

U4 Expert Answer



Overview of corruption and anti-corruption: Uzbekistan

Query

What is the present corruption situation in Uzbekistan?

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Summary

Reports from various sources consulted for this expert answer describe Uzbekistan as an oligarch-authoritarian state where public resources are misused to sustain power to the benefit of those in or close to the ruling elite. While there is limited information regarding the extent and forms of corruption in the country, available evidence suggests that corruption is widespread and affects the daily lives of citizens. Corruption allows the elite to illegally appropriate the country's natural resources and acts as a facilitator of human rights violations in cotton plantations.

The government's response to widespread and systemic corruption has been weak, with extensive emphasis given to anti-corruption training. Legal and institutional reform is needed to ensure meaningful separation of powers and adequate public accountability of government bodies.

Author: Máira Martini, Transparency International, mmartini@transparency.org

Reviewed by: Marie Chêne, tihelpdesk@transparency.org

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U4 is a resource centre for development practitioners who wish to effectively address corruption challenges in their work. Expert Answers are produced by the U4 Helpdesk – operated by Transparency International – as quick responses to operational and policy questions from U4 Partner Agency staff.

1. Overview of corruption in Uzbekistan

Background

Uzbekistan is a resource rich, doubly landlocked country in Central Asia. One of the world's largest cotton producers and endowed with natural gas, uranium and gold, among other minerals, the country still struggles to achieve sustainable economic and social development.

While there are limited reliable independent statistics related to the country's social-economic context, at least 16% of the population is thought to live below the poverty line, 75% of whom live in rural areas (UNDP 2014). The country's unequal distribution of resources particularly affects women and children (Bertelsmann Foundation 2014).

Since 1991, Islam Karimov has governed Uzbekistan. Under his rule, opposition groups, civil society activists and the media have been banned or brutally suppressed (Bertelsmann Foundation 2014). Currently, only a limited number of political parties connected to the ruling government are allowed to operate. Opposition parties operate illegally, mainly from outside the country (Freedom House 2014).

Elections are neither free nor fair and the president exercises control over all branches of government, using public resources to punish or reward individuals and political groups (Bertelsmann Foundation 2014). In addition, the government has an extensive track record of human rights violations. In spite of this, Western governments continue doing business and engaging with the president and his close associates (Follath 2015), as many Western nations see him as an ally in the fight against terrorism and a prospective business partner given the country's extensive natural resources (OCCRP 2015).

Within this framework, substantial governance and anti-corruption reforms are needed to improve the country's checks and balance mechanisms, transparency, and accountability of government bodies (UNDP 2014). This answer provides an overview of corruption and anti-corruption measures in the country.

Extent of corruption

Major international governance indicators point to widespread and endemic corruption in Uzbekistan.

In 2014, the country ranked 166th of the 175 countries assessed in the [Transparency International Corruption Perceptions Index \(CPI\)](#), scoring 18 on a scale of zero (highly corrupt) to 100 (highly clean). The country is the second worst performer in the region after Turkmenistan with 17 points.

These findings are consistent with the [World Bank's 2013 Worldwide Governance Indicators](#) in which Uzbekistan performs poorly on all the six dimensions of governance assessed (voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality, rule of law and control of corruption). In fact, the country has systematically scored poorly on the control of corruption indicator with a percentile rank of eight in 2013 (where zero corresponds to the lowest rank and 100 to the highest).

Moreover, 20% of Uzbek respondents say anti-corruption measures as the most important development priority in Uzbekistan (World Bank, 2013). Close to 20% also believe that anti-corruption measures would contribute greatly to fighting poverty and to generating economic growth.

Forms of corruption

Bribery and extortion

Corruption permeates all levels of the state apparatus. While there is limited research available regarding companies' and citizens' experience with corruption, available evidence suggests that often citizens and businesses are expected to pay bribes to access public services. The 2013 Enterprises Survey reported that about 12% of respondents expected to give gifts to get an operating licence. This particularly affected small and medium size enterprises, with close to 16% of respondents expecting to give gifts in exchange for operating licences (World Bank and International Financial Corporation 2013). These numbers are relatively low in comparison to the world average, but given the high level of censorship in the country, they may not reflect the reality.

