

Dissecting the Differences between Crown Witnesses and Justice Collaborators

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Abstract

Introduction: This paper thoroughly examines the conceptual and legal distinctions between crown witnesses and justice collaborators within the Indonesian criminal law framework, as well as their ramifications for the concepts of fair trial and the human rights of defendants.

Purposes of the Research: This paper aims to thoroughly analyze the legal status, normative foundation, and implications of using these two groups of witnesses within the framework of procedural justice for defendants.

Methods of the Research: This research employs normative legal methodologies, utilizing an analytical approach to positive law, Supreme Court jurisprudence, and relevant human rights concepts.

Findings of the Research: The research indicates that the crown witness, stemming from prosecution case-splitting, often violates the principle of non-self-incrimination and undermines the rights of the accused. Conversely, justice collaborators, governed by Supreme Court Circular Letter Number 4 of 2011, adhere to due process of law by voluntary collaboration and a precise legislative framework. The study's novelty is in its comparative analysis that distinctly differentiates these two often-confused processes by including doctrinal interpretation and human rights views. This study addresses a deficiency in previous research, which has seldom investigated their normative convergence, and advocates for a more cohesive, rights-based framework for managing offenders within Indonesia's criminal justice system.

Keywords: Crown Witness; Justice Collaborator; Fair Trial.

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INTRODUCTION

In the Indonesian criminal law system, witnesses play a crucial role in uncovering the material truth throughout the legal process.¹ A compelling type of testimony that often sparks considerable discussion is when the perpetrator of a crime serves as a witness against other offenders in the same case.² In reality, this occurrence is referred to by two terms: the crown witness and the justice collaborator. The two phrases possess distinct subtleties, both philosophically and normatively, while both include the perpetrator in a role as a testator against the other perpetrator. The disparity is the primary issue in comprehending how Indonesia's criminal process legislation governs and implements kinds of collaboration from offenders within the criminal justice system. The designation "crown witness" derives from court practice rather than the explicit provisions of the Criminal Code. It denotes an offender whose testimony is used against another defendant in the same criminal

¹ Tuti Khairani Harahap et al., 'introduction To Legal Science', *Publisher of Tahta Media*, 30 May 2023, <https://tahtamedia.co.id/index.php/issj/article/view/255>.

² Mohamad Hidayat Muhtar et al., 'The Concept of Indonesian Law', *Global Technology Executive*, 2023, https://www.researchgate.net/profile/Mohamad-Hidayat-Muhtar/publication/370583612_Sejarah_Tata_Hukum_Indonesia/Links/64573db95762c95ac378e471/Sejarah-Tata-Hukum-Indonesia.pdf.

proceeding. This practice often originates from the case-splitting provision in Article 142 of the Criminal Procedure Code (KUHP), allowing the public prosecutor to segregate case files of several defendants implicated in a singular criminal conduct for evidential efficiency. This separation often allows one defendant to provide testimony against another in a connected trial. This strategy, however, engenders ethical and legal dilemmas, since the witness concurrently maintains the position of a defendant in the same criminal conduct. The trustworthiness of the testimony is significantly susceptible to external pressures or inducements, such as the possibility of reduced charges or case dismissal.

This phrase arose in relation to extreme or organized crimes, including corruption, terrorism, and human trafficking, as opposed to justice collaborators. This phrase acquired validity via Supreme Court Circular Letter Number 4 of 2011, which delineates the features and circumstances necessary for an individual to be deemed a justice collaborator. In this sense, justice collaborators are secondary offenders who willingly provide information to aid the investigation and legal procedure in dismantling the broader framework of criminal activities. Despite being a perpetrator, the justice collaborator's role is defined more explicitly and officially, necessitating the fulfillment of certain substantive requirements for his testimony to be deemed genuine in the evidential procedure.³

The presence of these two notions illustrates the dynamics within Indonesian criminal law practice, which continues to contend with case complexities and evidentiary restrictions. The crown witness serves as a pragmatic option under certain circumstances that compel the prosecutor to divide efforts to gather evidence.⁴ Conversely, this technique raises difficulties with the concepts of fair trial and non-self-incrimination, which are integral to the human rights of the accused. The right to avoid self-incrimination or implicating others should be a fundamental assurance in an equitable judicial system. The practice of severing defendants, therefore designating them as witnesses, poses possible infringements of this principle, particularly if their evidence serves as the only foundation for a judgment.

