



## Review Article

# A Comparative Study of Criminal Law (Amendment) and Its Impact on the Indian Judicial Legal System

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Abstract	Manuscript Information
<p>This paper presents a comparative study of the new criminal laws enacted in India and their impact on the Indian judicial legal system. In response to evolving societal challenges, such as rising rates of sexual violence and cybercrime, India has introduced significant legislative reforms, including the Criminal Law (Amendment) Act, of 2013, and the Information Technology (Amendment) Act, of 2008. This study examines how these new laws align with international standards and human rights norms, focusing on their implications for judicial efficiency, accessibility to justice, and the protection of vulnerable groups. While the reforms aim to modernize the criminal justice system and enhance protection for marginalized communities, implementation gaps, public awareness, and judicial backlog persist. The findings underscore the need for continuous evaluation and reform to ensure the effectiveness of these laws in promoting justice. Recommendations for improved training, public education, and resource allocation are provided to support the successful integration of new criminal laws into the Indian legal framework. Ultimately, this study contributes to the ongoing discourse on enhancing the efficacy of the Indian judicial system in the context of contemporary legal challenges.</p>	<ul style="list-style-type: none"> <li>▪ <b>ISSN No:</b> 2583-7397</li> <li>▪ <b>Received:</b> 19-08-2024</li> <li>▪ <b>Accepted:</b> 26-09-2024</li> <li>▪ <b>Published:</b> 25-11-2024</li> <li>▪ <b>IJCRM:</b>3(6); 2024: 86-92</li> <li>▪ <b>©2024, All Rights Reserved</b></li> <li>▪ <b>Plagiarism Checked:</b> Yes</li> <li>▪ <b>Peer Review Process:</b> Yes</li> </ul> <p><b>How to Cite this Manuscript</b></p> <p>Raju Kumar Bhagat, Chitranjan Kispotta. A Comparative Study of Criminal Law (Amendment) and Its Impact on the Indian Judicial Legal System. International Journal of Contemporary Research in Multidisciplinary.2024; 3(6):86-92.</p>

**KEYWORDS:** Criminal Justice System, Amendment, Criminal Law, Colonial-Era

## INTRODUCTION

The Indian criminal justice system, rooted in colonial-era laws, has undergone substantial changes in recent years to address the complexities of modern society. As India grapples with emerging threats such as cybercrime, terrorism, and increasing incidents of sexual violence, the need for reform in the criminal legal framework has become imperative. In response, several new laws and amendments have been enacted, most notably the Criminal Law (Amendment) Act, of 2013, and the Information Technology (Amendment) Act, of 2008. These legislative changes aim to enhance the protection of vulnerable groups, ensure accountability, and align Indian laws with international

human rights standards. This study seeks to provide a comparative analysis of these new criminal laws, focusing on their implications for the Indian judicial legal system. By examining the goals, provisions, and challenges associated with these laws, the study highlights their impact on judicial efficiency, accessibility to justice, and the overall protection of rights within the legal framework. Moreover, while these reforms represent a significant step towards modernizing the criminal justice system, challenges such as implementation gaps, lack of public awareness, and the persistent backlog of cases must be addressed to realize their full potential. This introduction sets the stage for a deeper exploration of the interplay between new

criminal laws and the judicial system in India, ultimately aiming to identify pathways for improvement and effective implementation. Through this analysis, the study contributes to the broader discourse on legal reform in India, emphasizing the need for a responsive and adaptable judicial system capable of meeting contemporary challenges while upholding the principles of justice and fairness.

### Historical Perspective

The evolution of criminal law in India is deeply rooted in its colonial past, primarily shaped by the Indian Penal Code (IPC) of 1860, drafted by the British colonial administration. The IPC was intended to establish a uniform legal framework for the administration of justice, but it largely reflected the socio-political realities of the time. While the IPC laid the groundwork for the Indian legal system, it has since faced criticism for being outdated and not adequately addressing contemporary societal issues. Following independence in 1947, India's legal framework continued to evolve. The Criminal Procedure Code (Cr. PC) of 1973 and the Indian Evidence Act of 1872 were introduced to provide procedural guidelines and rules of evidence. However, as India rapidly modernized and faced new challenges, such as globalization and technological advancements, the existing laws began to reveal significant gaps. The late 20th and early 21st centuries marked a pivotal period for legal reform in India. The rise in crimes against women, particularly highlighted by high-profile cases such as the 2012 Nirbhaya gang rape, catalyzed urgent calls for legislative change. In response, the Criminal Law (Amendment) Act, 2013, was enacted, introducing stricter penalties for sexual offenses and expanding the definitions of crimes to protect women and children better. This act aimed to shift societal attitudes and create a safer environment for marginalized groups.

