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# Christian Marriage and Public Policy

BY DON BROWNING

**How should Christians contribute to debates about society's responsibilities for marriage in welfare reform, family law, reproductive technology, insurance law, and fair employment practices and to the nagging question of who should or should not be permitted to marry?**

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**W**hat are the resources of the Christian tradition for contributing to the contemporary public debate over the definition and likely future of marriage? I ask not only what Christians should believe within the confessing church. I ask what truth Christianity possesses about public policy on marriage in a democratic and pluralistic society. My question is relevant to society's legal and governmental responsibilities for marriage in welfare reform, family law, reproductive technology, insurance law, and fair employment practices and to the nagging question of who should or should not be permitted to marry.

The question implicitly asks whether marriage should be a concern of law and public policy at all. Many political and religious leaders are now saying that marriage should be delegalized, that it should not be a matter of state regulation. They argue that marriage should be a matter of personal choice and perhaps religious blessing but not legal accountability and enforcement. In face of such demands, the question of the resources of Christian theology for public policy on marriage is all the more salient.

I hold that Christian ethics does have a place in forming public policy on marriage, but only if it can retrieve and articulate its arguments with a twofold language. It should be both a language of faith and a philosophical language that contains naturalistic, contextual, and justice-oriented arguments. I believe

this double language can be found in the marriage classics of the Christian tradition. In this tradition, the philosophical and naturalistic languages are qualified and enriched by narratives and metaphors about the meaning and destiny of life. But the philosophical and naturalistic languages can gain a degree of “distance” (a concept borrowed from the philosopher Paul Ricoeur) from their narrative context and function to provide rational arguments about marriage in public-policy discourse.<sup>1</sup>

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**Classic Christian marriage texts link sexual desire, love, the birth of children, the raising of children, and the mutual assistance and enrichment of economic life into an integrated and mutually reinforcing whole known as the institution of marriage. We should resist modernity’s tendency to split these apart.**

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Discovering and using this double language challenges those Christians who want to influence public discourse on the basis of strictly confessional language and arguments. Law today rightly demands that legal arguments pass a “rational standard” test that confessional language has difficulties passing.<sup>2</sup> My view also contradicts both liberal and conservative Christians who try to influence law and public

policy by dropping theological language and advancing their arguments entirely with appeals to the disciplines of psychology, sociology, medicine, and other so-called secular forms of reason.<sup>3</sup> This strategy unwittingly agrees with secularists who believe that religious language has no place in the public square.

In rejecting each of these strategies, I claim that the Christian tradition on marriage has theological classics that combine both confessional avowal and forms of practical rationality into a single multidimensional gestalt. I hold that the religious metaphors and narratives add meaning, weight, and balance to the level of practical rationality, but they should not be judged to disqualify the practical-rational dimension from participating in public deliberation.

#### **MODERNITY AND TRADITION**

Debates on marriage today are deeply influenced by what Max Weber and Jürgen Habermas have called “modernization” — the spread of technical rationality into the social spheres of economics, law, sexuality, family, and marriage.<sup>4</sup> In the United States, this takes the form of our no longer reasoning together about the common good, but merely expecting the marketplace to satisfy short-term individual wants and needs. The spread of technical rationality energizes a host of separations in the marital field — sex from marriage, marriage from childbirth, parenting from marriage, child rearing from marriage, and the workplace from family life. Some of these separations we value, but others we rightly are beginning to question.

Let me illustrate. The most profound disjunction created by market-style modernization is the separation of marriage and family from economic activity. This began in the nineteenth century when men were drawn away from economic dependency on the family farm and craft into dependency on the wage economy. In the second half of the twentieth century, women and mothers also were drawn into the wage economy, making them less dependent on the economic supports of marriage.<sup>5</sup> Birth control helped separate sex from marriage and, ironically, contributed to the explosion of nonmarital births throughout the world. Assisted reproductive technology became available for purchase both within and outside marriage, thus accelerating the separation of childbirth from marriage.<sup>6</sup> Finally, a string of Supreme Court decisions in the U.S. during the 1960s and 1970s—e.g., *Griswold v. Connecticut* (1965), *Eisenstadt v. Baird* (1971), and *Roe v. Wade* (1973)—gave legal support to birth control, reproductive technology, and abortion both within and outside of marriage. These landmark rulings made private preference the reigning moral value governing the entire field of sex and reproduction. Private preference was now given, as historian Nancy Cott points out, the protection of public laws.<sup>7</sup>