Illegal payments are also expected in the recruitment processes in both the public and private sectors (Bertelsmann Foundation 2014). Bribes have also become rather common in the education sector and it is not unusual to have students “purchasing” higher grades or even entrance to universities. Teachers and university professors, who receive low salaries, have supposedly also been extorting money from students (Bertelsmann Foundation 2014).

Extortion by public officials also seems to be a common issue with corrupt local governments and law enforcement authorities extorting bribes and informal duties from local businesses. These informal duties include “donations” to local football clubs, music festivals, among others (Bertelsmann Foundation 2014). Local authorities have also forced companies to send employees to the cotton harvest (Uzbek-German Forum for Human Rights 2015).

There have also been reports of the use of torture, particularly by the police and security forces, to extract bribes from businesses and citizens. According to Amnesty International, the most common forms of torture include beatings, asphyxiation, rape and sexual assault (Amnesty International 2015).

Favouritism and patronage

Favouritism in decision-making is common in Uzbekistan (Markowitz 2012). There is a very strong patron-client relationship between the president and political elites and access to public resources is only given to those closely connected to individuals in power. In fact, the president often makes use of his powers and control over public resources to reward individuals and maintain his support-base (Markowitz 2012).

The economy is closed and controlled by oligarch groups. It is therefore difficult for new entrepreneurs to invest in the country without connections with the ruling family or partnerships with local well-related companies (Bertelsmann Foundation 2014; Weaver & Buckley 2013).

The government constantly amends laws and regulations without prior consultation, often favouring specific groups and creating opportunities for rent seeking. Moreover, rules are ambiguous, unclear and inconsistently applied by authorities (US Department of State 2014).

The request for bribes and extortion also happens in an inconsistent manner, and non-influential businesses usually find themselves at a disadvantage (Bertelsmann Foundation 2014). According to the Financial Times, the favouritism of oligarch groups has resulted in harassment of western investors. Companies such as Oxus Gold of the UK, Newmont Mining of the US and Wimm-Bill-Dann of Russia have all allegedly suffered from illegal raids, tax audits and arrests of employees (Weaver & Buckley 2013).

Favouritism and patronage also affect the hiring and selection of public officials. Uzbekistan still needs to introduce a transparent, merit-based competitive recruitment system (OECD 2015).

Electoral corruption

The constitution provides for universal and equal suffrage in free, fair and periodic elections conducted by secret ballot. Parliamentary and presidential elections are held every five years, but in practice those are not considered free nor fair (Freedom House 2015; OSCE 2014; OSCE 2015).

According to Freedom House, the competitive nature of elections in Uzbekistan is “entirely staged” as the regime does not allow for real opposition and only parties supported by the government are allowed to participate (Freedom House 2015). Opposition political parties are banned (Bertelsmann Foundation 2014).

Constitutional and electoral laws are often circumvented or ignored. For instance, according to existing laws, the president can only serve a maximum of two terms, but the current president has been in power since 1991. The government has made use of different manoeuvres to ensure the current president maintains power (OSCE 2015; Freedom House 2015).

Throughout these years, the government adopted a series of reforms aimed at bringing more legitimacy to the electoral process. In 2014, for example, a Central Electoral Commission (CEC) composed of parliamentary deputies was established to manage, administer and oversee elections. However, the commission is under the control of the president's office and act according to instructions received by it, including which candidates can register to run for public office (Bertelsmann Foundation 2014; OSCE 2015).

Fraud and irregularities also seem to take place during elections. The election of a new parliament in December 2014 was affected by violations, including ballot stuffing and fabrication of results (IREX 2015).

Observers also reported a series of irregularities during the presidential election that took place in March 2015, where President Karimov was re-elected with 90% of the vote (OSCE 2015). The quality and accuracy of voter lists is an area of concern by independent observers, in particular due to the lack of consistency in compiling such lists, which could allow multiple registration (OSCE 2015). Other issues observed included proxy and multiple voting on behalf of several individuals, the existence of supplementary voter lists at polling stations, and the inconsistent tabulation of votes (OSCE 2015).¹

Main sectors and areas affected by corruption

The publicly available literature on corruption in different sectors in Uzbekistan, is very scarce. As mentioned, there is evidence that corruption affects a variety of sectors and institutions, including health, education², defence and security³, police and public administration. Nevertheless, in the absence of substantial information on these sectors and institutions, this answer focuses on corruption risks related to state-owned enterprises and the agriculture sector.

