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Introduction

With Asia as its backdrop, this book critically investigates the particular role played by the World Bank Group (WBG) in both conceptualising and promoting new mining regimes tailored for resource-rich country clients. Building on case studies located in the Philippines, Laos and Mongolia, the book details a particular politics of mining in the Global South characterised by the transplanting, hijacking and contesting of the WBG’s mining agenda in national and local arenas.

This book does not intend to argue that the WBG is the sole influential actor in the making of regulatory mining regimes in the Global South. The industry itself, development, and private, bilateral and other multilateral donors, notably the Asian Development Bank, as well as particular countries such as Australia, Canada and China are all pivotal actors in the sector as a whole, and to different degrees, in each resource-rich country. While a case for the study of each of these actors’ influence over the sector can easily be made, this book purposefully focuses on the WBG, a choice which will be argued for at length in this contribution. For now, it is to be noted that the interest of this book is in pointing towards the particular politics of mining which has been rooted within regulatory mining regimes of resource-rich countries throughout the Global South, a governance which has been designed and promoted under the distinct leadership of the WBG. The prominent Extractive Industries Review (EIR), which was established in 2001 to independently evaluate the WBG’s involvement in extractive industries (oil, gas and mining), has allowed the World Bank’s fundamental role in the mining sector of its resource-rich client countries to be well documented. The Review observed that under the leadership of the Bank, no less than 100 countries reformed their laws, policies and institutions during the 1990s (EIR, 2003b, p. 10).

Crucially, while the EIR’s concluding report was highly critical of the role the WBG has played in this controversial sector for the past two decades, such admonishments have not proved terminal for the Group but rather have provided opportunities for paradigmatic renewal. As part of a broad
Regimes of Risk

Regime of governance designed by the WBG to attract private sector investment in the name of poverty reduction, novel socio-environmental safeguards and the enrolment of civil society have now become flagships to once again legitimise continued and expanded involvement in the mining sector. The combination of this new discursive and policy framework is here referred to as the ‘Social-Development Model’ (SDM), a model which has since echoed throughout the mining industry and within regulatory regimes across the Global South. However, although it was developed to respond to domestic political economies and protests over mining benefits, it is apparent that, much like earlier incarnations of neoliberalism in the mining sector, the promotion by the WBG of this new framework continues to exhibit serious repercussions for constituents in the underdeveloped world, bringing into question the legitimacy of the model itself.

More specifically, this book addresses four interrelated objectives. A first set of objectives relates to the roles adopted by the Group’s different arms in the mining sector – the International Development Association and the International Bank for Reconstruction and Development, as well as the Multilateral Investment Guarantee Agency and the International Financial Corporation. Of interest is making sense of the historical process which explains how a public institution such as the WBG has become such an influential actor in the extractive industry. This further highlights the need to understand the theoretical underpinnings which have fed the Group’s vision of mining in the past decades. Particular attention will be given to the most recent shift in the Group’s recommendations for the sector, the SDM.

A second set of objectives for this book relates to what is here referred to as the coordinated work of the different arms of the WBG in promoting a particular mining governance in the resource-rich countries of the Global South. While rarely addressed in the literature, such an exercise is essential as it provides greater insight into the extent of the weight of the WBG as a whole in the sector. In other words, the study of the cumulative influence exercised by the respective arms of the Group goes a long way towards explaining why the multilateral institution commands such authority in the sector. Moreover, the book looks closely at the particular mechanisms utilised by the different arms of the Group in order to transpose the mining framework onto country clients.

The third set of objectives explores the new roles and responsibilities assigned by the new mining framework to the different stakeholders involved in the mining sector. Since the Bank has been dedicated to finding the ‘right’ role for the state in the mining sector since the 1980s, the more recent framework advocated by the multilateral organisation has triggered important changes. Here not only has the state been invited to play an increasing role, other stakeholders have also been acknowledged as key pillars of the new mining governance. The industry has been playing a greater role and now assumes more responsibilities in providing social services to
local communities, while also safeguarding the environment. With key participatory and partnership mechanisms embedded within the new model, ‘civil society’, here understood as local communities, their representatives, and non-governmental organisations (NGOs), has also been acknowledged as a crucial actor for the success of the sector’s development. However, these new roles, responsibilities and legitimacies raise important questions relating to the shifts in power relations dictated by such changes.

