When Do Governments Promote Women’s Rights? A Framework for the Comparative Analysis of Sex Equality Policy

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This essay proposes a framework to analyze cross-national variation in women’s legal rights. To explore the distinct logics of policy change, we disaggregate sex equality policies on two dimensions: 1) whether they improve the status of women as a group or alleviate gender-based class inequalities, and 2) whether or not they challenge the doctrine of organized religion and the codified tradition of major cultural groups. We show that policies promoting gender equality seek fundamental social change and therefore challenge historical patterns of state-society interaction concerning relations between the state and the market; the respective authority of the state, religion, and cultural groups; and the contours of citizenship. Different issues, however, challenge different aspects of these relations. What’s more, the priorities, strategies, and effectiveness of advocates and opponents of change (including women’s movements, left parties, international NGOs, and organized religion) are shaped by state capacity, policy legacies, international vulnerability, and the degree of democracy.

In Pakistan, a woman who reports rape can expect to be charged with adultery; in neighboring India, women-run police stations and new legal devices empower victims of violence and help state officials prosecute sex crimes. In Catholic Ireland, abortion is a crime while in Italy, seat of the Vatican, access to abortion is not only legally guaranteed but also provided at state expense. In Canada and the United Kingdom, parents are entitled to paid maternity leave but United States law grants parents no paid leave at all.

These gender-related policies shape women’s access to education and employment, their ability to care for their families, and their chances to escape poverty and enjoy good health. They have broader implications as well: societies with greater equality are more likely to be prosperous and sustain stable democratic institutions. And children have better chances to lead healthy lives in more gender-equal societies.1

How can we explain the global variation in gender-equality policies?2 Theories based primarily on the experiences of developed countries and established democracies may mislead us when it comes to the rest of the world. For example, studies of Europe suggest that Left parties and parties with powerful women tend to adopt quota policies for women candidates.3 Yet states outside of the West have introduced candidate quotas and reserved legislative seats for women under right-wing and military governments (in Argentina, Pakistan, Peru) or governments where women have wielded little influence (Jordan, Morocco).4

What’s more, advanced democracies and wealthy countries are not always the most progressive when it comes to gender equality. Sweden offers generous parental leave and day care but has been slow to combat violence against women. In fact, the governments in the “macho” countries of Latin America did far more to mitigate violence against women than the “women-friendly” Scandinavian welfare states.5

Too little cross-national research has investigated these puzzles.6 Gender and politics scholarship has advanced remarkably over the past two decades, but most of us have shied away from global comparisons. Most work on gender
and politics focuses on established democracies, makes only limited regional comparisons, or concentrates on a single set of issues. What is more, it tends to duplicate rather than interrogate the organizing principles and assumptions of the comparative politics field.

The field of comparative politics has not focused on sex equality and women’s rights as a major topic. Instead, the main approaches of comparative politics have developed with an implicit focus on men’s lives and activities while assuming that women’s activities, particularly those undertaken in the private sphere, were not political and not economically productive. We should not presume that the field’s traditional approaches and typologies (based on socio-economic modernization, democratization, cultural change, and regional distinctiveness, among others) offer the best explanations for gender and politics. Instead, we should formulate new theories of change in women’s rights. Moving gender from the margin to the center of comparative politics demands that we start from a global perspective and with a fresh intellectual agenda.

Explaining global variation in gender equality policy should be at the center of a comparative politics of gender (CPG). While CPG can encompass other areas of scholarly endeavor (for example, some may consider gender an independent variable in their analysis of political outcomes), the focus on women’s rights in law and policy reflects a normative commitment to advancing gender equality. It most closely links the field of CPG to feminist praxis. And although it is true that law and policy constitute only one element of the broader constellation of gender relations and institutions (as we explain below), it is a crucial and understudied one.

We understand gender as the constellation of institutions, including policies, laws, and norms, that constitute the roles, relations, and identities of women and men, and the feminine and the masculine, in a given context. Gender equality is only one possible form of such a configuration though it exists in no contemporary state. Male dominance is the most common form and is manifest to varying degrees in most societies. Gender equality policy aims to dismantle hierarchies of power that privilege men and the masculine, a sexual division of labor that devalues women and the feminine, and the institutionalization of normative heterosexuality. Sex equality policy is a narrower category than gender policy for it concentrates more on equality between men and women and less on normative heterosexuality. Our dependent variable in this essay is sex equality policies, though we ultimately hope to consider the fuller range of phenomena encompassed by gender.

