

## SUICIDAL PREVENTION USING JURISDICTION

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### ABSTRACT

*Suicide rates are alarmingly high in Malaysia .The rate is expected to be the countries second main cause of death after cardiovascular disease in five to ten years to come (Health Minister Datuk Dr Chua Soi Lek) Even though National Suicide Prevention Programme (a national programme to reduce suicide rates in Malaysia) has been running yet suicide rates are still alarming. Beside that Ramachandran, S (2010) reports that the suicide numbers are greater than deaths due to H1N1 or dengue in Malaysia. Can the law (Section 309 of the Penal Code) is worth considering in suicide prevention? Under this act it is stated that anyone guilty of attempted suicide face imprisonment of up to a year or fined or both. At the same time, when a person decided to end his life nothing matters anymore including imprisonment or fine. Yet, Penal Code still can be used as a great weapon in addressing these issues by amendment of the existing laws that govern about suicide. Thus this study aims the study the variances in the individual jurisdiction of the world in addressing this issues.*

Keywords: Suicide, suicide prevention, jurisdiction

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### INTRODUCTION

**Suicide** had its origin from Latin word which is *suicidium*. *Sui caedere*, is "to kill oneself" or the act of intentionally causing one's own death (Hawton K, 2009). When a person takes or tries to take his own life, most of the time it is because he feels that he has reached the end of the road, with no hope whatsoever in his sight. It is an absolute despair that drives a person suicide. They believe by ending their life their problem will end with them. However in Malaysia, suicidal behavior is most commonly regarded as a criminal act rather than responding it as a psychiatric emergency. Under the law, it is not a crime if a person is caught at the preparatory stage of suicide for example, if someone is caught after writing a suicide note or in the midst of trying a noose to hang him. If he is already hanging on the noose but the rope snaps and he is caught alive (Karim, 2008) , it is an offence under Section 309 which the guilty can face imprisonment of up to a year or fined or both. Section 306 of the Penal Code states that abetting a suicide carries a maximum jail term of 10 years and a fine. Yet if a person successfully committed suicide, he is beyond the reach of the law, and when a person decided to end his life nothing matters to him anymore. According to Professor Mohamed Hussain Habil, the president of the Malaysian Psychiatric Association, suicide rate have increased by 60% for the past 45 years. An estimated 7 people attempt suicide daily in Malaysia, one daily in Singapore and 13 daily in Thailand ("Suicide It's an sos!", 2006). Health Minister Datuk Seri Liow Tiong Lai said men out number women three to one, while Chinese had the highest number of suicides at 48%, followed by Indians 21 %, Malays 18 % and other races 13 %. However, he said the country's suicide rate is far lower than the global average of 16 for every 100,000 people (Sipalan, 2012)

Imagine a person at the verge of suicide, who does not want to live any more. Would the prospect of imprisonment or fine (which will occur from a failed attempt) deter a person in such mental state from proceeding to carry out a successful suicide? Would that cross his mind at that moment of despair? According to Vincent Pun (Executive Director of The Befrienders, K.L) prosecuting someone may unlikely act as a deterrent. Someone who is on verge of suicide and would not want to live any more may unlikely think of being caught or imprisoned. The thought of suicide most often occurs when a person feels they have run out of solutions to problems that seem inescapable, intolerably painful, and never-ending (Chiles & Strosahl, 2005). Sometimes people commit suicide as they want to take revenge on another person or disagreement with the person. "If I die, he or she will be guilty of the cause of my death until he dies". Thus, they die as an act of revenge and disagreement. This could be similar with the Seppuku (a ritual form of committing suicide in the Japanese society) where the samurai warriors and noblemen commit suicide as the ultimate expression of showing one's disagreement with the Lord (Dieter Wanczura, 2009). For example in the case Ismail Khan, Rashitha A. Hamid reports that a he took his children, Mohd Faizal, nine, and Aqsa, six, to the top floor of the Langat Jaya condominium and pushed them off the building last night. He then jumped off the condominium. Kajang OCPD Asst. Comm. Abdul Rashid Abdul Wahab said Ismail had been living separately from his wife after she filed for divorce last

