

**The Paradigm Shift and Milestone for Environmental Justice: A Legal
Analysis of Article 9A of the Constitution of Pakistan after 26th
Amendment**



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Abstract: *The concept of sustainable development and management has gained significant importance in developing countries such as Pakistan. This study examines innovation in Pakistan's constitutional human rights regime by analyzing the 26th Constitutional Amendment (Article 9A), with a particular focus on environmental rights as a form of justice. The paper critically evaluates the 26th Constitutional Amendment (Article 9A) from a legal perspective, arguing that it aligns with international environmental standards and has the potential to bridge recognized gaps in environmental law jurisprudence. This research scrutinizes case law, legislative advancements, and the perspectives of CiTM stakeholders to contend that Article 9A empowers citizens and ensures accountability from both public and private entities. The paper also evaluates the challenges encountered in implementing the strategy, such as a lack of awareness and institutional capacity to implement measures that promote environmental justice. This analysis marks a step forward in Pakistan's legal dispensation in that it shows the country is moving in the right direction in terms of championing environmental protection for generations to come.*

Keywords: Environmental Justice, Article 9A, Constitution of Pakistan, 26th Amendment, Sustainable Development

Introduction

Globally, environmental degradation, climate change, and the increasing depletion of natural resources have made environmental conservation a significant concern. As these realities pose more challenges to societies, the legal frameworks supporting environmental justice have undergone significant evolution. The 26th Amendment's addition of Article 9A to the Constitution in Pakistan may reflect this change. The country's approach to implementing the right to an environmentally sound country has undergone a dramatic shift with the inclusion of this provision as a constitutional right for its citizens. This development is

pioneering in legal and social terms because it not only extends the catalogue of fundamental rights but also indicates the government's concern with the sustainable development of the planet (Muhammad et al., 2024).

Environmental justice, or the efficiency of fairness in the distribution of environmental gains and losses, has always been a challenge in Pakistan due to the following barriers: Some of these challenges include the following: The enforcement of the regulations has always been a major issue; the public is comparatively ignorant about the so-called regulations; and most of the countries' policies favor economic development, disregarding the environmental

impact. However, the fact that Article 9A has been included represents a step forward in our effort to address these problems. The incorporation of environmental justice within the constitutional structure situates Pakistan with international legal systems like the Stockholm Declaration 1972 and the Rio Declaration 1992. Global instruments to a large extent recognize that environmental conservation and protection is a fundamental right of people, and this concept has now started appearing in the Pakistani legal framework (EMPOWERMENT, 2014).

The addition of article 9A is not simply the introduction of a new legal characteristic; it is a new Croatian approach to environmental matters. Traditionally, Pakistan accorded environmental issues a low priority or almost entirely sidelined them in favor of developmental concerns. The constitutional recognition of environmental rights, which prioritizes these values and requires state and non-state officials to adopt sustainable practices, may intensify this value-based concern. The realization that environmental decline directly impacts vulnerable and disadvantaged groups, reinforcing inequity and its opposite, informs this change (P. Hassan, 2014).

The introduction of Article 9A of the 26th Amendment also puts into perspective the judiciary's undertaking a great responsibility to champion the cause of environmental justice. Pakistani courts have traditionally been active in environmental issues per se; noteworthy cases include *Shehla Zia v. WAPDA*, where the Supreme Court held that the right to life under Article 9 includes the right to a clean environment. The enhanced constitutional provision of Article 9A has empowered the judiciary to fully address environmental grievances and penalize violators (Hussain & Kokab, 2012).

Indeed, this study aims at examining the legal and practical positions of Article 9A and determining how this could lead towards changing the environmental governance in Pakistan. It also explores the extent to which this provision complements the currently existing laws, aligns with international environmental

standards, and responds to systematic issues regarding the implementation of justice in environmental concerns. Furthermore, the study examines the social-political framework that led to the creation of this amendment and assesses if it has achieved the intended goals. Therefore, this paper aims to provide a clear assessment of the paradigm shift brought about by Article 9A, which could serve as a benchmark for environmental justice in Pakistan (Ullah, 2020).