We propose a framework to analyze cross-national variation in women’s legal rights. Frameworks “help to identify the elements and relationships among these elements that one needs to consider for institutional analysis.” They offer lists of factors that could be relevant for gender politics, helping to generate questions and providing a basis upon which to compare theories. Theories, in turn, help analysts understand which elements of the framework are relevant for particular questions. Many theories may be compatible with a single framework. Models operate at an even higher level of specificity. In other work, we offer theory and models for a wide variety of policy issues. This essay focuses on presenting the framework.

The framework is based on two key claims:

1. Gender policy involves not one issue but many and each issue involves different actors and conflicts (issue distinctiveness). We explain why particular actors matter more for some areas than others by showing how the policy in question relates to the institutionalized relations between state, market, and church.

2. Different actors have different powers and effects in different contexts (agent-context interaction). We argue that state capacity, institutional legacies, vulnerability to international pressure, and degree of democracy are powerful contextual influences on sex equality policy. These factors affect the priorities and effectiveness of the advocates of change. They shape the ways policies are framed and their “fit” within a particular context.

**Sex Equality Policy Is Not One Issue But Many**

To explain the origins of sex equality policies, many scholars focus on women as political agents in policymaking positions and social movements. Most also explore the ways that political contexts—including the presence of women’s policy agencies, federalism, political parties, and cultural attitudes—shape women’s political behavior. Yet few theories confront the fact that gender equality policies have been adopted when women’s presence in government is low (or nonexistent) and when women’s movements in civil society are weak. For example, the governments most active in addressing violence against women are not those with the largest proportion of women. Dictatorships from the Middle East to Latin America embraced progressive family law reforms without pressure from women’s groups. What’s more, politically-active women have mobilized to oppose sex equality policies such as equal rights amendments in national constitutions, reproductive rights, parental leave, and even gender quotas.

Solving these puzzles requires disaggregating the analysis by gender issue. Each category or type of issue involves a distinct set of actors, activates different cleavages and conflicts, and has distinct implications for gender relations. Disaggregating, therefore, reveals the variation in causal processes that are obscured when one considers gender policy as a single category. Though some gender and politics scholars note that causal processes vary across gender issues, there are very few accounts of why and how
the diverse processes of policy change vary across issues. Further, most studies lack systematic, cross-national investigation of the interaction between gender and other axes of group difference in spite of near-universal acknowledgement that gender relations are shaped by religion, race, ethnicity and class. Such interactions are undoubtedly important for policy outcomes.

Paid parental leave, for example, invokes questions of socioeconomic inequality as well as gender inequality and is shaped by patterns of class politics such as the power of left parties. But class politics may be less relevant to issues concerning the status of women as a group, such as violence against women. Left- and right-wing administrations may be equally likely to promote good policies. Meanwhile, gender policy issues that challenge religious doctrine or codified cultural traditions—such as abortion and family law—invoke ecclesiastical opposition while other policies—such as workplace equality or gender quotas—generally do not.

These two dimensions—whether a policy empowers all women as a status group or addresses class inequalities, and whether or not the policy challenges religious doctrine or the codified tradition of a major cultural group—suggest a typology of gender issues. The typology can be used to identify the sets of actors relevant for each type of policy issue. It helps explain the varying importance of these actors across issues and countries.

**Gender Status Versus Class-Based Policies**

Some gender equality policies address harms inflicted on women as women. These injustices affect all women in some way regardless of their other social positions (race, ethnicity, class, sexual orientation, etc.). Owing to institutions and patterns of cultural value that privilege masculinity and devalue everything associated with femininity, these harms deny women the recognition and dignity they merit as human beings. Sexist norms cast men as the standard and women as subordinate, “other,” and lacking in value. Their consequences include sexual assault, harassment, violence, stereotyping, public exclusion and marginalization, and the denial of citizenship rights. It is worth emphasizing that, though these injustices are inflicted on women as women, they do not necessarily affect all women in the same way or to the same degree. Nor do all women subjectively experience them in similar fashion. Being female (alone or in conjunction with other social conditions) triggers the unjust treatment.