year. He said it was believed that Ismail committed suicide as he did not want to divorce his wife, who is a Malaysian and working as a senior executive in the city. Initial investigations also revealed that the husband had tried to commit suicide and kill his children in November last year but they were saved, and his wife had lodged a police report on the matter. Even though many school of thoughts explained about the factors that influence suicide yet people who are suicidal are usually placed into categories such as "depressed," "psychotic," or "manipulative" (Shawn T. Smith, 2011). Thus, this case clearly shows that the present legal systems are unable to prevent an individual to suicide again after the first attempt. They often believe that no one can help them, and this makes them feel helpless and hopeless within their situation. Meanwhile according to a research of Solberg the behaviour of committing suicide reflects a signal of psychology disorder from injured party (as cited in Tam et al., 2011). Can the law (Section 309 of the Penal Code) is worth considering in suicide prevention? Imprisonment or fine is certainly not worth considering when someone has already intended to commit suicide as the state of mind remains the same. They believe that they can either choose to live with the pain, or end their life to escape the pain and the trouble in this life. Deputy Inspector General of Police Tan Sri Ismail Omar said, even though there are some people attempting suicide, yet police are not enforcing the law. This, he said, was because attempted suicide, as a crime, was unlike other illicit acts that need to be dealt with delicately. Besides that, such a person needs proper help, not imprisonment or fined (Karim, 2008). The society has in some way failed them otherwise they would not have been driven to this state. Deep inside these people thoughts they feel that only suicide can solve their problem and suicide is the answer. And for those who have attempted suicide, going to jail will not hold them back from their intention. Furthermore, according to National Suicide Registry Malaysia's person in custody also have high risk in committing suicide majority in their own prison cell. ("The Annual Report of the National Suicide Registry Malaysia" 2008). This clearly shows imprisonment did not solve the problem. Even though we're all familiar with the old bromide, "suicide doesn't fix anything" and in our perspective that may be true, but the person considering suicide may mistakenly perceive suicide as the only thing that will end their pain (Shawn, 2011). Beside that laws can only punish those who have failed and the ones who succeed in their attempt are beyond the long arm of law (Asohan, 2008). Instead of taking 12 pills of Panadol, they'll make sure they succeed, and take 50 pills. Instead of drinking half bottle of Clorox, they will drink one bottle. Perhaps a reasonable view should be that they wanted get the result they wanted –which is to end their life. Such a person needs to be detained temporarily for counselling and rehabilitation. They need to be reached out to and, not be ostracised (Asohan, 2008). Attempters need medical and psychological help and not punishment. If someone commits suicide, they need compassionate help and a listening ear (Asohan, 2008).

#### **LAWS IN INDIVIDUAL JURISDICTIONS ON COMMITTING SUICIDE**

Humans have attempted and successfully committed suicide since time immemorial (Bhugra, D. & Desai, M. 2002). In many countries, suicides are never criminalized. And in some cultures it was seen as a patriotic alternative to dishonor. It is thought that Greek philosopher Socrates became his own executioner - sentenced to death by drinking poison - and in ancient Athens it was said city magistrates kept a supply of poison for anyone wishing to die (Gery, H. 2011). Ancient Hindu texts allowed individuals to kill themselves, although in later Upanishadic period suicide was generally condemned, but acceptable for holy men, especially if they had reached the stage in their life where they had gained insight into life's problems. Suicide was permitted on religious grounds, as death was seen as the beginning of another life. Somasundaram et. al. (1989) reports that the great 11<sup>th</sup>-century Tamil classic Purananuran anthology includes references to self immolation by a widow on the death of her husband. There is also mention of suicide by starvation or fasting. Yet "Attitudes to suicidal behavior have changed over time and at different times in different places," says Prof Nav Kapur, head of research at Manchester University's Centre for Suicide Prevention. "Self-murder" became a crime under common law in England in the mid-13th Century, but long before that it was also condemned as a mortal sin in the eyes of the Church. For a death to be declared a "Felo de se", Latin for "felon of himself", an old legal term for suicide, and it had to be proved the person was sane. If proven, they were denied a Christian burial - and instead carried to a crossroads in the dead of night and dumped in a pit, a wooden stake hammered through the body pinning it in place. There were no clergy or mourners, and no prayers were offered. But punishment did not end with death. The deceased's family were stripped of their belongings and they were handed to the Crown. "The suicide of an adult male could reduce his survivors to pauperism," Michael MacDonald and Terence Murphy wrote in *Sleepless souls: Suicide in early modern England* (as cited in Gery, H. 2011).