This directly speaks to the fourth set of objectives which guide this book: to address the issue of how this multilateral framework unravels on the ground. This is where the particular national/local contexts at play in different countries are vital to contextualise the political, economic and socio-environmental ramifications of the Bank’s model. Here we investigate to what extent each actor has been able to assume its new role in the sector and how unforeseen players have hijacked agendas. The study seeks to shed light on the intrinsic contradictions embedded in a model being promoted under a socio-environmental narrative while also being driven by the larger task of reordering power in favour of market interests. This closely resonates with the need to tackle the politics of transplanting norms engineered in multilateral spheres within local/national arenas. Here, our interest lies in the sustainability of such a model whose legitimacy is dislocated from the state and therefore triggers a contraction of political spaces. In turn, this brings up the timely issue of dissent and the recent rise of ‘resource nationalism’.

**Framework and thesis**

This research is informed by two complementary sets of literature, one anchored in critical political economy, and the other, in legal pluralism.

The Research Group on Mining Activities in Africa¹ (GRAMA) – the author is an associate fellow² – and its director, Bonnie Campbell (2004, 2009), have argued that well beyond the host state, a series of other actors play a fundamental role in shaping the regulatory mining regimes of countries in the Global South, that is to say the investment environment for the mining sector and the norms which regulate it, notably the private sector and the countries of origin of the companies, as well as bilateral and multilateral financial institutions (Campbell, 2004, p. 7).

In this book, the term ‘regulatory regime’ is used to emphasise that reforms often go beyond the adoption of a mining law and its implementing rules and regulations. In addition to such mining law, a regulatory regime requires several other fiscal and legal laws, including water law, land law, industry law, labour law, customs law, tax law, as well as a range of exploration and operations contracts specific to foreign companies, as well as companies simply being regulated by legislation (Economic and Social Commission for Asia and the Pacific, 2002, p. 17). Further to this, the term
Regimes of Risk

regulatory regime encompasses the norms for the sector. As such, in this contribution, ‘regimes’ are understood as sets of governing arrangements, including ‘networks of rules, norms, and procedures that regularize behavior and control its effects’ (Keohane and Nye, 1997).

On this subject, Gagné-Ouellet (2012) proposes applying Kébabdjian’s analysis of regimes to the mining sector. For Kébabdjian (1999, p. 137) the analysis of a regime should distinguish between rules and decision-making procedures (such as laws) and specific principles and norms. Such insights shed light on the permanent aspects of the regime (its norms and principles) and its instruments (rules and decision-making procedures). The author’s distinction is relevant with regard to the cases analysed in this volume as it highlights that while the rules and decision-making procedures in the countries’ respective mining regimes may indeed have drastically mutated in recent years, the norms and principles embedded in the regimes may however have remained firmly entrenched within a neoliberal perspective. In the case of the mining sector, Gagné-Ouellet (2012) particularly lists the following norms:

- Priority given to the private sector for mining development;
- Priority given to mining over other types of territorial use;
- Priority given to an exportable resource over other mineral resources;
- Priority given to the industrial sector over artisanal and small mines; and
- Guarantees protecting mining rights.

The argument here is that despite the historical transformation of regulatory mining regimes in the cases studied in this book, the WBG’s prescriptions for the sector have remained solidly rooted within these above-mentioned neoliberal norms and principles.

A legal pluralist perspective sheds further light on the multidimensional nature of the arenas where norms are created (transnational) and where conflicts arising from mining activities are regulated (local/national), suggesting an increasing dislocation between the two. As democratic spaces exist in the local and national arenas, Szablowski (2007) draws attention to the ambiguities of processes of legitimation which are linked to the external origins of normative frameworks and their implications in terms of political and social responsibilities for the actors involved. For Szablowski, an externally driven policy dynamic may shift debates away from a democratic (local/national) arena to a transnational forum in which mediation is cast as a technical concern to be carried out on behalf of beneficiaries who are acknowledged as having needs, rather than rights (Szablowski, 2007, pp. 304–305).

