to unequal power dynamics. This reinforces the notion that women's value lies primarily in their appearance, diverting attention away from their accomplishments and capabilities.

These forms of media bias contribute to the maintenance of the status quo, making it harder to achieve gender equality.

IV. Objectification and Jurisprudence:

Objectification occurs when social interactions distill intricate and nuanced human experiences into tangible visual representations. Immanuel Kant emphasizes that regarding an individual solely as an instrument for one's sexual satisfaction epitomizes this objectification. It involves reducing the richness of a person's humanity and identity to a mere vessel for fulfilling sexual desires, thereby eroding their intrinsic worth and autonomy. Feminist scholars like Bordo and Okin argue that Western intellectual and religious traditions have long perpetuated a mind/body binary, associating men with rationality and women with emotions and physicality (appearance). This led to women being confined to roles centered around reproduction and aesthetics, detached from intellectual pursuits.

Despite feminist efforts to challenge oppressive gender roles, thinkers like Killborne, Berberick, Jacobson, and Mazur suggest that women still face oppression through the perpetuation of feminine imagery in consumer culture. As described by Margaret Jane Radin, objectification involves treating individuals as mere objects for consumption rather than autonomous moral agents. This can occur through commodification, where specific human characteristics are bought and sold, or through subordination, where attributes like race and gender are devalued. Scholars like Joseph Raz and John Rawls argue that unequal distribution of wealth exacerbates this subordination within market-oriented societies.

The term "objectification" has become a key concept in feminist theory, particularly associated with scholars like Andrea Dworkin and Catherine Mackinnon. It's widely used to critique representations in media like advertisements and films and to question interpersonal dynamics and self-perception. Objectification isn't solely confined to sexual contexts; it encompasses broader ways of speaking, thinking, and acting that are deemed morally or socially unacceptable by the speaker. Sexual objectification, a subset of this concept, involves treating individuals as mere tools for sexual gratification. Objectification theory, developed by Fredrickson and Roberts, explores how women's experiences are shaped in a culture that sexualizes female bodies. This theory also sheds light on how gendered experiences may contribute to issues like substance abuse among women. Bartky further elaborates on how sexual objectification involves separating a woman's body from her mind, reducing her to mere physical attributes for others' use. This culture of objectification leads women to internalize societal beauty standards and self-objectify, constantly evaluating themselves based on appearance and engaging in body surveillance.

V. Trends in the Media

The most adaptable and successful technical advancement is in the field of media. In other ways, it can be claimed that media and technology are interwoven. The media is the most potent force in communication and technical advancement and is crucial in both. Therefore, it is accurate to say that media is vital for socialisation. It can enhance or degrade culture. And it wouldn't be wrong to say that the media has a significant impact on either eradicating or maintaining gender disparity. Gender identity is a product of the patriarchal dominant society for both sexes.

"At the same time, technology holds a mirror to the ugliness of our world..." These were the remarks of the Secretary-General's Envoy on Technology during the 67th annual session of the United Nations Commission on the Status of Women this year (2023). In the same address, he went on to emphasize that advancements in technology have escalated the objectification of women and hindered women's participation in political arenas.

(United Nations 2023) The session was one of the few instances in international law deliberations that discussed the objectification of women as a threat to women's exercise of fundamental rights. The earliest deliberations on the issue could be traced to the studies published by the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in 1979 on the depiction of women by the contemporary media. The study observed that entertainment programs of mass media portray women in a two-fold manner: one is in the manner of a decorative object, and the other is of an unfortunate individual who is dependent on their families, especially male members like father, husband, son, etc. for their economic and emotional requirements. **(Gallagher 1979).**