Simultaneously, the proliferation of technology and the internet led to the emergence of cybercrime as a pressing concern. The Information Technology (Amendment) Act, of 2008, sought to address these challenges by establishing a legal framework for dealing with cyber offenses, thereby acknowledging the need for laws that reflect the realities of the digital age.

The historical context of these legal reforms is critical for understanding the motivations behind the new criminal laws and their intended impact on the Indian judicial system. As society continues to evolve, the legal framework must adapt to address both longstanding issues and new challenges, necessitating ongoing dialogue and reform within the Indian judicial landscape. This study aims to explore the implications of these changes and assess how effectively the new laws integrate into and transform the existing judicial system.

### Overview of New Criminal Laws:

In recent years, India has enacted several significant reforms in its criminal law to address emerging societal challenges and align with international standards. This section provides an overview of key new criminal laws and amendments, highlighting their objectives, main provisions, and intended impacts.

### 1. The Criminal Law (Amendment) Act, 2013

The Criminal Law (Amendment) Act, 2013, was enacted in response to widespread public outrage over increasing incidents of sexual violence, particularly following the brutal gang rape of a young woman in Delhi in December 2012. This amendment aimed to enhance the legal framework governing sexual offenses and to provide better protection for women and marginalized groups in India.

#### Key Provisions:

**Enhanced Penalties:** The Act introduced harsher penalties for sexual offenses, including the death penalty for aggravated forms of rape. This marked a significant shift in the legal approach to dealing with serious sexual crimes.

**Expanded Definitions of Offenses:** The definition of "rape" was broadened to include new forms of sexual violence, such as:

**Sexual assault:** Encompasses a range of non-consensual sexual acts.

**Stalking:** Defined as following or contacting a woman repeatedly with the intent to harass her.

**Voyeurism:** Criminalized the act of watching a woman without her consent in a private setting.

**Fast-Track Courts:** The Act provided for the establishment of fast-track courts to expedite the trial process for sexual offenses, ensuring that cases are heard and resolved more swiftly.

**Victim Protection Measures:** Provisions were made for the protection of victims and witnesses to prevent intimidation and ensure their safety during the trial process.

**Amendments to Existing Laws:** The Act made amendments to several existing laws, including the Indian Penal Code (IPC), the Criminal Procedure Code (CrPC), and the Evidence Act, to align them with the new definitions and procedures.

**Greater Focus on Reporting and Investigation:** The amendment emphasized the importance of immediate reporting of sexual offenses and mandated police to register FIRs (First Information Reports) without delay, ensuring that victims receive prompt attention.

#### Impact:

The Criminal Law (Amendment) Act, 2013, has had significant implications for the Indian legal system:

**Increased Awareness:** It raised public awareness about sexual violence and the legal recourse available to victims, encouraging more individuals to come forward and report crimes.

**Judicial Reforms:** The establishment of fast-track courts aimed to improve the efficiency of the judicial process in handling sexual offense cases, although challenges remain regarding case backlogs.

**Societal Change:** The amendment has contributed to a broader societal discourse around gender-based violence, challenging

traditional norms and encouraging discussions about women's rights.

### Criticisms and Challenges:

Despite its progressive intentions, the Act has faced criticisms:

**Implementation Issues:** There are concerns regarding the effective implementation of the law, particularly in rural areas where awareness and resources may be limited.

**Judicial Backlogs:** The influx of cases following the amendment has led to challenges in judicial efficiency, with many cases still experiencing significant delays.

**Potential for Misuse:** Critics have raised concerns about the potential misuse of the law, leading to false accusations and societal stigma for the accused.

## 2. The Information Technology (Amendment) Act, 2008

The Information Technology (Amendment) Act, of 2008, was a landmark piece of legislation aimed at addressing the growing concerns surrounding cybercrime and the need for a robust legal framework to regulate electronic transactions in India. It amended the original Information Technology Act of 2000, reflecting the evolving landscape of technology and the internet.