We call policies to remedy such harms “status policies.” They attack those practices and values that constitute women as a subordinate group and prevent them from participating as peers in political and social life. These policies include:

1) family law, which historically cast women as inferior to men and gave them few or no rights over marital property, minor children, or the ability to work;
2) violence against women, a problem rooted in patriarchal attitudes;
3) abortion and other reproductive freedoms, which ensure women’s capacity to make choices about their bodies and other intimate matters;
4) gender quotas, which elevate the cultural image of women in society at large by promoting their presence in decision making.

Other policies are more directly targeted at women’s burdens in the sexual division of labor. This division, which structures most contemporary societies, locates women in the private sphere and places responsibility for caring for children, the sick and elderly, and maintaining the household on their shoulders. Though all women are affected by the sexual division of labor, its consequences vary according to social class. Women with money have options. They may choose to perform care work themselves or they may hire nannies for child care, employ domestic workers to clean their homes, contract hospice care for elderly parents, and/or exit the labor market for a time. For their part, poor women, who have no choice but to work for...
wages, do not have the money to buy childcare and household help on the market. They rely on family members or on the state.

Class-based policies address these inequalities among women. They make it possible for all women—not just rich ones—to get help with their reproductive and domestic responsibilities. Such policies include paid maternity or parental leave and government-funded childcare. State funding for abortion and for contraceptives are also class policies. Though the legality of abortion and contraceptives is a status issue affecting all women, funding for these practices is not. Rich women, but not poor ones, can pay market rates for abortion and contraceptive devices. Poor women’s ability to exercise reproductive rights hinges on public funding.

**Doctrinal Versus Non-Doctrinal Policies**

Some gender equality issues touch upon the jurisdictional conflict between the state and other organizations over the administration of kinship relations, reproduction, and sexuality. Before the modern state came into being at the Peace of Westphalia, these institutions—including churches, clans, tribes, and traditional authorities—upheld the rules and managed the processes related to the reproduction of life. In Europe and Latin America, for example, the Roman Catholic Church maintained registries of births and deaths, ran hospitals and cemeteries, and presided over marriages and separations.

Sub-Saharan African clans and tribes administered marriage, family relations, and the use and inheritance of land. Even today, the state’s seizure of this authority has been incomplete and contested. Much of Asia, Africa, and the Middle East is governed by multiple legal systems or by religious law. Even in the West, the Church exercises a veto in certain policy debates while claiming to be the guardian of moral values.

Since many religious, traditional, and tribal authorities perceive that their continued power depends on their control over kinship and reproduction, they are central actors in policy debates on those issues. The doctrine and codified tradition of these groups also often endorses male dominance and female submission, particularly in the areas of family law, reproduction, and sexuality.

Not all gender equality policies provoke such conflicts between the state and other organizations over their respective jurisdictional authority; however. These issues are more distant from religious doctrine and codified tradition. They concern zones of life rarely touched upon by scripture (such as government versus private provision of childcare) or more modern dilemmas that traditional religions and customs failed to anticipate (such as equality in the workplace). To be sure, in some places even these issues may provoke religious opposition. In Saudi Arabia, for example, sex-appropriate fields of work are designated by religious law.

We call the first set of issues “doctrinal” and the second “non-doctrinal.” In most countries, doctrinal issues include family law, the legality of abortion, reproductive freedom, and funding for abortion and contraceptives. Non-doctrinal issues include violence against women, gender quotas, equality at work, parental leave, child care, and constitutional provisions for sex equality. We do not define an issue as doctrinal according to whether it does in fact provoke religious opposition. It is defined as doctrinal if the policy contradicts the explicit doctrine, codified tradition, or sacred discourse of the dominant religion or cultural group. As this suggests, an issue can be doctrinal in one country and non-doctrinal in another. Abortion is a doctrinal issue in Italy and Ireland but not in China or Japan.

This distinction helps us understand why the same country may witness progress on non-doctrinal areas (such as violence against women, gender quotas, and workplace equality) while stalling on others (abortion, divorce, family law). In the first instance, religious and tribal organizations abstain from involvement, while in the second, they spend political capital to preclude reform. Uganda, for example, has pushed women into power with its 30 percent reserved seat policy but has been unable to reform laws to grant women co-ownership rights with men over land. The first policy is agnostic on clan power while the second presents it with a sharp challenge.

