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Keywords

Education, Brown v. Board of Education, Grutter v. Bollinger

BEYOND HIGHER EDUCATION: THE NEED FOR AFRICAN AMERICANS TO BE “KNOWLEDGE PRODUCERS”

By Alex M. Johnson*

“[I]f Blacks want to prosper [and] survive in this country, it is imperative... to make sure that we not only have a piece of the knowledge production pie in America, but also help to significantly determine the ingredients of the pie and the shape of the pie pan.”¹

INTRODUCTION

Consider this purely hypothetical situation. Marcus, Bridgett, and Jonathan were twelfth-graders at a highly regarded college preparatory school located in the southeast ward of the District of Columbia. Jonathan was primarily a straight-A student taking advanced placement level curricula at READ Public Charter School, while Bridgett’s academic feats mirrored those of Jonathan. Upon graduation, Bridgett was selected as class valedictorian. Marcus, however, believed school to be futile and an institutionalized system of boredom. Although Marcus had the same intellectual capacity of his peers, distinguishing himself on READ’s entrance exam by scoring higher than Jonathan, Bridgett, and the rest of his peers, he was content with simply passing his classes so he could participate in an array of extracurricular activities: Boy Scouts, co-captain of the varsity basketball team, and avid reader. Yet today, nine years after graduating from READ high school, Marcus stands placidly behind the counter of the neighborhood McDonalds, his hands clasping the sides of the cash register, an otherwise simple life momentarily interrupted by the startling presence of his former classmates, Jonathan and Bridgett. While Marcus earns a meager seven dollars an hour, having never continued on to college; Jonathan and Brenda earned scholarships to Morehouse and Harvard respectively, went on to earn masters and law degrees, and presently work in the private sector where their annual salaries approximate that of a senior partner in a major law firm.

While this is an entirely fictional narrative, it highlights the potential life-changing implications stemming from educational attainment. As the Supreme Court observed in *Brown v. Board of Education*, “[T]oday education is perhaps the most important function of state and local governments . . . [I]t is a principal instrument in . . . preparing [an individual] for later professional training.”² Further, the court emphasized that “it is doubtful that any [individual] may reasonably be expected to succeed in life if he is denied the opportunity of education.”³ Few, if any, political and social issues are more contentious or more thought-provoking than the furor surrounding the “Leviathan” issue of education.⁴ The exponential amount of rhetoric encompassing the debate over education continually changes as many institu-

tions and commentators - from courts, executive agencies, legislative bodies, and privately funded think tanks – have become instrumental in shaping the conceptualization of this critical issue.

In that regard, a sundry of arguments and approaches have been promulgated within the rubric of educational reform. These reform approaches have sparked a furor of controversy, the most recent attacking the relative worth of public school systems. Perhaps one of the most important, or at a minimum, the most recent effort at elementary and secondary education reform is the No Child Left Behind Act.⁵ The efficacy of school vouchers as an alternative to the public school system is another primary topic of dispute.⁶ The recent Supreme Court decisions of *Grutter v. Bollinger*⁷ and *Gratz v. Bollinger*⁸ exemplify the contentious nature, as well as the fundamental importance, of education. These decisions particularly highlight education as a means of ensuring equality in underserved communities historically afflicted by racial strife and class discrimination.⁹

Despite the relative triumphs towards equality in education, the search for culprits who promulgate standards of inequality is not difficult to ascertain.¹⁰ Aside from the deluge of litigation mounting challenges to the constitutionality of affirmative action and school financing policies,¹¹ various state and local ballot initiatives have sought to impose a deleterious effect on educational opportunities. Proposition 209 in California, Initiative 1-200 in Washington, and the One Florida Initiative are illustrative of this problem.

While much attention has been focused on legislative and judicial efforts intended to remedy the various problems afflicting students in the higher education landscape, far less discussion has been directed at those students under the auspices of elementary and secondary educational systems. However, this essay addresses the broader implications of higher education for African Americans, specifically the need for African Americans to enter academia and pursue intellectual scholarship.¹² Part I outlines the problem confronting African Americans in academia in relation to developing ideas and shaping norms. Part II surveys the various historical impediments that have littered African Americans path toward educational attainment at all levels. Finally, Part III discusses the ramifications associated with higher education and knowledge production in society.