The combining of such a legal pluralist approach with a critical political economy allows for a specific emphasis to be put on how structural relations of power are conditioning the emergence of mining reforms across the
Global South and what particular set of norms is informing such reforms (Campbell, 2004, 2009; Coumans, 2011; Gagné-Ouellet, 2012; Kébabdjian, 1999; Soederberg, 2004; Szablowski, 2007). This further speaks to the social conflict theory, which emphasises that markets and institutions are the products of conflict over power, the construction of state authority and distribution. Crucially, these insights emphasise the existence of an underlying prioritisation of the particular neoliberal norms promoted for the sector, thus circumscribing the realm of what is seen as ‘acceptable’ and what alternatives strategies are being suppressed.

As the case studies presented in this book demonstrate, under the distinct leadership of the WBG, the particular norms prioritised for the mining sector of resource-rich countries across the Global South have been geared above all else towards the facilitation of the market entry of foreign capital in risk sectors. In this light, the particular case of mining can be seen as an illustration of the greater shift in neoliberalism which seeks to extend the market discipline well beyond the private sector (Cammack, 2003; Carroll, 2010; Fine et al., 2001; Gill, 1995, 2000; Jayasuriya, 2001), a shift that has been most notably designed, promoted and facilitated by the WBG (Biersteker, 1990; Campbell, 1996, 1997, 2000, 2005; Carroll, 2010, Dollar and Levin 2004; Goldman, 2005; Harrigan et al., 1995; Harrison, 2004).

This new mining governance geared to attract foreign private sector investment has been closely aligned with a poverty reduction narrative and novel socio-environmental safeguards for the mining sector, the combination of which is here referred to as the SDM.

The SDM has important ramifications in terms of the role and legitimacies of the main stakeholders involved in mining, most notably the state and civil society. The state has increasingly retreated from its formal monitoring role, while simultaneously delegating its regulating, mediating and monitoring functions to the private sector and to some extent, to civil society elements (Campbell, 2004, 2009; Carroll, 2007, 2011). With key participatory and partnership mechanisms embedded within the new model, the case of mining serves as a clear example of the larger discussion tackled in this volume whereby civil society actors are being assigned functionalist roles to facilitate the larger project of building new liberal markets (Carroll, 2010; Fine, 1999; Fine et al., 2001; Harriss, 2002; Hatcher, 2006; Hearn, 1999; Hickey and Mohan, 2005; Jayasuriya, 2003; Wood, 1990).

This conscription of all stakeholders within the new framework to address domestic risk has been highly successful in enticing foreign capital into the mining sector of countries in the Global South. However, this book and its case studies clearly demonstrate that the task might not be as straightforward as anticipated by the multilaterals. The argument here is that the technocratic take on social risk management by means of institutional engineering and market reforms fails to mute the deeply political nature
of the policies engineered in multilateral situations, as mining regimes are, above all else, the products of conflict over power and distribution.

It is clear that the implementation phase of the new model is proving to be far more malleable by patrimonial interests than anticipated by the WBG. If ultimately the reforms have strengthened the confidence of foreign investors and in so doing, opened new avenues for domestic factions to capitalise on this very surge of investments, they have provided local communities with mixed benefits at best (Campbell, 2004, 2009; Carroll, 2011). At the local level, this relegation of the management of poverty alleviation and environmental safeguards has left isolated communities with the burden of negotiating with mining corporations and local authorities looking for profits.

The plural forms of hijacking of the Bank’s blueprints for the mining sector of resource-rich countries, as illustrated by the three cases studies in this book, further reflect the ultimate failure of the WBG’s efforts to tackle long-term investment risks. The transnational nature of the arena where norms are increasingly coupled with the retreat of the state from its monitoring and enforcing functions, has allowed for a contraction of political spaces which is proving to be only temporary. Ultimately, the illegitimacy of the model in local politics has been feeding plural forms of dissent, the main manifestation of which is the recent rise of ‘resource nationalism’.

Case studies

While the politics of the World Bank’s involvement in the mining sector of its country clients have been the subject of a rich literature pertaining to Africa and Latin America, Asia has remained largely ignored by the academic community. Thus far, the continent appears to have been mainly analysed on a country-by-country basis and no systematic attempts to tease out the commonalities experienced by the different countries within the entire region seem to have been made. Though there are some comprehensive studies of the continent, such studies have only been policy-driven and, as such, chiefly focused on regulatory structures and their impact on investment risks.