At this point, a skeptic may wonder: don’t political conflicts and cleavages depend on how an issue is framed, and doesn’t this vary from country to country? In other words, couldn’t the same issue—such as abortion or gender quotas—be politicized as doctrinal in one place and non-doctrinal in another according to how the issue has been framed by churches and women’s groups? As noted earlier, whether or not an issue is a doctrinal issue does vary across national context depending on the dominant religion, tradition, or culture. Our typology does not characterize issues according to how they are framed by actors but in light of their relationship to religious and political-economic structures in a given national context.

We acknowledge that framing is a strategic tactic, but argue that contestation over frames reflects (rather than determines) the conflicts predicted by our typology. In the United States, for example, religious conservatives opposed both the Equal Rights Amendment (ERA) as well as the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), claiming that these measures would strengthen abortion rights and it is possible they would have, though this was not the primary focus of these documents). Their strategic framing helped mobilize the actors ignited by a doctrinal issue (namely, churches on abortion) to oppose change on a broader issue (constitutional equality). It also distracted the public from the broader, and less controversial, idea of sex equality. The effect of framing, in this case, was not to change the nature of constitutional equality so much as to
highlight possible implications for abortion and link it to abortion politics. Actors employ frames that advance their strategic interests, and they are more or less likely to prevail depending on their political clout, the extent of opposition, and their “fit” with historic patterns of policy. Framing is epiphenomenal to the institutionalized relationships and political contests suggested by our approach, not constitutive of it.

**Interaction Between Agents and Contexts**

The type of issue determines the actors involved. Political actors, however, do not operate in a vacuum. Features of the national polity shape the power of actors to promote change. The context also affects the priorities and strategies of advocates as well as the ways that issues may be framed. In Catholic countries, for example, abortion is seen as a doctrinal issue but not always in communist or Buddhist ones. Issue type also determines which aspects of the national context are most relevant. The state's ability to ameliorate women's burden in the sexual division of labor, for example, depends on its fiscal resources and capacity. GDP per capita is therefore an important aspect of the national polity when it comes to parental leave and childcare but may be less relevant for the legality of abortion or efforts to combat violence against women. Since international pressure is greater on gender status than class issues, vulnerability to international pressure will matter more for those issues. Figure 1 illustrates the elements of our analytical framework. We briefly discuss each contextual factor below.

**State Capacity**

Sex equality requires an effective state. It must be capable of intervening in society, in the workplace, and in the family to protect women from violence and discrimination and to promote the value of their work and concerns. State effectiveness may be even more important for gender than for other areas of policy since equality measures challenge entrenched social norms and interests and promote fundamental change. In countries with effective institutions, a willing government can enforce the law and overcome societal resistance. But in contexts without effective institutions, even a strong political commitment to gender equality can be easily frustrated. In places where political institutions are so incapacitated they are almost stateless, governments are completely unable to implement, let alone enforce, some types of policies. Women in rural Bangladesh, for example, cannot rely on the state to protect them or to guarantee their access to education and employment.

Women's groups are unlikely to push for parental leave or subsidized child care in weak states where implementation seems unlikely. In such contexts, feminists know they will be more effective, and therefore prefer to work for policies that are less financially costly, present less of an enforcement challenge, or contain a significant symbolic dimension, such as quotas or constitutional reform. Where the need is great but the state's ability to meet it so compromised, there may be little official remedy and little pressure for one.

In China, for example, women's groups have eschewed struggles for parental leave and day care policies because they see the state as incapable of enforcing these measures. Why? A major casualty of China's economic boom has been workers' rights. In line with socialist ideals, Chinese law requires that employers grant numerous benefits to workers. Amidst explosive growth of the private sector, however, the state has been unable to enforce legal standards in all factories and workplaces. In this context, elite women's groups are emphasizing policy changes such as
non-discrimination in hiring and sexual harassment (through a revision of the Labor Contract Law and Women’s Rights Law) that are easier to enforce and require fewer financial outlays than paid maternity leave. The resulting pattern of policy change reflects feminist advocates’ judgments about state capacity, not the severity of the actual problems.