An analysis of the classic Christian marriage texts reveals that their goal was just the reverse of the modern trend. It was their intent to integrate sexual desire, love, the birth of children, the raising of children, and the mutual assistance and enrichment of economic life into an integrated and mutually reinforcing whole known as the institution of marriage. The collision of tradition and modernity on marriage raises this question: How far should we go at the level of the official intentions of law in dividing into its component parts the marital integration of sexual desire, affection, childbirth, child rearing, and mutual assistance? As a Christian practical theologian, I hold we should resist modernity's tendency to split apart the marital field.

### **THE TWOFOLD LANGUAGE IN CHRISTIANITY**

Religious traditions are complex. They often weave together the legal, poetic, moral, political, and narrative traditions from different cultures into complex new syntheses. This is true even of early Christianity. Recent research in both cultural anthropology and biblical studies demonstrates that early Christian teachings on the family and marriage combine narratives on the life and death of Jesus with legal and cultural insights about the role of fathers, mothers, and children gleaned from Jewish, Greek, and Roman legal and philosophical traditions.<sup>8</sup> For instance, new scholarship tells us that the household codes on the obligations of spouses, parents and children, and masters and slaves in Ephesians, Colossians, and 1 Peter have their origin in a peripatetic philosophical tradition that goes back to Aristotle's *Politics* even though they are considerably redefined in their Christian contexts.

Legal historian John Witte documents that Augustine, Aquinas, Luther, and Calvin appreciated the natural goods of marriage such as marital affection, procreation, kin altruism, conjugal sexual exchange, mutual assistance, and the

development of a common stock of the goods of life.<sup>9</sup> Furthermore, in his important *From Sacrament to Contract*, he shows that the Christian classics saw marriage as blending religious ideas of sacrament and covenant with views of marriage as a natural, contractual, and a socially useful institution.<sup>10</sup>

This combining of biblical-narrative perspectives and naturalistic-philosophical perspectives on marriage is evident in the earliest New Testament documents but comes into vivid maturity in the thought of Thomas Aquinas. He—along with Gratian, Peter Lombard, and the canon lawyers—was one of the chief synthesizers of Christian theology, Greek philosophy, and Roman law on marriage. The collective efforts of these scholars developed the genetic code of normative Western marriage theory.

Aquinas was particularly concerned with the natural good of kin altruism and stated its role in family formation and marriage with remarkable clarity. He developed his view with a double language that was simultaneously religious and biophilosophical. The biophilosophical language was informed by Aristotle, who had recently been rediscovered by Christian, Islamic, and Jewish scholars in the Muslim-controlled libraries of Spain and Sicily.<sup>11</sup> The specifically religious language came from Genesis and New Testament commentary on Genesis. Although his biology and philosophy of family formation—i.e., his natural law thinking—was informed by his theology, it functions with considerable distance from its religious grounding. His biophilosophical insights also constituted the core ideas supporting one of the most powerful theories available on the relation of family to the state—the subsidiarity theory of late nineteenth- and twentieth-century Roman Catholic social teachings.

Of course, Aquinas believed that marriage was revealed in Scripture, specifically the Genesis account of creation. In the “Supplement” to the *Summa Theologica*, he quotes Matthew 29:4, “Have ye not read that He Who made man from the beginning ‘made them male and female,’” a verse which itself refers back to Genesis 1:27. Then referring to Genesis 2:21, he claims that before sin entered the world and from the foundations of creation God “fashioned a help-mate for man out of his rib.”<sup>12</sup> This implies what the book of Genesis makes explicit, “It is not good that the man should be alone; I will make a helper as his partner” (Genesis 2:18).

