

POLICY AND STRATEGY

Silencing the critics: charities, lobbyists, and the government's quiet war on dissent

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For six years the Conservatives have been waging a covert war against institutions and organisations capable of holding the government to account, masked by rhetoric lauding their efforts to restrain lobbyists. In the process, they are undermining the very basis for social democratic politics. Charities, as well as academics and trade unions, need to be able to undertake lobbying and campaigning activities, and wealthy organisations must not be permitted to dominate the process of political decision-making.

‘Lobbying in this country is getting out of control. Today it is a £2b industry that has a huge presence in Parliament. The Hansard Society has estimated that some MPs are approached over one hundred times a week by lobbyists ... We can't go on like this.’

David Cameron, 2010

It is almost ten years since the publication of my report *Friend or Foe: Lobbying in British Democracy*, and six years since David Cameron used its findings as a basis for his 2010 speech on lobbying.¹ The speech, delivered at the University of East London two months before the general election, was a major part of the Conservatives' campaign. In it, Cameron pledged to tackle those sources of corruption, secrecy, and unfairness which caused citizens to become cynical about the British democratic system. The speech, and the campaign of which it was a part, captured the political *zeitgeist* of that time. After the MPs expenses scandal, public confidence in politics and politicians had reached a new low. Rates of political participation plummeted, faith in politics declined, and the disconnection between the people and their elected representatives arguably became wider than it had ever been.²

Cameron's speech conveyed a simple message that proved popular with a public only too willing to believe the worst about British politics, a message that has been strengthened over the course of decades by the vast majority of the British media, and which profoundly shaped the decision by so many in Britain to vote to leave the EU in the recent referendum.³ Labour, he said, had allowed the British political system to become too elitist. Power that rightfully belonged to the British people had been moved *upwards* to the EU and other supranational institutions, and *downwards* to local and regional quangos all of which operated beyond the conventional checks and balances our system has established in order to ensure transparency and accountability. Meanwhile, in the middle between the local and supranational, central institutions had become diminished in power and authority, and also secretive and insular. The further democratic institutions (and the people who worked in them) had retreated from the people, the easier it had become for MPs to falsify their expenses, for corporate lobbyists to strike deals with elected politicians, and for decisions to be made behind closed doors. What political power remained at the centre had become concentrated among a cosy clique of politicians and powerful vested interests.

Cameron's diagnosis of the problem in 2010 struck a chord, as did his solution, which comprised two principal elements: a form of localism which gave power to local people rather than to local or regional quangos which claimed to speak on their behalf, and new laws aimed at increasing transparency and fairness at the level of national policy making.⁴ A vote for the Conservatives, he suggested, was a vote to end the 'secret corporate lobbying' that had 'tainted our democracy for too long'. They would wrest power from big business in order to end their unfair dominance of the democratic system and give power back to the British people.

But they haven't. In fact, they have deliberately and methodically strengthened the power of large corporations to influence elected politicians at the expense of smaller

organisations, and have diminished our democracy as a result. Under the pretence of addressing citizens' concerns about lobbying, the government has in fact been waging a quiet and continuing war against those institutions and organisations capable of holding the government to account. Since they took office in 2010, the Conservatives have sought to restructure the institutions of British democracy in order to remove sources of dissent and to ensure their electoral dominance not just in the short term but for generations to come. And they have done so while claiming that their actions are intended to remove the undue influence of big business, equalise access to politicians, and put people, not business, at the heart of the democratic system. Furthermore, they have gone about this in a way that directly seeks to undermine the development of a leftist political movement at its root. Just as they have deliberately and methodically strengthened the power of large organisations relative to smaller ones, they have also deliberately weakened, or removed entirely, those civic, social, and other institutions which have traditionally mobilised social democratic activism and consciousness, while leaving intact those other organisations and institutions which have traditionally supported conservatism and markets. To see how and why this is the case, and to grasp the scale of the problem facing the left in Britain today, let us consider in some detail the recent steps that the government has taken to address widespread concerns about vested interests, first, in new rules governing the public funding of charities, and second, in the regulation of political lobbying more generally.

Charities and the government's fake war on lobbyists.