Literature Review

This paper underscores that the Constitution of Pakistan has been subject to several amendments, making it an important legal document throughout the political development of the country. Of all these amendments, the 26th Amendment has been of significant importance in environmental justice, most especially as influenced by Article 9A of the Constitution. This amendment marks a new era in the legal thinking on environmental protection by placing it more or less within the mainstream of constitutional law. The literature on environmental justice emphasizes how environmental justice serves as a bridge between powerlessness, resource equity, and systematic environmentalism. Against this backdrop, Article 9A is a visionary element for environmental justice and sustainable development in Pakistan (Adeney, 2012).

Environmental justice, as a subject, has only recently come into prominence throughout the world over the past few decades in light of the increasing environmental inequities faced by marginalized groups. For instance, Robert Bullard, a major environmental justice theorist, has pointed out that environmental justice not only aims to stop toxic waste dumps, but also to ensure that everyone has equal access to clean air, water, and soil, as well as equal participation in decision-making on environmental issues. In Pakistan, the environmental justice movement is primarily hindered by the absence of powerful enforcement agencies and political will. Nevertheless, if one interprets the recent addition of Article 9A into the Constitution, this means that the state assumes responsibility as the protector and guardian of the environment for the existing and future generations. This

provision is consistent with the principles of the international environmental legal regime, including the precautionary principle, the polluter pays principle, and the principle of intergenerational distribution (S. A. Khan, 2019).

The 26th amendment to the constitution, which addresses new and emerging environmental issues in society, clearly deviates from the traditional structure of environmental legislation in Pakistan. Prior to this change, economic and developmental issues often took precedence over environmental considerations. Article 9A unambiguously acknowledges the right to a clean and healthy environment as a distinct right, thereby elevating environmental legislation to the same status and concern as other constitutional rights, such as Article 9, which protects the right to life and liberty. This change reflects the increasing global recognition of the interwoven nature of human rights and environmental conservation (Shah, 2012a).

I analyzed the judgments of the national courts to uncover the transformative nature of Article 9A. The judiciary of Pakistan has been highly active in environmental issues in the past and, based on the constitutional right to life, has tried to deal with environmental issues where the law does not clearly state anything on the subject. For instance, cases such as *Shehla Zia v. WAPDA* (1994) and *Muhammad Sharif v. Judiciary of Federation of Pakistan* (2013) demonstrate the judiciary's relentless efforts to expand the concept of the "Right to Life" to encompass the "Right to Clean Environment." The legal recognition of Article 9A offers clearer legal backing for such interpretations than when it was just customary, thereby fortifying the judiciary's readiness to punish both the public and other players who are causing harm to the environment (Shah, 2012b).

However, as we will demonstrate below, the inclusion of Article 9A in the constitutional structure profoundly affects both the environmental policy and its implementation. As an amendment to the constitution, environmental protection requires the state to develop more effective policies and regulations to address contemporary issues like climate

change, deforestation, and water scarcity. The literature shows that the recognition of environmental rights in the constitution has effectively spurred policy synergy and resource mobilization, as experienced in South Africa and Brazil, which adopted similar constitutional provisions to drive environmental changes. In view of these facts, the use of Article 9A in the Pakistani context can cause the implementation of long-overdue measures like the National Climate Change Policy and the Pakistan Environmental Protection Act (Nishtar et al., 2013).

However, fulfilling the objectives of Article 9A is not without its challenges. Some argue that while constitutional provisions can effectively address environmental justice concerns, they cannot resolve bureaucratic issues such as inadequate systems, corrupt officials, and the general public's lack of knowledge. The literature on environmental governance emphasizes the importance of proper institutions and increased participation in environmental decision-making. In this context, the involvement of civil society and non-governmental organizations (NGOs) is crucial. These actors have the potential to mobilize public opinion, engage in specific policy changes and reforms, and most importantly, act and create mechanisms for the enforcement of the rights and freedoms guaranteed by the constitution (Rashiduzzaman, 1969).

This amendment also poses a number of questions pertaining to the balance of the processes that are taking place in the sphere of environmental protection and economic development. On the one hand, Article 9A firmly commits to environmental sustainability, but on the other hand, the state must confront the realities of industrialization, urbanization, and poverty eradication. Specifically, frameworks such as the United Nations Sustainable Development Goals (UN SDGs) articulate sustainable development as a theoretical framework that can interconnect these often conflicting priorities. Article 9A, in combination with other constitutional provisions, is the chance to introduce an environmental factor into economic planning and decision-making, with

the aim of making the model of development more harmonious (Lau, 1973).