¹ The OSCE put forward a series of recommendations to the government on how to improve the electoral process. See page 22 of the Observation Mission final report <http://www.osce.org/odihr/elections/uzbekistan/165876?download=true>

² While the government invests significant amounts in the education sector, very little goes to actually improving the quality of education. Instead, the investments were directed to the construction of new schools with public contracts awarded to the political elite (Bertelsmann Foundation 2014).

³ Uzbekistan's defence and security sector is considered by Transparency International UK as offering significant corruption risks. Please see: http://www.transparency.org/news/pressrelease/70_of_governments_fail_to_protect_against_corruption_in_the_defence_sector

State-owned enterprises and licensing

The management of state-owned enterprises (SOEs) and the award of licences and concessions remains an area of concern in the country.

The government has established a privatisation programme, and every two years they publish a list of SOEs to be privatised. Privatisations usually take place through tender or auctions, but the process often lacks transparency, particularly towards the end of the bidding when companies negotiate directly with government officials (US Department of State 2014). Moreover, there is evidence that in certain cases bidders have been foreign-registered companies associated with Uzbek influential families (US Department of State 2014).

SOEs still dominate sectors considered as strategic, such as energy, mining, telecommunications and agriculture. In these sectors, the government allows private companies to operate through the issuance of licences. The issuance of licences has also been subject to criticism, and evidence shows that the government has misused the process and its powers to extract bribes from companies (US Department of State 2014).

One of the most well-known corruption scandals in the country relates to licences given to Scandinavian and Russian companies in the telecommunications sector. The case involved the president's eldest daughter, Karimova, who is suspected of receiving more than US\$1 billion worth of shares and payments from mobile phone companies in exchange for her influence (OCCRP 2015).⁴ Educated at Harvard, Karimova held various government and diplomatic positions, including as United Nations ambassador in Geneva, which granted her immunity from prosecution until her dismissal in 2013.

Existing evidence suggests that Karimova operated a large corruption and money-laundering

⁴ The Organized Crime and Corruption Reporting Project (OCCRP) conducted a detailed investigation on Karimova. More information on the scheme can be found at: https://www.occrp.org/corruptistan/uzbekistan/gulnara_karimova/the-prodigal-daughter/how-the-presidents-daughter-controlled-the-telecom-industry.php

scheme using shell companies. She allegedly helped foreign companies obtain operating licences in exchange for illegal payments and other demands and purportedly threatened and expelled from the Uzbek market those companies that refused to take part in the scheme (OCCRP 2015).

Investigations in Switzerland, US and Norway are ongoing. Just this year, US authorities seized US\$300 million in assets thought to be part of the profits of this scheme (Putz 2015). As of March 2014, Swiss prosecutors had seized over US\$900 million in suspected Uzbek assets (Putz 2015).

After losing support from her father and family, Karimova is currently under house arrest in Uzbekistan. Uzbek prosecutors have reported investigating the case, but no further details have been disclosed (Lillis 2015).

Agriculture

Uzbekistan is the fifth-largest producer of cotton and the second-largest exporter of cotton in the world. The government fully controls cotton production and there is very little transparency in the management of related funds. In 2013, the government reportedly made a “record-breaking profit”, reaching over US\$1.4 billion (Bertelsmann Foundation 2014).

Monopoly of power and opaqueness throughout the cotton production chain and management of resources creates a myriad of opportunities for corruption at all levels of government (Environmental Justice Foundation 2005; Uzbek-German Forum for Human Rights 2015). President Karimov and his close allies are able to allocate cotton revenues with little or no public scrutiny. Evidence suggests that cotton revenues usually “disappear into the Selkofond, an extra-budgetary fund in the finance ministry to which only the highest-level officials have access”. (Uzbek-German Forum for Human Rights 2015).

Control over the production and management of the resources allows the president and his allies to favour or punish certain groups, which in turn help sustain their power and positions. Cotton production is managed by regional/local governors (hokims) appointed directly by the president with the task of fulfilling the production quotas established by the central government.