DEFINING THE PROBLEM

As the Court opined in *Brown*, education retains a ubiquitous and life-altering function in the shaping of community norms.¹³ One of the seminal concomitant functions of education is the

dominant role it plays in the development and critique of ideas that wield significant force and hold sway over the malleable contours of public opinion.¹⁴ John H. Stanfield, in his critical essay “The Race Politics of Knowledge Production,”¹⁵ brilliantly explicates this point by articulating the relationship between academia, the implementation of ideas, and empowerment for the African American community. In echoing a popular argument put forth by many of his contemporaries, Stanfield further contends that “[e]mpowerment is the only way [African Americans] can successfully make it in a country in which those who are the best organized and who are the most assertive organizationally, are those who are heard and listened to.”¹⁶ While Stanfield often focuses more on a critical examination of the state of black intellectuals, he shrouds this discussion within a veil considering the broader applicability of so-called “knowledge producers.” This nugget sets the framework for the discussion of higher education and its pertinence to African Americans.

As explained by Stanfield, knowledge production is “the development, critique, and implementation of ideas about human nature, human development, and the realities of human life.”¹⁷ Some would argue, in the alternative, that the origination of ideas is not confined to the academic arena, but rather derives from other social institutions. However, that approach mischaracterizes the predominant role that academia has historically played in perpetuating and reinforcing widely held values.¹⁸

It is no surprise that the Supreme Court has acknowledged the role of education as an essential factor for the viability of government.¹⁹ The ability to monopolize the dissemination of ideas within the mainstream allows for the implementation of ideas, both positive and negative, some which categorically sustain myths and stereotypes denigrating various cultural groups.²⁰ Proponents of this view highlight two examples: scientific racism in the form of intelligence testing, and theories suggesting that extensive poverty in the African American community results from natural family characteristics rather than exploitive institutions.²¹ Stanfield suggests that, “it is more than apparent that historically and today, academic scholars . . . have been the developers of ideas which have had major impacts on American institutions, including those in [b]lack communities and those affecting [b]lack quality of life.”²² Accordingly, some pundits have gone so far as to surmise, perhaps correctly, that education represents hope for black America to ameliorate centuries-old forms of discrimination.²³

In that frame of reference, the underlying logic of advancing the notion of knowledge production gains clarity. As a cultural and racial group, African Americans have subsisted as one of the most vehemently discriminated classes of people in American society. This pattern of discrimination, once *de jure* segregation²⁴ and now *de facto* segregation, has had prolonged and far reaching effects. Nothing highlights this more than the plight of public schooling in the majority-minority populace of the District of Columbia. It is no secret that the District is replete with failing schools representing a mixture of despondency, complacency, and despair. The seemingly overwhelming view that many

schools in the District are educationally inferior gives rise to an inevitable domino effect: money will not go into those schools to enable them to purchase new materials to facilitate classroom learning; teachers, lacking the necessary materials to teach particular subjects, will become disinterested and less motivated, to the detriment of their students; because of the low standard of achievement, colleges and universities will not recruit at these schools that predominantly serve African American students. This detrimental course of events may serve as an unmovable barrier towards the attainment of higher education. The continuance of this problem is a major disadvantage to society in general. Just as one of the arguments in favor of diversity in educational settings suggests, students from divergent backgrounds bring a wealth of knowledge to the classroom which translates into the enormous benefit they would serve in the global community. But first, they must have the opportunity to enter into academia.

HISTORICAL BACKGROUND

Some commentators have suggested that over the course of the past few decades African Americans have made “notable progress”²⁵ in the area of education. However, in light of these relative advancements, the sad reality is that African Americans have historically been subjected to legal impediments, as well as institutional racism, which has had a prolonged debilitating effect on the African American community.²⁶