Simultaneously, the notion of a justice collaborator represents a more nuanced legal strategy, grounded in legal frameworks expressly formulated for grave offenses that jeopardize the judicial system and society. In this instance, the justice collaborator is seen as someone who deliberately opts to assist law enforcement, not due to coercion or inducement, but driven by an incentive to aid law enforcement in return for legal acknowledgment. The essential distinction in substance and procedure underscores the necessity of comprehending the conceptual and practical boundaries between the crown witness and the justice collaborator, particularly regarding criminal evidence that pertains to an individual's fundamental right to liberty and justice.

The distinction between a crown witness and a justice collaborator is not only terminological; it is intricately connected to the foundational principles of criminal procedural law. Both indicate that the perpetrator may serve as a significant source of information in criminal evidence. Conversely, the response to the two illustrates disparities in the state's management of offenders' participation in the judicial process: either as a prosecutorial tool or as a legally authorized and acknowledged type of collaboration.

³ Arni Yusuf, Fence m Wantu, and Mohamad Hidayat Muhtar, 'disparity In Judges' Decisions In Fraud Crimes and Their Implications for Legal Certainty', *SYNERGY: Journal of Scientific Research* 2, no. 2 (2025): 2, <https://doi.org/10.62335/sinergi.v2i2.923>.

⁴ Novia Grace Lahmado, Mohamad Rusdiyanto U. Puluhalawa, and Mohamad Hidayat Muhtar, 'A Review of Victimology of Sexual Violence Against Children in the Jurisdiction of the Boalemo Police', *SYNERGY: Journal of Scientific Research* 1, no. 6 (2024): 365–75, <https://doi.org/10.62335/m4nerb70>.

Comprehending this is essential to observing the implementation of procedural and substantive justice within the context of Indonesian criminal law.

METHODS OF THE RESEARCH

This study utilizes a normative juridical method based on literature analysis to investigate the differences between crown witnesses and justice collaborators in the context of Indonesian criminal law. The normative legal technique is used to examine important legal norms, including legislation, jurisprudence, and official documents like Supreme Court Circulars and pertinent Supreme Court decisions. The principal legal sources are the Criminal Procedure Code, the Criminal Code, Supreme Court Circular Letter Number 4 of 2011, and the United Nations Convention against Corruption adopted by Law Number 7 of 2006.⁵ A comparative technique is used to analyze the notions of crown witness and justice collaborator, focusing on their legal foundations, procedural roles, and consequences for the rights of the accused. This comparison underscores the convergence and divergence of the two processes in both theory and practice. The descriptive-analytical technique is used to methodically delineate current legal provisions and critically analyze them in relation to non-self-incrimination, due process, and fair trial principles. The study integrates doctrinal interpretations and academic viewpoints to elucidate the impact of these two witness types on the integrity and fairness of Indonesia's criminal justice system.

RESULTS AND DISCUSSION

A. Conceptual and Juridical Differences between Crown Witnesses and Justice Collaborators in the Indonesian Criminal Law System

The control of evidence and the evidentiary process is crucial for the maintenance of substantive justice. One intriguing aspect of criminal justice practice is the use of information from criminal offenders against other offenders to comprehensively demolish illicit activities.⁶ In this context, two phrases often seen in practice, despite their differing normative foundations and legal standings, are crown witness and justice collaborator. Both identify the legal subjects implicated in the crime while also supplying evidence against other criminals for substantiation. The distinctions between the two are not only technical; they embody fundamentally divergent legal perspectives within the context of criminal procedural law. A profound comprehension of these distinctions is crucial, as it pertains to the fundamental principles of a fair trial, the right to defense, and the safeguarding of human rights as enshrined in the constitution and different international legal instruments.⁷

The term “crown witness” (*kroongetuige* in Dutch) derives from criminal justice methodologies designed to tackle prosecution difficulties in situations with little external evidence. A crown witness is a co-offender who, although participating in the same illegal conduct, is subsequently used as a witness against other offenders. This scenario generally occurs via the case-splitting provision of Article 142 of the Criminal Procedure Code, permitting prosecutors to segregate the case files of several defendants implicated in a singular criminal act, contingent upon the case not being subject to the collective

⁵ Muhammad Syarif et al., *Legal Research Method Method* (GET Press Indonesia, 2024), https://www.researchgate.net/profile/Mohamad-Hidayat-Muhtar/publication/381460823_Metode_Penelitian_Hukum/links/666e76f8de777205a32ff37b/Metode-Penelitian-Hukum.pdf.