### Key Provisions:

**Definition of Cyber Crimes:** The amendment introduced clear definitions of various cyber offenses, including hacking, identity theft, cyber terrorism, and data breaches. This was crucial for establishing legal accountability for actions taken in the digital realm.

**Increased Penalties:** The Act prescribed stringent penalties for cyber offenses. For example, the punishment for hacking was increased, and provisions were made for harsher penalties for offenses that threaten national security or public order.

**Data Protection:** The amendment emphasized the need for data protection, mandating that organizations take necessary measures to secure sensitive personal information. It introduced penalties for non-compliance with data protection norms.

**Regulation of Intermediaries:** Provisions were made for the liability of intermediaries (such as ISPs and social media platforms) for user-generated content. Intermediaries must act promptly to remove or disable access to illegal content upon receiving actual knowledge of it.

**Cyber Appellate Tribunal:** The Act established a Cyber Appellate Tribunal to address disputes arising under the IT Act. This tribunal is responsible for adjudicating matters related to cyber offenses and appeals against decisions made by adjudicating officers.

**Regulation of Electronic Contracts:** The amendment clarified the legal standing of electronic contracts and transactions, ensuring they are recognized as valid under Indian law. This facilitates e-commerce and online transactions.

**Security Measures:** The Act mandated the creation of guidelines for data protection and security practices to safeguard sensitive information from breaches.

### Impact:

The Information Technology (Amendment) Act, of 2008, has had significant implications for various sectors:

**Enhanced Legal Framework:** It provided a comprehensive legal framework for addressing cybercrimes, enabling law enforcement agencies to investigate and prosecute offenses more effectively.

**Boost to E-Commerce:** By validating electronic contracts and transactions, the Act encouraged the growth of e-commerce in India, fostering trust among consumers and businesses.

**Increased Awareness:** The Act has heightened awareness about cyber security and the importance of protecting personal data, prompting organizations to adopt better security practices.

### Criticisms and Challenges:

Despite its advancements, the Act has faced several criticisms:

- **Implementation Gaps:** There are concerns regarding the effective implementation of the Act, particularly in training law enforcement agencies to handle cybercrime cases efficiently.
- **Privacy Concerns:** Critics have raised alarms over potential misuse of data collected under the guise of cyber security, leading to privacy violations.
- **Complexity and Clarity:** The definitions and provisions of the Act can sometimes be vague, leading to challenges in interpretation and enforcement

## 3. The Juvenile Justice (Care and Protection of Children) Act, 2015

The Juvenile Justice (Care and Protection of Children) Act, 2015, is a crucial piece of legislation in India that aims to address the needs of children in conflict with the law, as well as those in need of care and protection. This Act replaces the previous Juvenile Justice (Care and Protection of Children) Act of 2000 and reflects a more progressive and rehabilitative approach to juvenile justice, in line with international standards and conventions, such as the United Nations Convention on the Rights of the Child.

### Key Provisions:

**Definition of a Child:** The Act defines a "child" as a person who has not completed the age of 18 years, aligning with global standards.

### Classification of Offenses:

- The Act categorizes offenses committed by juveniles into two broad categories:
  - **Petty Offenses:** Less serious crimes that are dealt with through rehabilitation measures.
  - **Serious Offenses:** More serious crimes that may lead to a trial in adult courts under certain circumstances.

**Rehabilitation and Social Reintegration:** Emphasizing rehabilitation, the Act focuses on providing education, vocational training, and counselling to juvenile offenders rather than punitive measures. This aims to facilitate their reintegration into society.

**Age of Juvenility:** The Act allows juveniles aged 16 to 18 years to be tried as adults for heinous offenses, such as murder or gang rape, in a separate system designed for adults, based on the severity of the crime. This provision has been controversial and debated in terms of its implications for juvenile rights.

**Child Welfare Committees:** The Act mandates the establishment of Child Welfare Committees to oversee cases involving children in need of care and protection. These committees are responsible for ensuring the welfare and rights of such children.

**Special Juvenile Police Units:** The Act calls for the creation of Special Juvenile Police Units to handle cases involving juveniles, ensuring sensitivity and specialized training for law enforcement officers.

