

Honour Crime; Factors and Challenges: A Case Study of Khyber Pakhtunkwa Province Pakistan

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Abstract: The Province of Khyber Pakhtunkhwa, Pakistan has a 35.25 million population and the largest ethnic group is the Pashtun. Society is strongly conservative and loves the strong moral character. This study was an attempt to ascertain the major causes of honour killing in the Province of Khyber Pakhtunkhwa, Pakistan highlighting the legal and institutional framework adopted by the enforcing agencies to overcome it. At the same time, this study will ascertain the factors behind the increase of honour killing and defectiveness in the legal and institutional framework by analysis of available data in the literature that relevant to such killings taking into consideration the racial, religious, historical, and political motives. Lastly Study concluded with substantial recommendations that may be adopted as step forward in eradication of such a tenacious phenomenon.

Keywords: Honor Crime, Women killing, Legal frame work, Existing Policies.

1. INTRODUCTION

Honour crime is a transnational manifestation; however, this anti-social act is more prevalent in Pakistan. The murder of innocent women is primarily due to inhuman, violent customary practices across Pakistan's traditional community in the name of so-called honour. The culprits easily get away due to ambiguities prevailing in the criminal justice system of the state (Gauhar, 2014). Honour killing is an extreme act of domestic violence culminating in the murder of a man or women by family or community. karo-kari, is commonly used as a synonym to honour killing. Jafri (2008) explained "Karo" as a blackman and "kari" as a black woman and its effects, collectively as blackened.

Honour killing directly fall under the manifestation of violent crime like assault, confinement, interference with choice in marriage, profession and marital control over women where the publicly enunciated justification is attributed to a social order claimed to require the protection of a concept of honor vested in male (Welchman & Hossain, 2005).

This kind of offence is committed by invoking the concept of honour. While the reason can differ from offender to offender but mainly committed due to the concept that the victims behavior/act has brought dishonor to the family or community. A Dutch scholar,

Anne Nauta firstly used the term honor killing and explained it as a homicide of a member of a family or social group by other members having the belief that the victim has grossed dishonor against the prestigious family or community (Ibrahim, F. 2005).

Honor killings are a term widely used to refer to the killing or harm induced on persons for the protection of the perpetrator's integrity and honor. It is deeply rooted in the socio-cultural values of Pakistani society and committed to all provinces of Pakistan including ex-FATA. It is committed under the pretext of Karo Kari, Siya Kari, Kali Kari and Thor. According to United Nations Populations Fund (UNPFA) one-fifth of worldwide honour killings are committed in Pakistan. Though, it is not a gender-based crime as the victims of honour killings can be a male or female but most victims are women (Chesler, P. 2010).

As compare to inner cities and towns, the crime of honour killing is advanced in the rural areas of Pakistan. Whereas going through the formal statistics of these incidents only in the context of Khyber Pakhtunkwa (KP) Pakistan, one finds that 369 women and 284 men were murdered in 448 cases in the last six years. As many as 52 incidents of 'honour killing' have been reported to the police in the province during the current year, resulting in the deaths of 43 women and 30 men (Khan, J. A. 2018).

In the traditional patriarchal society of Pakistan, the root causes can be traced to love marriages/marriages of own choice, rape, fixed/arranged marriages divorce,

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Cases Ratio of Honour Killing in Pakistan