This neglect of the Asian experience urgently needs to be addressed. According to the United States Geological Survey (USGS), in 2010 the Asia-Pacific region accounted for about 34 per cent of the world’s total production of mined gold, 21 per cent of mined copper, 15 per cent of mined cobalt, 61 per cent of bauxite, 71 per cent and 81 per cent respectively of mined tin and refined tin, 67 per cent of the world total iron ore and 64 per cent production of crude steel (2012c, pp. 1.4–1.7). The region’s overall production of coal further accounted for more than 50 per cent of the world’s total production in 2010 (USGS, 2012c, p. 1.7)

With mineral-hungry China and India, as well as the ‘Tigers’ of Asia – Hong Kong, Japan, the Republic of Korea, Singapore and Taiwan – as their
neighbours, resource-rich developing countries in Asia have increasingly been embracing mining activities as cornerstones of their economies. While China has remained the region’s leader in terms of growth in consumption, Japan was, in 2011, the region’s leading consumer of imported ferrous and nonferrous metals (USGS, 2012c, p. 1.1). Indonesia, Malaysia, Thailand and Vietnam were also notable consumers of the region’s production.

Despite their abundance of mineral reserves, most of the resource-rich countries in Asia had remained at a competitive disadvantage in relation to Africa and Latin America until the mid-1990s, subject to what were defined as restrictive regulations. However, by the turn of the century, all the major nonfuel mineral producers in the Asia-Pacific region had passed new (or amended) mining regulations geared at attracting foreign investors. Cambodia, India, Thailand, Indonesia, the Lao People’s Democratic Republic (Laos), Mongolia, Papua New Guinea, the Philippines and Yemen, to name but a few, have all recently reformed their regulatory mining regimes.

These reforms, as was the case in Africa, have been exceptionally successful in enticing foreign investors. Up by 70 per cent from the previous year, approximately US$750 million was dedicated to the exploration of the Pacific region and Southeast Asia (excluding Australia) in 2010 (USGS, 2012c, p. 1.3). In addition to the high demand from industrialised and emerging markets in the region, the increasing depletion of mineral reserves around the world, the high commodity prices and new technologies are all factors that have driven investors to venture further into previously untapped markets or markets that have been labelled as ‘frontier’, as discussed in detail in Chapter 1.

This book comprises the analysis of the experiences of three countries located in Asia, which represent some of the region’s richest countries in term of mineral endowment: the Philippines, Laos and Mongolia. While politically, historically, and economically extremely diverse, each country has recently reformed and/or is in the process of reforming its mining regime under the distinct leadership of the World Bank, twinning pro-mining investment incentives with a pro-poor and environmentally sustainable narrative.

If the Philippines has a long history of large-scale mining activities, Laos and Mongolia are still in their infancy, albeit expanding at a rapid pace. Furthermore, all three cases are amongst the most mineral-rich countries in Asia. With mineral resources valued at almost US$1trillion, the Philippines ranks as the fifth most mineral resource-rich country in the world, third in terms of gold reserves, forth in copper, fifth in nickel, and sixth in chromite (Republic of the Philippines, 2010). Mongolia’s mineral industry has also been the cornerstone of the country’s economy. Oyu Tolgoi, the country’s newly operational mine, will become the world’s third-largest copper and gold mine, and Tavan Tolgoi the world’s largest coal mine. Laos is strikingly one of Asia’s most resource-rich countries, with more than 570 mineral deposits identified so far.
Because of an important debt burden and challenging poverty rates, each country has opted to make its fantastic mineral reserves the key engine of its economic growth (Table I.1).

Crucially, all three countries have adopted the blueprints promoted by the World Bank for their new mining regime. The cases, which are all defined by the WBG as ‘frontier regions’, allow us to follow how reforms have interacted with the historical, economic, environmental, social, cultural, and political specificities of the country into which they have been transplanted. A country-based approach further allows for the disaggregation of the different levels of interventions – multilateral, regional, national, or local – as well as the different actors at play in the mining chain – financial institutions, governments, civil society actors and the industry. This approach also points to the need to scrutinise each of these actors in order to demonstrate how institutions and actors are far from coherent units.

It is to be noted that this book by no means seeks to describe the experience of Asia ‘as a whole’. In relying on specific in-depth country-based analyses, it is hoped that the cumulative experiences of the countries studied will allow for the teasing out of broad trends in the region while emphasising the need to further study the region’s complex experience.