This was followed by the United Nation's Fourth World Conference on Women held in Beijing in 1995, where Beijing Declaration and Platform for Action was adopted. The declaration obligated the government, according to paragraphs 243(d) and 244(a), to restrain the media from depicting women as sexual objects and commodities; it emphasized on the portrayal of women as respectful contributors to the developmental initiatives of the modern world. The declaration further advised governments to utilize self-regulations and legislation as tools to regulate the media as well as advertising in the interest of combating the menace of objectification of women **(United Nations 1995)**. Subsequently, almost three decades after the adoption of the Beijing Declaration, the 67th session of the Commission on Status of Women, according to conclusion eighty-seven, reiterated the need to comply with the Beijing Declaration as an effective response to combat objectification. **(United Nations 2023).**

Despite multiple crossroads at the international stage, India has omitted to enact specific legislation that directly deals with objectification or has attempted to define the said menace along with other provisions or legislations or self-regulations that regulate the depiction of women by media **(Saha 2022)**. Visible impacts

of unfettered objectification have surfaced in India owing to the absence of any substantial restraint by the government on the portrayal of women.

VI. Impacts of Unfettered Objectification on the Society

2019 research published by the American Psychology Association suggests that constant objectification of women by media and unfettered exposure of society to such objectifying content culminates in the dehumanization of women. Dehumanization has been understood as an act of depriving women (or any person for that purpose) of specific human-like attributes, thereby reducing them to a commodity-like treatment. It is explained as correlated with or a consequence of constant objectification. The study has concluded that unhindered dehumanization promotes sexual aggression, particularly among men, cultivates rape culture, and, therefore, a visible increase in crimes against women (**Bevens 2019**).

The National Crime Records Bureau of India (NCRB) reported an increase of 6.7% in crimes against women in India during the year 2020. An exorbitant 87,823 were cases of crimes involving "Assault on Women with Intent to Outrage her Modesty," namely sexual harassment, voyeurism, and stalking. (**NCRB 2020**) A connection between the rise in rampant crimes against women for a consecutive period of 5 years between 2006 and 2011 and an increase in the objectification of women was highlighted in the Indian Parliament by the then Member of Parliament Shri P.R. Natarajan; he argued in favour of restraining mass media from portraying women as sex objects through legislation. (**Lok Sabha Debates 2012**)

However, no such legislation has seen the light of day. Objectification of women can have visible impacts on water downing the suitability of women candidates during elections. This was observed during the American Presidential Elections of 2008, when the media constantly portrayed Vice Presidential candidate Sarah Palin, diverting viewers' attention from her political offerings to her appearance, thereby constituting objectification. (**Gothreau 2023**) This further explains a skewed representation of women in Indian Politics in contrast to their counterparts.

VII. Indian Laws Dealing with Portrayal by Media – Effectiveness and Lacunas

Although India has not enacted any specific legislation that either defines objectification or substantially prohibits the same, it has a set of laws and self-regulations that constructively touch upon the menace of objectification.

a. Cable Television Networks (Regulation) Act, 1995

This act regulates cable television content and prohibits the transmission of any program that offends good taste or decency, contains offensive or undesirable material, is likely to encourage or advertise in its depiction of men and women, and allegedly promotes gang rape culture (Scroll 2022). This incident was followed by the formulation of guidelines by ASCI on harmful gender stereotypes and contained categorical examples of gender-based objectification as well as stereotyping. (**ASCI 2022**). The formulation of guidelines by ASCI is a welcoming step; however, the council has been reduced to the status of a toothless tiger by the Delhi High Court. The court, in its 2017 decision, clarified that the council cannot bind any entity by its decision; its adjudication on grievances can only culminate into a recommendation to alter or take down advertisements but, in its effect, stands non-binding (**Procter and Gamble Home Products Private Limited vs. Hindustan Unilever Ltd. 2017:14**)

