

Original Paper

Research on the Construction of Legal Culture in Ethnic Areas in the New Era under the Consciousness of Chinese National Community

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Abstract

The cultivation of a rule of law culture exerts a profound influence on the enactment of the directives from the 20th Party Congress, the refinement of the legal system, and the fostering of ethnic solidarity. Furthermore, the establishment of a rule of law culture is crucial for preserving ethnic unity, augmenting the sense of national identity, and facilitating the grand rejuvenation of the Chinese nation. Currently, minority regions face challenges including the attenuation of religious fervor, economic limitations imposed by legal frameworks, and a deficiency in initiatives aimed at nurturing a legal culture. In response to these issues, it is imperative to galvanize public enthusiasm under the Party's guidance and spearhead the development of a rule of law culture through grassroots social governance, thereby addressing the prevailing challenges in the advancement of legal culture within ethnic communities.

Keywords

ethnic area rule of law culture construction of the Chinese nation community consciousness

1. The Practical Value of the Construction of Legal Culture in Ethnic Areas

1.1 Accurate Implementation of the Spirit of the Rule of Law

The Party's 20th report has outlined an ambitious vision for the comprehensive advancement of a rule of law nation and the expedited development of a socialist rule of law state, providing foundational guiding principles, clear objectives, requirements, and a specific roadmap for the holistic construction of socialist modernization along the trajectory of legal governance. Ethnic minority regions, as distinct

social entities, are accorded priority by both the Party and the state. Notable progress has been made in China's rule of law development. To further cultivate the rule of law culture within ethnic minority areas, it is imperative to fully implement the key spirit of the Party's 20th congress, achieving significant progress in critical areas such as legislation, law enforcement, judicial proceedings, and the popularization of legal knowledge. The Party's 20th report has specifically emphasized "adhering to the rule of law and advancing the rule of law in China", making significant plans to elevate rule of law development to a more prominent and crucial status. This underscores the Party and the state's commitment to and valuation of governance by law. In the current context of accelerated economic globalization and rapid advancements in the scientific and technological revolution, the economies and societies of ethnic minority areas are encountering numerous challenges and opportunities. Promoting the development of a rule of law culture in minority areas not only facilitates the comprehensive execution of the fundamental rule of law strategy but also enhances the modernization of grassroots governance systems and capabilities, thereby more effectively advancing the development of a rule of law culture in these regions.

1.2 An Important Component of a Sound Legal System in Ethnic Minority Areas

Since the 18th National Congress of the Communist Party of China (CPC), amidst the pivotal juncture of "profound changes unseen in a century" on a global scale, the CPC and the Chinese government have showcased a strategic foresight in advocating for the comprehensive promotion of the rule of law, with a dedication towards establishing a modern socialist country governed by law. On a deeper level, the contemporary endeavors in the construction of the rule of law necessitate a thorough investigation and analysis of the Chinese national community, grounded in the prevailing condition of the nation's rule of law. The culture of rule of law, representing a fundamental aspect of Chinese legal culture and a societal phenomenon, profoundly resonates across different ethnic groups, influencing their collective consciousness. As an ethos, the culture of rule of law not only signifies a maturation in the populace's comprehension of their rights and duties but also mirrors advancements and innovations in the modernization of the national governance framework. Within the paradigm of total legal governance in the new era, the 19th National Congress of the CPC underscored the "enhancement of the legal and moral standards of the entire populace". Essentially, this advocates for an egalitarian elevation of legal and ethical standards across all ethnicities, thereby bolstering their confidence in the unique socialist legal path that embodies Chinese characteristics.

1.3 A powerful Driving Force for Ethnic Unity and Progress

Since the 18th National Congress of the Communist Party of China (CPC), General Secretary Xi Jinping has accorded significant emphasis to the legal aspects of ethnic affairs. In several crucial meetings concerning national matters, he has articulated key principles such as utilizing law to preserve national unity, enhancing the legal awareness among all ethnic groups, ensuring equality before the law for all nationalities, and steadfastly managing ethnic affairs in accordance with the law to advance the modernization of the ethnic affairs management system and capabilities. These insights deeply

delineate the goals, tasks, and specific mandates for the legal progression of ethnic affairs in China's new era.

