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## Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report addresses the situation of religious minorities in Vietnam, who face violations of their human right to freedom of religion or belief owing to restrictive registration laws as well as targeting from state officials. Furthermore, the report highlights the widespread occurrence of prenatal sex selection in the country, which has resulted in one of the world's most imbalanced sex ratios at birth.

### (a) Freedom of Religion or Belief

#### *Background*

3. According to the most recent government census from 2019, 86.3% of the population identifies as non-religious, 7.1% Christian, 5.8% as Buddhist and the remainder as belonging to various other religious minorities.<sup>1</sup> However, these figures only represent those affiliated with registered religious organizations, thus underrepresenting the actual number of religious adherents in the country. For instance, the government's 2023 White Paper on Religion and Politics estimated that up to 27% of the population was religious, with almost 15% being Buddhists.<sup>2</sup>
4. Religious practice in Vietnam is strictly regulated, involving inter alia mandatory registration laws and intrusive surveillance of the activities of religious groups. Minority and unregistered religious groups routinely encounter targeting by State officials, including through the abuse of laws and reprisals.<sup>3</sup>

#### *Legal Framework*

5. Article 24 of the Constitution of Vietnam guarantees the right to freedom of religion or belief and establishes the equality of religions before the law.<sup>4</sup> Article 25 guarantees freedom of speech, assembly and association, the exercise of these rights being "provided for by law."<sup>5</sup>
6. The 2016 Law on Religion and Belief governs all religious activities and organizations in the country. Its Article 5 bans discrimination based on religion or belief and prohibits forced or manipulated adherence to a religion or belief, profaning a religion or belief, or the use of religious or belief activities to, inter alia "infringe upon national defense, security and sovereignty" or "divide nationalities or religions."<sup>6</sup>

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<sup>1</sup> Vietnam General Statistics Office 'Completed results of the 2019 Viet Nam population and housing census' (17 October 2020), p.210, <https://www.gso.gov.vn/en/data-and-statistics/2020/11/completed-results-of-the-2019-viet-nam-population-and-housing-census/>.

<sup>2</sup> Giac Ngo Online 'The White Paper announced that Vietnam has 26.5 million religious followers, of which more than 14 million are Buddhists' (9 March 2023) <https://giacngo.vn/sach-trang-cong-bo-viet-nam-co-265-trieu-tin-do-ton-giao-trong-do-phat-giao-hon-14-trieu-nguoi-post66060.html>.

<sup>3</sup> Freedom House 'Freedom in the World 2023 - Vietnam' (2023) Q. D2, <https://freedomhouse.org/country/vietnam/freedom-world/2023>.

<sup>4</sup> Constitution on Vietnam (2014), art.14, <https://vbpl.vn/TW/Pages/vbpq-toanvan.aspx?ItemID=32801>.

<sup>5</sup> Id., art. 15.

<sup>6</sup> Law on Religion and Belief (2016), art. 5, <https://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=11093>.

7. Chapter IV of the Law outlines the process for registering all collective religious activities. A certificate of registration for religious activities is required in order to carry out religious practice, appoint religious leaders, or engage in charity, humanitarian, or educational work.<sup>7</sup> After five years of continuous operation with a certificate, a religious group can be formally registered as a religious organization.<sup>8</sup> Registered religious organizations or groups must provide local authorities with a written notice of annual activities.<sup>9</sup> The participation of foreigners in collective religious activities is subject to additional government approval.<sup>10</sup>
8. Additionally, Penal Code Article 116 criminalizes acts amounting to “sabotaging the national unity policy,” including by “causing division between religious followers and non-religious people, between followers of different religions, between religious believers and the people's administration, and socio-political organizations.” These acts are punishable by up to 15 years of imprisonment.<sup>11</sup> What constitutes “causing division” is not clearly defined, resulting in the inconsistent and often arbitrary application of the provision.
9. In March 2023, the Ministry of Religious Affairs released a white paper affirming the government’s commitment to upholding freedom of religion and belief, inter alia for minorities.<sup>12</sup> However, this document neglects to address the violations faced by persons belonging to religious minorities, including barriers to registration, prohibitions on freedom of worship of unregistered groups, and targeted reprisals by authorities.<sup>13</sup>

