

A Comprehensive Analysis of *Ariyah, Hibah, Hadiah, and Samsarah*: Theoretical and Practical Perspectives

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ABSTRACT. This literature review article presents an analysis of the concepts of *Ariyah*, *Grants*, *Gifts*, and *Samsarah* from a theoretical and practical perspective to understand the complexity and legal framework governing these transactions in an Islamic context. The data is analyzed in depth to identify key elements and relationships between concepts. *Ariyah* (borrowing) is the loan of goods without remuneration, *Hibah* (grant) is the voluntary gift of a living person to another, *Hadiah* (gift) without expectation of reward, and *Samsarah* (brokerage) is connecting between parties involved in a transaction (such as buyers and sellers) in which the intermediary is given a certain commission. Despite having fundamental differences in definition and application, these four concepts play an important role in society. From a theoretical perspective, each concept has a legal basis and principles governing it. In practical terms, the application of *Ariyah*, *Grants*, *Gifts*, and *Samsarah* is seen in various aspects of daily life, from trade transactions to social relations. Understanding these concepts helps individuals and organizations manage relationships and transactions more effectively according to the principles of sharia law.

Keywords: *ariyah, hibah, hadiah, samsarah, Islamic law.*

INTRODUCTION

Islam not only regulates the relationship between beings and their gods (*hamblum minallah*) but also governs relationships between creatures (*hamblum minannas*). Additionally, Islam regulates matters of wealth (*muamalah maliyah*). Property, considered one of the sustenance that must be maintained in Islam and to which there is the right of *Allah SWT*, must be managed under Islamic law. In matters of property, the provisions of the contract or the type of contract, regulated with the knowledge of *muamalah*, determine the legal outcomes produced.

Among the types of contracts existing in *muamalah* are *ariyah, hibah, hadiah, and Samsarah* (brokers). This article elucidates these contracts based on *muamalah* jurisprudence literature. *Ariyah*, originating from *Arabic*, pertains to a contract involving lending an item without expecting compensation. Its intent is an act of selfless goodwill. However, issues arise when commercial elements, such as fines, are incorporated into the *ariyah* contract, contradicting its original intention of seeking the pleasure of Allah without material benefit.

Ariyah contracts bear inherent risks, potentially resulting in adverse effects within the contract. One significant risk is the prohibition of contracts established unilaterally, potentially harming other involved parties. Various methods, including the application of fines, aim to

minimize these risks. Fines serve as mandatory penalties, often in the form of monetary payment, applied as punishment or sanction for violating contract terms. Particularly in *ariyah* transactions, such as borrowing goods, fines may be imposed, notably in places like libraries, where fines serve as sanctions for late returns or damages to borrowed items.

Fines are applied to contracts (contracts/contracts) where this contract is a *tijariyah* contract, which is a contract carried out to get profits or compensation. This is done naturally because there is a fear of a disadvantaged party, this from the beginning is intended to get benefits. The so-called contract results in the concept of exchange where this occurs between parties who exchange goods or property, therefore the exchange of objects must be carried out at the beginning of the contract with certainty. In this situation, it indirectly brings definite benefits that have been agreed from the beginning. *Akad tijariah* only has the meaning of gaining the pleasure of *Allah swt*.

However, this contract can turn into a *tabarru* contract, which is owned by a *tijariah* contract and has two characteristics, namely: profit-oriented trading, in which the main goal is to make commercial profits, this is something that can be interesting. A *tijariah* contract can be changed to a *tabarru* contract in this situation the goods/substances that have been withheld voluntarily release their property rights to release the obligations of those who have not fulfilled their obligations.

Therefore, this type of *tijharah* contract can change the circumstances of the type of *tabarru* contract if the acceptance of obligations voluntarily waives its rights to the obligations of parties who have not fulfilled their obligations. Problems like this can occur if a fine system is established in a *tabarru* contract or a contract that has no intention of getting profit, some scholars forbid fines that refer to eating the rights of others (bribes).

In addition to questioning the validity of the *tabarru* contract which is feared to be lost due to a fine, this is also in question the urgency of fines to be stipulated in the *tabarru* contract, the *fuqaha* differ in addressing this issue, some scholars, one of which is Yusuf Qadhawi, think that there are many propositions for orders to keep the contract (contract) transaction, requirements, and fulfill the contract so that fines are something that can be done. Others understand for several reasons contained in the *Qur'an* that explain the prohibition not to act arbitrarily against the property of others.