In February 2016, the government announced that it would be changing the rules governing the allocation of public funding to charities and what charities in receipt of public grants could spend their money on. These new rules state that any funding agreement between the government and the organisation in question will, from May, stipulate that no part of that public funding can be used to 'support activity intended to influence . . . Parliament, Government or political parties . . . [or] to influence legislative or regulatory action'.⁵ The policy is grounded in research published in 2012 by the Institute for Economic Affairs, which raised concerns about the amount of public money that was being used to lobby for niche interests, many of which do not enjoy widespread public support.⁶

The proposals have thus far caused widespread concern among academics, in particular about the stifling effects that they are likely to have on public debate and the use of certain forms of expertise in policy making. Scientists, for example, have expressed concern that the new rules effectively prohibit them from communicating their research to government, dramatically reducing the quality of public debate in a

wide range of areas including embryo research, climate change, and public health.⁷ And social and political scientists in receipt of public grants who uncover evidence that government policy may perhaps be misguided may now be prohibited from discussing this fact, or communicating their findings to government, for fear of violating the new 'anti-lobbying' rules. The Cabinet Office has promised to review the policy with regard to scientists and other academics. But it has not pledged to review the policy with regard to charities.

The funding of voluntary organisations and charities consumes a significant proportion of Britain's annual budget. Last year, for example, the government distributed in excess of £10b to voluntary sector organisations, including some of the UK's largest charities which, in recent years, have taken on greater responsibility for the delivery of, as well as advocacy for, essential services for some of the most vulnerable men, women, and children in the UK and abroad. Also included is money given to smaller charities intended to help them achieve their charitable ends and represent their constituent members.⁸ According to IEA figures, in 2012, 27,000 charities of varying sizes were dependent on the government for 75% of their total income.⁹ Many of these organisations, both large and small, use this money to support campaigning activities aimed at seeking policy change.

The government thinks this is a problem, although not for the same reasons as the IEA. Indeed, the government's proposals appear to entrench one of the IEA's central concerns about the practice, which was that publicly funded charities become an extension of government. The IEA's chief concern is that charities that are dependent on government funding for their survival have an incentive to support, rather than criticise, the government; an incentive to not bite the hand that feeds. The government's concern, on the other hand, seems to be that too much money is being given to groups who then use that money to *criticise* government policy. For after all, lobbying and campaigning both seek *change*. Both seek to use creative means to change the government's mind, not to support the decisions it has already made. Hence, when former Cabinet Minister Matthew Hancock stated in support of the new rules that '[t]axpayers' money must be spent on improving people's lives and spreading opportunities, not wasted on the farce of government lobbying government,' he meant that public money should not be used in the practice of publicly criticizing the government, exposing weaknesses in its policy agenda, and campaigning for alternative courses of action.¹⁰ The government believes that charities should remain apolitical. They should not be using public money to employ lobbyists, policy advisers, and such like to criticise the government. They should be using it to help the people it claims to be concerned about. Charities should 'do good works' instead of lobbying for policy change.

But this distinction is false. Often, the most effective way in which charities can defend their members' interests, or improve the lives of those people with whom they are concerned, is to try to persuade the government to reform laws which harm those interests or those people. This is especially true of small charities, for whom the question of how to maximise the use of relatively meagre funds is of paramount, and increasing, importance. Small and medium-sized organisations (that is, those who have an annual income of less than £1m pounds) have seen disproportionately severe falls in income and assets relative to larger organisations since 2007, with recorded declines of around 38 per cent as a result of, among other things, the withdrawal of public grants. Small and medium-sized charities are thus under particular pressure to maximise the impact that their small, and dwindling, funds can achieve. The decision of how best to spend their money is thus complex and finely-balanced. How might a small charity like ASH (Action on Smoking and Health) most effectively spend its annual income of £800,000 in their fight against a global tobacco industry worth around £500b? How might a public health charity most effectively spend one million pounds in the fight against cancer? Would it be best to spend it on the refurbishment of a hospice? Or would it be better to commission a scientific study which provides evidence that a change in government policy would result in fewer deaths, and then organise a campaign that communicates this to government? Is it better for a homelessness charity to spend its money on food parcels or a campaign that secures more funding and opportunities for people living on the street? The answer will not always be the same. Sometimes it *will* be better to provide food parcels or better respite care. But often a charity's goals will be more effectively achieved through high profile political and media campaigning aimed at securing real, lasting, structural change. As Sir Stephen Bubb, chief executive of the Association of Chief Executives of Voluntary Organisations, recently put it, 'campaigning is the lifeblood of the great British charitable tradition. We work to alleviate the symptoms of disease and poverty *and to tackle the causes of such.*' Spending 'every penny on the front line of a charity leads to collapse. Money spent on . . . fundraising and campaigning is central to charities' survival'.¹¹ The government does not agree. On the contrary, it believes that public funding should only be available to those organisations which keep quiet, stay out of politics, and – most importantly of all – avoid criticizing it or engaging in practices which put it under any pressure to change its mind or admit it is wrong.