It is imperative to underscore that the "rule of law" constitutes not just the cornerstone of contemporary national governance but also serves as a principal mechanism for adjusting ethnic relations, resolving ethnic disparities, and safeguarding national cohesion. Consequently, fostering a socialist rule of law culture within ethnic regions represents a noble charge bequeathed by the era, as well as a pragmatic necessity for cultivating harmonious ethnic relations, propelling the advancement and evolution of ethnic groups, and enhancing the overall caliber of ethnic minorities.

To forge a socialist rule of law culture in ethnic minority areas, an adherence to appropriate values is mandatory. The principles of rule of law, border governance, and administrative legality are fundamentally linked to legal reasoning and methodologies. Bolstering the Chinese nation's sense of community through legal means is not only vital for maintaining national unity but also a crucial mechanism for enhancing national identity and achieving national rejuvenation.

Currently, China's ethnic legal framework exhibits imperfections, and the system of regional ethnic autonomy presents flaws, impacting the economic, social development, and stability of ethnic regions. These issues hinder the seamless attainment of the goal to construct a moderately prosperous society in these areas. In the contemporary era, ethnic harmony has emerged as a vivid manifestation of China's new socialist ethnic relations, and in ethnic territories, the establishment of a socialist rule of law culture has imbued the unity of all ethnic groups with renewed vigor.

2. The Theoretical Basis of the Construction of Legal Culture in Ethnic Areas

2.1 The Profound Connotation of the Construction of Legal Culture in Ethnic Minority Areas

The culture of rule of law is a foundational element in establishing and implementing a socialist rule of law system with Chinese characteristics. It plays a crucial role in societal development, the modernization of national governance, and the fulfillment of the rule of law strategy. This culture is aimed at fostering a deep-seated belief in the rule of law, incorporating the core spiritual values of a unique legal perspective, legal cultivation, and legal personality reflective of the new era.

To develop the rule of law culture in ethnic areas, understanding its fundamental concept is essential. However, the academic community has not yet reached a consensus on this matter, resulting in significant debates and at times, contradictory views. Scholars have explored the definition of "rule of law culture" from various angles, focusing mainly on two pivotal aspects:

1) ****Comparative Research****: This method involves comparing the rule of law and rule of law culture with the culture of law and Western concepts of rule of law. Liang Qichao, a pioneering Chinese scholar, was the first to use the term "rule of law" and delineated the concept of rule of man culture in his historical works. Liang Zhiping further analyzed the differences between Chinese and Western legal cultures, highlighting their fundamental conflicts and the challenges in harmonizing these divergent cultural perspectives.

2) **Cultural Perspective on the Rule of Law**: This approach seeks to identify the core attributes, uniqueness, and structural components of rule of law culture. It regards the rule of law as a significant category within the broader concept of legal culture. Early anthropological insights from Taylor, who viewed culture as encompassing all aspects of civilization including laws and moral codes, inform this perspective. According to Professor Li Deshun, the essence of culture—and by extension, rule of law culture—lies in “the shaping of people”, encompassing individuals’ nature, subjectivity, historical context, and practical application.

Further scholarly contributions suggest that the domain of rule of law culture should encompass legal concepts, systems, structures, practices, and the linguistic and textual aspects of law. Some argue that the rule of law should be seen as an ideology or form of social consciousness, centrally focused on “legal belief” and “legal spirit”.

In summary, rule of law culture, as a reflection of social and economic development, embodies the norms, concepts, and cultural traits of legal operation in society. It manifests through the enactment and observance of laws, influencing attitudes towards law compliance and embedding itself in social practices. Conceptually, it shapes thought and behavioral patterns, while spiritually, it integrates into the ideological realm through legal education. Practically, it is evident in the application of law in everyday operations, highlighting its significance in both guiding societal conduct and fostering a legal mindset among citizens.

2.2 The Necessity of the Rule of Law Construction in Ethnic Minority Areas

The establishment of the rule of law within ethnic minority regions constitutes the foundational premise for upholding ethnic unity. Reflecting on the era’s characteristics of the rule of law, the advancement of a national legal framework has solidified a historical basis for national cohesion. Ethnic relations represent the most fundamental social relationship within a nation’s political existence, serving not only as a legal standard but also mirroring shifts in societal understanding and attitudes toward this issue across various epochs. The epochal attribute of the rule of law accentuates its distinctiveness, delineates its temporal positioning, and guides the application of legal principles.