Fines and *tabarru* contracts at first glance are two contradictory entities, one of the implementations of *tabarru* contracts that occur in libraries using *ariyah* contracts (borrowing, borrowing), the implementation of fines in the library is carried out because it prevents

violations that harm the library, therefore it is important to further examine the determination of fines on tabarru contracts in the library.

Wealth is like objects owned by humans as entrustment and trust from *Allah swt*. Has its function in social life while humans are social creatures who must interact a lot with each other so that they can help each other and help fellow humans in meeting the needs of their creatures' lives and to be worthy of living safely, prosperously, and happily.

In addition, there is one side of man is the caliph of *Allah* in this world who is given the mandate by *Allah swt* to govern or manage and advance this world, in other words, the wealth owned is essentially a loan from *Allah*, and is the absolute right of the creator (*Allah swt*). In addition, partial rights We or our possessions belong to others as well. Therefore, in using all existing facilities, it must always be in human life to function socially.

Interaction with it is the sole (absolute) owner of what is above the world and all that it contains. But man is also given authority to obtain what is on earth and in the heavens. Man is given property relative to everything in this world. *Allah (swt)* wants us to be able to develop in the world and hereafter, therefore humans are strongly advised that in trying to find sustenance that will one day be obtained, the sustenance obtained should not be used for a spree or used for boasting. Those who have excessive possessions should give some of their possessions to the needy or needy.

In the *Qur'an*, many verses encourage us to pray and distribute some of our possessions to others. *Ali Imran*: 92 stated:

لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا مِمَّا تُحِبُّونَ وَمَا تُنْفِقُوا مِنْ شَيْءٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ

"You never arrive at the (perfect) policy, until you spend some of the property you love. And whatever you spend, God knows it.

In the concept of law, "Grant" is one of the places in which the function of property is realized, with "grant" there will arise a sense of solidarity between human beings who can overcome and alleviate some of the difficulties of their brothers and sisters, even he is part of one of the potentials in developing and building social institutions in national development.

However, in essence, it can be said that in general, the cause of social problems in the form of welfare that occurs in society is economic pressure, imbalance between the rich and poor, the impact of social jealousy and insistence on the necessities of life, a small number of people can cause evil intentions from the eyes and hands of thieves to someone who has a lot of wealth who uses his wealth only for spree and bragging Themselves without wanting to pay attention and care for those around them who are less able to be well-off, they do not look at legal norms and laws that apply or are followed by society.

Looking at the plural Indonesian citizens from that law that applies multiculturally as well, in Indonesia where Islamic law is living law there are several other laws including civil law (BW) where there are population groups who do not obey the past laws in Indonesia. So in the relationship between national law enforcement and the compilation of Islamic law, the issue of grants as one of the legal concepts of transfer of ownership needs to receive a lot more in-depth study so that its development and implementation can function as a vehicle for humanitarian solidarity.

As a state of law, Indonesia operates within established provisions that govern various aspects and activities of society, emphasizing the primacy of law in state governance. Despite this, there is a notable absence of post-independence legislation concerning inheritance law. Consequently, the legal framework for resolving heirs' property matters relies on existing statutes.

Indonesia employs various inheritance law systems applicable to its citizens, among which is the concept of *Hibah*, often interchangeably referred to as *hadiah*. While some sources equate gifts with grants, others distinguish between the two based on legal and conceptual grounds. According to the Encyclopedia of Islamic Law, gifts are encompassed within the broader category of grants. Conversely, the Big Indonesian Dictionary defines gifts as mementos, awards, or honors. Despite semantic variances, both terms share a unified legal framework and underlying intent.

Three distinct interpretations emerge from the aforementioned definitions: gifts are inherently without expectation of reciprocation, or grants, depending on perspective. Scholars generally differentiate between grants and gifts, with the former considered pure acts devoid of anticipated returns, while the latter may serve additional purposes, such as fostering relationships or initiating interactions.