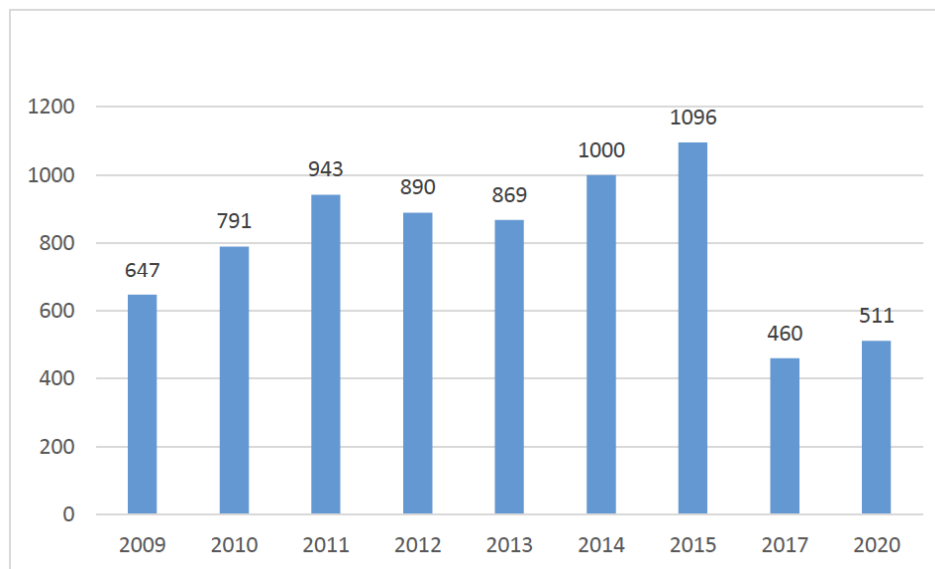


Figure 1: Report of Human Right Commission of Pakistan (year- wise).

provocation by the community, lack of education etc. It is difficult to specifically designate a number of activities as potential reasons for Honour killing, however, an illegitimate or any legitimate action in wrong place can trigger the so-called affair of maintaining honour (Kogacioglu, D. 2004).

Literature Review

Mayeda, D. T., & Vijaykumar, R. (2016) research on honour killing explains that for women and girls from specific ethnic origins, honor-based violence (HBV) is a severe concern. Unfortunately, despite the fact that gender-based violence in western contexts receives a lot of attention from the sociology discipline, the study of HBV is still relatively undeveloped. The literature on HBV reviewed in their research work typically comes from the fields of social work, cultural studies, and feminist studies. It focuses on the relationship between the phenomenon and ideas of masculinity and femininity, the phenomenon's collective nature, and the ways in which an Orientalist discourse has emerged in western regions that address HBV.

Critelli, F. M. (2010) research work begins by discussing violence against women, including the incidence of honour killing throughout history. By analysing the religious, cultural, and constitutional viewpoints on honour killing in Pakistan, it draws attention to the theoretical framework. By emphasizing the transformation of culture and customs from different religions, it also investigates the society's influencing attitude towards honour killing. In addition, their

research demonstrates how Islam's doctrines on honour killing function in exercise.

Patel & Gadit, (2008) research work shows that Pakistan has little means since the victims are unwilling to share their experiences and incidents. The main reasons for keeping this information hidden include social pressure, respect for the family, and the limited involvement of the legal community, all of which are associated with patriarchal ideologies. According to Niaz, (2003) other allegations, the victim was kept silent since the culprit had an authoritative attitude towards the victim. According to the HRCP research, male employees at mental hospitals and male teachers who interact with female pupils are the ones who engage in the majority of sexual harassment and intimate relationships.

Additionally, Koteweg & Yurdakul (9) indicate in their study that Pakistani society has assimilated several practises and ideals from its pre-Islamic society. According to evidence from Douki *et al.* research's women are sometimes buried alive as a result of gender discrimination if they engage in sexual activity, as will be described in the framework analysis section below.

Patel & Gadit, (2008) points out that at the level of the union council, there is no formal mechanism in place to monitor data related to birth and death. Because there is no evidence of the true cause of death, all deaths are listed as having natural causes.

Wasti, T. H., (2010) says that Pakistan has failed to apply the law in accordance with the standards of the Universal Declaration of Human Rights, as was already mentioned. Studies that deal with honour killing with the utmost leniency condemn the inadequate justice system that was imported from British India. Since its founding, Pakistan has passed numerous laws and acts to protect the rights of women, but the application of these laws is always governed by the political system in place. These laws include the Hudood Ordinance (which changed the law of rape and adultery and made fornication a crime), the Qanun-e-Shahadat Order (Law of Evidence Order), and others. The Qanun-e-Shahadat Order reduces the status of women in the law and, in some cases, only counts a woman's testimony as being worth half as much as a man's.

Zia, A. S. (2019) fined the feudal structure is also blamed for impeding the actual law's execution. Such a tribal and traditional authority system has an impact on the community's entire population, particularly in terms of equal rights. This tribal system says that Honor although killing is a legal measure taken by a male family member whose.