The development of the rule of law in areas populated by ethnic minorities offers a tangible method to foster ethnic identity. “Identity” is perceived as a subjective emotional state influenced primarily by two factors: the collective and individual identities shaped by historical memory, and the shared beliefs, value norms, and resultant behavioral patterns. Being part of the 56 ethnic groups, there is a profound and holistic comprehension of the “Chinese national community” concept; this understanding is further molded from political, economic, cultural, and social dimensions during the nation-building process. Hence, augmenting the “sense of identity” among individuals is crucial for engendering a consciousness geared towards actively protecting and championing national interests, thereby ensuring the survival and progress of the entire nation. Currently, China is navigating a pivotal phase of achieving a comprehensively prosperous society and establishing a harmonious socialist state. Strengthening the regional autonomy system for all ethnic groups through legal means is critically

important for preserving the motherland's unity and fostering solidarity. To encapsulate, achieving national unity, harmonizing ethnic relations, and ensuring societal stability and growth necessitates the integration of the Chinese nation's ethnic constituents at three fundamental levels. The rule of law emerges as the most potent and efficacious mechanism to accomplish this integration.

Moreover, the implementation of the rule of law in minority areas is a crucial safeguard for the realization of national rejuvenation. The grand revival of the Chinese nation is indispensable not only for fulfilling the "Chinese Dream" but also as a prerequisite for all ethnic groups to partake in developmental benefits and attain mutual prosperity. In China, the synergy between the rule of law and the principle of virtue is mutually reinforcing. From a legal perspective, the government underpins the sustenance and advancement of laws, which are instrumental in achieving national objectives and efficient governance. Under the governance-by-law strategy, the bond between state and society strengthens, with the state's intentions significantly impacting individual liberties.

3. Embedding and Shaping of the National Legal Culture in the New Era

3.1 The Evolution of the National Rule of Law Culture

Since the Qin Dynasty, the county system gradually supplanted the enfeoffment system, enhancing the central government's control over local jurisdictions, including areas inhabited by ethnic minorities. The diverse religious beliefs, customs, and legal systems among different ethnic groups, predominantly under Han Chinese dominance, coexisted within ancient China. From the early Western Han Dynasty through to the late Qing Dynasty, the central authority consistently employed a "governing through common customs" strategy, fostering increased interaction and integration among ethnic groups. This approach facilitated the rapid evolution of legal systems within ethnic minority regions. With each historical phase, the push for uniform laws and decrees in these areas intensified, allowing national laws to permeate, significantly influencing and transforming traditional customs and legal practices, and promoting the absorption and amalgamation of various rule of law cultures.

The legal framework in ancient Chinese society can be categorized into three distinct phases: the unity of rites and laws during the pre-Qin, Qin, and Han dynasties; a balanced emphasis on morality and rites in the Sui, Tang, and Song dynasties; and a fusion of French and German legal traditions in the Yuan, Ming, and Qing dynasties. Overall, the legal systems across periods formed coherent wholes, characterized by diversity and coexistence, granting each dynasty its unique legal identity shaped by the prevailing political, economic, and cultural contexts. This millennia-old unified model, stable organizational structures, and the flourishing of Confucian culture collectively facilitated the integration of diverse ethnic cultures and the emergence of a centralized civilization narrative, constituting the foundational historical narrative for the evolution of various ethnic groups' legal cultures in China. As a distinctive component of the traditional legal framework, it too underwent development and transformation akin to other ethnic legal systems, continually enriching its content and diversifying its expression, thereby playing an increasingly crucial role in upholding social order.

Owing to the distinct social and historical contexts of each era, significant variations in legal systems have emerged, giving rise to a multi-ethnic legal culture bearing the unique imprint of its times. Since the inception of the People's Republic of China, the Communist Party and the government have adhered to principles that honor historical and contemporary realities, advocating for national equality, unity, and shared prosperity. Particularly post-economic reforms and opening up, China's escalating economic prowess, comprehensive national strength, and elevated international stature have garnered increased focus on governance strategies from central leadership. The constitution's preamble explicitly references the "rule of law," underscoring the commitment to molding a socialist state governed by law. This transition from traditional to modern governance models has seen a heightened focus on ethnic minority regions.