Alongside internal politics, each of the Article 9A's textual elements also situates Pakistan as a less reckless player on the international level regarding environmental issues. Incorporating environmental justice into Pakistan's political constitution also signifies its commitment to signing international climate change agreements such as the Paris Agreement and the Convention on Biological Diversity. The literature mentioned above indicates that constitutional protection of environmental rights enhances a country's credibility in international forums and increases its ability to secure international funding for environmental projects. For Pakistan, this could mean increased support for programs and policies designed to address climate change and encourage the use of renewable energy (Siddique, 2005).

Therefore, the twenty-sixth Amendment of the United States Constitution and the inclusion of Article 9A in the Constitution of the Islamic Republic of Pakistan promote environmental justice and environmental protection, marking a significant advancement in Pakistan's progress. As a result of this amendment, Pakistan formally acknowledges rights to a clean and healthy environment as a fundamental right—the important missing link that has been resolved in accordance with the international norms being practiced in other countries across the globe. Despite the implementation and enforcement challenges, Article 9A holds immense potential to fundamentally transform environmental policymaking and promote sustainable development. Given the current challenges of environmental degradation and climate change in Pakistan, the constitutionalization of environmental justice presents a promising solution for positive change (H. Khan, 2001).

The 26th Amendment and Article 9A: A Legal Analysis

The laws that implement the 26th amendment of the Pakistani constitution and include Article 9A represent a significant change and a new paradigm shift in enhancing the principles of

environmental justice within the framework of Pakistani laws. Of interest, this event reveals the Pakistani legislation's intention to uphold environmental conservation as a human right, an idea getting momentum globally due to burgeoning environmental concerns. The 26th Amendment incorporates environmental concerns directly into the US Constitution, bringing about a revolutionary shift in legal philosophy that grounds developmental policies in sustainable environmental principles (Khalid, 2020).

Before the eighth amendment, the Constitution of Pakistan did not formally accord much importance to environmental questions, but it did contain some elements of it. Some provisions of the bill of rights touched briefly on the environment, but they contained no express reference to environmental rights; for instance, article 9, right to life, and article 14, the inviolability of dignity. On its part, the judiciary, most especially through the cases adumbrated herein above, has been proactive in expanding the concept of fundamental rights to include protection of the environment. However, this approach had a major weakness: in cases where there was no direct constitutional provision, there was often a lack of coherent policy, leading to inconsistent implementation. Article 9A, which asserts the polluter pays principle as a constitutional right, fills the void of a catalogue of rights (A. M. Khan, 2003).

The addition of 9A through the 26th amendment of the constitution marked a revolutionary change involving Pakistan in environmental management. Reform, because it identifies environmental protection as a constitutional mandate, places a two-fold burden on the state and the people. The state is now required to enforce laws and policies for the protection of the environment and also encourages all the citizens to contribute to the conservation and protection of natural assets. This constitutional recognition stems from the growing environmental concerns, which, despite their recognition in other parts of the world, have yet to receive adequate attention. Efforts have been made to establish a clear and coherent legal framework to address issues like climate change,

deforestation, the water crisis, and air pollution. These issues have significant impacts on the health of those affected, economic stability, and national security (Burks, 1954).

In a legal sense, Article 9A has a significant meaning. Article 9A expands the judiciary's authority to actively contribute to environmental justice by exposing state and non-state entities that compromise environmental value. The Doctrine of Public Trust, a fundamental tenet of environmental law and legal precedents, is today an integral feature of the legal fabric of Pakistan. This principle places a legal requirement on the state to use, conserve, and distribute natural resources for this generation and the next. Furthermore, notebook 9A reiterates the concept of intergenerational equity, stating that we should not prioritize the present generation's developmental needs over the availability of resources for future generations (Lau, 2005).

The 26th Amendment and Article 9A signify a global shift in the fight for environmental justice. In incorporating environmental consideration into its constitution, Pakistan moves in sync with other nations that now see human rights and environmental protection as intertwined. Other countries like Norway and South Africa, as well as Ecuador, have included similar provisions in their constitutions as more and more parties realize that environmental rights are human rights. This strategy is especially important for Pakistan, as we are currently one of the most exposed countries to climate change and environmental pollution—floods, increasing temperatures, and the depletion of species (Redding, 2003).