Methodology

This study is descriptive-analytical and uses a qualitative research methodology. It is based on historical and current information on the subject matter and analysis drawn from both primary and secondary sources. Data is gathered for this purpose from both primary and secondary sources. The secondary data is gathered from publications, books, research articles printed in local and international journals, as well as newspapers and reports.

Theoretical Framework

The communication theory known as Muted Group Theory (MGT) was chosen for this research work. Because it seems to be the most relevant and valid one to our work. A group's incapacity to express themselves owing to injustice and prejudice is referred to as "muteness." In 1975, British social anthropologist Edwin Ardner and his wife Shirley G. Ardner introduced this theory. In a little essay, they wrote titled "Belief and the Problem of Women," Ardner initially developed this idea and discussed the issues of women in this theory (Edwin and Malcolm, 2007).

MGT focuses on the ways in which language is used to silence and dominate tyrannized people of the society. This theory promotes a gender perspective

where the man is deemed the dominating class because weak and devalued group of people is the women of the society, who make up half of the world's population. Ardner and Shirley provide an explanation of why women are mute in society. According to their viewpoint, women are so severely suppressed that they begin to live with an attitude in which their ideas are kept to themselves when they are voiced, and the majority of the time, women decide to adjust to the circumstances. Men are better and more in control than women because they depend on them as the main source of income. The so-called dominance of the men neglected the voices of women and other marginalised groups, and as a result, the long-standing custom created a brand-new power structure in society (Barkman, 2018).

MGT can therefore be used in this study to better understand the issues facing the victimised, ghettoised, and marginalised group of women. Since the beginning of time, men have stereotyped women, and Afghan women in particular are depicted as emotional or sexual symbols. According to the argument that males fear losing control if they listen to women, an Afghan man infuses his experiences into language by creating laws that are only appropriate for men and repress women in order to maintain their authority. Because Afghan society is so strongly patriarchal, women are oppressed; as a result, the minority is segregated and their opinions and views are never heard. The treatment of an Afghan woman as a minority makes her part of the "Muted Group" in society. The Afghan women will consequently be subject to MGT to determine the extent of their repression, oppression, and segregation, which prevents them from speaking out about their situation.

2. HONOUR KILIING: CASE KHYBER PAKHTUNKWA PAKISTAN

Honour killing is a persistent phenomenon taking place in different areas of the Province of Khyber Pakhtunkwa on defilement of established cultural norms and values. It is an old practice that exists for a time unknown. This inhumane practice has been regularly projected by media and human rights activists. Khyber Pakhtunkhwa with almost 35 million population and consists of a largest Pashtun ethnic group. The overall society is strongly conservative and love solid moral character (Sanauddin, N. 2015).

Honour crime (Honour Killing) as a tradition and practice proceeded by parents, brothers, husbands, cousins and other relatives of the victim to cause the

Cases Ratio of Honour killing in Khyber Pakhtunkhwa.

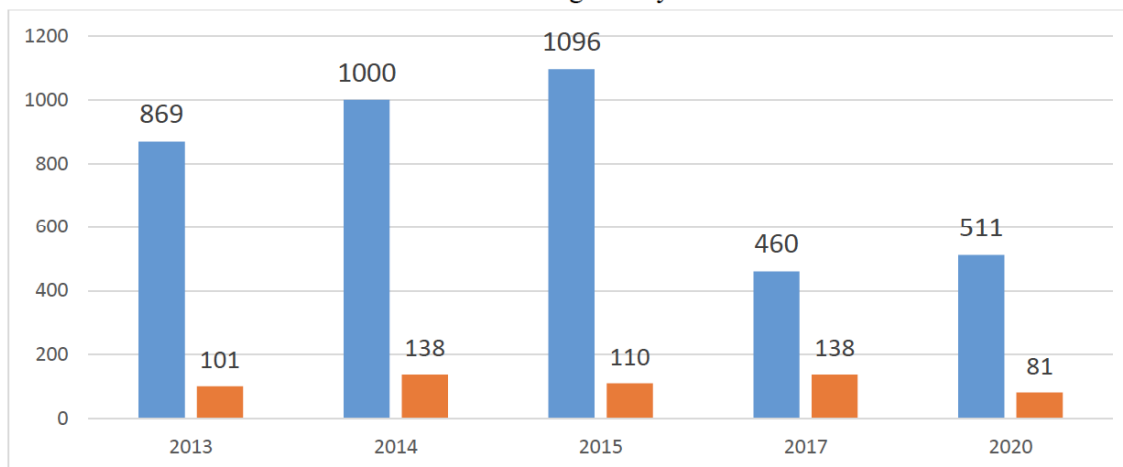


Figure 2: Report of Human Right Commission of Pakistan (year- wise).