Regardless of semantic nuances, a gift denotes the transfer of ownership of an item or object, distinct from loans, which entail solely benefiting from the object's utility. Consequently, the act of gifting necessitates explicit transfer of ownership while the giver is alive. Should a transfer occur posthumously, it is classified as a testamentary disposition rather than a gift. Moreover, for an act to qualify as a gift, it must entail no inherent risk to the recipient; otherwise, it may be deemed a sale rather than a gift.

Imam Shafi'I divided the two parts that were related or related to it was a will, and what was done while still alive was a gift. Giving while still alive is in two forms: purely transfer of ownership such as grants, alms, and endowments. There are three kinds of pure transfer of ownership: grants, alms, sunnah, and gifts. The way to determine it is to say the transfer of

ownership without compensation, if there is an additional transfer of something that is granted from one place to the place of the person to whom the grant is given, where the gift is) in honor then it is a gift.

Both brokers and *wakalah* are parties related to the first and second parties in the sale and purchase transaction. This object is listed in the KUHD (broker) and KEHS (*wakalah*) buying and selling used brokers are common in the community, but many find the practice of brokers and the delivery of information is transparent, lack of honesty, commissions or wages that are not under the goods obtained or obtained by buyers and vagueness of contracts.

Therefore, buyers as users of brokerage services in buying and selling used goods need the services of an honest and responsible broker to obtain the desired goods, the broker's practice in buying and selling used goods by brokers is reviewed with Sharia economic law the implementation of the contract of buying and selling used goods. To identify these problems, this research is a type of empirical juridical research, which is a type of sociological legal research that can be explained as a field researcher.

METHOD

This article employs the library research method to thoroughly examine the concepts of *ariyah*, *hibah*, *hadiah*, and *Samsarah* within the context of muamalah. This method involves collecting, reviewing, and analyzing relevant literature from various sources, including books, academic journals, research papers, and legal documents. The primary objective of this approach is to systematically and comprehensively understand the foundational principles governing each concept in Islamic law and their practical implications in everyday life. The first step in this method is identifying and selecting relevant literature related to the topic. This process involves searching through academic databases, libraries, and credible online sources. Keywords such as "*ariyah*," "*hibah*," "*hadiah*," "*Samsarah*," and "*muamalah*" are used to locate pertinent sources. The selected literature encompasses both classical and contemporary works in Islamic law, as well as empirical studies that provide insights into the practical application of these concepts.

After gathering the literature, the next step is to conduct a critical review of each source. This involves reading and noting essential information, identifying key elements, and understanding the historical and theoretical context of each concept. This critical analysis helps clarify the definitions, characteristics, and distinctions between *ariyah*, *hibah*, *hadiah*, and *Samsarah*, as well as how each is applied in various situations. Moreover, the author compares various views and interpretations from scholars and experts regarding these concepts. This

comparison aims to provide a more holistic perspective and identify any issues or debates that may exist among Islamic legal scholars.

The final stage is synthesizing the information obtained from various sources to construct a cohesive and comprehensive argument. The analyzed information is then organized into a systematic and logical structure to present an in-depth and easily understandable analysis to the readers. By employing the library research method, this article integrates multiple perspectives and sources of information to provide a deeper and more holistic understanding of *ariyah*, *hibah*, *hadiah*, and *Samsarah* within the context of muamalah. This method also ensures that the arguments presented are supported by robust evidence and credible literature.

RESULT AND DISCUSSION

A. *Ariyah* (Borrowing)

Ariyah is a means of helping between the able and the incapable. *Ariyah* according to the language is a loan, going and returning or circulating. The act of a person who allows/permits others to benefit from their property without compensation.

While according to the term there are several opinions:

1. *Ibn Rifa'i* argues, that what is meant by *ariyah* is the ability to take advantage of an item with halal and still its substance so that it can be returned to its owner.
2. In the *Malikiyya* opinion as written by *Wahbah al-Juhaili*, "*ariyah* is the possession of the benefits of a good without any reward. As for according to *Shafi'iyah* and *Hanabilah*, *ariyah* is the ability to take advantage of an item without any reward.
3. Amir Syarifuddin argued, that *ariyah* is a transaction on the benefits of an item without reward, or *ariyah* is giving up a form of goods for the use of others without any reward.

As for the pillars of *ariyah* according to Jumhur ulama, there are four, namely: The one who lends (*Mu'ir*), One who borrows (*Musta'ir*), Goods borrowed (*Mu'ar*), Lafal/sighat loan (sighat *ariyah*).