⁶ Supriyadi Arief, Mohamad Hidayat Muhtar, and Geofani Milthree Saragih, 'Self-Defense Efforts in the Perspective of Equality Before the Law', *Judicial Journal* 16, no. 1 (2023): 25–47, <https://doi.org/10.29123/jy.v16i1.475>.

⁷ David Hariady Silalahi, *Juridical Review of Justice Collaborator in Helping to Reveal Corruption Crimes*, 7 June 2024, <https://repository.uhn.ac.id/handle/123456789/10827>.

prosecution stipulation of Article 141.⁸ This separation allows one defendant – whose case is adjudicated earlier - to testify in a connected case, so serving as a crown witness. This has been noticed in corruption and drugs trials, when prosecutors intentionally partition case files to enhance evidence via insider testimony. This technique presents significant ethical and procedural issues, since the crown witness is also a defendant in the same criminal charge, leading to a possible clash with the concept of non-self-incrimination. The latitude afforded to prosecutors and judges often results in leniency or charge mitigation for the collaborating defendant, illustrating the pragmatic but legally controversial essence of this process.

The use of crown witnesses in court proceedings often attracts criticism from several groups, particularly scholars and legal professionals, who contend that this method undermines the principles of non-self-incrimination and the right to a fair trial. A primary criticism of crown witnesses is the possible coercion of the criminal to provide information that aligns with the prosecutor's accusation for the sake of receiving leniency. This creates problems about the impartiality and integrity of the material presented, since the culprit occupies a vulnerable position and has a motive to construct a narrative favorable to him in the perception of law enforcement officers. Moreover, the practice of bifurcation upon which crown witnesses rely often obscures the distinction between defendant and witness, so engendering ambiguity about an individual's legal standing in criminal justice procedures. This is unequivocally at odds with the tenets of contemporary criminal law, which emphasize the clarity of legal status, the presumption of innocence, and procedural fairness for all parties involved in a trial.⁹ Conversely, the designation of justice collaborator or collaborating perpetrator witness has a more robust normative basis and is methodically formulated within the Indonesian criminal law framework. Justice collaborators were formally established by the Supreme Court Circular Letter Number 4 of 2011, which pertains to the treatment of whistleblowers and witnesses in certain criminal cases. Supreme Court Circular Letter was established to address the need for evidence in exceptional criminal cases, particularly those involving corruption, terrorism, human trafficking, money laundering, and drug-related offenses.¹⁰ The control of judicial collaborators in Indonesia is normatively influenced by Article 37 of the United Nations Convention Against Corruption, which Indonesia joined by Law Number 7 of 2006. In this framework, justice collaborators are acknowledged as acceptable legal mechanisms that aid law enforcement in addressing systematic crimes that are difficult to dismantle without the cooperation of the offenders.

A justice collaborator is defined as a secondary culprit who willingly offers significant information to aid in the investigation of the crime. The formal stipulations outlined in Supreme Court Circular Letter Number 4/2011 necessitate that the perpetrator acknowledge their conduct, excluding the principal offender, and that the material supplied has substantial relevance in substantiating the case.¹¹ Unlike crown witnesses, who emerge from procedural splitting tactics, justice collaborators originate from requests or declarations of cooperation made by the perpetrator or initiated by investigators

⁸ Semendawai, A. H. *The Determination Status of Justice Collaborator in Human Rights Perspective*. *Law and Human Rights Research* 3, no. 3 (2023). <https://doi.org/10.22304/pjih.v3.n3.a2>

⁹ Ida Ayu Kade Cinthia Dewi, Anak Agung Sagung Laksmi Dewi, and I. Made Minggu Widyantara, 'The Position of Crown Witnesses in the Process of Proving Criminal Acts in Indonesia', *Journal of Legal Preferences* 4, no. 2 (2023): 124-29, <https://doi.org/10.22225/jph.4.2.6589.124-129>.