death of a person (specifically women) to restore their honour in the family and community. The tribalistic and feudalistic nature of society then made strengthened (Kidwai, R. 2001). A man whose honour has been damaged must publicly demonstrate his power to safeguard it by killing the opposite party and consider such a violent crime a legitimate act. He is recognized as Ghairatmand in his community and is morally supported by kinsmen also. Killing under pretext of honour is not a hidden away but openly performed, often ritually and with maximum spilling of blood in Khyber Pakhtunkhwa (Kraml, R. M. 2012).

3. HONOUR AND ISLAM

Amongst all south Asian countries, Pakistan is mostly highlighted when it comes to honour killing, because it is an Islamic state and established based on two-nation theory. There is a marked contradiction in Islamic laws and their implementation entirely at state and socio-cultural levels. The religion of Islam allows men and women to marry with their free consent (Werbner, P. 2005). Similarly, women have given the right to cancel their marriage like man has the authority- to do so as the principle of equality is fundamental to Islam (Chhachhi, A. 1989).

Prevailed customs and traditions in our society are entirely different and contradictory to the teaching of Islam. Once, Saad Ibne Ibaadah asked "O, Messenger of Allah; when I see my wife with another man then should not, I say anything to them until I bring witnesses to you". Prophet said, "No doubt you will do the same". He replied, "No, I will kill the person at the very moment with the sword". Prophet Muhammad said "Are you listening to your leader? What is he saying

and appeared of marks of disliking Sahaba said "O prophet, do not rebuke him, he is an angry man." (Sahih Bukhari, Babul ghairat). Similarly, in Surah Al-ma'ida, Allah Almighty says: "Killing of an innocent person is the like killing of the whole community." (Al-Qur'an 5:32-33)

According to Islamic laws, it is the state only that prosecutes and executes the offender in cases of honor crimes otherwise it would amount to Fasad Fil Ard (Kanwal, S.2021). No one is at liberty to be a judge in his case, therefore it is the responsibility of the state to ensure a peaceful society and to sanction exemplary punishment to the offender of honour crime (Bilal, Q. & Muhammad, H. 2019).

4. HONOUR KILLING AND STATUTORY PROVISIONS

Being a signatory of the Universal Declaration of Human Rights, (UDHR 1948) and Convention on the Elimination of all Forms of Discrimination against Women (CEDAW 1979), the legislature in Pakistan has incorporated Articles 9 and 25 in the constitution and guarantees the security of persons and their equality before law irrespective of or without any discrimination of their caste, creed, sex, race, and religion.

Punishment incorporated under Pakistan Penal Code 1860 about killing though is serious but at the same time, the punishment of qisas and diyat has become a powerful means for the offenders to commit honour killing and then go scot-free. These laws allow the victim's family to retain control over the treatment of the trial of murder. The process of incorporating Qisas and Diyat provisions in the Pakistan Penal Code,

commenced in 1990 owing to the decision of the court in “Federation of Pakistan Vs Gul Hassan and others” where the court held that sections 299 to 338 of PPC and section 345 of code of criminal procedure 1898 are repugnant to Islam and ordered the incorporation of Qisas and diyat provisions. This incorporation deeply affected the judicial treatment of honour killing.

It introduced the concept of “Wali” as it plays a very important role in all matters related to Qisas and Diyat. These provisions make it clear that “Wali” has the right to either waive the right to qisas altogether or to compound the offence on accepting Badl-e-Sulah (Diyat). The concept of Wali is problematic because by making Wali, the law has made it easy for the perpetrator to escape punishment. Honour Killing is committed by family members of the victim; hence the compounding of the offence is inevitable.

In 2004, the Parliament passed an Act called “The criminal law (Amendment) Act and made numerous changes to CPC and PPC. However, even this Act, which was passed after years of advocacy from civil society, failed to incorporate some critical changes.