However, Aquinas’ full argument about marriage and family, as we will see, does not stay at the level of scriptural interpretation alone. Aquinas thought that his view of marriage and family was also a product of reason. He called marriage in its primordial form an “office of nature.” At this level it could be illuminated by natural law, especially the natural law that identifies those natural inclinations that are further guided by “the free will” and “acts of virtue.”<sup>13</sup>

Aquinas defined matrimony as the joining of the male to the primordial mother-infant family. He saw this happening for four natural reasons. First, the long period of human infant dependency makes it very difficult for mothers to raise infants by themselves. Hence, they turn for help to their male consorts.

Second, the likely fathers are much more inclined to attach to their infants if they have a high degree of certainty that the infant is actually theirs and hence continuous with their own biological existence (motivating factors that evolutionary biologists call “paternal certainty” and “paternal recognition”). Third, males attach to their infants and consorts because of the mutual assistance and affection that they receive from the infant’s mother. Finally, Aquinas realized that sexual exchange between mother and father, even though he talked about it as paying “the marital debt,” helped to integrate the male to the mother-infant dyad.<sup>14</sup>

When Aquinas said that the human male “naturally desires to be assured of his offspring and this assurance would be altogether nullified in the case of promiscuous copulation,”<sup>15</sup> he was echoing Aristotle’s belief that parental investment is more intense and durable between natural parents and their offspring. Aristotle had considerable insight into what evolutionary psychologists today call “kin altruism,” which is our tendency to invest ourselves more in those with whom we are biologically related. He was developing a prescientific theory of kin altruism when he wrote, “in common with other animals and with plants, mankind have a natural desire to leave behind them an image of themselves.”<sup>16</sup>

Aquinas integrated these naturalistic insights about the motivational foundations of parenthood into his wider theological theories of marital fidelity, love, permanence, and mutual assistance. He argued, for instance, that marriage should last a very long time because of the dependence and vulnerability of human infants and children in contrast to the rapid growth of other mammals. Aquinas had a flexible naturalistic argument for marriage; he was fully aware that humans have conflicting natural tendencies with no single fixed aim. But when human sexuality is guided by the needs of child rearing, then the inclinations toward kin altruism, reinforced by culture and religion, can and should have a commanding role in ordering our unstable natural tendencies.<sup>17</sup>

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**Aquinas’ view does not stay at the level of scriptural interpretation alone, but is also a product of reason. Marriage, as an “office of nature,” can be illuminated by those natural inclinations that are further guided by “the free will” and “acts of virtue.”**

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Aquinas’ use of nature is consistent with the images of natural law developing in the thought of contemporary philosophers and theologians.<sup>18</sup> Mary Midgley says it well when she writes that in spite of our plural and flexible human desires and needs, “The central factors in us must be accepted, and the right line of human conduct must lie somewhere within the range they allow.”<sup>19</sup> For Aristotle, Aquinas, and most contemporary evolutionary thought, kin altru-

ism is a central tendency that biology, moral traditions, and law have honored as being one of these “central factors” to be lived within as nearly as possible.

### **LUTHER’S USE OF DOUBLE LANGUAGE**

If space permitted, I could illustrate a similar twofold language in Judaism and Islam. Almost everywhere, ideas of marriage are developed by combining folk biopsychologies of male and female tendencies and children’s needs with religious narrative, divine commands, and judgments about natural justice. I will give a few examples from the writings of Martin Luther.

It is commonly believed that the Protestant Reformation rejected natural law arguments and the double language of Catholicism. But this is not entirely correct. Luther clearly gave more weight to Scripture than did most of medieval Roman Catholicism. But as Brian Gerrish has demonstrated, natural law arguments still had a major role in the practical rationality of the Earthly Kingdom of government and civil order in contrast to the Heavenly Kingdom of grace and salvation.<sup>20</sup> Marriage, we must recall, was de-sacramentalized by Luther and viewed as a natural social institution to be administered by the civil authorities of the state.<sup>21</sup> Because of that, Luther simultaneously could speak about marriage with the languages of the Heavenly Kingdom (the language of faith) and the Earthly Kingdom (the language of philosophy, nature, and practical reason). Even in Luther, there was a double language of marriage.

Luther famously rejected the Roman Catholic view that marriage is a sacrament, which had been based in part on reading the Greek word *mysterion* in Ephesians 5:32 as meaning the Latin *sacramentum*.<sup>22</sup> It is commonly acknowledged by scholars today that Luther was right; *mysterion* meant in Ephesians 5:32 that marriage is a great mystery, not a great sacrament. It referred to the great mystery that Christian marriage had an analogy with Christ’s sacrificial love for the church.