¹⁰ Abdul Haris Semendawai, 'Determination of Justice Collaborator Status for Suspects or Defendants in a Human Rights Perspective', *Journal of Law* 3, no. 3 (2016): 468-90.

¹¹ Marisa Aulia Rismilda, 'the Existence of Justice Collaborators in Exposing a Criminal Act Based on Sema RI No. 4 of 2011', *Parhesia* 1, no. 1 (2023): 92-98, <https://doi.org/10.29303/parhesia.v1i1.2573>.

recognizing the perpetrator's potential contribution to unraveling a more extensive criminal operation. Legal incentives for justice collaborators are quantifiable and explicitly regulated, including sentence reductions of up to two-thirds, conferring city prisoner status, or even dismissing charges, while ensuring consideration of the proportionality and significance of the information provided. The conceptual distinction between a crown witness and a justice collaborator is also evident in the ethical stance and validity of their legal practices. Crown witnesses are often used as components of investigations or prosecutorial strategies that capitalize on procedural ambiguities in criminal law, resulting in an ambiguous legal standing for the testifying culprit. Conversely, justice collaborators are situated within the paradigm of active collaboration between individuals and the state, seen as a constructive addition to the endeavors aimed at eliminating unusual crimes that are difficult to address by conventional evidence approaches.¹² The existence of justice collaborators is seen as a strategic component in the contemporary criminal law system, focused on efficacy, accountability, and the safeguarding of public rights.

The legal distinction between the two also lies in their regulatory foundation and institutional recognition. *Crown witnesses* lack a distinct legal protection provided by legislation or implementing rules. This approach exists solely within the prosecutorial domain and relies on limited doctrinal justification. In Supreme Court Decision No. 2437 K/Pid.In Sus/2011, the Court affirmed that the use of *crown witnesses* is permissible, provided their testimony is not the sole evidence against other defendants. This indicates that, from a legal standpoint, *crown witnesses* operate under highly restrictive conditions and lack substantive normative legitimacy. Such absence of explicit legal regulation constitutes a normative loophole that potentially generates legal uncertainty, particularly concerning the protection of the witness-defendant's rights and the consistency of prosecutorial discretion. Conversely, *justice collaborators* have been formally integrated into Indonesia's legal framework and are internationally recognized as part of the legitimate criminal evidence system. The establishment of a clear legal basis for *justice collaborators* thus enhances legal certainty for both cooperating offenders and law enforcement authorities.

The establishment of this difference is crucial within the framework of human rights protection, particularly the right to a fair and impartial trial as outlined in Article 28D paragraph (1) and Article 28I paragraph (4) of the 1945 Constitution. In a criminal justice system that upholds these standards, the witness's legal standing must be unequivocal, devoid of coercion, and free from conflicts of interest that may compromise the impartiality of the evidence. Crown witnesses, due to their designation as defendants granted a "crown" by prosecutors, are susceptible to manipulation or coercion in exchange for benefits, casting doubt on the credibility of their claims. This differs from justice collaborators, who possess a clearer legal position from the outset, with their testimonies provided by a formal agreement that includes specific protective guarantees and operates within a transparent cooperative structure. This distinction underscores that, although both empirically contribute to the dismantling of criminal cases, the legal methodologies for each must vary. Crown witnesses are circumstantial and often used in evidentiary crises, while justice collaborators are formal mechanisms in positive law designed to address extreme offenses more methodically. Consequently, in both conceptual and legal analysis, crown witnesses and justice collaborators cannot be seen as entirely equivalent, considering their origins, legal foundations, nomination processes, participation criteria, and the ramifications for the

¹² Yuni Priskila Ginting et al., 'Socialization of Evidence of Crown Witnesses and Justice Collaborators in the Murder Crime', *Journal of Western Science* 2, no. 10 (2023).

defendant's rights. A clear distinction between the two is essential to preserve the integrity of the criminal evidentiary system and avert departures from the principles of justice that should underpin the whole criminal justice process. By thoroughly comprehending these conceptual and legal distinctions, a definitive boundary may be established about the roles of the two within the Indonesian criminal law framework and the manner in which law enforcement officers need to handle information from offenders in such circumstances.