As a prelude to exploring the correlation between knowledge production and higher education, it is helpful to first review some basics concerning: (a) the historical barriers which have excluded African Americans from participation in the educational system and (b) the judicial decisions that have illuminated how courts act as social policymakers. Since early U.S. history, African Americans have been resigned to compete in an educational system that is deeply embedded with discrimination and designed to “exclude Americans of color from full participation in the economy, politics, and society.”²⁷ This oppressive social construct has existed since slavery. It can be maintained that slavery was the genesis for centuries of oppression, segregation, discrimination, and repeated exclusion from participating in education. The enslavement of African Americans was buttressed by an elaborate system of laws structured to guarantee that African Americans remained at the depths of society. These classifications, formally labeled slave codes, circumscribed even the most diminutive of aspects concerning a slave’s daily life. In addition, these laws perpetuated ignorance by strictly forbidding slaves from learning how to read and write.²⁸ Further, the prevention of literacy among African Americans was justified as “a measure of policy essential to the tranquility, nay to the existence of Southern Society.”²⁹

The apparatus of slavery subsisted on an ideology of resigning the slave to a state of absolute ignorance. This ignorance was maintained by withholding education; an essential component of productive assimilation into mainstream society. Education was believed to be a dangerous device because it would have de-

stroyed the institution of slavery and contributed to raising African Americans above servile status.³⁰ Following the Civil War, newly freed African Americans “continual quest for educational parity” in education remained limited as the dominant ideological stance still viewed African Americans as inferior.³¹ By the year 1900, over seven hundred American colleges and universities had been founded; yet these institutions retained the same segregationist practices manifested during slavery.³²

In several cases, most notably *Brown v. Board of Education*,³³ the Supreme Court’s response to the efforts of African Americans to achieve educational attainment have resulted in monumental decisions mitigating the scope of legislative and judicial enactments that have contributed to the general exclusion of minority Americans in educational settings. Prior to the decision in *Brown*, the Court jettisoned the notion of “separate but equal” established in *Plessy v. Ferguson*.³⁴ However, according to some critics, the “vestiges” of these discriminatory practices have yet to be fully exterminated.³⁵

BENEFITS OF EDUCATIONAL ATTAINMENT

It is logical to understand why challenges pertaining to education have been met with so much contention: its fundamental importance upon class stratification, generational wealth, and social status enhances its value. Moreover, the added value attained from becoming known as a “knowledge producer” or a faculty member at a university or college generally catapults that individual into a prestigious class of intellectuals whose ideas shape the conformity of society’s thoughts and values.

Educational attainment is outcome determinative and translates into “differences in high school graduation rates, college attendance and completion, and ultimately, the differences in income and socioeconomic status that underlie our most critical social problems.”³⁶

Williams and Ladd posit a Posnerian³⁷ line of reasoning, contending that educational attainment enjoys an intrinsic economic utility by functioning as “a socializing agent for middle class values and life styles” while “public school serves as an accrediting agency, determining one’s value in the market place and controlling one’s access to the market place.”³⁸ While the collective value of education is often poignantly articulated in both utilitarian and economic terminology,³⁹ to assert that educational attainment is solely a means for African Americans to augment their financial standing wrongly ignores the importance of academia as critical vehicle for the development of ideas and social norms.

WHY KNOWLEDGE PRODUCTION IS AN IMPORTANT END-RESULT OF HIGHER EDUCATION

In exploring the importance and advantages of intellectualism within the realm of academia, I cannot help but recall some remarks that my former political science professor, Tobe Johnson, conveyed to me. One day in his office he asked me what plans I had after graduation. I informed Professor Johnson that law school was my next step, and from there working in a large

corporate law firm. To my utter surprise, Professor Johnson then began ranting and raving about how so many of his African American students are looking for the quick buck and neglect to explore opportunities leading to prestigious fellowships, academic paths toward teaching in colleges and universities, and positions as influential academically-trained social thinkers. Being somewhat on the defensive, I tried to mitigate this onslaught by further stating that I eventually wanted to become a teacher. However, the point of this story is significant and Professor Johnson was correct in his assessment. His argument falls in line with John Stanfield, who emphasized the “profound power scholars in major [academic institutions] have in developing, critiquing, and implementing ideas.”

It must be noted that in his article, Stanfield somewhat deemphasizes the critical role of vocational education and casts it aside as a negative vestige of early civil rights remedies.⁴⁰ Although Stanfield makes a valid point regarding the disassociation of African Americans from traditional intellectual pursuits, this point a contentious one. While this essay expresses a desire to witness more African Americans taking on the role of knowledge producers, the goal is to effectuate a productive citizenry to contribute to society. Taking into account the social problems of gang warfare, drugs, crime, and economics coupled with the fact that many people just don’t have the resources or motivation to contend with the rigorous university environment, it is irrational to completely disregard the benefits of vocational education. The roots of whether to pursue higher education, vocational education, or neither, is manifested in the early fundamental stages of academic development at the elementary and secondary school level. Subsequently, teachers at this stage of a student’s development play a critical role in steering students towards higher education.