The government does not describe its position in this way, of course. It argues that the new measures are part of the wider commitment to addressing concerns among citizens about lobbying and the decline of democracy that David Cameron outlined in 2010. Indeed, these rules cannot be fully understood independently of the steps the government have already taken to rein in lobbyists. But in the 10 years since that

speech, what steps *has* the government taken, and what have been their effects on British democracy?

The Transparency of Lobbying, Non-Party Campaigning, and Trade Union Administration Act, 2014

The government's central response was to introduce the Transparency of Lobbying, Non-Party Campaigning, and Trade Union Administration Act in 2014. The Act sought to introduce a new regulatory framework for the lobbying industry which – up until 2014 – regulated itself through an internally created voluntary code of conduct policed by professional bodies such as the Association for Professional Political Consultants (APPC). The Act replaced self-regulation, brought in a compulsory register for lobbyists, and introduced new measures requiring lobbyists to record, and give details about, their meetings with government officials. The Act was heralded by the government as a significant step in the crackdown on the kind of lobbying by unelected organisations which David Cameron said in 2010 had got out of control and which had become a central cause for concern among the public.

The Act did little to address the public's concerns, however. The regulatory reforms it introduced were widely criticised for being incoherent, piecemeal and unfit for purpose. Graham Allen, the Chair of the Political and Constitutional Reform Committee at the time, described the proposals as 'unsatisfactory' and a 'dog's breakfast,' a view shared by many Conservatives and Liberal Democrats. Lobbyists themselves were also critical, but not for the reasons that the government expected. What angered them was not the fact that they could now no longer act with impunity, but that they were now forced to comply with a regulatory system that made no sense and which actually failed to afford their activities any greater legitimacy. Many public affairs professionals are not corrupt, but genuinely seeking social and political change in line with goals that they believe in. These people wanted greater transparency as much as anyone else, in order that their role in democracy could be clarified and supported.

They didn't get it, however. This, it soon became clear, was because the principal purpose of the Act was not in fact to increase the transparency of lobbying by imposing stricter rules on lobbying firms. It was to strip charities, interest groups and, in particular, trade unions of the power to criticise government policy. This becomes clearer once we understand what and who is, and is not, covered by the new legislation. Firstly, the Act requires that only a fraction of the activities of lobbyists need to be recorded: only meetings between lobbyists and ministers and permanent secretaries are regulated. Meetings between lobbyists and other govern-

ment officials including special advisers and civil servants more junior than permanent secretaries (i.e. almost all of them) are excluded. Secondly, the Act currently covers around one per cent of lobbyists. While it covers political consultants working on behalf of a variety of clients, it excludes in-house lobbyists who push for the interests of the organisations that they work for. So while consultants working on behalf of corporate and non-corporate clients are covered, in-house lobbyists working for Google, Microsoft, investment banks, law firms, tobacco and alcohol firms, pharmaceutical companies, and trade associations like the CBI are not, and while the funding, and the most effective campaigning activities available to trade unions, charities, and other smaller interest groups, are squeezed by the measures contained in the Act, the lobbying activities, and the funding, of big corporate organisations are not.

Under the pretence of addressing citizens' concerns about the unfairness of lobbying, therefore, the government actually imposed new legislation which *increased* the unfairness of the system and *increased* the disproportionate influence enjoyed by big businesses and wealthy organisations, by introducing measures aimed specifically at dramatically restricting the free speech of 'non-party groups' like interest groups and charitable organisations to communicate their concerns to the government, and imposing stringent new restrictions on the activities of these and other organisations like trade unions to campaign on behalf of their members. Government amendments to its initial proposals, introduced in the wake of an unprecedented backlash from charities and third sector organisations, still resulted in the slashing of permissible spending by non-party groups by half, and a raft of other measures aimed at reducing the ability of interest groups to 'influence the outcome of elections' by expressing their concerns and pointing out the flaws in government policy at a key moment when politicians might take notice: when they are campaigning for re-election.