1. The person who borrowed it was a reasonable and capable person of legal action. Therefore, children, lunatics, and fools cannot make *ariyah* contracts/transactions.
2. Borrowed goods are not the type of goods that when used will run out or be destroyed, such as houses, clothes, and vehicles.
3. The goods lent must be directly controlled by the borrower.

4. Benefits of borrowed goods include benefits that are modified or permitted by *sharia*.

Fiqh scholars agree that the contract of *ariyah* is helpful. However, they differ on the nature of *the trust* in the hands of borrowers. The law of lending and borrowing can be summarized as follows:

1. The basis of *ariyah* law according to Sayyid Sabiq is *sunnah*. Fiqh scholars agree that *the Ariyah* contract is helpful.
2. Something borrowed, must be something that changes or is allowed. Because cooperation in sin is forbidden.
3. Regarding the nature of the borrower: Everyone who borrows something from someone else means that the borrower has a debt to the debtor (*mu'ir*). Every debt must be paid, so it is sinful for people who do not want to pay debts, even neglecting to pay debts also includes persecution. The act of persecution is one of the sinful acts. The Prophet said: "A rich man who neglects debt is persecuted. (HR. Bukhari Season).
4. Overpayment of a certain amount of loans is allowed, provided that the excess is the will of the debtor alone. This is a good thing for debt payers. The Prophet said: "Surely among the best of you is the one who is the best in paying debts". (HR. Bukhari Muslim). The Prophet once owed an animal, then he paid the animal at a larger and older age than the animal he borrowed. Then the Apostle said: "The best man among you is the one who can pay his debts better". (HR. Ahmad). If the addition is desired by the debtor and has become a contract in the debt contract, then the addition is not lawful for the debtor. The Apostle said: "Every receivable that takes advantage, then it is one of the ways of usury" (HR. Baihaqi).
5. If the lender requires that the borrower is obliged to replace the borrowed goods if he breaks them and the borrower is obliged to replace them. The Prophet said: "The Muslims are on their terms". If it is not required, the loan item is damaged not because of the borrower's negligence and not because the borrower is not obliged to replace it. The Prophet said to one of his wives who had broken one of the food bins.
6. The borrower must bear the cost of borrowing the borrowed goods when he returns them if the borrowed goods cannot be transported except by porters. The Prophet said: "The hand is obliged to what he takes until he fulfills it"

7. The borrower may not rent out the goods he borrows or lend them to others on condition that you give them up
8. If a person lends a garden to make a wall he should not ask for the return of the garden until the wall falls, nor should the person who lends the field to plant. Because it causes danger for people that season is *haram*.
9. Whoever lends something up to a certain time, is circumcised to ask for its return after the expiration of the loan deadline

B. Hibah (Grant)

The word grant is Arabic which means goodness or virtue given by one party to another party in the form of property or not. Like Zacharias begged God to give him a good offspring. A grant is a voluntary and unremunerated gift of an object from one person to another living person to possess. Ulema fiqh distinguishes between the notions of *ariyah* and grants, even though both contain the meaning of freedom to use goods. According to them, in *ariyah*, the elements borrowed are only useful, as well as in a limited time, while grants are related to the material goods submitted and have no time limit. According to *al-Juhaili*, *ariyah* is only to benefit from an item, whereas a grant takes both substance and benefit at once.

Grants are different from almsgiving. Alms is a gift made to certain parties to get closer to *Allah swt*. The basis of alms is religious zeal, while grants are not based on religious emanates or to draw closer to God, but they are based on the will and desire to give only.

According to Jumhur Ulama, there are 4 pillars of grants:

1. The one who gives
2. Treasures granted
3. Lafaz Hibah
4. People who receive grants

Jumhur Ulama stated that it is forbidden to withdraw it, even if it occurs between brothers or husband and wife unless the grant that occurs between the father and his son is allowed to withdraw it. As for irrevocable grants:

1. Grants to someone who, because of their blood relationship, is prohibited from marrying.
2. Grants between husband and wife and vice versa.
3. If the grantor or grantee has died, either one or both.