**Procedural Safeguards:** The Act outlines procedural safeguards to ensure the protection of the rights of children during legal proceedings. This includes the right to legal representation and the prohibition of the death penalty and life imprisonment for juveniles.

**Child Care Institutions:** It establishes standards for childcare institutions and mandates regular inspections to ensure the well-being of children placed in such facilities.

#### **Impact:**

The Juvenile Justice (Care and Protection of Children) Act, of 2015, has had significant implications for the treatment of juveniles in India:

**Shift in Focus:** The Act marks a shift from a punitive approach to a rehabilitative one, emphasizing the potential for reform and reintegration of juvenile offenders.

**Legal Framework for Child Rights:** It strengthens the legal framework for protecting the rights of children, ensuring that their needs are addressed in a manner that respects their dignity and potential.

**Increased Awareness:** The Act has contributed to greater awareness of issues related to juvenile justice and child protection, influencing public policy and societal attitudes.

**Criticisms and Challenges:** Despite its positive intentions, the Act has faced criticisms:

**Controversial Provisions:** The provision allowing for the trial of juveniles as adults for serious offenses has sparked debates

about the effectiveness of such measures and their impact on juvenile rights.

**Implementation Issues:** There are concerns regarding the effective implementation of the Act, particularly in terms of training law enforcement, judges, and social workers to handle cases sensitively.

**Resource Constraints:** The lack of adequate resources and infrastructure for rehabilitation programs and childcare institutions can hinder the successful application of the Act.

#### **4. The Prevention of Money Laundering Act, 2002 (Amendments)**

The Prevention of Money Laundering Act (PMLA), 2002, is a significant legislative framework in India aimed at combating money laundering and the financing of terrorism. Over the years, the Act has undergone several amendments to strengthen its provisions and enhance its effectiveness in addressing evolving financial crimes.

##### **Key Amendments and Provisions**

**Definition of Money Laundering:** The amendments have refined the definition of money laundering, making it clearer and more comprehensive. Money laundering is defined as any process or activity that attempts to conceal or disguise the origins of illegally obtained property.

**Expansion of the Scope:** The amendments expanded the scope of the Act to include not just direct proceeds of crime but also properties derived from the proceeds of crime, thereby closing loopholes and making it more difficult for offenders to launder money.

**Stronger Enforcement Mechanisms:** The amendments have enhanced the powers of the Enforcement Directorate (ED), which is the primary agency responsible for enforcing the PMLA. This includes powers for the attachment and confiscation of property linked to money laundering.

**Reporting Requirements:** Financial institutions and intermediaries are required to report suspicious transactions and maintain records of financial transactions for a specified duration. This has increased the accountability of entities that handle significant amounts of money.

**Provisions for Provisional Attachment:** The amendments introduced provisions allowing for the provisional attachment of property involved in money laundering, enabling authorities to prevent the disposal of assets before a formal investigation.

**Increased Penalties:** The amendments have increased penalties for various offenses under the PMLA, including harsher punishments for repeat offenders and for those found guilty of facilitating money laundering activities.

**Regulation of Financial Institutions:** The amendments have strengthened the regulatory framework for financial institutions to ensure that adequate measures are in place to prevent money laundering activities. This includes Know Your Customer (KYC) norms and anti-money laundering (AML) compliance.

**International Cooperation:** The Act has provisions that facilitate international cooperation in combating money laundering, including mutual legal assistance and the sharing of information with other countries.

**Trial Procedures:** The amendments have streamlined trial procedures under the PMLA, ensuring that cases are adjudicated more swiftly. Special courts have been established to handle PMLA cases, expediting the judicial process.

### Impact

The amendments to the PMLA have had a significant impact on India's ability to combat money laundering:

**Enhanced Enforcement:** The strengthened powers of enforcement agencies have led to increased investigations and prosecutions of money laundering cases.

**Improved Compliance:** Financial institutions have become more vigilant in their compliance with KYC and AML regulations, contributing to a more robust financial system.

**Greater Awareness:** The amendments have raised awareness about money laundering and its implications, encouraging both public and private sectors to adopt measures to prevent such activities.

### Criticisms and Challenges

Despite the positive changes, the PMLA and its amendments have faced criticisms:

**Concerns over Misuse:** There are apprehensions regarding the potential misuse of the Act by authorities, including arbitrary arrests and wrongful detentions.