The view expressed by some at the time – that the restrictions placed on charities and other small political organisations were an accidental or incidental cost associated with the bigger fight against corporate corruption among larger organisations – was therefore never compelling. However, it is even less so now in the light of the new measures concerning the public funding of charities that I mentioned earlier. The government's new rules on the public funding of charities further entrenches the political inequality that the Lobbying Act created, and embodies the same desire on the part of the government to suppress criticism from charities and third sector organisations, as well as (for the moment, at least) scientists, academic researchers, and others whose expertise leads them to question government policy. It also uses the same *strategy* adopted in the Lobbying Act: to introduce wide-ranging new restrictions on the activities of charities and interest groups without, at the same

time, similarly restricting the activities of corporate lobbyists in the private sector. The Lobbying Act not only failed to level the playing field with regard to access to decision makers, it introduced more severe imbalances. And now these new rules have made the situation even worse. The government has entrenched already-existing structural imbalances in the system, further squeezing marginal voices from the democratic process as a consequence. Under new rules and under this government, charities and smaller non-party organisations have fewer and fewer avenues available to them to represent their constituent members or to do the ‘good works’ that the government believes they should do.

Both the IEA and the government miss the point, therefore. The central issue is not whether charities should use government money to lobby, but rather, whether the government believes that it is important to support charities at all. If the government believes that it has a role in financially supporting charities in order to achieve their aims and to, in the words of Matthew Hancock, ‘improve lives’ and ‘spread opportunities’, then it needs to accept the fact that this will often be best achieved through lobbying and campaigning activities conducted in a wider context of political equality in which wealthy organisations are not permitted to dominate the process. The government needs to accept that a commitment to charitable causes means, in practice, allowing government money to be used to lobby for change. And it also requires a commitment to ensuring a genuinely level playing field which does not introduce structural obstacles in the way of small organisations in the way that it currently does. Lobbying is often effective, which is why so many organisations – big and small – believe it to be a good use of resources. It should not be an option open only to rich organisations with thousands or millions of members, or private corporations with vast resources at their disposal. Small organisations can punch above their weight in policy discussions if they are given the opportunity of speaking to politicians on equal terms with very large, formidably resourced organisations. But this requires government action aimed at securing equality of access and the formal recognition of the right of all organisations to get a fair hearing. In particular, it requires precisely the measures designed to rein in the unfair influence of businesses and wealthy organisations that the Lobbying Act was supposed to deliver but did not.

The real war on dissent

The new rules governing the use of public money by charities, considered in isolation, may seem wrongheaded but not especially sinister. Similarly, the entrenchment of unfairness caused by the Lobbying Act might, in isolation, seem like a mistake and not representative of anything more insidious. But if these

measures are viewed together in the wider context of other government initiatives, they can be seen to be part of an obvious and deeper strategy by the government to suppress dissent and restructure or remove those institutions capable of holding the government to account or facilitating the development of a coherent ideological alternative.

We can glimpse this strategy in many of the government's actions across many policy areas. Most obviously, of course, we can see it in its stance on Europe. Here, the government was split between support for Cameron's negotiated 'special status' for Britain, exempting it from many of the formal mechanisms of oversight that can constrain government action, and the outright rejection of any and all such mechanisms as an undemocratic infringement of national sovereignty. But we can see it, too, in its expressed desire to reform the House of Lords following its resistance to key government legislation including the Investigatory Powers Bill and the reform of Tax Credits. And we can also see it in the steps the government has taken to structurally weaken the Labour party and the social and organisational bases from which a more social democratic or egalitarian grassroots movement might develop. It has sought to weaken the Labour party in parliament, through a redrawing of constituency boundaries which will result in a reduction in Labour MPs, but it has also gone further than this. Consider again the Lobbying Act: this did not just marginalise the political voices of charities, but the capacity of all 'non-party' organizations, including trade unions, to communicate their concerns to government, in ways which will have a disproportionate impact on the Labour party. In addition to imposing severe limits on the campaigning activities of charities and other non-party organisations, the Act cuts the funding the trade unions are allowed to contribute to Labour party election campaigns, and severely limits the kind of activities in which they can engage on behalf of Labour candidates, such as the organization of events, the operation of phone banks, the publication of election materials, and canvassing. When these measures are added to those proposed in the 2015 Trade Union Bill – for example, the strengthening of employers' rights to hire strike-breaking staff, the criminalization of picketing, and new rules covering permissible party funding – it becomes clear that the government's aim is to eviscerate unions of their money, their influence, and their political voice. Again on this issue, the government is saying one thing and doing another. It is saying it wants to make lobbying fairer and to even out the structural inequalities present in the British democratic system. However, it introduces laws designed to silence the trade unions and, by extension, their members, and to strengthen the corporate sector.