In spite of their differences, however, on the question of the sacramental nature of Christian marriage, Luther and Aquinas agreed on many points in their theological interpretation of marriage. Both aspired to integrate a wide range of human goods into the institution of marriage, and both worked hard to bring men into the institution of marriage. In his essay “The Estate of Marriage,” Luther did this by viewing marriage as an order of creation, an “ordinance” given by God which made both men and women sexual and procreative creatures in their very nature.<sup>23</sup> Luther claimed that it was a distortion of scriptures to say that celibacy was a higher state than marriage.<sup>24</sup>

Luther was striving to integrate sexual desire, affection, procreation, child rearing, and mutual assistance into the institution of marriage. One can see this most profoundly in his celebration of fatherhood, directly addressed to those men in his day who disdained marriage. Luther’s famous passage about the care of children by the male parent is worth quoting in full for what it reveals about the integrational purposes of marriage.

O God, because I am certain that thou hast created me as a man and hast from my body begotten this child, I also know for a certainty that it meets with thy perfect pleasure. I confess that I am not worthy to rock the little babe or wash its diapers, or be entrusted with the care of the child and its mother. How is it that I, without any merit, have come to this distinction of being certain that I am serving thy creature and thy most precious will? O how gladly will I do so, though the duties should be even more insignificant and despised. Neither frost nor heat, neither drudgery nor labor, will distress or dissuade me. For I am certain that it is thus pleasing in thy sight.<sup>25</sup>

Notice the range of goods that Luther integrates in this view of marriage. Although Luther says little about it in this passage, we know that sex with his wife has occurred. Furthermore, he is certain that the baby is his, that it came from his “body” and that he has this special attachment to this babe. This gives him the task of caring for the infant and assisting its mother. Together, mother and father are, in effect, one flesh in this offspring—a one-flesh union of both nature and divine intention. Luther uses the double language of nature and God’s will ever so subtly.

Sometimes Luther supplemented his marriage discourse based on the language of Scripture with a secondary language based on appeals to health and economics.<sup>26</sup> Although it was always a subordinate emphasis in his thought, Luther could write about marriage in a kind of cost-benefit language analogous to modern economic rational-choice theory. He admitted to searching out the “benefits and advantages of the estate of marriage.” At the economic level, he observed that married people “retain a sound body, a good conscience, property, and honor and family.”

Nonmarital sex, out-of-wedlock births, and single parenthood can lead to poverty, and once wealth and property are “lost, it is well-nigh impossible to regain them—scarcely one in a hundred succeeds.” Marriage, Luther claimed, not only rebounds to the wealth of individual couples but “to the benefit of

whole cities and countries....” In addition to its spiritual meaning, marriage, for Luther, was a matter of good public policy and for that reason was to be administered, regulated, and encouraged by the state.<sup>27</sup>

In my view, we should not overly dichotomize Luther’s two languages of the Earthly and Heavenly Kingdoms. Their relation is more like that of figure and ground in gestalt psychology. The topic of marriage illustrates this well.

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Although marriage is mainly an estate of the earthly realm for which practical economic, health, and common good reasons could be advanced in its support, the horizon of God's intention for marriage in creation hovered in the background in Luther's Germany. Of course, Luther taught that Christians were to enrich their civil marriages with their theological views. Although states influenced by the Protestant Reformation have followed Luther, and also Calvin, in making marriage first of all a civil institution governed by practical reason and natural law, there is little doubt that the background of Luther's theology of marriage also influenced reason's workings in law and government in the Earthly Kingdom.<sup>28</sup>

### **MARRIAGE AS INTEGRATING THE GOODS OF LIFE**

A consistent theme in Christian classics is that marriage integrates the goods and mutual reinforcements of affection, sexual exchange, children, child rearing, and mutual assistance. Synthesizing the investments of kin altruism with the reinforcements of marital affection, sexual exchange, and mutual helpfulness in the economy of the household is another crucial element. I suggest that natural parental investment should be seen as a central finite value of marital integration. It is not the core of salvation, but it is a powerful finite and relative good; it is especially important for integrating male investment into the long-term care of offspring and spouse. Both church and society should resist the contemporary trends of modernization that function to split apart the integrating task of marriage. We should also work to halt the related tendency of law and culture to privatize marriage and make it a pure relation unencumbered with children and indistinguishable from a wide range of sexual friendships.