**Complexity and Ambiguity:** Some provisions of the PMLA can be complex and ambiguous, leading to challenges in interpretation and enforcement.

**Resource Constraints:** Enforcement agencies may face resource constraints that hinder their ability to effectively investigate and prosecute money laundering cases.

### Comparative Analysis:

The introduction of new criminal laws in India has sparked discussions regarding their alignment with international standards, their effectiveness in addressing societal issues, and their overall impact on the judicial system. This comparative analysis examines the new criminal laws—primarily the Criminal Law (Amendment) Act, 2013; the Information Technology (Amendment) Act, 2008; the Juvenile Justice (Care and Protection of Children) Act, 2015; and the Prevention of Money Laundering Act, 2002 (amended)—in relation to the existing legal framework, their implications for justice delivery, and their influence on the Indian judicial system.

## 1. Alignment with International Standards

**Human Rights and Gender Justice:** The amendments introduced by the Criminal Law (Amendment) Act, 2013, align closely with international conventions such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). By expanding the definitions of sexual offenses and imposing stricter penalties, these laws reflect a commitment to gender justice and human rights.

**Cybercrime Regulations:** The Information Technology (Amendment) Act, 2008, aims to align India's cyber laws with global standards, particularly those established by the Budapest Convention on Cybercrime. This alignment is essential for effective international cooperation in combating cybercrime, which often transcends national borders.

## 2. Judicial Efficiency and Case Backlogs

**Impact on Court Processes:** The introduction of new laws has resulted in an influx of cases, particularly related to sexual offenses and cybercrime. While the establishment of fast-track courts aims to expedite justice, the judicial system faces challenges in managing increased workloads. This has led to concerns about prolonged trial durations and existing backlogs.

**Resource Allocation:** Effective implementation of these laws necessitates adequate resources, including trained personnel and infrastructure. Currently, many courts struggle with limited resources, which is impacting their ability to process cases efficiently.

## 3. Accessibility of Justice

**Victim Support and Reporting Mechanisms:** New laws, especially those related to sexual offenses, aim to encourage reporting by providing clearer definitions and stronger legal protections for victims. However, accessibility remains an issue, particularly in rural areas where awareness of legal rights and resources is limited.

**Legal Aid Initiatives:** While provisions exist for legal aid, the practical implementation often falls short. Increased public awareness and education about rights under the new laws are essential to ensure that vulnerable populations can effectively access justice.

## 4. Protection of Vulnerable Groups

**Focus on Women and Children:** The Criminal Law (Amendment) Act and the Juvenile Justice Act prioritize the protection of women and children, reflecting a shift towards a more inclusive legal framework. However, implementation challenges persist, with instances of victim-blaming and stigma potentially deterring individuals from seeking justice.

**Rehabilitation vs. Punishment:** The Juvenile Justice Act's emphasis on rehabilitation rather than punishment represents a progressive approach. However, there is a need for adequate resources and programs to support the rehabilitation process effectively.

## 5. Challenges and Criticisms

**Implementation Gaps:** A significant gap exists between legislative intent and practical implementation. Law enforcement agencies often lack the training and resources necessary to enforce new laws effectively.

**Potential for Misuse:** While new laws aim to protect individuals, there are concerns regarding the potential for misuse. Stricter laws can lead to false accusations and wrongful convictions if adequate safeguards are not in place.

**Judicial Backlogs:** The increased number of cases related to new offenses contributes to existing judicial backlogs, delaying justice for victims and accused alike.

The implementation of new criminal laws in India, while aimed at modernizing the legal framework and addressing pressing societal issues, faces several challenges and criticisms. This section explores the key obstacles that hinder the effective realization of these laws and highlights various criticisms that have emerged in response to their introduction.

### 1. Implementation Gaps

**Lack of Training and Resources:** Law enforcement and judicial officers often lack the necessary training and resources to effectively enforce new laws. This results in inconsistent application and delays in the judicial process, undermining the intended goals of the legislation.

**Inadequate Infrastructure:** The existing judicial infrastructure is often insufficient to handle the increased caseload resulting from new offenses, particularly those related to sexual violence and cybercrime. This inadequacy contributes to prolonged trials and justice delays.