The argument of this study builds on a qualitative methodology and draws from a wide range of sources: primary and secondary data, as well as a series of field researches carried out between 2010 and 2013. Semi-structured interviews were carried out with World Bank and International Financial Corporation officials, local community members and their representatives, as well as NGO officers (local and international). Discussion papers were further reviewed by the academic community throughout the period of the research. Confidentiality has been an issue throughout the period of the research and, as such, most of the material gained from interviews has been made anonymous in order to protect the sources. There are two primary reasons behind this anonymity. On the one hand, NGO members, local activists and environmental/human rights advocates addressing the mining sector often risk retribution by the state, the industry or other pro-mining interests. On the other hand, public officials, whether bureaucrats, politicians or World Bank officers from all levels, were more inclined to speak freely when promised anonymity.

Table I.1 Material assessment of Laos, Mongolia, and the Philippines*

<table>
<thead>
<tr>
<th></th>
<th>GDP per capita (2012)</th>
<th>External debt</th>
<th>Population below the poverty line</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lao PDR</td>
<td>$3,000</td>
<td>$5.599 billion (2012)</td>
<td>26% (2010 est.)</td>
</tr>
<tr>
<td>Mongolia</td>
<td>$5,400</td>
<td>$2.564 billion (2011)</td>
<td>29.8% (2011 est.)</td>
</tr>
<tr>
<td>Philippines</td>
<td>$4,300</td>
<td>$61.72 billion (2012)</td>
<td>26.5% (2009 est.)</td>
</tr>
</tbody>
</table>

*In US$

Source: Compiled from CIA (2013b).
The chapters

Chapter 1 first details the historical significance of the WBG in enticing its country clients across the Global South to attract foreign investors for the development of large-scale mining activities. Particular attention will be paid to the 'weight' of the Group in the sector as a whole or, in other words, on how an assessment of the 'complementary' roles played by each arm of the Group in the pursuit of investment risks demonstrates that together, the multilaterals are wielding an economic and political weight which cannot be overstated. The chapter then follows the different generations of mining regimes promoted by the Bank's respective arms and how the recent birth of the SDM can be understood in relation to former models. The SDM's unwavering emphasis on 'poverty reduction', as well as social and environmental concerns, has been presented as a central objective of all the Institution's actions within the sector, alongside a novel emphasis on social and environmental concerns. It is interesting to note here that the SDM has been calling for all stakeholders to assume new roles and responsibilities in the task of merging neoliberal objectives with environmental and social safeguards. This has led in particular to approaches that seek to engage local stakeholders in participatory schemes, new 'partnership' initiatives between the private sector and civil society, as well as new monitoring responsibilities assigned to both the state and the private sector.

In order to frame the discussion over the political significance of the Bank's new model, the crux of Chapter 1 will be to detail the theoretical framework upon which the book's central arguments are based. As such, building on critical political-economy insights, the SDM will be defined as a crucial construct for addressing the local/global nexus of contradictions, as well as local experiences with power reordering inherent to the Bank's new agenda. Here the thorny issue of opposition and its management under the SDM will be closely analysed. It will be argued that the technocratic framework currently being promoted for the sector attempts to funnel opposition and concerns over mining activities towards depoliticised arenas. As such, these new approaches should by no means be defined as an opening of political spaces but rather as instruments to shape institutions and engage social actors in order to mitigate risk for mobilising capital in the interest of facilitating the expansion of the private sector. While highly successful in stimulating Foreign Direct Investment in the sector, these regimes are also proving to be problematic in terms of the legitimacy of the new roles and responsibilities it assigns to mining stakeholders. This implies that the SDM rooted at the core of the regimes has been shifting the role of the state in such a way that the latter is increasingly – and strategically – absenting itself from its monitoring and regulatory functions, leaving the industry and local communities to negotiate the promises of the social-development narrative attached to such activities. Ultimately, this strategy runs the risk of exacerbating
social tensions inherent to mining activities, as illustrated by the three cases analysed in this book.