#### Cases

10. In April 2023, Y Krech Bya, a Montagnard Christian, was arrested while hosting an Easter vigil service in his home in the Dak Lak province. He was charged with “sabotaging the national unity policy” under Article 116 of the Penal Code. The church he attended had been outlawed, with its members ordered to join a government-sanctioned church instead. Eight other members of the church were briefly detained for interrogation. The church’s founder, A Ga, now residing in the United States of America, is facing prosecution in absentia.<sup>14</sup>
11. In December 2022, local authorities demolished a pagoda belonging to the Unified Buddhist Church of Vietnam in the Kon Tum province. In the months prior to the demolition, the pagoda’s abbot had been ordered to dismantle the building on the grounds that it constituted an “illegal construction on agricultural land.” According to the congregants, this action was part of a broader campaign to stifle independent

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<sup>7</sup> Id., ch. IV.

<sup>8</sup> Id., art. 21.

<sup>9</sup> Id., art. 43.

<sup>10</sup> Id., art. 47.

<sup>11</sup> Vietnam Penal Code (2015), art. 116, <https://vbpl.vn/TW/Pages/vbpq-toanvan.aspx?ItemID=96122>.

<sup>12</sup> Tuoi Tre Online ‘Announcing the White Paper on religions in Vietnam’ (9 March 2023)

<https://tuoitre.vn/cong-bo-sach-trang-ve-cac-ton-giao-o-viet-nam-20230309124756105.htm>.

<sup>13</sup> Radio Free Asia ‘Vietnam’s white book declares government guarantees religious freedom’ (9 March 2023)

<https://www.rfa.org/english/news/vietnam/religion-03092023165749.html>.

<sup>14</sup> ‘Joint NGO Letter to US Secretary of State’ (13 April 2023) <https://dvov.org/wp-content/uploads/2023/04/2023-04-13-Joint-letter-to-Secretary-Blinken.docx-2.pdf>.

Buddhist institutions and pressure them to join the state-affiliated Vietnam Buddhist Church.<sup>15</sup>

12. In June 2022, a family of 13 belonging to the Hmong minority in the Nghe An province was expelled from their village for refusing to renounce their Christian faith. Since their conversion to Protestantism in 2019, the family has faced multiple police visits, confiscation of property, including vital agricultural tools and building materials, electricity shutdowns and threats by local authorities. The family had already been forced to abandon their rice farming for fear of the destruction of crops, and one of their children had been denied a birth certificate – despite having formally registered their conversion and applied to join the state-registered Protestant church.<sup>16</sup>
13. In October 2021, a group of Christian congregants in Ho Chi Minh City were interrogated by police as part of an ongoing prosecution of their church for “spreading a dangerous contagious disease” under Article 240 of the Penal Code, for allegedly failing to follow guidelines related to the COVID-19 pandemic. However, the church members maintain that they obeyed all regulations and were unjustly singled out. State-affiliated media channels have also accused the church of being responsible for starting an outbreak, despite no evidence to this effect having been presented.<sup>17</sup>
14. In December 2020, Mrui, a Montagnard Christian man, and his family were subjected to harassment, interrogation, and threats of violence by police officers, pressing him to renounce his faith. Mrui is the son of Pastor Y Yich, who has been imprisoned since 2013 for the peaceful sharing of his faith among the Ba Na ethnic community. Pastor Y Yich is serving a 12-year sentence for “plotting against the government,” reportedly facing physical abuse and denial of medical treatment despite suffering numerous ailments.<sup>18</sup>
15. Local Christian leaders have attributed the uptick in such incidents to local officials aiming to establish “Christian-free zones” within areas populated primarily by ethnic minority groups. Tactics include cutting off access to government assistance, including healthcare, and exerting pressure on local communities, including family members, to disown and exile Christians, forcing them to flee their homes.<sup>19</sup>
16. In the context of the COVID-19 pandemic, the government doubled down on the targeting of religious and ethnic minorities, specifically the Hmong and Montagnard communities. This included the denial of residency documents, leaving affected individuals persons access to housing, education, healthcare or lawful employment.