Specifically, the successful implementation of Article 9A requires efficient institutional arrangements and policy changes. The outcome of the amendment in question therefore depends on the capacity of the state to operationalize constitutional tenets. This pertains to bolstering the capabilities of environmental legal frameworks, fostering public awareness, and effectively implementing and upholding environmental laws. International organizations play a crucial role in addressing transboundary environmental issues, both through diplomatic efforts and by adhering to universal conventions

such as the Paris Convention (Siddique & Hayat, 2008).

In conclusion, the 26th Amendment and the addition of Article 9A to the Constitution of Pakistan open a new chapter in the legal history of the country. Thus, by incorporating environmental issues into the constitutional provisions of Pakistan, significant progress has been made towards achieving environmental justice and promoting sustainable development. Not only does this shift aim to address immediate environmental issues, but it also lays the groundwork for establishing a legal system that is environmentally and generationally sustainable. To this end, the success of this initiative hinges on the support of the state, judiciary, and citizens, who must endorse the constitutional provision ensuring a clean and healthy environment in society for future generations (Faiz, 2024).

Impact of the Amendment on Environmental Justice

The Islamic Republic of Pakistan has approved the twenty-sixth constitutional amendment, marking another progressive step in the ongoing process of changing the environment's legal protection. The amendment, which places environmental rights under Article 9A as a legal instrument, has brought about a shift in the level of consideration for environmental issues. In the past, Pakistan handled environmental matters superficially, incompletely, and even conflicted with economic and development considerations. This resulted in the absence of a robust legal framework for environmental justice, which was crucial for safeguarding the environment and improving the social, economic, and health conditions of vulnerable groups within society (Mahmud, 1995).

Since the 26th Amendment was passed, introducing Article 9A, the Constitution now includes an inventory of natural resources, thereby imposing an affirmative duty on the state to conserve the environment and promote sustainable development. This amendment serves as a legal tool to bridge the gap between the rapid economic growth and environmental protection, aligning Pakistan's constitutional

provisions with international environmental laws. One of the biggest changes this amendment makes is the right of communities and individuals to sue for environmental violations. Initially, the remedy for environmental injustices was quite limited, necessitating a broad appeal to Article 9 right to life and Article 14 right to dignity (Ali, 1999).

Despite their importance, environmental issues did not inspire the creation of these provisions. The enactment of Article 9A has enhanced the legal basis because it has spelled out environmental rights in the lawmaking process, which makes it easy for the courts to deal with such cases. This has created opportunities for so-called public interest litigation (PIL) and enhanced attention to the actions of both state and non-state agents causing environmental degradation. Now civil societies have a constitutional footing to fight ecologically negative activities, call for the enforcement of environmental laws, and police environmental legislation more rigorously. The amendment has also increased the synchronization of environmental policies with international obligations. Currently, Pakistan is a member of several international environmental agreements, including the Paris Agreement, the Convention on Biological Diversity, and the Stockholm Convention. However, because the Constitution does not explicitly guarantee environmental protection, the country often struggles to coherently translate these obligations into domestic law (Omar, 2002).

Article 9A of the constitution fills this gap by providing the state with a legal framework to align its policies and legislation with international environmental standards. This parallel is significant, particularly in light of the increasing prevalence of climate change, biological diversity loss, and pollution, as it serves to enhance Pakistan's standing in the global environmental arena while safeguarding its own interests. Furthermore, the amendment holds the potential to rectify environmental injustices typically experienced by marginalized communities. Environmental degradation disproportionately affects vulnerable groups, such as those from rural areas, indigenous

communities, and low-income households in urban regions of Pakistan. These groups suffer most from the impacts of pollution, deforestation, a lack of access to clean water, and natural disasters occasioned by climate change (Tanguay-Renaud, 2002).

The constitutional enshrinement of environmental rights under Article 9A forces the state to consider vulnerable persons in the formulation of environmental policies or programs, making sure that their rights to accessing the environment for their needs are not violated and they are not locked out of the environmental management systems. This could potentially lead to positive policy changes that promote equality, such as equal access to clean water, air, and land, as well as protection against forced eviction due to environmental issues or projects. Additionally, it will facilitate the integration of environmental concerns into Pakistan's development policy. Constitutionalism now requires policymakers to consider the environmental consequences of economic activities, thereby enhancing sustainability (Al-Mutairi, 2025).