The Act defines the honour killing, laid down that the accused or the convict will not act as Wali of the victim and allowed that state to act as such. It also lays down the Qatl-e-amad committed in the name of honour will fall within the ambit of 302(a) and (b) as the case may be, and will not ipso facto fall under section 302(c). It also gives the minimum punishment of 10 years where the right to Qisas has been waived or compounded subject to the discretion of the court.

However, despite the enactment of this law, it remained quite ineffective in remedying the situation. The provisions of waiver and compound ability of the right of Qisas were left intact in cases of honour crimes which make room for compromises between parties. The definition left one important aspect. It does not include the words “whether committed due to grave and sudden provocation”, thus it leaves room for judges to grant concessions to the accused based on this plea. There is no minimum mandatory sentence. Other people who support or encourage such killings like Jirga or Panchayat or family members are not made liable under the law in any capacity.

The Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act of 2016 repealed the loophole which allowed the perpetrators of honour killings to avoid punishment by seeking forgiveness for

the crime from another family member and thus is legally pardoned and receive light punishment. This bill focuses primarily on honour killing and its legal punishment. In addition to closing the loophole mentioned above, the act established a punishment of 14 years imprisonment to life in prison for crimes committed "on the pretext of honour." Besides circumstantial evidence, DNA testing is also provided in the new law. But still, there are some loopholes that can tilt the balance in favor of the perpetrator. There is no differentiation between murder and honour killing. The new law lays the burden on the prosecution to prove that it was a murder in the name of honour.

5. POTENTIAL CAUSES OF HONOUR KILLING

Own Choices Marriages

Love marriage is a devastating contributor and the major potential cause of this inhuman tragedy, particularly families of the murdered woman play a key role. Married couples that transgressed the social norms are well aware of the danger to their lives and often flee once their marriage is discovered. Typically, they are lured back home by parents even after years on the excuse that their marriage has been accepted or use the excuse of the ill health of their father or mother. Once returned, punishment is meted out for murdering of the couple.

Arranged Marriages

The heads of the family decide who will marry whom. Even some times, the issue is decided at birth and these fixed marriages become problematic when babies reach the age of puberty. Whether male or female when refuses such marriage, it becomes a matter of honour for either family and can end up in murder in the name of honour.

Modernity

It is an era of modern communication and social media, so modernity cannot be ignored. Society is replete with the use of modern gadgets like computers, mobile, phones, use of Facebook, Twitter and YouTube. In conservative societies, women's movements are restricted, and modern technology has created enormous opportunities for them to remain in contact while living inside the house. Afzal Kohistan's case is a classic example when four women and two men singing and clapping were seen on Social Media. The incident led to the death of four women and two men in the name of honour.

Rape

Ghairat or honour is considered as one of the main essentials of family's stature in the ethnic community. On commission of Rape without woman's consent, she is held responsible for to bring this shame upon the honour of family and then killed either by father, brother or male relatives in the pretext of honour (Mayell, H. 2002). Samia Sarwar a seventeen years old girl, married to her cousin is one of the biggest example for torturing not only by her in-laws but by her parent as well in Peshawar, Khyber Pakhtunkhwa, Pakistan (Ruane, R. A., 2000).

Provocation by Community

In Pakistan society, relatives, neighbors, family and friends have regular interaction with each other. One of the basic characteristics of our society is to keep an eye on other deeds and interference in others' matters. Keeping in view this mindset, a family character is always under observation. If anyone deviates from the established norms and values, the community provokes that family by "Peghoor" which in many instances is the cause of killing to restore honour in society.

Patriarchal Mindset

Pakistan society is a strongly patriarchal society where man is the head of home and family while women are subordinate to a male member of the family. This concept of patriarchy invokes a man to punish, rape, and even kill a woman. All classic patriarchy creates a system in which men maintain control over women throughout their lives as daughters, wives, or daughters in-law. Honour killing is the manifestation of other patriarchal notions. They try to control and regulate their behaviour and patterns of life.

Divorce and Illicit Relations

Seeking divorce from a violent and abusive husband is also seen as an act of defiance and dishonoring her own and her spouse's family. The situation can also be vice versa. Whatever may be the case or whosoever is seeking it, cause dishonor, may lead to killing and murder. Even killing is committed when separation is complete or ordered by the court. Similarly, illicit relations is another important cause and many killings in the name of honour are attributed to it. In these cases, usually, both the male and female are murdered with the tacit approval of the community.