State capacity refers to the effectiveness of national political institutions and their ability (not willingness) to enforce the law and to challenge dominant social groups. This dimension of institutional capacity is distinct from the political strength of particular administrations. Some political parties might depend on the support of organized labor, or religious groups, but this changes depending on who is elected. As a structural feature of the state, institutional capacity affects policy no matter who is governing.

**Institutional Legacies**

Policy development is path dependent: institutions both reflect previous political conflicts and shape contemporary ones. Most societies have historically experienced conflict across multiple axes of social difference (ethnicity, religion, class, and gender, among others). The way that these foundational conflicts are resolved affects policy development in later years. In some countries, these conflicts were resolved through a process of accommodation of religious, racial, and/or ethnic groups (such as Canada, Israel, and India). In return for their support for the state, elites were guaranteed political representation, areas of exclusive jurisdiction (education or family law), or other accommodations. Such a response to conflict institutionalized group-based approaches, or approaches that emphasize differences among citizens, to policy development. In these traditions, women’s rights advocates draw analogies between their gender status and those of other marginalized groups. In the United States, for example, feminist activists piggybacked on the success of the African-American civil rights movement to win affirmative action in federal contracting and anti-discrimination legislation. Such countries may be amenable to gender-status policies but lack the solidaristic political culture required to support class-based policies.

Other countries (such as Norway and France) responded to conflict by taking a universalistic path to nation building that emphasizes the solidarity of all citizens. Such universalistic traditions reject claims by women as a distinct status group but may be amenable to claims about their class-based or their universal interests. In France, for example, women’s demands for guarantees of political presence (which produced the 2000 Parity Law) were based on arguments about the universality of sex difference and its relation to the nation, not the representation of women as a particular interest group. We would expect these contexts to be biased against gender status policies and other measures reflecting group differences among citizens.

**Vulnerability to International Pressure**

The last quarter of the twentieth century saw an explosion of international advocacy networks and global agreements on women’s rights. These networks fund and train local activists, pressure governments, conduct studies and raise awareness, and share ideas and resources across countries. With moral leverage from inter-state agreements such as CEDAW and the Beijing Platform for Action, these networks call on countries to reform discriminatory laws and adopt gender equality policies. Such pressures resonate more and less in differently-situated countries, however. Poor countries seek financial capital and legitimacy; autocracies and emerging democracies want to demonstrate their democratic and human rights credentials. These countries are therefore more vulnerable to external pressure than wealthier nations or established democracies.

In countries that need to please global audiences, international advocacy networks and agreements have more powerful effects. By ceding to the demands of women’s rights and human rights networks, for example, a country can divert focus from its other failings and even seize global leadership on certain aspects of gender equality. In Nigeria, one of the most important (if not the only) feminist successes in reforming family law, the Child Rights Act, was reportedly championed by former President Olusegun Obasanjo because he felt the need to have a significant accomplishment in the area of human rights. Former President Alberto Fujimori of Peru made a similar move, adopting gender equality policies to improve his human rights credentials on the international stage. After the world condemned his closure of Congress and seizure of power in a self-coup, Fujimori became the only head of state to attend the Fourth World Conference on Women in Beijing (in 1995) and ordered his governing majority in congress to support for the gender quota law advocated by feminists, subsequently adopted in 1997.

**Degree of Democracy**

The more democratic a country is, the more developed its civil society and the more open the government to autonomous organizing. Women’s groups, especially grassroots or working-class women’s movements, will have greater influence. Yet democracy unleashes complex processes. At the same time that it empowers some women’s groups it may also strengthen religious institutions opposed to change.

Authoritarian regimes have less-developed or non-existent civil societies. Government elites have more control over decision-making, so the ideology and preferences of the party in power directly shape outcomes. On the
other hand, elite women and other progressive reformers may have privileged access to power under autocracies. This can lead to surprising advances in women's rights under otherwise conservative governments.

**Conclusion**

Scholarship on gender and politics presents many puzzles about the struggle for sex equality. Studies have shown that the power of left parties sometimes affects policy outcomes but that at other times, party ideology is irrelevant. Religious opposition has thwarted certain efforts to advance women's rights, while other issues have evoked little ecclesiastical protest. Some poor countries have more generous gender equality policies than rich ones; democratization sometimes seems to set back the promotion of women's rights; and women's mobilization appears unrelated to the pace of change.