Ultimately, academicians control the way we think. Consider the collection of textbooks utilized in the learning environment that afford students the tools to grasp the subject they are studying. Moreover, the information and ideas contained within the textbook are ingrained within the students who will undoubtedly contribute to the intellectual progression of the next generation of scholars. These empirical and practical thinkers will control the dissemination of ideas emanating from think tanks, executive agencies, legislatures, and state and local governments who in turn will exert considerable influence over the manner in which society operates. And the cycle continues when these thinkers are recruited into leading institutions of education thereby continuing to exert an influence through scholarly publications, articles, and speeches.

This phenomenon is no more readily apparent than in law school where publication in a law review or journal is often considered the pinnacle of achievement. Well-published law professors, such as Paul Butler, Erwin Chemerinsky, and Joshua Dressler, are accepted as authorities in their respective fields of study, influencing how important issues are discussed within the academic community. Indeed education, moreover “knowledge,” wields enormous power in those who hold it.

Some critics would likely contend that access to the upper echelons of academia should be tightly restricted to avoid innumerable unqualified individuals clamoring for acceptance. The response to this criticism looks to the historical annals of constitutional law and early attempts to define constitutionally protected freedom of expression. In his famous dissent contained in *Abrams v. United States*,⁴¹ one of the leading cases in First Amendment jurisprudence, Justice Holmes espoused the concept of a “marketplace of ideas.” While that case concerned the distribution of leaflets objecting to the presence of troops in Eastern Europe, it conveys an important substantive message: in the “marketplace of ideas,” all ideas, both good and bad, should be allowed to flourish; any restrictions will result in a detriment to our society.

CONCLUSION

With the 50th year anniversary of *Brown v. Board of Education* behind us, it is comforting to see the effects that it has had on schooling. However, there is still much to be done. The dearth of African Americans that choose to pursue intellectual positions in academia is an issue that has provoked Stanfield to

emphasize that “it is so crucial for black community leaders. . . opinion leaders in public schools and in higher education, black parents, and black young people to develop a greater interest in the virtues of becoming a scholar.” Moreover, it must be realized that educational attainment creates a society of thinkers and dreamers. Even the utilitarian benefits of education are overwhelming as educated people have access to jobs and careers that add to the betterment of historically disadvantaged communities. Lack of educational attainment is social castration. Education opens the doors for thousands of African Americans to become professionals, return to those communities, and add knowledge and wealth into them. But this goal, this promising reality, can only be evidenced if higher education is emphasized, if knowledge production is elevated to the upper echelons of student’s agendas on the hierarchy of goals, and if elementary and secondary teachers effectively develop their students into leaders and thinkers. Knowledge is power.

ENDNOTES

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¹ John H. Stanfield, Commentary: The Race Politics of Knowledge Production, Address Before the North Carolina Agricultural and Technical University, W.T. Gibbs Lecture (Mar. 28, 1989), RESEARCH IN SOCIAL POLICY Vol. 2, 1989, at 194 [hereinafter Stanfield].

² 347 U.S. 483, 493 (1954).

³ *Id.*

⁴ See, e.g., Jay P. Lechner, *Learning From Experience: Why Racial Diversity Cannot be a Legally Compelling Interest in Elementary and Secondary Education*, 32 SW. U. L. REV. 201 (2003) [hereinafter Lechner]; Wilbur C. Rich, *Putting Black Kids Into a Trick Bag: Anatomizing the Inner-City Public School Reform*, 8 MICH. J. RACE & L. 159 (2002) [hereinafter Rich]; Kassie Freeman, *Increasing African Americans Participation in Higher Education: African American High School Student’s Perspectives*, 68 J. HIGHER EDUC. 523 (1997).