This shift is particularly significant given the rapidly growing industrialization, urbanization, and energy needs in Pakistan, which are exerting significant pressure on natural resources. In principle, Article 9A mandates that future development projects should not negatively impact the surrounding environment, while simultaneously maximizing their social and economic impacts. Therefore, the 26th Amendment has significantly influenced environmental justice in Pakistan by establishing the environmental rights outlined in Article 9A of the Constitution (A. Hassan et al., 2024).

The 26th Amendment has advanced law, enabled communities, and aligned society for the triumph of justice, fairness, equality, and sound development. In this regard, the amendment fills the long-standing gaps in environmental policies while setting up compliance with the internationally recognized standards and focusing on the needs of vulnerable populations. However, given the fact that the change of the Constitution was achieved,

the constitutional reform matters will not improve until they are put into practice and the legislative, judiciary, and civil society branches work together and utilize the Constitution to change people's lives for the better. With appropriate operationalization, Article 9A has the potential to serve as a foundation for improving environmental justice in Pakistan and instilling environmentally sound principles for everyone's prosperity in a healthier world (I. A. Khan & Khan, n.d.).

Challenges and Opportunities: A Legal Analysis of Article 9A of the Constitution of Pakistan after the 26th Amendment

The passage of the new article 9A in the Constitution of Pakistan after the twenty-sixth amendment is a giant step towards enforcing environmental justice. This changing of the guards is made possible by redefining environmentalism as part of fundamental human rights, hence paving the way for tailorable sustainable development and ecological formations. However, it should be noted that this transition is not without its challenges. Article 9A poses an extensive reformative process of organizational legislation and policy-making and the judicial system of the country of Pakistan, which comprises challenges and prospects in addressing the factors of environmental rights and developmental objectives (Aftab, 2024).

An immediate issue is the relative obscurity of environmental rights among the populace and organizations, including the government. This section of the analysis seeks to show that while Article 9A represents a fair approach to environmental justice since its inception and formulation, its practical application is still in its early stages. It's crucial for it to become a significant aspect of national awareness, ensuring that citizens respect it, policymakers safeguard it, and judicial systems interpret it appropriately. With respect to the provision above mentioned, Pakistan shares a great deal of ignorance about the consequences of environmental degradation and the legal recourse available to his/her benefit. To effectively narrow this gap, there needs to be widespread government and civil society

education, as well as training and support for policy makers, lawyers, and implementers of indigenous peoples' rights (Kureshi et al., 2024).

The other challenge is the failure to effectively implement environmental laws. Pakistan has initially suffered from the ineffective institutional environment and regulatory agencies that fail to control environmental degradation due to lack of proper funds, power, and autonomy. Despite the existence of the legal concept of environmental justice, the capacity of these institutions and agencies to pursue violators is hindered by corruption, bureaucratic red tape, and political influence. To overcome this, adequate measures that embrace detection, reporting, and prosecution of environmental offenses need to be developed, and there is a need for judicial reforms that envisage fair handling of environmental cases (Asghar & Khan, 2024).

Challenges arising with the integration of environmental justice into the other part of the legal system include the question of balancing between development imperatives and ecological considerations. Fall 2007: Pakistan, being a developing country, is under pressure to industrialize and develop infrastructure to increase the ratio of growth. Nevertheless, such projects have a negative balance on the environment, making the clash between the economic and ecological motives. Article 9A presents an opportunity to shift the balance by implementing green growth mechanisms and promoting environmental development. This calls for policymakers to innovate in the ways they incorporate environmentalists into the development plans so as not to compromise the environment (Kanwel et al., 2024).

On the other end, there are so many opportunities for transformative changes that come with the recognition of environmental justice as a constitutional right. It introduced the doctrine of public trust suing in order to shield the environment from destructive acts of the state and private persons. It has the possibility of directing the increased role of the public in environmental affairs, elevating the level of commitment and involvement towards the environmental issues among people (Kanwel,

Asghar, et al., n.d.).