b. Indecent Representation of Women (Prohibition) Act, 1986

This act prohibits the indecent representation of women in advertisements, publications, writings, paintings, figures, or in any other manner and provides for punishment for the same. The Act has its application limited to print media. Therefore, The Indecent Representation of Women (Prohibition) Amendment Bill, 2012, was introduced in parliament to expand the scope of the Act to audio-visual media, digital, and electronic media. This bill was subsequently sent to the standing committee of the Parliament. The committee vide its 258th Report recommended amendment of section 2(b) definition of 'distribution' to include "*publication, license, or uploading using computer resource, or communication device or in any other printed or electronic form, whether for profit or otherwise,*" Another recommendation included amendment of section 2(c) definition of 'indecent representation of women' to identify such content/material wherein a woman is seen as a sexual object. (**Parliamentary Standing Committee 2012**)

c. Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021:

These rules regulate digital media platforms, including social media, and prohibit the publication or transmission of content that is invasive of another's privacy, including bodily privacy, insulting or harassing on the basis of gender according to rule 3(1)(b)(ii). Furthermore, rule 9 establishes a three-tier mechanism at the level of self-regulation by publishers at the first level, self-regulation by self-regulation associations at the second level, and oversight by the government. These rules were a promising development in the regulation of media content; however, the application of rule 9 was stayed by an order from the Bombay High Court while adjudicating on a challenge to the constitutionality of the regulations. (**Agij Promotion of Nineteenonea Media Pvt. Ltd. & Ors. v. Union of India & Anr. 2022:37**)

VIII. The Power of Legislation: A Double-Edged Sword

Legislation can be a powerful tool for tackling gender disparity, but its effectiveness depends on several crucial factors:

- **Enforcement Mechanisms:** Strong enforcement mechanisms are essential to ensure that laws are not merely symbolic gestures. Institutions may be less likely to comply without proper enforcement, rendering the legislation meaningless.
- **Public Awareness:** Legislation needs to be well-publicized so that people know their rights and can take action if they are violated. Widespread public awareness empowers individuals to hold institutions accountable and creates a social environment conducive to change.
- **Shifting Societal Norms:** While legislation can establish a framework for equality, it is often most effective when working in tandem with broader social movements that challenge traditional gender roles. When public discourse and societal expectations shift, laws become a powerful tool for solidifying these changes.

Media can play a vital role in both reflecting and influencing public awareness and societal norms. Legislation promoting gender equality can be more effective when supported by fair and balanced media portrayals that challenge stereotypes, showcase diverse female role models, and empower women to claim their rightful place in society.

IX. A Symbiotic Dance: Media and Legislation in the Pursuit of Gender Equality

Thus, one can argue that the quest for gender equality is a complex dance with multiple partners. Two key players in this ongoing performance are media and legislation. Their relationship, though often strained, exhibits a fascinating symbiosis. Media can hold a mirror to existing gender disparities, while legislation can establish the framework for a more equitable society. When these forces work in tandem, significant progress can be achieved.

Incite violence or contains anything against the maintenance of law and order. The Act also provides for the formulation of rules to govern the content of cable television and advertisements.

d. Advertising Standards Council of India (ASCI) Code

The ASCI code draws its authority from the Cable Television Networks Rules, 1994, which mandates that all cable TV advertisements must comply with the ASCI code. The ASCI code is primarily self-regulatory and prescribes a set of responsibilities for all advertisers. Chapter 2 of the Code emphasizes that advertisements must not indecently portray women. Chapters 17 to 24 expressly prescribe a grievance redressal mechanism at the council level. **(ASCI 1994)**. ASCI played an essential role in condemning the objectionable Layer'r Shot Advertisement, which was voluntarily taken down after the council expressed disapproval. The said

Media, encompassing television, radio, newspapers, and the ever-evolving internet, is a powerful social mirror. It reflects the existing societal norms and biases regarding gender roles. However, media can also be a catalyst for bringing in positive change. Media can expose and challenge harmful stereotypes by critically examining how men and women are portrayed. Documentaries highlighting the struggle of women in underprivileged communities or news programs featuring successful female leaders can inspire change and redefine expectations.