B. Implications of the Use of Crown Witnesses and Justice Collaborators on the Principles of Fair Trial and Human Rights of Defendants

The use of crown witnesses and justice collaborators within the Indonesian criminal law framework has substantial legal implications for the adherence to fair trial norms and the safeguarding of defendants' human rights. Both cases, albeit originating from actors engaged in illegal activities, possess distinct legal and ethical frameworks concerning the protection of the defendant's rights. Within the framework of the fair trial concept, the criminal justice system mandates adherence to procedural norms while guaranteeing that each defendant is treated equitably, without discrimination, and has the opportunity to mount a defense autonomously, free from coercion or manipulation. The presence of witnesses among co-perpetrators in the same case presents a significant issue, particularly when their testimony serves as the only foundation for evidence and is used to implicate other defendants without further corroborative evidence.¹³

Crown witnesses, who are essentially co-perpetrators in the same case used as witnesses against other offenders via plea bargaining, often present ethical and legal dilemmas with the concept of non-self-incrimination and the ideal of equality before the law. Crown witnesses are often incentivized to provide damning evidence against other defendants in return for leniency or case dismissal. This approach engenders disparities in the legal status of defendants who ought to possess equal rights and protections. Moreover, the evidence of the crown witness in this setting is inextricably linked to the possibility of conflicts of interest and psychological anguish, which might directly undermine the notion of a fair trial. Testimony that lacks voluntariness and occurs within the framework of "exchanging positions", devoid of legal autonomy, not only undermines the integrity of the evidence but may also mislead judges in rendering a fair and objective conclusion.¹⁴

The principle of a fair trial, as defined in various national and international legal frameworks including Article 28D paragraph (1) of the 1945 Constitution and Article 14 paragraph (1) - f the International Covenant on Civil and Political Rights (ICCPR) - requires equal treatment under the law and safeguards defendants against compelled self-incrimination. The division of cases including crown witnesses, in which one defendant provides evidence against another, undermines these protections due to the testimony's intrinsic motivation for self-preservation.

Moreover, depending on the testimony of a crown witness as the principal evidential foundation contravenes Article 183 of the Indonesian Criminal Procedure Code, which stipulates that a conviction must be supported by a minimum of two genuine pieces of evidence and the judge's inner conviction. If the crown witness's testimony remains uncorroborated, it compromises the integrity of evidence and breaches the minimal

¹³ Esther Ojulari, 'Decolonising Transitional Justice: A Framework for Historical Reparation for Afro-Descendant Peoples in Colombia', in *Institute of Commonwealth Studies* (doctoral, School of Advanced Study, 2022), <https://sas-space.sas.ac.uk/9953/>.

¹⁴ Syofia Marlianti Tambunan, 'Crown Witnesses in Indonesian Criminal Procedure: A Critical Review of Legal Status and Legitimacy', *Research Horizon* 5, no. 2 (2025): 2, <https://doi.org/10.54518/rh.5.2.2025.447-456>.

evidentiary standard, so engendering a substantial danger of legal ambiguity and erroneous conviction. Consequently, the unchecked use of crown witnesses jeopardizes the fundamental principles of due process and the safeguarding of defendants' rights in criminal trials.¹⁵

Conversely, justice collaborators possess a more legitimate standing within the context of upholding the idea of a fair trial, provided that the stipulated legal standards are satisfied objectively and openly. The Supreme Court Circular Letter Number 4 of 2011 establishes certain criteria that must be fulfilled by offenders seeking justice collaborator status. Some individuals are secondary perpetrators who supply crucial information and are prepared to confess their conduct freely. In this case, the information supplied by the justice collaborator is derived not only from coercion or negotiation but also via an objective assessment conducted by investigators and prosecutors, who consider the individual's contribution to the revelation of illegal activities.¹⁶

The inclusion of justice collaborators may enhance evidence and bolster the efficacy of law enforcement in combating major crimes, while upholding human rights norms and ensuring fair legal proceedings. The employment of justice collaborators is inherently linked to the possible infringement of fair trial standards unless it is supported by oversight and accountability throughout all phases of its implementation. For instance, there exists a danger when the position of justice collaborator is conferred selectively and without a transparent process, and thereafter used to justify excessive leniency. This may result in a feeling of inequity, particularly among other offenders who have comparable positions but do not experience the same treatment. Consequently, although justice collaborators are normatively acknowledged, their practical use must adhere to the norms of equity, proportionality, and transparency to prevent the concurrent prosecution of human rights violations against other defendants in the same case.