On one front, the state has reinforced decrees, systems, and a unified development vision to construct a robust nation capable of navigating the complex international milieu, ensuring the Chinese populace, under Party leadership, steadily achieves self-governance, prosperity, and wealth. Concurrently, to guarantee ethnic groups enjoy equivalent political rights as the Han majority, various measures have been instituted to protect their interests, thus fortifying ethnic unity and social stability. Legal mechanisms affirm and secure equal rights and status for all ethnicities, fostering their autonomy, freedom, and the harmonious coexistence of diverse groups.

Furthermore, the deepening reforms and global integration have propelled ethnic minorities into the globalization narrative. Ethnic minority and underdeveloped regions, identified as modernization's vulnerabilities, confront the imperative of expedited development. Addressing this challenge is pivotal in the modernization journey, prompting the state to implement prioritized policy and resource allocation strategies. These initiatives aim to catalyze profound reforms and transformations across political, economic, and cultural dimensions in minority regions, thereby hastening their societal shift from traditional to modern paradigms.

The contemporary legal governance evolution in minority areas is shaped by two principal influences: the recognition of "customary law's" historical legitimacy in minority regions, and the impact of state-led rule of law culture. Post-1949, ethnic policy and foundational systems have progressively infused a unified rule of law culture into these regions. This process has seen key policies and systems gradually incorporated into the legal frameworks of minority areas, with external support melding new socialist era rule of law concepts with traditional ethnic minority legal cultures. This integration advances the transition towards a modern rule of law culture.

3.2 Ethnic Integration Promotes the Development of the Rule of Law Culture

The post-reform era in China has marked a significant shift towards multi-ethnic integration, reflecting a broader trend of cultural amalgamation that transcends regional and ethnic boundaries. This integration process typically begins within the same ethnic or regional groups, fostering a shared set of traditions and practices. The unification under a common education system and market economy further accelerates this integration, leading to adjustments in the legal system that resonate throughout

the social and economic fabric of the country. The rapid dissemination of information and the liberalization of population movements, fueled by continued reforms and opening up, have facilitated the spread of mainstream and popular cultures across China. This dynamic has necessitated a swift adaptation of minority areas' traditional legal concepts to align with new developmental trajectories.

To enforce a unified national legal framework, the Chinese government has initiated campaigns like "sending law to the countryside," aimed at disseminating and popularizing national laws within ethnic minority and rural communities. These law delivery initiatives vary in form and execution across the country, and while their overall impact has room for enhancement, they are pivotal in the drive towards legal awareness and education at the grassroots level. The primary objectives of such campaigns are to instill a modern rule of law culture, adjust social relations according to national laws, and integrate these principles into the everyday lives and productive activities of ethnic minorities.

However, the implementation of national law in minority regions faces unique challenges, stemming from local environmental, cultural, and economic conditions. Ethnic minorities' traditional customs and practices are deeply ingrained, carrying significant emotional and cultural weight. These traditions have not only profoundly influenced these communities but have also posed substantial hurdles to the national law's acceptance and enforcement. The interaction between national legal culture and ethnic minorities' traditional legal norms often leads to a form of competition or confrontation, highlighting the interconnectedness of these legal cultures. This dynamic serves as a catalyst for the practical fusion of modern rule of law principles with the traditional legal cultures of ethnic minorities, promoting a mutual enrichment and integration that reflects the broader trends of multi-ethnic coalescence in contemporary China.

Such efforts underscore the complexity of governing a nation as diverse as China, where the balance between preserving cultural heritage and promoting legal uniformity necessitates careful navigation. The government's initiatives to bridge these gaps through legal education and the promotion of a unified legal system are crucial steps towards achieving a harmonious multi-ethnic society governed by the rule of law.

4. The Dilemma of the Construction of Legal Culture in Ethnic Minority Areas

4.1 Religion Weakens the Judicial Authority

The interplay between traditional Chinese societal structures, such as the patriarchal system, rule of man (人治, renzhi), religious norms, and the modern legal framework, presents a complex dynamic that profoundly affects social cohesion and legal governance, especially in a multi-ethnic and culturally diverse nation like China. These traditional influences have been integral to Chinese society's evolution, providing a sense of continuity and identity. However, they also pose challenges to the establishment and enforcement of a unified legal system that seeks to balance tradition with modernity, particularly in ethnic minority regions with strong religious beliefs.