Hokims have a great deal of discretion in managing their regions as long as they fulfil the

established production quota. Given that their salary is artificially low, there is evidence that widespread corruption takes place in the recruitment of workers and procurement processes (Uzbek-German Forum for Human Rights 2015).

Reported human rights abuses in the Uzbek cotton production – including the use of child labour, slave wages and degrading work conditions – lead to inspections by the International Labour Organisation in 2013. But a recent report by the Uzbek-German Forum for Human Rights also shines a light on how corruption – in the form of abuse of power, bribery and extortion – is used to recruit workers to harvest cotton.

According to the report, students, teachers, healthcare workers, and other private sector employees have been taken away from their duties to work in the fields. These people are forced to pick cotton, receive very low (sometimes no) salary and are often required to pay for unmet quotas in addition to other overpriced expenditures related to accommodation and food.

This system allows local officials, including local administration, school and university directors, to request bribes from their subordinates and students in exchange for not recruiting them to the harvest. For example, teachers who earn between US\$70 and \$200 per month reported having to pay between US\$100 and US\$200 to get out of their cotton shifts. Parents also reported bribing teachers and school officials to buy their children out of cotton picking (Uzbek-German Forum for Human Rights 2014).

Businesses have also been extorted by hokims and often forced to contribute financially or allocate their workers to the harvest. Alternatively, they have been “given the option” to pay for replacement workers – money that goes to the hokims and is completely unaccountable. The failure to make these payments usually results in harassment and threats to close their businesses (Uzbek-German Forum for Human Rights 2015).

2. Legal and institutional anti-corruption framework

The absence of check and balance mechanisms and a weak legal and institutional framework poses serious challenges to the effective fight

against corruption in the country. The government has recently made commitments to improve the business environment in the country and attract foreign investments. Some reforms, particularly regarding procedures to open businesses, have taken place, but overall measures to fight corruption are very limited.

As a signatory of the UN Convention against Corruption (UNCAC) and a member of the Anti-Corruption Network for Eastern Europe and Central Asia, Uzbekistan has committed to implement the Istanbul Anti-Corruption Action Plan. This is a regional peer review programme, supporting anti-corruption reforms through country reviews and continuous monitoring of implementation of recommendations. It aims to promote UNCAC and other international standards and best practice. In its reviews, it is clear that the government's approach to fighting corruption has focused extensively on anti-corruption training and workshops to a variety of public officials in different sectors. While anti-corruption training is an important tool to curb corruption, it is inadequate unless reforms that address underlying governance issues are also implemented.

The government has also reported an increasing number of public officials were arrested and prosecuted for corruption (Bertelsmann Foundation 2014). Independent sources, however, stress that these prosecutions are "neither systematic and impartial nor a result of an anti-corruption policy run by the Uzbek government and law enforcement agencies" (Bertelsmann Foundation 2014). These prosecutions are politically motivated, used by the President to intimidate officials and "non-complaints" (Freedom House 2015; Human Rights Watch 2014).

To improve its anti-corruption legal framework, the government must take urgent genuine measures (OECD 2015). These measure need to ensure that law enforcement bodies, the judiciary and other oversight bodies operate independently and autonomously. In addition, without public scrutiny the fight against corruption is also unlikely to succeed. Citizens, civil society and the media are instrumental to hold officials to account, and a lack of meaningful space to criticise, review and propose solutions is counter-productive to ensure meaningful governance reforms.

This section provides an overview of the legal and institutional anti-corruption framework in Uzbekistan as well as the role played by the media and civil society in the country.

Legal framework

International conventions

Uzbekistan is party to the United Nations Convention against Corruption (UNCAC), but has not signed any other global or regional anti-corruption treaties, such as the OECD convention or the Council of Europe conventions.

Domestic legal framework

Criminalisation of corruption

The Uzbek criminal code criminalises bribery, but improvements are still necessary to ensure that all aspects of bribery and other corruption offences are covered. For instance, according to the OECD Progress Report on the Implementation of the Istanbul Anti-Corruption Plan, the current legislation⁵ only covers undue advantages which include material benefits (such as money and material valuables) and does not include non-material benefits (such as favours) (OECD 2015). Other issues still to be regulated include: the criminalisation of corrupt behaviour such as "concealment", "abuse of functions", "illicit enrichment", and "trading in influence"; the introduction of administrative, civil and criminal liability of legal persons; and the extension of the definition of bribery to cover undue advantages received for the benefit of another person or entity (OECD 2012 and 2015).