The subsequent ramifications of using these two categories of witnesses on the defendant's human rights principles are evident in the manner in which the court evaluates the evidentiary weight. In instances involving crown witnesses, several Supreme Court decisions assert that the testimony of co-defendants requires corroboration from further evidence and cannot be considered in isolation. This illustrates the judicial acknowledgment of the possible conflicts of interest and prejudice intrinsic to the evidence of crown witnesses. The justice collaborator's statement, being freely provided and derived from a transparent legal procedure, may often serve as a valid foundation for evidence, while nevertheless adhering to the principles of caution and corroboration with other evidence. Consequently, judges and prosecutors must thoroughly evaluate the evidence of these two categories of witnesses, considering the psychological backdrop, motivations, and legal interests involved. Regarding legal protection, defendants confronted with the evidence of crown witnesses have a somewhat weaker position than when engaging with judicial collaborators. When an individual is the subject of testimony from other co-defendants, the defense's latitude diminishes, since the evidence consists of the account of a party similarly motivated by self-preservation.¹⁷ Conversely, in the context of justice collaboration, since

¹⁵ Anjani Upik Chaniago, Ismansyah, and Nani Mulyati, 'Legal Certainty of the Use of Crown Witnesses in Criminal Evidence Reviewed from the Principle of the Right of the Defendant Not to Accuse Himself (Non Self Incrimination)', *The Journal of Sound of Justice* 8, no. 4 (2025): 4, <https://doi.org/10.31933/sy41r659>.

¹⁶ Ema Mar'ati Sholecha et al., 'Justice Collaborator's Position and Function on Witness Protection's Rights as a Suspect from the Perspective of Criminal Law in Indonesia. | EBSCOhost', 1 January 2023, 6:131, <https://doi.org/10.24090/volksgeist.v6i1.7246>.

¹⁷ Abdul Aziz Nassihudin et al., *Proceedings of the 3rd International Conference on Law, Governance, and Social Justice (ICoL.GaS 2023)* (Springer Nature, 2023).

the offender has acknowledged their conduct and the procedural framework is public, the other defendants retain the opportunity to challenge the veracity of the information by confrontation and other evidentiary means. Consequently, the employment of justice collaborators facilitates the realization of the idea of a just adversarial system within the criminal justice process.

In conclusion, the use of crown witnesses and justice collaborators has distinct ramifications for the notion of a fair trial and the safeguarding of defendants' human rights. Crown witnesses, arising from experience rather than a definitive normative framework, had significant potential to undermine the norms of procedural fairness if not meticulously regulated. Conversely, justice collaborators give a legitimate and quantifiable evidence process, contingent upon the fulfillment of all moral and substantive criteria. In the context of Indonesian criminal law, prioritizing the preservation of the accused's rights is essential for any law enforcement policy and plan. The realization of the fair trial concept transcends mere procedural matters; it pertains to the legitimacy of the whole judicial system in guaranteeing that every person subjected to trial has an honest, equitable, and non-arbitrary defense. Consequently, the utilization of crown witnesses and justice collaborators must consistently be evaluated within the context of constitutional norms.

CONCLUSION

Crown witnesses and justice collaborators signify two separate categories of offender involvement in the evidence process, characterized by essential conceptual and legal distinctions. Crown witnesses arise from prosecution procedures via case segregation without a definitive legislative foundation, whereas justice collaborators are clearly governed by Supreme Court Circular Letter Number 4 of 2011 and are based on voluntary collaboration to reveal significant offenses. This essential divergence - both theoretically and normatively- renders the two incompatible in their simultaneous application within the criminal justice system, since each adheres to distinct legal philosophies and procedural protections. The participation of a crown witness may compromise the principles of non-self-incrimination and procedural fairness, thus jeopardizing the defendant's right to a fair trial via coercion or the abuse of prosecutorial authority. The use of justice collaborators is more congruent with due process and the safeguarding of defendants' rights, since it is voluntary and underpinned by stated legal standards. Consequently, the use of these two processes must be meticulously differentiated and executed with equilibrium to maintain both the integrity of evidence and the equity of Indonesia's criminal justice system.

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