What is more, the measures in the Lobbying Act and now those governing charities, seek to do the same to that network of civil society organisations and institutions which have traditionally played a central and galvanizing role in the development of

an egalitarian social consciousness among British citizens: anti-poverty charities, human rights organizations, workers' associations, environmental organizations, the kind of groups and organizations, like the unions, through which individuals might engage with others in a common fight against inequality or injustice and which have, traditionally, communicated the concerns of the left to those in power, either directly or indirectly.

British politics has been characterised in recent months by a dramatic shift to the right. The EU referendum campaign revealed the breadth and depth of the British people's concerns about immigration, and a perceived loss of national self-determination. As I write this piece, reports of racist violence in the wake of the referendum result have increased, and nationalist sentiments have been expressed in the political mainstream in a way unseen in recent years. The British working class has arguably never looked more fractured, more out of reach of mainstream party politics, or more disconnected from those in the Labour party and elsewhere who would seek to represent them. Nevertheless, many on the left believe that we are witnessing a resurgence of social democratic politics. To these people, the groundswell of support shown for Jeremy Corbyn's Labour leadership bid in Britain in 2015, and again in July 2016 following the threats to Corbyn's leadership from other parts of the party, as well as the in-roads into the American mainstream made by Bernie Sanders during his bid for the Democratic US presidential nomination, indicates a growing support in Britain and the USA for an alternative to the ideological commitment to free markets and minimal states common to the Conservatives and the Republicans. But as Corbyn and Sanders themselves have admitted, there is likely to be no leftist resurgence without a grassroots movement. Social democracy begins in the myriad activities of individuals committed to bringing about real and lasting social change. It requires a thriving civil society of organizations and associations through which people can come together to express their concerns and mobilise for political action. It is a bottom-up movement rooted in civil society and in individuals engaging with one another in and through associations which can inspire and galvanise them, but which also – in the case of interest groups and trade unions – can give effective expression to common concerns to politicians.

Given this, we should not be surprised by the extent of the rejection of the EU among so many of the Britain's least advantaged citizens, or underestimate the challenge facing the left. The prospects of a long-term resurgence of social democratic politics look bleak. Already, for example, we are seeing evidence that the initial Corbyn surge is ebbing away. Corbyn's position in the party has weakened, and many of those who voted for him in 2015, and who joined Labour in order to do so, are failing to participate actively in party activities or progressive politics more widely.¹² Corbyn has a clear ability to draw new members to the party in order to support him in successive

leadership elections, but having joined and voted, these new members do little else. Their job done, these new members are returning to the fringes of democratic politics, or returning to political apathy one again. This should come as no surprise. Political participation, especially collective and face-to-face participation, is in decline, and has been for a long time.¹³ Rates of political participation among British (and American) citizens are low, especially among those at the lower end of the wealth and income distribution.¹⁴ The breakdown of traditional class identities, shifts in the labour market, the growth of markets, demographic change, the eclipse of traditional associational life by new and more hierarchical forms of representative politics, entrenched social and economic inequalities, and the rise of new forms of governance have conspired with other factors to cut citizens off from the political system and to reshape citizens' attitudes towards one another and their political system. The decline in political participation among the citizens of liberal democratic states, including Britain, and the disproportionately steep decline in participation among those who have the least access to important social resources like education and money, is an enduring and worsening problem for democracy.