However, media bias, both intentional and unintentional, often throws sand into the gears of progress. The underrepresentation of women in leadership positions within media outlets can lead to a lack of diverse voices and perspectives. This can result in content that reinforces existing biases. The constant portrayal of women primarily in domestic roles or the hyper-sexualization of female characters perpetuates the notion that their worth lies primarily in their appearance, not their capabilities. This media bias creates a barrier to dismantling gender stereotypes and achieving equality.

Legislation, on the other hand, provides the framework for a more equitable society. Anti-discrimination laws, policies promoting equal pay, and initiatives supporting access to education for girls are all examples of legislative efforts aimed at bridging the gender gap. Effective legislation establishes clear benchmarks for equality and empowers individuals to hold institutions accountable for discriminatory practices. However, legislation alone is not enough.

The success of legislation often hinges on public awareness. Here, the media plays a crucial role. Widespread media coverage can ensure that individuals are informed of their rights and the laws that protect them. Investigative journalism that exposes violations of these laws can create public pressure and empower individuals to take action. When the media effectively disseminates information about legislation's goals, the public can become a powerful force for change.

Beyond the ambit of awareness, media can also influence the effectiveness of legislation by shaping societal norms. When laws are enacted without a corresponding shift in public perception, they may become symbolic gestures. Media can play a vital role in driving this shift. By featuring stories of successful women challenging traditional gender roles, media can help redefine societal expectations and make the goals of legislation more attainable.

In conclusion, the relationship between media and legislation in pursuing gender equality is symbiotic. Media can both reflect and influence public opinion, while legislation provides the framework for change. These forces

can create a powerful engine for progress when they work together. By challenging stereotypes, promoting awareness of rights, and shaping societal norms, media can amplify the positive impact of legislation. Conversely, effective legislation provides the legal teeth the media can leverage to hold institutions accountable and dismantle the structures perpetuating gender disparity. We can only create a society where men and women stand on equal footing through this collaborative effort.

X. Dismantling the Gaze: Why Regulating Media Content, Particularly OTT Platforms, is Crucial to Combatting the Objectification of Women

The media landscape has dramatically shifted with the rise of Over-the-Top (OTT) platforms. While these platforms offer a plethora of entertainment options, a concerning trend has emerged: the persistent objectification of women. This portrayal not only reinforces harmful stereotypes but also reflects poorly on society and undermines women's agency. Regulation of media content, particularly on OTT platforms, is crucial to tackle this pervasive issue.

The Allure and Allure's Peril: The Power of Media and the Objectification of Women

Media, encompassing traditional outlets like television, radio, and the newer OTT platforms, undeniably influences societal norms and perceptions. Women are often portrayed through a male gaze, reduced to their physical attributes and sexual appeal. This objectification manifests in various forms:

- **The "Eye Candy" Trope:** Women are frequently presented solely for visual gratification, with their clothing and actions designed to titillate rather than contribute to the plot.
- **The Damsel in Distress:** Women are depicted as helpless and in need of rescue by men, reinforcing the notion of female fragility.
- **The Male Narrative:** Powerful and complex storylines are often reserved for male characters, while female narratives revolve around romance, family, or appearance.

These portrayals have a significant impact:

- **Internalized Misogyny:** Women begin to view themselves through the objectifying lens presented in media, leading to low self-esteem and body image issues.
- **Normalization of Violence:** The trivialization of sexual harassment and assault through media narratives contributes to a culture that condones such behavior.
- **Restricted Opportunities:** The constant focus on physical appearance can limit women's aspirations in professional and academic domains, reinforcing the stereotype that their value lies in their looks.

The Case for Regulation: Protecting Women and Society

The argument against regulating media content often stems from concerns about censorship and freedom of expression. However, there's a crucial distinction between censorship and content regulation. The goal is not to silence artistic expression but to create a media landscape that fosters respect for women and promotes equality.