#### **CANADA**

Suicide is no longer a crime in Canada as it was removed from Criminal Code of Canada

In 1972 by the Parliament of Canada (Suicide legislation). However, anyone found guilty of counselling another to take his or her own life or of aiding a suicide is liable to imprisonment of up to 14 years, whether or not the suicide attempt is successful. A peace officer or a physician may order involuntary detention of any person judged to be a danger to him or herself. (Florence Keller, 2012).

#### **INDIA**

In India, attempted suicide is an offence punishable under Section 309 of the Indian Penal Code. Section 309 reads thus: Attempt to suicide. "Whoever attempts to commit suicide and does any act towards the commission of such offence shall be punished with simple imprisonment for a term which may extend to one year or with fine, or with both (Suicide legislation).

#### **IRELAND**

Attempted suicide is not a criminal offense in Ireland and under Irish law self-harm is not generally seen as a form of attempted suicide (Suicide legislation).

## NETHERLANDS

In the Netherlands, being present and giving moral support during someone's suicide is not crime; neither is supplying general information on suicide techniques (Suicide legislation). NVVE, Dutch Right to Die Society, launches website about international films and Documentaries like *The suicide Tourist*, *Terry Pratchett: Choosing to Die* and *A dignified End* (an English spoken Dutch documentary on a right to a dignified end) Beside that, there is an official website "This is the End" which is a gathering ground of background information on international documentaries and films regarding the subject of voluntary end-of-life decisions ("NVVE, Dutch Right to Die Society"). However, it is a crime to participate in the preparation for or execution of a suicide, including supplying lethal means or instruction in their use. But physician-assisted suicide may be an exception especially for euthanasia (Suicide legislation). At the same time, number of reported euthanasia deaths in the Netherlands also has increase from 1923 in 2006 to 3695 in 2011. (Schadenberg,A .2012).

## NORTH KOREA

North Korea has a peculiar deterrent for suicides. Although law cannot punish a dead person, in North Korea relatives of a criminal (including a suicide victim) might be penalized, as a form of collective punishment (Suicide legislation).

## RUSSIAN FEDERATION

In Russia, inciting someone to suicide by threats, cruel treatment, or systematic humiliation is punishable by up to 5 years in prison. (Article 110 of the Criminal Code of the Russian Federation). Federal law of Russian Federation no. 139-FZ of 2012-07-28 mentions the possibility to censor information about methods of suicide on the Internet (Suicide legislation).

## SINGAPORE

In Singapore, a person who attempts to commit suicide shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both (Singapore Statutes Online).

## UNITED KINGDOM

### England and Wales

Laws against suicide (and attempted suicide) prevailed in English common law until 1961. English law perceived suicide as an immoral, criminal offence against God and also against the King. Suicide ceased to be a criminal offence with the passing of the Suicide Act 1961; the same Act made it an offence to assist in a suicide (Suicide legislation).

### Scotland

Suicide directly involving only the deceased person is not by itself a criminal offence under Scots Law and has not been in recent history. However, attempting suicide might be a Breach of the peace if it is not done as a private act; this is routinely reported in the case of persons threatening suicide in areas frequented by the public (Suicide legislation).

## UNITED STATES

Even though in the American jurisdictions suicidal act in the theory is a criminal offense; but in practice no penalty has ever been applied in the United States for a successful suicide. Penalties may, however, be imposed for attempting suicide or for aiding another to attempt or to commit suicide. Until the 1970s the statutes of a number of states forbade attempts to commit suicide. In codified form a typical example is a former Oklahoma law, Okla. Stat. Ann. tit. 21, § 812 (1958) (repealed 1976): That policy has been generally rejected today. One who is bent on self-destruction is not likely to be deterred by the possibility of punishment if he fails. Thus, the rationale for punishing attempted suicide is eliminated. Modern American attitudes toward punishing both suicide and attempted suicides are similar to those expressed in England. The English Suicide Act, 1961, 9 & 10 Eliz. 2, c. 60, s. 1, provide that suicide should no longer be deemed criminal. ("Suicide: Legal Aspects – Bibliography")

## RECOMMENDATIONS

Based on the study above, in order to reduce the rate of suicidal in Malaysia, we have to inspect and find out the most appropriate solution. We must help those suicidal to change their mind from negative to positive one using an effective jurisdiction. Yet sometimes, we feel that suicide is an act which is something beyond the control of the laws. When someone wants to end his life, we cannot stop them. They can even do it anywhere and use any method from the simplest one such as gas or drugs or to the scariest one such as guns and hanging. Yet suicidal act is still beyond the reach of law as it is their right. Suicidal prevention always comes with these three questions, things that the law could have, would have, or should have done to prevent these acts.