4. If the donated object has been lost or destroyed.
5. If the thing granted has been transferred by the grantor either sold, re-granted, or by other means
6. If the object given increases in value for some reason.
7. If the grantor has obtained a reimbursement for the grant.
8. If the grantor intends to be religious or spiritual, the grant is more *sadaqah*.

A grant can be canceled because the goods granted exceed the maximum limit of the grant, which is 1/3 of the grantor's estate, the grant conditions are not met, and the owner of the grant estate has died first. A gift as a grant between a person and his child or also with another person because of something in return should not be withdrawn. Therefore, in a certain society, if you are going to give something to someone, you must think about it thoroughly first so as not to regret it in the future.

C. *Hadiyah* (Gift)

The word *Hadiyah* from the Arabic language is taken from the root consisting of the letters *ha'*, *dal*, and *ya* which is the origin of the word gift. A reward is a form of something given to someone to achieve a set goal or exceed a set target. Gifts according to Amir Dien Indrakusuma gifts are rewards in the form of gifts in the form of goods such as money, clothes, bags, and others. Meanwhile, according to Syaiful Bahri Djamarah and Aswan Zain, gifts are giving something to others as a sign of appreciation or a memento or souvenir. Gifts are often also called grants. Some say that gifts include various grants. According to the Encyclopedia of Islamic Law, gifts are categorized in the form of grants. Meanwhile, according to the Big Dictionary of Indonesian, gifts are gifts (mementos, awards, honors).

According to some scholars, the harmony and conditions for gifts are first, the gift-giving party and the party who is given the gift, which both parties must be willing and not forced. Second, *ijab* and *qabul*. Third, the treasures are rewarded. Giving gifts is permissible in *Islam*. Even *Islam* recommends giving gifts to each other to create affection between them. Of course, giving gifts that can cultivate affection is a gift that arises from a sincere and sincere conscience, only hoping for pleasure from Allah. Gifts can be categorized into two forms, namely:

1. A gift in the form of giving to someone because of his achievements or indeed purely because of honor. There is no other purpose than the honor.

2. A gift given to someone because they have a certain purpose either for their interests or the interests of others.

The Prophet Muhammad (peace be upon him) said, "*Narrating to us Abû Mush 'ab, he said: Narrating to us Mâlik, from 'Atha' bin Abdillah al-Khurasânî, he said: The Holy Prophet(sa) said: shake hands with each other, surely (shaking hands) will eliminate hatred, give each other your gifts, surely (gifts) can make you love each other and eliminate grudges*".

The growth of mutual love between *Muslims* is what is desired behind the gifts given. It is not expecting anything else such as hoping to be released from the case, hoping for the issuance of a project permit that he is working on, or being promoted to his rank and position, or other expectations of a worldly nature mixed with *shaubhât* and tyranny.

If the gift at the feast of the infidel or a celebration not taught in *Islam* is animal food slaughtered without mentioning the name of *Allah*, or intended for their shirk rituals, or other similar haram treasures then it is haram to consume it. In line with the postulates of the *haram* of these goods or food. If the gift is physically *halal*, such as fruits, clothing, eggs, or meat of animals slaughtered Islamically, etc., then there has been a crossover of opinions among scholars about the law of receiving the gift, namely:

1. First opinion: May receive their gifts, this is an opinion corroborated by Imaam Ibn Taymiyyah and others. Several arguments strengthen this opinion, including:
 - a. The first postulate: The law of origin of receiving their gifts is lawful, so it cannot turn into haram just because the time of the gift is during the celebration of their holiday.
 - b. Second postulate: The practice of some companions accepting gifts given by unbelievers on their holidays
 - c. The third postulate: Receiving their gifts can be a tangible manifestation of the act of attracting their sympathy, so it is hoped that in the future some of them will open their hearts to embrace Islam.
2. Second opinion: It is unlawful to accept the gifts of the infidels that they give on their holidays. This is the opinion expressed by the Permanent Commission on Fatwas of Saudi Arabia.

There are several reasons they put forward to forbid their gifts:

- a. The first postulate: The generality of the prohibition against helping in sinful deeds, including enlivening the celebration of their holidays.
- b. The second postulate: Accepting their gifts can foster a love for them, at least eroding our hatred for them. Because it has become Sunnatullah, the gift fosters love and erodes hatred.