But it is also a profound and worsening problem for the left, which has more to lose from widespread political disengagement than the Conservatives. Political participation is lowest among those who have the most to gain from the development of a social democratic alternative to market capitalism, and yet it is precisely the countries in which support for market capitalism is most entrenched that participation is at its lowest. Markets squeeze out institutions and organisations which give expression to the concerns of those who do least well under capitalism. Over the past four decades or so the traditional means by which the concerns of poorest members of society were communicated in the political system declined in strength and effectiveness and were replaced by organisations more suited to the communication of the needs of the middle classes.¹⁵ Decision making institutions have retreated further and further from citizens, and from poorer citizens in particular, such that many people do not even see themselves as connected in any meaningful way with the institutions that govern them, or the people who work in them.¹⁶ This is in part because those bridging institutions which acted on their behalf, and which provided information and representation in the democratic system, have withered. Even under New Labour, which arguably presided over a flowering of 'big tent' politics and 'stakeholder' democracy, broad-based grassroots organisations quickly realised that in order to get a seat at the table they needed to reform themselves into more hierarchical, professionalised interest groups capable of working at the heart of government and speaking the language of the political elite.

This process – this evisceration of the British public sphere that has left many of the poorest and most vulnerable members of society disaffected, disillusioned, and

without a voice in the political system – is only partly explainable by large-scale global developments beyond the control of states and politicians. It is also driven by deliberate decisions made by those politicians. What arguably began in the early 1980s under Thatcher and continued under Blair and Brown in the 2000s has intensified since 2010 under the Conservatives. The reason the left has more to lose from the widespread political disengagement that David Cameron described in 2010 than do the Conservatives is because social democratic politics begins in, and relies more heavily upon, precisely the kind of broad-based political participation on the part of citizens that is currently in decline in Britain, a decline that is being hastened by the government. Through the measures introduced in a series of legislation including the Lobbying Act, the Trade Union Bill, and now the new rules on the use of public funding by charities, the government is systematically reforming British civil society and democratic life in ways which thwart the development of a social democratic grassroots movement. Looked at in this light, in the widest possible context, the new rules governing charities and the government's failure to tackle corporate lobbying look anything but accidental or benign, and are intimately linked with the kind of politics that we now witness in Britain and which was laid bare by the EU referendum: a politics in which the working class are fractured and fragmented, in which civil society has been eviscerated, and the institutions and organisations which traditionally represented poorer and marginalised citizens have disappeared or been deliberately dismantled. That the current measures regulating lobbyists are unfair and give disproportionate influence to big businesses, corporations, and other wealthy vested interests should not come as a surprise. It is part of a wider commitment to choking off the possibility for dissent, and for any organised ideological alternative, at their source.

The stakes for the left, and for British democracy, could not be higher. Those who share a vision of a more egalitarian, more socially just society, grounded in social democratic principles need to be attentive to the damage that is being wrought by the government to the civic and social infrastructure necessary for shaping this vision and bringing it into reality. The challenge is significant. It requires nothing less than the reversal of the tide of civic decline and political disengagement that has characterised British politics for the past three decades. It requires participation, and, perhaps most importantly of all, it requires the organised defence of those institutions, organisations, and associations which have traditionally provided space and focus for social democrats to pursue their collective ends, to forge new alliances, to express their shared concerns, and to speak to decision makers. There have been moves in this direction and the building of a social democratic grassroots movement is something that Momentum, for example, has taken as central.¹⁷ Whether Momentum itself is the right organisation to be pushing for this remains to be seen,

given the controversial place it occupies in British politics and even within the Labour party. Nevertheless, their central message is correct: top-down reform can be resisted and reversed, but only by pressure exerted by a grassroots movement which has carved out the space for itself to operate and to grow, and which is represented in the democratic system by institutions which are given a fair hearing and a united, professional parliamentary presence. David Cameron was right in 2010 to lament the state of British democracy. He was right to be concerned about political disenchantment among British citizens. But was wrong to make this worse, and wrong to further entrench the very political inequalities that he claimed to be worried about. In order to reverse the damage, the left needs to provide its own answer to political disengagement. It needs to piece together the fragments of civil society that remain intact and work with one another to build a grassroots movement which articulates a clear alternative vision for Britain. This is a Herculean task, and a long term one, as it needs to do so in the face of overwhelming political, civic, cultural, and structural challenges. And it needs to do so before the associations and organisations on which this movement might be built, and through which this vision might be communicated, are gone.

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Notes

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