⁵ See 20 U.S.C. § 6301, No Child Left Behind Act (amending the Elementary and Secondary Education Act of 1965) (“ensur[ing] that all children have a fair, equal, and significant opportunity to obtain a high quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state academic assessments”) [hereinafter Act]; see also Kimberly D. Bartman, *Public Education in the 21st Century: How do we Ensure That No Child is Left Behind?*, 12 TEMP. POL. & CIV. RTS. L. REV. 95, 110-14 (2002) [hereinafter Bartman] (arguing that the No Child Left Behind Act retains an increased role in public education spending, and accountability, in a manner that the judicial system has been unable to rectify).

⁶ See Rich, *supra* note 4, at 178-79 (assessing the worth of school vouchers by measuring public support and analyzing state legislative responses).

⁷ See *Grutter v. Bollinger*, 539 U.S. 306 (2003) (holding that diversity can be a factor in the law school admissions process); but see, *Hopwood v. Texas*, 78 F.3d 932, 944 (5th Cir. 1996) (“consideration of race or ethnicity . . . for the purposes of achieving a diverse student body is not a compelling interest under the 14th amendment”).

⁸ See *Gratz v. Bollinger*, 539 U.S. 244 (2003); see also, *Regents of University of California v. Bakke*, 438 U.S. 265 (1978) (holding race or minority status is a factor that can be used in the admissions process).

⁹ But see Derrick Bell, *Diversity’s Distraction*, 103 COLUM. L. REV. 1622 (2003) (criticizing diversity in higher education as a distraction that ignores issues of racism and class bias while legitimizing the reliance of grades and test scores in admissions policies).

¹⁰ Lechner, *supra*, note 4; see generally, Beth Harry and Mary G. Anderson, *The Disproportionate Placement of African American Males in Special Education*

Programs: A Critique of the Process, 63 JOURNAL OF NEGRO EDUCATION 602 (1994) (arguing that racial bias remains an integral component of special education, particularly in the “overrepresentation of African Americans in special education [programs], and their corresponding *under representation* in programs for the gifted and talented”) (emphasis added); Gary Orfield, *The Growth of Segregation: African Americans, Latinos, and Unequal Education*, in *Dismantling Desegregation: The Quiet Reversal of Brown v. Board of Education*, at 53 (Orfield et al. eds. 1996) (“The extremely strong relationship between racial segregation and concentrated poverty in the nation’s schools is a key reason for the educational differences between segregated and integrated schools. . . Schools with large numbers of impoverished students tend to have much lower test scores, higher dropout rates, fewer students in demanding classes, less well prepared teachers, and a low percentage of students who will eventually finish college”).

¹¹ See *San Antonio v. Rodriguez*, 411 U.S. 1 (1973) (discussing Texas property tax based school financing scheme).

¹² But see Joyce E. Williams and Ron Ladd, *On the Relevance of Education for Black Liberation*, 47 JOURNAL OF NEGRO EDUCATION 266, 269 (1978) [hereinafter Williams and Ladd].

“Not only has education not functioned to substantially improve the occupational status and earning capacity of Blacks in relation to whites, it may have impeded their progress as a race...[because] education has drained off the upper echelon of the Black community and erected a barrier between the Black masses and the Black bourgeoisie.”

¹³ See *Brown v. Board of Education*, 347 U.S. 483, 493 (1954) (extolling the virtues of education as central to a democracy and fundamental towards developing productive members of society).

¹⁴ See Stanfield, *supra* note 1.

¹⁵ *Id.*

¹⁶ *Id.* at 193.

¹⁷ *Id.* at 179.

¹⁸ *Id.* at 185 (emphasizing the “profound power” held by academic scholars).

¹⁹ See *Brown*, 347 U.S. at 493 (“[E]ducation is perhaps the most important function of state and local governments”).

²⁰ See Stanfield, *supra* note 1, at 189.

²¹ *Id.* at 186.

²² *Id.* at 185.

²³ *Contra* Williams and Ladd, *supra* note 12, at 269 (arguing that education subsists to impede the progression of Blacks in terms of “occupational status” and “earning capacity”) with Bartman, *supra* note 5 (recognizing education as an important quality of life factor and addressing the continued disparities of resources and opportunities existing in public education that confront minority groups).

ENDNOTES CONTINUED

²⁴ *But see* Dora W. Klein, *Beyond Brown v. Board of Education: The Need to Remedy the Achievement Gap*, 31 J.L. & EDUC. 431, 438-39 (2002) [hereinafter Klein] (suggesting that vestiges of de jure segregation may still remain, particularly within the nation's public school systems).