Political party and campaign financing

The legal framework for campaign finances is not comprehensive and current rules do not apply to presidential elections (OSCE 2015). Election campaigns are financed by the state through direct and indirect (free-of-charge airtime, free-of-charge meeting premises and posters) funding.

⁵ Article 210 of the Criminal Code and paragraph 2 of the Resolution of the Plenary of Supreme Court of Uzbekistan entitled "On practice of adjudication of bribery offences" No. 19 of 24.09.1999 states that: "The object of bribe can include money, securities, material valuables, payable services provided free of charge (for example, performance of construction, repairing and restoration work).

Private funding to political parties is also allowed and there is no ban on donations from corporations. Even companies with government contracts or partial government ownership can donate (International IDEA 2014)

The law establishes that political parties have to report on their finances on an annual basis. However, there is no specific legal obligation to report on their finances in relation to election campaigns (International IDEA 2014).

Access to information

The law on principles of and guarantees for freedom of information, adopted in 2007, regulates the right to access public information. It applies to all public bodies, but given the restricted space for citizens and the media to oversee the government, its implementation and use is limited. Moreover, the law contains several shortcomings, including, vague sanctions for violations of the law and a number of contradictory provisions, such as whether or not a motivation for the request is necessary (Access Info & Centre for Law and Democracy 2015).

Within this framework, Uzbekistan ranks 95 out of 103 countries with access to information laws assessed by the global right to information rating 2015⁶ (RTI rating), with a score of 59 points out of a possible total of 150 points (Access Info & Centre for Law and Democracy 2015).

Conflicts of interest and asset declaration

There is no comprehensive legal basis to regulate conflicts of interest of members of the government and public officials. Two pieces of legislation, however, contain some relevant provisions with regard to conflict of interest (law on Status of Deputies to Legislative Chamber and Senate and Law on Cabinet of Ministers). According to these laws, deputies and ministers are not allowed to engage in any other paid activities while in office (OECD 2012).

Yet, the country needs to adopt legislation regulating post-public employment, gifts and benefits as well as the adequate disclosure of conflicts of interest. Moreover, currently there are

⁶ The RTI rating assesses the strength of the legal framework for guaranteeing the right to information in a given country, but it does not measure the quality of implementation of the law.

no rules requiring senior public officials to declare their assets and liabilities (World Bank Public Accountability Mechanism 2013).

There are also no codes of conduct detailing the values and principles members of parliament, cabinet of ministers or other political officials should abide to (OECD 2012).

Whistleblowing

The country lacks an appropriate legal framework to offer protection to whistleblowers (Business Anti-Corruption Portal 2014).

Institutions

Uzbekistan does not have a single institution responsible for curbing corruption. Several bodies at the federal and regional levels share this task. There are very few independent sources of information assessing the work of these institutions.

Public Prosecutor's Office

There is a specialised unit within the public prosecutor's office tasked with investigating and prosecuting corruption and economic crimes, namely the Department for Fighting Economic Crime and Corruption of the Prosecutor General's Office. This is the most active body in charge of anti-corruption work in Uzbekistan. In addition to investigation and prosecution of corruption, since 2011, the powers of the department have included tasks related to prevention and implementation of anti-corruption policies (OECD 2012).

According to the government, the "Department carries out organisational, methodological, information and analytical work with the aim to improve the effectiveness of supervision and further perfection of law enforcement bodies in the fight against corruption, as well as gathering information on fight against corruption, analysing such information, development of measures for prevention of corruption, conducting supervision over the implementation of laws in this field" (OECD 2015). However, it is not clear how this work has been conducted or how the information has been used.

According to Uzbek authorities, the department has been active in investigating and prosecuting corruption. Official numbers show that in 2009, 4338 corruption-related cases were referred to courts. In 2010, there were 4845, and 2247 in six

months of 2011 (OECD 2012). However, as previously mentioned, these numbers do not necessarily reflect the willingness of Uzbek authorities to curb corruption as many of these cases have allegedly been politically motivated (Freedom House 2015).