Regulation Done Right: Striking a Balance

Effective media regulation for OTT platforms needs to be multifaceted:

- **Classification Systems:** A clear and transparent classification system that informs viewers about potentially objectifying content and allows them to make informed choices.
- **Content Ratings:** Age-appropriate content ratings can help shield children from mature themes and ensure media consumption aligns with their developmental stage.
- **Promoting Diversity:** Regulatory bodies and OTT platforms should work together to incentivize and facilitate the creation of content showcasing diverse female narratives and positive role models.
- **Fines and Penalties:** Financial penalties and potential license suspensions for blatant violations can provide a deterrent against excessively objectifying portrayals.

The Importance of Stakeholder Engagement:

Legislation must go beyond simply creating regulations. It's crucial to involve relevant stakeholders in the process:

- **Women's Rights Organizations:** These groups can provide valuable insights into the impact of media objectification and suggest practical solutions.
- **Media Producers and Creators:** Collaborative efforts with content creators can ensure regulations foster creativity and diverse storytelling while minimizing objectification.
- **Public Awareness Campaigns:** Educational campaigns can inform the public about the issue of media objectification and generate support for regulatory measures.

Beyond Legislation: A Shift in Culture

Legislation is a critical step but only part of the solution. To create a lasting impact, a cultural shift is necessary. Media literacy programs can equip viewers with the tools to critically analyse content and identify instances of objectification.

Breaking Free from the Gaze

The objectification of women in media is not simply an aesthetic concern; it has real-world consequences. Regulation of media content, particularly on OTT platforms, is not about stifling creativity. It's about creating a media landscape that reflects the complexities and strengths of women. By fostering diverse content, promoting awareness, and fostering collaboration, we can move beyond the objectifying gaze and towards a society where women are valued, respected, and empowered.

This fight requires action from legislators, media creators, and viewers. Only through a collective effort can we dismantle the harmful stereotypes perpetuated in media and empower women to claim their rightful place in society, both on and off-screen. As Ursula K. Le Guin aptly stated, "We can't all succeed when half of us are held back." It's time to break free from the male gaze and create a media landscape celebrating women's full potential.

XI. Path Ahead

Despite several deliberations at the international stage, "Objectification" is still missing its place in the regulations made by the government, and it is not getting the kind of attention it must have. Insertion of the term in statutes like Indecent Representation of Women (Prohibition) Act, 1986, which defines 'indecent' under section 2 (c), and keeping it *mutatis mutandis* in other Acts and statutes citing indecency and obscenity could be a significant stepping stone. India failed to suitably amend the legislation twice in 2012 and 2018 by withdrawing the concerned bills. In order to curb the menace, amendment of the 1986 Act in light of the 258th Standing Committee Report could be an effective development. Self-regulation has not been proven to be effective in the Indian context and has been criticized by Indian Courts as well; for that matter, Delhi High Court in a 2013 decision (*Indraprastha People & Anr. v. Union Of India & Ors* 2013:72), India must consider giving statutory recognition to ASCI and its 2022 guidelines. Regulation of OTT content could be an interesting consideration in the Indian context, mainly when there's a growing propensity towards censorship of such content, as expressed by the Minister of Information and Broadcasting in addition to a recent Delhi High Court ruling directing stricter implementation of 2021 IT rules. These rules could be effectively utilized to curb the menace of objectification and obscenity once it passes the test of constitutionality. Finally, the legislature must seek recourse to its Preamble, for the preamble of the Constitution sets a goal to assure the dignity of the individual. Therefore, fundamental rights are intended to rectify fundamental wrongs in pre- and post-constitutional law. It wants to undo historical injustices by bringing substantive equality and not formal equality for women's dignified existence and emancipation. This may involve a disruption in the existent patriarchal social structure and may go against the prevalent, popular sentiment. It's high time that India must travel the path of regulation of its media content and curb the evil of objectification.

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