The patriarchal system and the rule of man have historically prioritized family hierarchy and personal

authority over institutional or legal frameworks, which can conflict with contemporary principles of equality and justice under the law. Similarly, religious rules and beliefs, deeply embedded within many ethnic communities, offer an alternative source of moral and social guidance that can diverge from national legal norms.

In regions where religious faith is predominant, this faith often intertwines with ethnic identity, leading to a preference for religious or traditional dispute resolution mechanisms over formal legal proceedings. This inclination reflects not only a trust in religious leaders but also a perception of these figures as embodying both spiritual authority and communal values. Such situations underscore a potential disconnect between the formal legal system and the lived realities of ethnic minority communities, where the resolution of conflicts through legal procedures might be viewed as secondary to religious or traditional methods.

The incorporation of religious figures into legal dispute resolution processes, such as involving respected religious leaders in civil dispute juries or mediation committees, represents an attempt to bridge this gap. This approach acknowledges the importance of religious and traditional authority in these communities while striving to integrate these perspectives within the broader legal framework. However, the fundamental differences in the bases and methods of resolving disputes between religious organizations and the judiciary highlight the ongoing challenge of harmonizing traditional beliefs with the national legal system.

The coexistence of religious beliefs with legal norms in ethnic minority areas illustrates the need for a nuanced approach to governance that respects cultural and religious diversity while promoting the rule of law. This balance is crucial for ensuring that all citizens, regardless of their ethnic or religious background, feel represented and protected within the national legal system. Achieving this balance requires continuous dialogue, adaptation, and cooperation between legal authorities, religious leaders, and the communities they serve, ensuring that legal governance is both effective and culturally sensitive.

4.2 Economy Restricts the Development of a Rule of Law Culture

Despite the rich natural resources within ethnic regions, their economic development lags significantly due to a combination of natural, historical, and contemporary factors, severely impeding the evolution of their legal culture. Religious beliefs serve as a shared historical memory and psychological foundation across all ethnic communities. Ethnic minorities in remote areas encounter numerous obstacles, including inadequate transportation, communication difficulties, and limited external connections. These areas are characterized by small populations with lower levels of cultural education and a limited understanding of legal principles. Historical contexts and present circumstances hinder economic development and weaken political communication channels in these regions, complicating the establishment of a conducive legal environment. Consequently, there is a pervasive lack of rule of law awareness among local populations, adversely affecting the progression towards a modern legal culture. As China's process of socialist modernization accelerates, the societal challenges faced by

ethnic minorities have become more acute. Despite the potential advantages offered by their natural resources, ethnic minorities overall still face significant challenges in terms of openness and the capacity for innovation.

4.3 Measures to Establish a Culture of the Rule of Law Are Weak

While ethnic minorities have engaged in fostering a legal culture within their communities, this culture has not been deeply ingrained in the collective consciousness of these groups, resulting in a muted sense of belonging and consequently low levels of participation in legal developments. Among the myriad reasons for this, a significant factor is the misalignment between the constructors and beneficiaries of the legal culture, particularly in their comprehension of the “rule of law” concept. On one side, the reluctance or indifference of minority populations diminishes the influence of legal culture initiatives, preventing these efforts from truly addressing the community’s needs. On the other hand, this attitude can decelerate the propagation of legal awareness in minority regions, thereby compromising the overall quality of legal culture development in these areas.

5. Practical Experience: The Specific Approach of Legal Culture Construction in Ethnic Areas

5.1 Give Full Play to the Role of the Party and the Law

The Fourth Plenary Session of the 18th Central Committee of the Communist Party of China underscored that “the Party’s leadership constitutes the most essential safeguard for comprehensively advancing the rule of law and expediting the establishment of a socialist rule of law state.” To bolster the development of a legal culture, it is imperative to harness the potential of party members who possess superior cultural literacy and legal leadership capabilities, thereby ensuring that senior officials exemplify a proactive stance. The practice of law plays a pivotal role in cultivating and enhancing the culture of the rule of law. The establishment of a legal culture that the populace genuinely believes in necessitates the rigorous enforcement of justice and equity within the legal system, thereby enabling individuals to experience the essence of a legal culture. Consequently, broadening the scope of legal awareness campaigns and augmenting educational opportunities for ethnic minorities are fundamental to elevating the standard of law enforcement and judicial fairness in minority regions, as well as enhancing the societal perception of justice within a legal governance framework. The promotion and embracement of a legal culture are vital to the construction of a socialist legal culture, with the rule of law serving as the ideological foundation, fundamental principle, and value system guiding adherence to legal norms. It is crucial to embed the culture of the rule of law within the ideological framework, efficaciously implement it, and advocate for its widespread recognition across society, thereby expanding the demographic engaged in legal education and fostering a deeper understanding of legal culture among a broader audience.