As part of the Istanbul Anti-Corruption Plan, the OECD puts forward a series of recommendations to improve the investigation and detection of corruption in the country. They recommended that the legal framework be amended to ensure that investigators have access to special investigative techniques and that the evidence derived is accepted in court. Uzbekistan should also improve its laws and become party to international conventions related to mutual legal assistance (OECD 2015).

Judiciary

Judicial independence in Uzbekistan is guaranteed in the constitution and the Law on Courts. Nevertheless, available evidence suggests that the judiciary is under control of the executive power (Freedom House 2014) and subjective to external influence from the National Security Service and the public prosecutor's office (Bertelsmann Foundation 2014).

Undue influence over the judiciary starts with the appointment of judges, which is highly politicised. Judges at higher courts are appointed for a five-year term by the Qualification Commission for Selecting and Recommending to Judicial Positions under the president. Irremovability is only weakly guaranteed and there is discretion over for promotions and transfers (OECD 2012). The President also decides the structure of the court and number of judges, giving him additional means to exercise influence (OECD 2012).

Presidents of courts also have significant powers and discretion that can be abused. For instance, they are responsible for allocating cases, initiating disciplinary cases against judges and deciding on bonuses and promotions, creating a disincentive for ordinary judges to challenge chief judges (OECD 2014).

Corruption can also affect court procedures. In its latest report, Freedom House highlighted how the system is abused to punish those criticising the government. In one case where a citizen was being prosecuted for writing complaints about criminal violations at a meat processing plant, the

court of appeals recorded testimony from witnesses that were already dead or in prison and therefore could not have been physically present (Freedom House 2015).

Accounts chamber

The accounts chamber functions as the country's supreme audit institution. The president has the authority to appoint and remove the chair of the chamber. The chamber also has very limited financial and personal resources to perform its tasks. As of 2012, the chamber was composed of the chair, one deputy and one assistant, four chief auditors and four functioning groups of auditors. The chamber is accountable to the parliament and, there is very limited information available to the public regarding the work and findings of the chamber (OECD 2012).

The accounts chamber performs only financial audits, and does not conduct anti-fraud and anti-corruption audits per se. However, the government reports having conducted special audits aimed at detecting fraud and crimes related to misuse of office (OECD 2015).

Other stakeholders

Media

While the constitution and other regulations guarantee freedom of speech and of the press, in practice there are considerable government controls and restrictions. Uzbekistan officially banned censorship in 2002, but the National Security Services still imposes censorship widely. As such, the media does not report on corruption and criticisms of the government are not well received (Freedom House 2015).

In 2007, reforms to the media law increased the responsibility of media outlets and bloggers for the accuracy of the content published, which in turn led to an increase in editorial self-censorship (IREX 2015). The government also blocks access to online media, including to foreign websites covering politics in Central Asia (Bertelsmann Foundation 2014). Moreover, as part of the government control, internet cafes became legally obliged to install video cameras and keep log files of visitors for three months (Bertelsmann Foundation 2014).

Online and print media are required to register with the agency for press and information, and while the criteria for registration are relatively simple, officials enjoy wide discretionary powers in

deciding on whether or not to grant registration (IREX 2015). There is currently no independent media and a significant number of journalists are in prison or have fled the country (Freedom House 2014).

Such control is reflected in the country's rank on the World's Press Freedom Index (Reporters Without Borders 2015), where Uzbekistan ranks 166th out of 180th countries assessed.

Civil society

Freedom of association and assembly is guaranteed by the constitution, but in practise they are non-existent (Freedom House 2015). The government frequently makes use of intimidation, harassment and threats of retaliation to prevent citizens from exercising their rights to association and assembly. Activists have been victims of prosecution and unjust arrests (Follath 2015). The government criminalises all sorts of unregistered associations or civil society organisations, and at the same time, makes it extremely difficult to register a new organisation (Bertelsmann Foundation 2014).

Between 2004 and 2007, the government closed down more than 200 NGOs. Very few NGOs remain active in the country, but none working on anti-corruption or other critical governance fields (Bertelsmann Foundation 2014; Freedom House 2015). In fact, according to experts, civil society organisations in the country are mainly composed of government organised NGOs. These organisations are periodically consulted and invited to government meetings, but they are not independent and according to the Bertelsmann Foundation report "shouldn't be confused with the genuine civil society" (Bertelsmann Foundation 2014).

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