### 2. Public Awareness and Accessibility

**Limited Awareness of Rights:** Many individuals, particularly in rural areas, are unaware of their rights under new laws. This lack of awareness can deter victims from reporting crimes or seeking justice, perpetuating cycles of violence and impunity.

**Barriers to Accessing Legal Aid:** While legal aid provisions exist, they are often poorly implemented. Many potential beneficiaries lack knowledge of available resources, and the quality of legal aid can vary significantly, affecting the overall accessibility of justice.

### 3. Judicial Backlogs and Delays

**Increased Caseloads:** The introduction of new laws has led to a surge in cases, exacerbating the existing backlog in courts. This situation results in delays in hearings and verdicts, further frustrating victims and accused individuals alike.

**Prolonged Trials:** Delays in the judicial process can lead to a denial of timely justice, impacting the credibility of the legal system. Prolonged trials can also result in the deterioration of evidence and witness testimonies.

### 4. Potential for Misuse

**False Accusations:** Stricter laws, particularly those addressing sexual offenses, can lead to concerns about false accusations.

The fear of misuse may deter individuals from reporting legitimate cases or pursuing legal action.

**Selective Enforcement:** There are instances where new laws may be selectively enforced based on social, economic, or political factors, undermining the principle of equality before the law.

## 5. Cultural and Societal Attitudes

**Victim Blaming and Stigma:** Societal attitudes towards victims of sexual violence often perpetuate stigma and blame, creating an environment where victims may feel discouraged from coming forward. Cultural norms can hinder the effectiveness of laws designed to protect vulnerable populations.

**Resistance to Change:** Efforts to reform traditional perceptions of crime, particularly concerning women and children, can face resistance from conservative segments of society. This resistance can impede the successful implementation of new laws.

## 6. Lack of Inter-agency Coordination

**Fragmented Responses:** The effectiveness of new laws often relies on collaboration among various government agencies, including law enforcement, legal aid, and social services. A lack of coordination can lead to fragmented responses to crime and justice, reducing the overall impact of the legal framework.

## 7. Evaluation and Monitoring

**Insufficient Monitoring Mechanisms:** There is a need for robust monitoring and evaluation mechanisms to assess the impact of new laws. Without systematic evaluations, it is challenging to identify areas for improvement or to measure the laws' effectiveness in achieving their intended goals.

## CONCLUSION

The introduction of these new criminal laws reflects India's commitment to modernizing its legal framework and addressing contemporary issues such as violence against women, cybercrime, juvenile justice, and financial integrity. Each law serves a specific purpose and aims to enhance the protection of individuals, promote justice, and improve the overall effectiveness of the criminal justice system. However, the successful implementation of these laws will depend on adequate resources, training, and public awareness to ensure they fulfill their intended objectives.

The new criminal laws in India represent a crucial step towards modernizing the judicial legal system and addressing contemporary challenges. While these laws align with international standards and aim to enhance justice for vulnerable populations, their effectiveness largely depends on proper implementation, public awareness, and judicial efficiency. Continuous evaluation and reform will be essential to ensure that the Indian criminal justice system not only protects citizens but also upholds the principles of fairness and justice. The journey towards an equitable legal framework is ongoing, requiring collaboration between the government, judiciary, and society at large. The comparative analysis of new criminal laws in India reveals both significant advancements and ongoing challenges.

While these laws demonstrate a commitment to modernizing the legal framework and enhancing the protection of vulnerable groups, effective implementation remains crucial for their success. Addressing issues such as resource allocation, public awareness, and judicial efficiency will be essential to fully realize the potential benefits of these reforms. Ultimately, the effectiveness of new criminal laws hinges not only on their provisions but also on the broader commitment to justice, equity, and human rights within the Indian judicial system. Continuous evaluation and adaptive reform are necessary to ensure that the legal framework remains responsive to societal needs and challenges. While the new criminal laws introduced in India represent significant progress towards addressing contemporary issues within the legal framework, several challenges and criticisms persist. Addressing these obstacles is essential for ensuring that these laws fulfill their intended purpose of enhancing justice and protecting vulnerable populations. Continuous reform efforts, improved training, public awareness initiatives, and effective resource allocation will be crucial to overcoming these challenges and fostering a more equitable and responsive judicial system.

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