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<sup>15</sup> Radio Free Asia ‘Authorities destroy Unified Church of Vietnam’s Son Linh Pagoda’ (12 December 2022) <https://www.rfa.org/english/news/vietnam/son-linh-pagoda-destroyed-12132022232958.html>.

<sup>16</sup> T. Son ‘Protestant family of 13 expelled from their village’ (21 June 2022) Radio Free Asia <https://www.rfa.org/english/news/vietnam/family-of-13-expelled-from-village-for-following-protestantism-06212022013455.html>.

<sup>17</sup> Morning Star News ‘Christians Questioned in Criminal Investigation of Church in Vietnam’ (8 November 2021) <https://morningstarnews.org/2021/11/christians-questioned-in-criminal-investigation-of-church-in-vietnam/>.

<sup>18</sup> The 88 Project ‘Y Yich’ (15 June 2022) <https://the88project.org/profile/105/y-yich/>.

<sup>19</sup> Morning Star News ‘Hmong Christians in Vietnam Suffering Severe Persecution’ (25 July 2022) <https://morningstarnews.org/2022/07/hmong-christians-in-vietnam-suffering-severe-persecution/>.

Consequently, these groups were prevented from accessing critical medical and economic support.<sup>20</sup>

### *Freedom of Religion in International Law*

17. Article 18 of the International Covenant on Civil and Political Rights (ICCPR), to which Vietnam is a State Party, guarantees the right to freedom of thought, conscience, and religion for everyone. This includes “freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”<sup>21</sup>
18. Furthermore, Article 26 imposes an obligation upon States to “prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination,” including on the basis of religion.<sup>22</sup> Article 27 further guarantees the rights of persons belonging to minorities “to profess and practise their own religion.”<sup>23</sup>
19. In the previous cycle of the Universal Periodic Review, Vietnam received eleven recommendations related to freedom of religion or belief, of which it accepted or partially accepted nine.<sup>24</sup>
20. In order to fully honour its international human rights obligations, Vietnam should amend its laws on religious practice and ensure the prompt investigation and prosecution of all cases of violence, harassment and discrimination targeting persons belonging to minority and unregistered religious groups.

### **(b) Prenatal Sex Selection**

#### *Background*

21. According to the World Bank, in 2021, Vietnam had a sex ratio at birth of 111 boys for every 100 girls, the 4<sup>th</sup> most skewed ratio in the world.<sup>25</sup> Prior to 2003, Vietnam’s sex ratio at birth remained consistently at 106-107, which aligns with the natural ratio. However, this number increased dramatically to 112 before plateauing from 2010 onward – a shift that aligns with the growing availability of modern prenatal diagnostic technologies within the country.<sup>26</sup>
22. According to the United Nations Population Fund (UNFPA), Vietnam is estimated to experience over 40,000 “missing” female births annually, owing to “sex-selective abortion combined with excess female mortality stemming from postnatal sex selection.”<sup>27</sup>

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<sup>20</sup> K. Zorzi ‘Vietnam’s Widely Praised COVID-19 Response Harms Religious Minorities’ (29 May 2020) [https://www.realclearreligion.org/articles/2020/05/29/vietnams\\_widely\\_praised\\_covid-19\\_response\\_harms\\_religious\\_minorities\\_494401.html](https://www.realclearreligion.org/articles/2020/05/29/vietnams_widely_praised_covid-19_response_harms_religious_minorities_494401.html).

<sup>21</sup> International Convention on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR), art. 18.

<sup>22</sup> *Id.*, art. 26.

<sup>23</sup> *Id.*, art. 27.

<sup>24</sup> UPR Working Group ‘Report of the Working Group on the Universal Periodic Review - Vietnam’ (28 March 2019) UN Docs A/HRC/41/7, 38.169, .173, .174, .182, .191, .193, .199, .205, .210, .212, .277.