D. *Samsarah* (Brokerage)

Samsarah or *broker* means a trade intermediary or intermediary between sellers and buyers to facilitate buying and selling.

Samsarah is a vocabulary from Persian that has been taken into Arabic which means a profession in mediating two interests or different parties with compensation (wages or bonuses), either in the form of wages (*ujrah*) or bonuses, commission (*ju'alah*) in completing transactions while *simar* is a term for people who work for others as mediators and compensation (wages and bonuses), either to sell or buy. In general, *samsah* is the medium of traders (people who sell goods and people who look for buyers). Or an intermediary between the seller and the buyer to facilitate buying and selling.

According to Sayyid Sabiq, a broker (*samsarah*) has a role as an intermediary between the traders and the buyer to smooth existing buying and selling transactions. With the role of this intermediary, the seller and buyer will be very easy to transact, both from transactions in the form of services and transactions in the form of goods.

Meanwhile, according to the big Indonesian dictionary, a broker is an intermediary trader (between sellers and buyers), namely people who sell their goods or find buyers, for others based on getting wages or commissions for their work services. Intermediary or broker is the oldest form of trading, broker is a word that represents the meaning of the law of brokers taken by the government with the granting of permission and a trader who is sworn to carry out various kinds of trade contracts that exist. The broker is the party from which he acts or does something.

A broker is a merchant intermediary who is assigned to sell other people's goods by taking existing wages without taking risks, be it risk or small risk. Another word for a broker is an intermediary between sellers and buyers to facilitate buying and selling. Brokers who are known and trusted are not subject to risks associated with damage to goods or accidental loss of goods.

It is also stated that the job of a broker is to sell and purchase goods, and his employer sells merchandise and others. Based on the definition, it can be concluded that the broker is an intermediary trader functioning to sell other people's goods by taking existing wages or seeking their profits without bearing the risk, in other words, the broker himself is an intermediary between the seller and the buyer to facilitate the implementation of the sale and purchase transaction.

Broker responsibilities

In positive law, the duties of a *Broker* include :

- a. In the sale and purchase contract there is an example, the broker must keep the example until the contract has been agreed or fully implemented. (Article 69 of the Criminal Code).
- b. In buying and selling wasel also has a contract or other securities, so that the buyer is not harmed because the wasel debtor does not want to pay the wasel. After all, the seller's signature is fake.

Broker tasks

The main duties of the *Broker* are as follows:

- a. Providing intermediaries in buying and selling
- b. Sponsoring open auctions and closed auctions. Open auction is selling in public as employees are obliged to it, closed auction is by way of being offered in secret.
- c. Estimates for banks, mortgages, and insurance airlines
- d. Holding monsters (example) items to be traded
- e. Sorting to be traded
- f. Provide solutions in the event of damage and loss
- g. Being a referee and arbitrator in the event of disputes about quality

Broker obligations

The obligations of a *Broker* include: :

- a. Maintain a logbook of duties every day the record is copied in a clear textbook of the parties to the transaction, the operation, and the price and terms promised.
- b. Ready at any time to provide excerpts from the book
- c. Keep the sample until the delivery of the item is made.

CONCLUSION AND SUGGESTION

The comprehensive analysis conducted through the library research method has provided valuable insights into the concepts of *ariyah*, *hibah*, *hadiah*, and *Samsarah* within the context of *muamalah*. By synthesizing information from various sources, we have elucidated the foundational principles governing each concept in Islamic law and their practical implications in everyday life. This analysis has highlighted the significance of understanding these concepts within the framework of *muamalah* to ensure their proper application in diverse socio-economic transactions.

Moving forward, further research could explore the contemporary relevance and evolving interpretations of these concepts in light of modern economic and social dynamics. Additionally, comparative studies across different legal systems could offer valuable perspectives on the universality and adaptability of these Islamic principles. Moreover, efforts to disseminate knowledge about these concepts among practitioners, policymakers, and the general public could contribute to fostering a more informed and ethically grounded approach to economic transactions in Islamic societies.

This study underscores the importance of continuing scholarly inquiry into Islamic legal principles related to economic transactions and the potential benefits of integrating these principles into contemporary legal and economic frameworks. By doing so, we can promote greater adherence to ethical standards and foster sustainable socio-economic development under Islamic principles.

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