Suicide prevention includes any self-injury prevention includes any self-injury prevention or health promotion strategy generally or specifically aimed at reducing the incidence and prevalence of suicidal behaviours (i.e. reducing risks). On the other hand, when we discuss about suicidal, there will be many unanswered questions that is asked by the society. "What is the core reason they want to end their?" "Why can they seek help"? But sometimes these suicidal people feels that society has fail them and that bring them for such acts. To make the preventive work more solid, preventive work should start by improving the societal conditions first. A variety of negative societal conditions has been the core factors that contribute to the suicide rate. Every setting should have a one stop for people seeking help. Émile Durkheim, the 19th-century sociologist, regarded the macroscopic state of society as all-important in the genesis of suicide and tended to dismiss the effects of mental illness or stressful individual predicaments. He believed that *cohesion* (integration of societal forces) reduced suicidal activity within a community, while *anomie* (social disorganization) promoted it (Durkheim, 1897/1951).

Only counselor who holds a valid practicing certificate should handle clients. At the same time, counselor should abide by ethical codes and standards to provide a framework for professional behavior & responsibility. When he or she does not hold a

valid certificate of registration or certificate, as the case may be or a practicing certificate shall be guilty of an offence. School, universiti and hospital should take proper step to take in the reporting and resolving of suspected ethical violations in the premises. Their entire counselor should be registered under the Counselor Act 1998. This is to avoid case like Nge Hao Zheng, an 18 year old Form 6 student of SMK Yu Hua who fell to his death after attending a counselling session on the fourth floor of the building. Besides that, Nge Hao Zheng was able to score 7As in the Sijil Pelajaran Malaysia (SPM) examination, proving that he was a hardworking student who always cared for his future. Even the school principal had confirmed that he was an excellent student with no disciplinary record. A teenage boy who was so passionate for the future might worried that his future would be destroyed by the accusation of deliberately nudging a female student. Perhaps that was why he chose to commit suicide. Furthermore, this is not the first suicide in school. They are few cases already been reported in school. Another case happened on 8 February 2011, when a troubled schoolgirl walked out abruptly during a lesson and fell to her death. Besides that, another 15-year-old outstanding schoolgirl, believed to have scored poorly in Mathematics, was badly injured after her fall from a school building on 19 April (Lim S.G., Soon P.J. 2011).

While it is known that the media exercise a powerful influence on public attitudes, beliefs and behaviors. Thus government should block this website that teaches the suicidal people the detail step by step methods on killing oneself. Russian Federation is one of the countries which censor information about methods of suicide on the Internet under Federal law of Russian Federation no. 139-FZ of 2012-07-28. On the site, the association gives detailed information on medicines which can be used for suicide. It also lists the countries where they are available and the brand names they are known by. The methods are also explained step-by-step. If the suicide goes wrong under the heading 'Aftercare' the suicide website says that should the attempt fail, the association's support service "is always prepared to talk about the experience." The title for this website is "Suicide tips for just 17.50 Euros", which is self-explanatory, and advertising the tips or are attracting visitors to read the article or visit the site for tips to suicide. Membership of the Dutch Right to Die Association is open to Dutch people and foreigners with the membership of RM 68.75 a year. Some countries such as Australia and South Korea have begun to implement strategies such restricting access to "pro-suicide" websites (Chan L.F.2011).