The legal support of marriage as an integrating institution means supporting children's rights to enjoy, as nearly as possible, the benefits of kin altruism and kin investment. Society should shape law to enhance the likelihood that they will be raised by the parents who have given them life and thereby benefit from what both ancient wisdom and the contemporary social sciences are telling us – that children, on average, do much better when raised by their own two married biological parents.<sup>29</sup> Of course, this does not undercut the dignity, indeed the human and Christian imperative, to adopt the needy and homeless child.<sup>30</sup>

### **NOTES**

1 Paul Ricoeur, *Hermeneutics and the Human Sciences* (Cambridge, UK: Cambridge University Press, 1981), 60-62.

2 The rational standard test was invoked by the majority opinion in *Goodridge v. Department of Public Health*, the Massachusetts Judicial Supreme Court case that set the stage for the legalization of same-sex marriage in that state.

3 See, for example, Glenn Stanton, *Why Marriage Matters* (Colorado Springs, CO: Pinon, 1997); and Glenn Stanton and Bill Maier, *Marriage on Trial* (Downers Grove, IL: InterVarsity Press, 2004).

4 Max Weber, *The Protestant Ethic and the Spirit of Capitalism* (New York, NY: Charles Scribner's Sons, 1958), 181-182; Jürgen Habermas, *Theory of Communicative Action I* (Boston, MA: Beacon Press, 1981), 143-144.

5 Gary Becker, *Treatise on the Family* (Cambridge, MA: Harvard University Press, 1991), 54-57.

6 Brent Waters, *Reproductive Technology: Toward a Theology of Procreative Stewardship* (Cleveland, OH: Pilgrim Press, 2001).

7 Nancy Cott, *Public Vows* (Cambridge, MA: Harvard University Press, 2000), 226.

8 The new research on how the honor-shame codes of the Greco-Roman world influenced early Christianity is nicely summarized by Carolyn Osiek and David Balch, *Families in the New Testament World: Households and House Churches* (Louisville, KY: Westminster John Knox, 1997), 93, 95, and 97.

9 John Witte, Jr., "The Goods and Goals of Marriage," *Marriage, Health, and the Professions*, ed. by John Wall, Don Browning, William Doherty, and Stephen Post (Grand Rapids, MI: Wm. B. Eerdmans, 2002), 51-52.

10 John Witte, Jr., *From Sacrament to Contract* (Louisville, KY: Westminster John Knox, 1997), 2.

11 Richard Rubenstein, *Aristotle's Children: How Christians, Muslims, and Jews Rediscovered Ancient Wisdom and Illuminated the Dark Ages* (New York, NY: Harcourt, Inc., 2003).

12 Thomas Aquinas, *Summa Theologica* (New York, NY: Benziger Brothers, 1947), Supplement to the Third Part, Q 42, A 2, sed contra and ad 4.

13 Ibid., Supplement, Q 41, A 1.

14 Ibid., Supplement, Q 41, A 1. Aquinas uses the phrase "marital debt" in Supplement, Q 58, A 1. Aquinas' four conditions almost perfectly parallel those discussed in the literature of evolutionary psychology as having led humans, in contrast to most other mammals, to form families and long-term attachments between fathers and mothers for the care of their infants and children. See Don Browning, et al., *From Culture Wars to Common Ground: Religion and the American Family Debate* (Louisville, KY: Westminster John Knox, 1997, 2000), 111-113; and Don Browning, *Marriage and Modernization: How Globalization Threatens Marriage and What to Do about It* (Grand Rapids, MI: Wm. B. Eerdmans, 2003), 109-111. For an excellent summary of the evolutionary-psychological naturalistic explanation for the emergence of marriage and long-term families at the human level, see Martin Daly and Margo Wilson, "The Evolutionary Psychology of Marriage and Divorce," *The Ties that Bind*, edited by Linda Waite (New York, NY: Aldine de Gruyter, 2000), 91-110.