<sup>25</sup> World Bank ‘sex ratio at birth (male births to female births) - Vietnam’ (2022) <https://data.worldbank.org/indicator/SP.POP.BRTH.MF?locations=VN>.

<sup>26</sup> V. Becquet; C. Guilmoto ‘Sex imbalance at birth in Vietnam’ (2018) *Population* 73(3), 524-525.

<sup>27</sup> UN Population Fund ‘State of World Population 2020’ (2020), pgs. 49-51.

## Legal Framework

23. Article 7 of Vietnam's 2003 Ordinance on Population explicitly prohibits sex selection.<sup>28</sup> Article 14 mandates the state to "adopt necessary policies and measures to prevent the selection of the sex of the fetus in order to ensure the gender balance according to the natural reproductive laws."<sup>29</sup>
24. A 2008 amendment to the Ordinance on Population introduced a two-child policy, allowing couples to have up to two children, with certain government-prescribed exceptions.<sup>30</sup> However, a new 2021 draft Law on Population may remove this limitation.<sup>31</sup>
25. Article 4 of the aforementioned draft law articulates bringing the sex ratio at birth to the natural balance as one of the official state policies.<sup>32</sup> To this effect, Article 7 would explicitly prohibit the dissemination, advising, or execution of sex-selective procedures, including through the use of prenatal diagnostics (except where permitted by law), and the practice or promotion of sex-selective abortion.<sup>33</sup> Additionally, Article 21 would require the adoption of measures to prevent sex selection, including through education campaigns, socio-economic development strategies, and continuing to monitor the strict enforcement of the prohibition on sex-selective practices.<sup>34</sup>
26. Significantly, Article 3 of the Law on Prevention and Combat Against Domestic Violence, enacted in November 2022, identifies fetal sex selection as a form of domestic violence alongside forced pregnancy and forced abortion.<sup>35</sup>

## Root Causes of Sex-selective Practices

27. The pervasive occurrence of sex-selective practices in Vietnam can be attributed to a combination of four primary factors: a persistent culture of son preference, government-imposed restriction on the number of children per couple, the misuse of pre-natal diagnostic technologies, and the country's widespread access to abortion on demand.<sup>36</sup>
28. A 2021 national study on family planning behavior between 2009-2019 demonstrated a clear difference in the probability of having additional children based on the sex composition of existing children. Notably, women who had two girl children were more than twice as likely to have another child in the hopes of having a boy, in comparison with women who had two boys or a mixed composition. Rather than reducing over

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<sup>28</sup> Ordinance on Population (2003), art. 7, <https://thuvienphapluat.vn/van-ban/quyen-dan-su/phap-lenh-dan-so-2003-06-2003-pl-ubtvqh11-50480.aspx>.

<sup>29</sup> *Id.*, art. 14.

<sup>30</sup> Population Ordinance (as amended December 2008), Art. 10(2), <https://thuvienphapluat.vn/van-ban/van-hoa-xa-hoi/phap-lenh-dan-so-2008-sua-doi-08-2008-pl-ubtvqh12-83717.aspx>.

<sup>31</sup> Draft Population Law (October 2021), art. 10. See also Library of Law 'Are couples allowed to have more than 2 children according to the latest Draft Population Law?' (23 March 2022) [https://thuvienphapluat.vn/phap-luat/thoi-su-phap-luat/nha-nuoc-se-khong-gioi-han-so-luong-sinh-con-doi-voi-cac-cap-vo-chong-nua-theo-du-thao-luat-dan-so--3828.html?rel=phap\\_luat\\_chitietvb](https://thuvienphapluat.vn/phap-luat/thoi-su-phap-luat/nha-nuoc-se-khong-gioi-han-so-luong-sinh-con-doi-voi-cac-cap-vo-chong-nua-theo-du-thao-luat-dan-so--3828.html?rel=phap_luat_chitietvb).

<sup>32</sup> Draft Population Law (October 2021), art. 4, <https://thuvienphapluat.vn/van-ban/Van-hoa-Xa-hoi/Luat-dan-so-443680.aspx>.