Our approach suggests that many of these seeming contradictions can be resolved by disaggregating gender policy issues to reveal the different causal dynamics at work. Each issue, whether gender status or class-based, doctrinal or non-doctrinal (and various combinations of these), confronts different axes of state-society relations and involves different casts of characters. The priorities, strategies, and effectiveness of these advocates, allies, and opponents are shaped by aspects of the national context, including state capacity, policy legacies, international vulnerability and the degree of democracy. Showing how these different issues, actors, and contexts combine provides a framework to guide the analysis of political struggles over sex equality policy. This framework shows the way for future research to describe the dynamics of particular struggles in greater detail. A better understanding of the causes and obstacles to sex equality policy will advance the field of the comparative politics of gender as well as help activists as they struggle for rights and freedom for the world's women.

**Notes**

2. We define gender equality as an ideal condition in which all men and all women have similar opportunities to participate in politics, the economy, and society; their roles are equally valued; neither suffers from gender-based disadvantage; and both are considered free and autonomous beings with dignity and rights. Gender equality policies are those measures through which governments can accelerate progress toward this ideal.
6. For an exception, see Schwindt-Bayer and Mishler 2005.
7. For an evaluation of progress, see Beckwith 2005. Most multi-country work on gender and politics compares a small group of countries. Exceptions include Casimiro et al. 2009; Htun 2003a; Dahlerup 2006; Krook 2006; Marland 2006; Schwindt-Bayer 2003; Weldon 2002. Other studies cover many issues but fewer countries; Mazur 2003.
8. Cf Inglehart and Norris (2003) who argue that beliefs on gender equality largely follow trends toward socioeconomic modernization and secularization.
9. Following Iris Young (2005), we consider the sexual division of labor, hierarchies of power, and normative heterosexuality to be the three axes (or pillars) of the gender system.
10. In the paper, we continue to use “gender equality” and “sex equality” interchangeably, since the former category includes the latter.
11. This framework takes the adoption of sex equality policy as the dependent variable, not the implementation or enforcement of these policies.
16. See Mazur 2003. Exceptions include Gelb and Palley (1996) who distinguish between policies that promote gender role changes and those that promote role equity. This typology helps us understand the varying conflicts provoked by gender equality, but offers little guidance to differences between issues because distinct policies within the same issue area can promote role changes or role equity. In addition, it does not illuminate why the same policies (e.g., paid maternity leave) can be controversial in one context (such as the U.S.) but not in another (such as Norway). Blofield and Haas (2005) distinguish between rights- and role-based policies, and those that promote redistribution and threaten class privileges and those that do not, in their study of women's rights legislation in Chile. In a recent book, Casimiro et al. (2009) note that in Africa, policies promoting women's equality in the public sphere of state and market have been easier to achieve than those concerning women's rights in the private sphere of home and family. Both analyses point to some of the factors we mention here, particularly the distinction between class- and non-class issues and between doctrinal and non-doctrinal issues.
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20 Htun 2003a; Htun 2003b.
21 Cf Fraser 2007, 26.
23 In some places, religious and cultural doctrine endorses female submission not only in the family but also in work and education.
26 Some scholars of public policy argue that bigger problems promote better policies (Kingdon 1984). We do not address this argument here at any length, except to say that extant scholarship suggests that such an approach appears to shed little light on areas such as violence against women (Weldon 2002), child care, family law, or reproductive rights which are problems in every society. In fact, the public awareness, recognition and framing of these problems depends on women’s rights activism and other processes of political contestation at the national and international level. Problems need to be perceived as such before there can be a policy response.
27 Shehabuddin 2008.
28 For a similar argument about how state capacity affects preferences about social policy, see Mares 2005.
29 Interviews by Mala Htun, Beijing, June 4, 2007.
30 Pierson 1994, 2000; March and Olsen 1989; Castles 1993; Richardson, Gustafsson, and Jordan 1982.
33 Skrentny 2002.
34 Young 1990; McDonagh 2002.
35 Unlike arguments for quotas in other countries (which focused on the interests that women representatives would bring to the legislature), the case for parity was based on universalistic arguments about republican representation. See Scott 2005.

References


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