Chapter 2 presents the first case study: the Philippines. Building on the country's remarkable proven reserves of mineral resources and on its interest in delivering the mining sector to foreign investors, the successive governments of the Philippines have been, particularly under the guidance of the World Bank, actively competing for the most deregulated and liberalised mining regime in the Asian region. However, despite notable successes in enticing investors and in embedding an impressive array of socio-environmental safeguards in the country's mining regime, Manila has been walking a tightrope. With the sector's sombre socio-economic and environmental legacy in the backdrop, the proliferation of mining-related environmental incidents and the proliferation of recent human rights abuse cases, notably in indigenous communities, have provoked uproar in the country's civil society – one of the largest and most organised in the world.

The chapter follows the politics of the country's successive strategies in negotiating these conflicting internal and external demands in relation to large-scale mining. It will be argued that although the country's mining regime has indeed transformed itself in the past two decades, it has remained solidly anchored within a neoliberal norm that is closely tailored to the World Bank's framework for the sector. If the Arroyo Government and, more recently, the Aquino Government have undeniably twinned pro-mining investment incentives with pro-poor and environmentally sustainable narratives, the technocratic move has done little to tackle the deeply political issues which galvanise the country. This further speaks of the WBG's own involvement in the sector and of the political aftermath that it has left in its wake, namely that the Group is failing to meet its own obligations in terms of socio-environmental safeguards. Crucially, and this resonates with the other two cases presented in this book, the Government's failure to meet the promises it attached to the development of the sector have positioned mining activities at the heart of the country's election debate. The increasing dissatisfaction with the current technocratic model is in fact being contested in all corners of the country, decisively embedding the issue in the electoral ballots.

Chapter 3 moves to the case of Laos. Contrary to the Philippines, the small enclave country had had little experience with large-scale mining activities until the beginning of the last decade. Coupled with the energy sector, the recent mining boom has allowed the country to radically transform its economy and now feeds Laos' hope of shedding its status of 'Least Developed Country' by 2020. Notwithstanding its impressive hydropower potential, Laos, somewhat strikingly, is one of Asia's most resource-rich countries. With the focal role played by the WBG in the foreground, the chapter investigates the country's rapidly emerging large-scale mining sector. Echoing the Bank's guidelines for the sector, Vientiane has quickly
adopted the SDM. However, and as it was the case for the Philippines, it appears that despite the model’s serious attention to socio-environmental safeguards and the need for the involvement of local communities, the implementation process of the mining regime is falling seriously short of its promises.

Of specific interest with the Laotian case is discussing the scale of the influence of the World Bank, a public institution, in relation to the fact that, in Laos, civil society is tightly nestled in the arms of the one-party regime, and that there appears to be an overwhelming consensus that the Government is unable to carry out and monitor its new mining regime. In light of these clear obstacles, the analysis suggests that, in practice, participatory schemes in the country are depoliticised exercises serving to rubber stamp state-approved projects. Ultimately, with the conclusions of the EIR in the background, this brings up the question of the very role of the WBG in promoting mining activities in a one-party regime country.

Mongolia, the third and final case, presented in Chapter 4 of this book, resonates with the Philippines and Laos in regard to the WBG’s overarching role in promoting a specific mining governance in the country’s sector. Like Laos, Mongolia has only recently designated its mining sector as a cornerstone of its economy. After reviewing the historical role played by the WBG in nurturing Mongolia’s large-scale mining sector and the particular regime that frames mining activities in the country, the implementation process of the regime will be studied in relation to the particular politics that it has produced. Once more echoing with the cases of the Philippines and Laos, it will be argued that Ulan Bator is also struggling to match its socio-environmental narrative to the reality in the field. As in Laos, the sheer scale of the sudden expansion of large-scale mining activities within the country leaves no doubt about the existing lack of capacity to monitor the sector, notably in respect of the country’s two largest mines which are located in the heart of the Gobi desert.

Chapter 5 sets out to tease out the forms of contestation that are emerging against the new regulatory mining regimes promoted by the WBG in the countries studied in this book. Amidst the generalised incapacity of the states to deliver on the economic and the socio-environmental promises deriving from the SDM, opposition has been brewing. Unsurprisingly therefore, all three countries studied in this contribution are now displaying different forms of policies emulating contemporary forms of ‘resource nationalism’. The last chapter of this book attempts to frame the discussion over the rise of such policies and to establish whether they represent a genuine step away from the orthodox model proposed by the WBG for the sector.
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