²⁵ *See* Richard Delgado, *Derrick Bell's Toolkit – Fit to Dismantle That Famous House?*, 75 N.Y.U.L. REV. 283 (2000) (highlighting that “despite periodic ebbs and flows, the fortunes of Blacks in American society remain roughly constant, as though obeying a melancholy law of racial thermodynamics”); *see also* Antoine M. Garibaldi, *Four Decades of Progress . . . and Decline: An Assessment of African American Educational Attainment*, 66 JOURNAL OF NEGRO EDUCATION 105 (1997) (quantifying educational achievements among African Americans: (1) 77% - 87% high school completion rate; (2) 35% college attendance rate, including 59% who attended four-year institutions, compared to national college attendance averages of 42%; (3) 83,576 baccalaureate degrees awarded. However the rate of attainment for master's and doctoral degrees has continually fluctuated.).

²⁶ *See generally* discussion in Part. I.

²⁷ *See* Gwendolyn Zoharah Simmons, *Racism in Higher Education*, 14 U. FLA. J.L. & PUB. POL'Y 29 (2002).

²⁸ *Id.* at 29 (describing the severity of punitive measures imposed on slaves caught reading or writing; these included whipping, mutilation or murder); *see also* *Brown*, 347 U.S. at 490 (recognizing that state sanctioned policies prohibited African Americans from benefiting from educational opportunities).

²⁹ *See* Williams and Ladd, *supra* note 12, at 266.

³⁰ *See* JOHN E. FLEMING, *THE LENGTHENING SHADOW OF SLAVERY: A HISTORICAL JUSTIFICATION FOR AFFIRMATIVE ACTION FOR BLACKS IN HIGHER EDUCATION* 16 (Howard University Press 1976).

³¹ Walter Allen and Joseph Jewell, *The Miseducation of Black America, in An American Dilemma Revisited* (Obie Clayton Jr. ed., 1998) [hereinafter Allen and Jewell].

³² *See* DERECK J. ROVARIS, *MAYS AND MOREHOUSE: HOW BENJAMIN E. MAYS DEVELOPED MOREHOUSE COLLEGE* 32 (Beckham Publishers 1990) (describing the development of historically black institutions of higher learning, the availability of higher education for disadvantaged groups, and organizations that

helped to establish and financially support these academic institutions). Public higher education was virtually nonexistent for African American students. Conversely, due to the systematic exclusion of African Americans from admission into white institutions, over 80 predominantly black private institutions had been founded by 1900. These institutions were typically small and unable to provide adequate resources for their students. For a discussion of the problems encountered by black institutions, *see* Allen and Jewell, *supra* note 31, at 187.

³³ 347 U.S. 483 (1954).

³⁴ 163 U.S. 537 (1896) (holding that “equality of treatment is accorded when the races are provided substantially equal facilities, even though these facilities be separate”) (quoted in *Brown*, 347 U.S. at 487).

³⁵ *See* Klein, *supra* note 24.

³⁶ *See* Bartman, *supra* note 5, at 96.

³⁷ Judge Richard Posner currently serves on the Seventh Circuit Court of Appeals and is a faculty member of the University of Chicago School of Law. He has written several books on the theory of law and economics. *See* <http://www.law.uchicago.edu/faculty/posner-r/>

³⁸ *See* Williams and Ladd, *supra* note 12, at 274.

³⁹ Some arguments advanced by proponents of the utilitarian vision of education suggest that the values of education include: participation in the work force and accordingly the mainstream economy, access to professional career opportunities and entrance into the vaunted middle class, and elimination of a caste-ridden society where the same class conditions are perpetuated from generation to generation.

⁴⁰ *See* Stanfield, *supra* note 1, at 188 (“[T]oday, [to] the extent to which there is a dominant societal philosophy of [B]lack education, the focus is still on preparing [B]lacks for practical fields . . . [and] sustained through popular stereotypes about blacks being naturally better dancers, athletes and laborers, while being natural underachievers in intellectual areas.”).

⁴¹ 250 U.S. 616 (1919) (Holmes, J., dissenting).

⁴² *See* Stanfield, *supra* note 1, at 187.

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