<sup>33</sup> *Id.*, art. 7.

<sup>34</sup> *Id.*, art. 21.

<sup>35</sup> Law on Prevention and Combat Against Domestic Violence (November 2022), art. 3, <https://thuvienphapluat.vn/van-ban/Van-hoa-Xa-hoi/Luat-Phong-chong-bao-luc-gia-dinh-2022-490095.aspx>.

<sup>36</sup> V. Becquet; C. Guilmoto 'Sex imbalance at birth in Vietnam' (2018) *Population* 73(3).



time, the study suggests that the degree of son preference has remained static over the last decade, even worsening slightly in the urban parts of the country.<sup>37</sup> This is also reflected in the stated preferences of women prior to pregnancy, as assessed in the results of the National Population Change and Family Planning Survey of 2021, according to which the desire for a male child was over double that for a female child.<sup>38</sup>

29. Regrettably, with most couples constrained to two children, resort to sex-selective abortion escalates as a means to avoid the prospect of bearing two daughters.<sup>39</sup>
30. The sharp rise in the sex ratio at birth in 2003 correlates strongly with increased access by the general population to prenatal diagnostics methods. While the use of prenatal screening to determine the child's sex is prohibited by law, the reality on the ground is different. According to the 2021 Population Change and Family Planning Survey, around 39% of women self-reported knowing the sex of their child prior to 15 weeks of pregnancy.<sup>40</sup>
31. Driven by the above factors, the country's abortion law – one of the most permissive in the region – also opens a gateway for sex selection.<sup>41</sup> According to UNFPA, there is no evidence of a tradition of female infanticide in Vietnam prior to the widespread availability of ultrasonography in the 2000s.<sup>42</sup> Consequently, the skewed sex ratio in the country is almost entirely attributed to the practice of sex-selective abortion.

#### *The Prohibition of Sex-selective Practices in International Law*

32. Sex-selective practices, including prenatal sex selection constitute an egregious violation of the dignity and human rights of girl children, including their rights to life and to equality and non-discrimination.
33. Article 6 of the Convention on the Rights of the Child (CRC) recognizes the inherent right to life of every child and establishes the obligation of states to “ensure to the maximum extent possible the survival and development of the child.”<sup>43</sup> Article 2 further requires states to “respect and ensure” the child's rights “without discrimination of any kind, irrespective of the child's ... sex, ... birth or other status.”<sup>44</sup>
34. According to Article 1 of the CRC, a child is defined as “every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.” This provides an upper limit as to who is a child but does not provide a lower limit on when the status of “child” attaches. Viewed in the context of the preamble, which recognizes that “the child ... needs special safeguards and care, including

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<sup>37</sup> V. Becquet; C. Guilmoto “Is son preference increasing or decreasing in Vietnam?” (December 2021) International Population Conference, <https://ipc2021.popconf.org/uploads/211192>.

<sup>38</sup> <https://www.gso.gov.vn/wp-content/uploads/2022/12/Sach-Dieu-tra-nong-thon-nong-nghiep-giua-ky-nam-2020.pdf> 5.3

<sup>39</sup> V. Becquet; C. Guilmoto ‘Sex imbalance at birth in Vietnam’ (2018) *Population* 73(3), 523.

<sup>40</sup> Population Change and Family Planning Survey of 2021 (2022), sec. 5.6, <https://www.gso.gov.vn/wp-content/uploads/2022/12/Sach-Dieu-tra-nong-thon-nong-nghiep-giua-ky-nam-2020.pdf>.

<sup>41</sup> Law on Health (June 1989), art. 44(1), <https://thuvienphapluat.vn/van-ban/The-thao-Y-te/Luat-Bao-ve-suc-khoe-nhan-dan-1989-21-LCT-HDNN8-37690.aspx>.

<sup>42</sup> UNFPA ‘The imbalanced sex ratio at birth in Vietnam’ (2014) [https://vietnam.unfpa.org/sites/default/files/pub-pdf/Policy%20brief\\_ENG.pdf](https://vietnam.unfpa.org/sites/default/files/pub-pdf/Policy%20brief_ENG.pdf), p.1.