5.2 We Will Intensify Economic Development in Ethnic Minority Areas

Enhancing economic support for ethnic minority regions, refining infrastructure development, and endeavoring to furnish robust material foundations for the culture of the rule of law in these areas are

imperative. The legal framework modulates social interactions, enabling citizens to exercise their rights and fulfill their duties within defined boundaries, thus safeguarding social stability, the nation's enduring stability, and fostering the holistic advancement of socialist material, spiritual, and political civilizations. The genesis and proliferation of the rule of law culture are intrinsically linked to the material living conditions and the economic development level. Economically, it represents the outcome of societal productive forces and signifies social progression. The economic base molds the societal superstructure, influencing the pursuit of the rule of law, providing essential material underpinnings for its enactment, and facilitating the cultivation of democratic and legal principles among the public. Engels, in his "Speech at Marx's Grave," elucidated that fundamental needs such as food, clothing, shelter, and transportation precede engagement in politics, science, art, or religion. The tangible aspects of life predetermine a nation's or era's economic level, which in turn shapes the political structure, legal philosophies, art, and religious convictions. Thus, understanding these elements should not be confined to past interpretations but recognized as foundational to development issues. Ethnic minority regions have historically exhibited disparities in economic growth, human development, and societal advancement, notably impacted by the demographic composition and educational quality of minority populations, which in turn decelerates China's overall development pace and impacts its socialist modernization efforts. Despite significant strides made post-reform and opening-up, with targeted measures to advance these regions, their development lags, hindered by geographic isolation, transportation and informational deficits, leading to economic, educational, and environmental disadvantages compared to urban centers. Consequently, the local populace's grasp and awareness of the rule of law remain limited. Therefore, economic development serves as the bedrock for cultivating a rule of law culture, aiming to uplift living standards and, on this foundation, bolster rule of law construction to augment legal consciousness.

5.3 Grassroots Social Governance to Lead the Process of the Rule of Law Culture Construction

The cultivation of a rule of law culture is inherently practical, necessitating its application and manifestation within societal frameworks, particularly in ethnic minority regions. The most pivotal and efficacious approach to fostering this culture lies in the advancement of grassroots social management, establishing foundational models of rule of law that resonate with local contexts. Emphasizing legal practice and integrating rule of law principles into the governance of ethnic minority areas can harmonize relationships, enrich social governance forms and content, bolster policy frameworks, and elevate the cultural understanding of the rule of law. Importantly, deepening the modern culture of rule of law is instrumental in transforming perceptions within minority areas, nurturing a comprehensive understanding and acceptance of rule of law principles.

Recent initiatives, such as the outreach by students from Southwest University for Nationalities to Liangshan Prefecture, underscore the imperative for targeted education, theoretical engagement, and legal literacy campaigns within these communities. These efforts reveal a crucial gap in legal awareness and the application of legal principles, highlighting a broader need for enhanced rule of law

education and the challenges posed by geographic isolation, demographic constraints, and communication barriers. Such endeavors not only reflect the necessity for heightened rule of law awareness among ethnic minority populations but also illustrate the complexities of rule of law construction in regions characterized by their remoteness and limited infrastructural capacities.

The promotion of rule of law culture, therefore, is essential for consolidating and expanding its influence, necessitating a tailored approach that respects the unique characteristics and needs of national and regional communities. By leveraging the rule of law culture effectively, we can stimulate the engagement of local populations in national and social governance, utilizing legal principles to enhance regional and societal administration. The focus should be on maximizing the participatory role of the community in the development of a rule of law culture, ensuring that grassroots social governance initiatives in ethnic minority areas are both appropriate and encouraging of proactive community involvement.

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