15 Aquinas, *Summa Contra Gentiles* (New York, NY: Benziger Brothers, 1924), Book 3b, chapter 124.

16 Aristotle, *Politics*, Book I, chapter 2 (1252a29-31), in *The Basic Works of Aristotle* (New York, NY: Random House, 1941), 1128. Aristotle developed his views on the importance of kin altruism in his critique of Plato's thought experiment in the *Republic*. Plato had argued that the divisiveness caused by nepotism and tribalism could be suppressed if men had offspring with women who were held in common. Their offspring would then be raised by state nurses so that parents and children would not know one another or develop divisive attachments. Aristotle, however, believed that Plato's experiment would undermine parental attachment to their children, making parental love thin and "watery." Furthermore, he believed it would unleash violence because the inhibiting factor of consanguinity, or being of the same blood, would be removed. Aristotle's rejoinder is in *Politics*, Book II, chapter 4.

17 Aquinas, *Summa Theologica*, II-II, Q 10, A 12. Aquinas deployed these insights to enrich Augustine's theological argument in "The Good of Marriage."

18 See, for example, Mary Midgley, *Beast and Man: The Roots of Human Nature*, revised edition (New York, NY: Routledge, 1995); Jean Porter, *Natural and Divine Law: Reclaiming the Tradition for Christian Ethics* (Grand Rapids, MI: Wm. B. Eerdmans, 1999); Stephen J.

Pope, *The Evolution of Altruism and the Ordering of Love* (Washington, DC: Georgetown University Press, 1994); Larry Arnhart, *Darwinian Natural Right: The Biological Ethics of Human Nature* (Albany, NY: State University of New York Press, 1998); and Lisa Sowle Cahill, *Sex, Gender and Christian Ethics* (Cambridge, UK: Cambridge University Press, 1996).

19 Midgley, *Beast and Man*, 81.

20 Brian Gerrish, *Grace and Reason* (Oxford, UK: Oxford University Press, 1962), 8-9.

21 Witte, *From Sacrament to Contract*, 49.

22 Philip Reynolds, *Marriage in the Western Church: The Christianization of Marriage During the Patristic and Early Medieval Periods* (Leiden, Netherlands: Brill Academic Publishers, 2001), xxvi-xxvii.

23 Martin Luther, "The Estate of Marriage," *Luther's Works*, volume 45 (Philadelphia, PA: Muhlenberg Press, 1959), 18.

24 Luther, "The Judgment of Martin Luther on Monastic Vows," *Luther's Works*, volume 44 (Philadelphia, PA: Fortress Press, 1966), 263.

25 Luther, "The Estate of Marriage," 18.

26 Luther's secondary language can sound almost like the present-day health language of Linda Waite and Maggie Gallagher in *Case for Marriage* (New York, NY: Doubleday, 2000) or the economic language of Nobel Prize-winning economist Gary Becker in *Treatise on the Family* (Cambridge, MA: Harvard University Press, 1991).

27 Quotations from Luther, "The Estate of Marriage," 44 and 46.

28 On how this double language works in the theological and legal writings of John Calvin, see John Witte, Jr., and Robert Kingdon, *Sex, Marriage, and Family Life in Calvin's Geneva* (Grand Rapids, MI: Wm. B. Eerdmans, 2005).

29 The best summary of the data on this point is in Sara McLanahan and Gary Sandefur, *Growing up with a Single Parent* (Cambridge, MA: Harvard University Press, 1994). A recent study of nearly a million children in Sweden shows that children raised in single-parent homes were more than twice as likely as those raised in two-parent homes to suffer from psychiatric disorders, attempt suicide, and develop alcohol addiction. See G. R. Weitoft, A. Hjern, B. Haglund, and M. Rosén, "Mortality, severe morbidity, and injury in children living with single parents in Sweden," *The Lancet*, volume 361, issue 9354 (January 25, 2003), 289-295.

30 See Don Browning, "Adoption and the Moral Significance of Kin Altruism," *The Morality of Adoption*, edited by Timothy Jackson (Grand Rapids, MI: Wm. B. Eerdmans, 2005).

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