Furthermore, the extension to Article 9A promotes judicial activism, which is a violation of environmental protection. The Pakistan judiciary has also not stepped back from handling environmental issues in the past, even through public interest litigation, for example, the Shehla Zia case, which established the right to a clean environment under Article 9 of the Constitution. Therefore, as the main focus, Article 9A has given the judiciary a clear constitutional basis through which it can effectively offer a decisive response, which is sometimes required to eradicate significant occurrences of environmental degradation (Kanwel, Khan, et al., n.d.).

The other opportunity pertains to the recognition and encouragement of international cooperation aimed at fulfilling international environmental tenets. If Pakistan aligns its constitution with the aforementioned conventions and treaties, it could successfully introduce environment-friendly technologies and products that require foreign investments. This can improve the country's profile to the rest of the world and, at the same time, tackle some of the environmental issues facing the world today, including climate change, deforestation, and water shortage (Ch et al., 2024).

Thus, a new amendment, the 26th Amendment, through the inclusion of Article 9A, can be seen as a drastic change in Pakistan's legal as well as environmental structure. Despite significant challenges such as institutional environment issues, a lack of awareness, and the conflict between development and conservation, the prospects remain highly promising. Because of constitutional provisions and developing institutional frameworks to promote public engagement and incorporate sustainable development into economic agendas, Pakistan will take the lead in founding environmental justice and SD. Should this shift persist, not only does the country have the ecological future protected but the rights of the environment take root with other countries encouraged to adopt similar norms (Kanwel, Khan, et al., n.d.).

Conclusion

Amendment of 26 presents a valuable addition raising Article 9A within the Constitution of Pakistan and hereby states that reforming the approach towards environmental justice results in a significant paradigm shift in the legal constitutional structures of the country. This milestone strengthens the people's position, human rights, sustainable development, and environmentalism by recognizing environmental protection as an inherent human right. The lawmakers responded to the growing number of emerging environmental challenges, such as pollution, climate shifts, and disruption of natural equilibria, by amending the constitution, which primarily impacts vulnerable groups. According to Article 9A, the constitutional provision of environmental justice weighs the protection of existing and future generations of the people through conservation of natural resources but also makes Pakistan's legal order compatible with international legal norms, instruments, and frameworks, including the Paris Agreement and the United Nations Sustainable Development Goals.

The introduction of Article 9A signifies a significant shift in European environmental policies from an anthropocentric perspective to one that views nature as both valuable in its own right and beneficial to humans. The approach negates the prevailing neoliberal world development frameworks that foster growth at the expense of ecological degradation but embraces sustainable economic and ecological growth. Current debates on environmental justice have enshrined the constitution as a tool that highlights the state's responsibility for ensuring that its policies on the environment are fair and should entitle all players, especially the affected ones, to participate. It also opens the way for a more extensive ability of judicial activism, strengthening this role of courts: where the right is breached, courts have to interpret and apply this right to address such harms.

Furthermore, Article 9A provides an adequate legal framework to assist in prosecuting individuals or organizations, whether government or private, involved in environmental pollution. It allows the citizen to stand up and fight against the environmental

injustices; this has encouraged environmentalism. The intended amendment also enhances the provisions for the necessary regulatory mechanisms to deal with modern environmental challenges, such as pollution, deforestation, and natural resource exploitation. But the success of this experiment depends primarily on the adoption of the supporting legislation, institutional changes, and political desire to turn constitutional promises into real achievements. The impact of Article 9A will also therefore depend on the ability of the EPA and other regulatory agencies, which have the responsibility of protecting the environment, to do so efficiently.

As a pioneering structure, Article 9A is apt to attract some measure of difficulty: opposition from the elites, ignorance from the populace, and limited available capital and framework. Therefore, we must implement a strategic approach to address these challenges, which involves public education, local leaders' capacity building, and the integration of environmental issues across all councils. That is why the implementation of the right to environmental justice will require significant collaboration between the state, civil society, and international organizations.

In conclusion, Article 9A significantly contributes to the issue of environmental justice in Pakistan, given that both the country and other nations are grappling with similar issues. There is a chance to renew the paradigm of interaction between the nation and the surrounding environment and build sustainable and fair. While Pakistan is working to address some of the challenges associated with fostering this constitutional provision, it could also take the lead in environmental stewardship by encouraging worldwide campaigns that prioritize environmental conservation and ecological equity in the face of escalating environmental challenges.

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