6. MAJOR CHALLENGES

Lack of Effective Legislation and Implementation

Effective legislation has always remained a challenge when it comes to legislating in the face of established norms and values. Efforts have been made in this regard but a lot needs to be done. Many lacuna and loopholes have been pointed out even in the 2016 an Anti Honour Killing Bill which needs to be removed. These bills have been introduced and passed after a long and consistent struggle by civil society, Human rights activists, and pressure from national and international media groups. Additionally, the writ of the state is weak. In some areas, there is no concept of law implementation and are still now considered as a no-go area.

Influence of Patriarchy

Patriarchy (Father rules) is a core component of culture that enforces preconditioned gender and sexual norms on the people (Men as protectors and provides, women as subservient and home makers). It is the primary social constructs that when combined with the rise of capitalism, has led to an intensification of subordination and degradation of women. It is the most established system of male domination in Pakistan's socio-cultural fabric where a man has absolute control over the life and property of women. In Pakistani society, such control is magnified not only by the agrarian nature of the society but also by the distorted version of Sharia laws and traditions. Honour killing is the extreme form of manifestation of patriarchy when transgressed and challenged by women folk.

Modernism in Traditional Culture

Modernism and traditionalism are two opposite phenomena. Since the beginning 21st century, the technological revolution has embarked on in a huge scale. Modern gadgets and tools have squeezed the world into a Global village and have opened the doors for the younger generation to interact freely through restricted inside the walls and purdah. Videos, messages, and photos when shared and leaked are another accelerating factor of honour crime as in such a situation and person is stunned by the response of the family and baradari (community). Pakistani culture and society have the same values which are centuries old and exhibit the characteristics to date with minor modifications.

Lack of Education and Awareness

Education can positively influence the social norms in a society and it is an effective instrument of social change and rational thinking regarding honour killing. However, the capacity of the Tribal social structure of Khyber Pakhtunkhwa allowed the concept of honour killing, human rights and gender role was crippled due to the prevailing illiteracy in the province. The situation is further aggravated by the fear of the violation of such honour code restricts parents from sending their female children to educational institutions.

7. RECOMMENDATIONS

To prevent and restrict the frequent increase in the evil of women killing in the name of honor rule of law is the most effective and powerful warning to those inflictors. The accusations against women's character reattributed in the name of honor killing have no space at any cost. Neither religion nor state law defends the act of honor killing. It is also a violation of international treaties and conventions to which the state of Pakistan is a signatory as a state. The recent legislative development shows a progressive curve to control honour killing, the most important factor is to reform the socio-cultural aspect to deter the heinous crime against humanity, religion and law.

To gridlock the vilification of honor killing there must be a need to revolutionize the traditional and customary practices. This can only be made possible by the removal of all kinds of gender bigotry against the females in Pakistan. Therefore Laws related to honour crimes should not be based on local values and traditions but confirm international standards, human rights, and Islamic rulings. Pakistan penal laws should cover every aspect of honour crimes by taking the legal opinions of lawyers, views of civil society, international organizations and Islamic scholars. Penalties should be higher and must be publicly implemented

Economic development programs to create awareness and to confiscate deprivation sense, amongst illiterates, services of expert psychologists and regular formal training programs may be launched to change the traditional mind-set of populaces. The government needs to allocate more grants for education and also pay more attention to increasing employment opportunities for women gender roles, women rights, and alike topics may also be added to the curriculum at the school level.

Religious scholars may effectively change the minds of conservatives by openly speaking's against honour killings by citing an example from the Quran and the Sunnah. Similarly, Parents should also focus on the character building of their children, and keep them socializing of the valuable norms of the society. The socio-cultural aspects can never be ignored in the eradication of honour crime. In these regard dispute resolution policies at the council level may be drafted according to the international standards of human rights. Media is presumed as an effective pillar of the state hence its part performance may bring extensive change by advertising Islamic teachings, human rights, women's rights, laws and punishment enacted to prevent honour crime.

To effectively eradicate honour crime and bring better reforms and policies, researchers might be encouraged to conduct a study on a larger scale.

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