<sup>43</sup> Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC), art. 6.

<sup>44</sup> *Ibid*, art. 2.

appropriate legal protection *before as well as after birth*,” these provisions clearly imply the recognition of the personhood of the unborn child and the rights attached to that status.<sup>45</sup>

35. Vietnam’s obligations in the area of prenatal sex selection are also reflected in multiple high-level political documents, including inter alia the Programme of Action of the International Conference on Population and Development and the Beijing Declaration and Platform for Action. In particular, the Beijing Declaration and Platform for Action calls on states to “enact and enforce legislation protecting girls from all forms of violence, including female infanticide and prenatal sex selection.”<sup>46</sup> Relatedly, the Programme of Action of the International Conference on Population and Development (ICPD) states that “in no case should abortion be promoted as a method of family planning,” including evidently when motivated by sex selection.<sup>47</sup>
36. Pursuant to the Beijing Declaration and Programme of Action, Vietnam also committed to “eliminate ... the root causes of son preference, which results in harmful and unethical practices regarding female infanticide and prenatal sex selection.”<sup>48</sup> This requires “an integrated approach that addresses the need for widespread social, cultural and economic change, in addition to legal reforms.”<sup>49</sup>
37. To this end, Vietnam should redouble efforts to initiate, invest in, and support awareness-raising and education campaigns aimed at reshaping harmful socio-cultural narratives and affirming the inherent dignity and equal status of women and girls, born and unborn.

### **(c) Recommendations**

38. In light of the aforementioned, ADF International suggests the following recommendations be made to Vietnam:
  - a. Guarantee full respect for the right to freedom of religion or belief, both in law and practice, without discrimination, in accordance with its international human rights obligations;
  - b. Repeal all criminal and other legal provisions that unduly restrict freedom of religion and expression;
  - c. Revise the 2016 Law on Religion or Belief in line with its international obligations, including by removing burdensome and oppressive registration requirements and rescinding criminal prohibitions on religious or belief communities operating on an unregistered basis,
  - d. Immediately cease all intrusive government practices, including monitoring and raiding, which infringe upon the right to freedom of religion or belief;

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<sup>45</sup> Ibid, Preamble.

<sup>46</sup> World Conference on Women ‘Beijing Declaration and Platform for Action’ (1995), art. 283(d).

<sup>47</sup> International Conference on Population and Development, ‘Programme of Action’ (Cairo, 1994), art. 8.25.

<sup>48</sup> Ibid, art. 4.16(a).

<sup>49</sup> ICPD, ‘Key Actions for the Further Implementation of the Programme of Action of the International Conference on Population and Development’ (New York, 1999), art. 48.



- e. Consider revising Article 116 of the Penal Code to prevent its abuse by government authorities to target members of minority religious groups, and immediately release those unjustly imprisoned,
- f. Ensure the effective protection of persons belonging to religious minorities from all forms of violence and harassment, including by investigating and prosecuting acts of violence or vandalism directed against them;
- g. Ensure the prompt and effective investigation and sanctioning of all human rights violations committed against persons belonging to religious minorities, including those involving state actors, with a view to ensuring accountability for perpetrators and justice for victims;
- h. Ensure the effective enforcement of laws prohibiting prenatal sex selection, including by adopting appropriate measures to counteract attempts to bypass these laws;
- i. Further strengthen regulations regarding the performance of prenatal genetic testing for detecting the sex of the child;
- j. Develop programmes and policies that foster norms and attitudes of zero tolerance for harmful and discriminatory attitudes, including son preference, and in this regard enhance and support the role of family members, especially parents and other legal guardians, in strengthening the self-image, self-esteem and status and in protecting the health and well-being of girls, in accordance with the Programme of Action of the International Conference on Population and Development;
- k. Redouble efforts to promote awareness-raising and educational initiatives to eliminate prejudices and harmful practices perpetuating the culture of son preference;
- l. Take measures to promote and protect the equal and inherent dignity of women and girls, including by addressing the root causes of son preference;



**VIENNA**

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