A Canadian study found that there is a close relationship between the increased use of this method of suicide and the prominent media coverage given these deaths can increase the suicidal behaviour (Littman, 1983). Recent studies also show that publicized celebrity and non-celebrity suicides are associated with increases in the United State National suicide rate (Stack,1990). At the same time, several studies have reported increases in adolescent suicides associated with television news and fictional stories, attributing such increases to an imitation effect (Phillips and Carstensen, 1986; Gould and Shaffer, 1986). For example on December 2010, British charity worker Simone Back wrote on her Face book page: "Took all my pills be dead soon so bye every one." Some of her 1,082 friends reacted nonchalantly. One said she was lying and another said that it was "her choice". Some, however, urged for someone to contact her. The next day, her mother Jennifer Lang ridge, 60, was told of her daughter's ominous messages. But it was too late – Back was already dead. This was also imitated by 22-year-old Alvis Kong on December 2010 posted a 45-minute countdown to his suicide on Facebook. Minutes after his post, 204 Facebook members "liked" his suicidal status. Kong eventually jumped off the 14th floor of his apartment building in Ketumbar Heights, Cheras, and Kuala Lumpur. A few months later in February, 17-year-old Sally Lee Qian Chun, a Form 5 student at SMK Seri Kota in Ayer Leleh, Malacca, walked out abruptly during class and sat on the corridor ledge and fell backwards. A month before she jumped, she had posted a series of disturbing messages on Facebook, and even said that she was planning her suicide. Instead of empathy and concern, some users taunted her. Some even dared her to go ahead and kill herself. How, then, should one react to a suicidal message posted online? Perhaps actress Demi Moore can answer that question. In March 2009, a woman announced her plans to commit suicide by sending a tweet to Moore. Known by her monicker Sandieguy, she wrote: "Getting a knife, a big one that is sharp. Going to cut my arm down the whole arm so it doesn't waste time." A few seconds later, she wrote: "gbye ... gonna kill myself now." Moore, who was in France with her husband Ashton Kutcher, reposted the message on her Twitter page and tweeted: "hope you are joking." What happened next was encouraging. Her followers (she has more than 380,000 subscribed to her Twitter updates), flooded the San Jose Police Department with calls about the suicide threat. Police later located Sandieguy and took her into custody for evaluation. Suicidal remarks should never be ignored or allowed to pass, said Gangadara. When you see messages such as "I'm going to die tonight" or even indirect ones such as "I don't want to get up tomorrow morning" or "It's the end of the road for me", do not hesitate to act. "We have to act fast – when they're talking about suicide, they're already at the end of the road. And we don't have much time," said Gangadara who is the chairman for Befrienders KL. "Thus the simple act anyone should do is, by informing the suicidal person to the helpline services to which can help them to reduce helplessness, hopelessness and isolation (Elizabeth .T, 2011). Failures to do this, then these people have to be charged under Section 306 of the Penal Code which carries a maximum jail term of 10 years and a fine. The society sometimes being as so ignorant as they fell that there is no consequence for them if they did not help those who said they have the suicidal feeling. Being silence to this voice of cry is also a way of abetting to suicide. So, even though we believe that the media is our enemy, yet it really depends on us in making the media an ally in our efforts towards suicide prevention in our nation.

The best-known example of a reduction in suicide after neutralization of a lethal method occurred in Britain. During the 1960s suicide rates fell after domestic gas made from coal was replaced by natural gas with a much lower carbon monoxide content. This greatly reduced the possibility of asphyxiation using a gas oven, which had been a common suicide method for the elderly in particular. The fall in suicide rates in this age group persisted even though rates continued to rise in young males, where suicide by gas ovens was never the method of choice Kreitman, 1976 (as cited by Suicide in Canada,1994). Thus when it is out of sight then it will be out of mind. Kreitman also concludes that the scenario of suicide usually specifies the use of a particular method, and if this is not available actual suicide is then less likely to occur. Maniam (1994) found that 81% of suicides and 78% of parasuicides were among Indians, although they only form 25% of the population. About 94% of suicides and 66% of parasuicides were by self-poisoning with weed-killers or insecticides, mostly organ phosphorous compounds (15% used parquet). When there are interpersonal difficulties, marital quarrels and other family conflicts or a relationship breakdown they

tend to take the simple way by consuming this poison. He reported that paracetamol accounted for 65% of all suicides. Even though, pesticide ingestion was still the leading cause of death but hanging was the other method. Moreover, a study is being carried out to look at the changes in the trend of suicidal behavior in a hill resort in Cameron Highlands Malaysia. In the study it shows that the suicide rate in Cameron Highlands has declined greatly to about 15 per 100,000 compared to 60 per 100,000 in the preceding two decades. Thus, the reduction in suicide does not merely apply to death by pesticides but also to hanging (Aishvarya, S., 2009) indicate that it may not merely be due to reduced access to pesticides, yet the author could not finalize as the research is still in progress. According to Kasinathan Nadesan (1999) poisoning remained a popular method of committing suicide among the Indians. Thus, sales of poisons, weedicides and pesticides should be controlled. When they are reduced access to pesticides than the scenario of particular method is less likely to happen. At the moment any one can purchase pesticides at any hardware shops in town. With a small quarrel back home can lead someone to take these pesticides. Before they could rethink the consequences of the act they are already dead. When his son, (Utahaya Kumar, 22) about to die he did mention of his pain drinking the paraquat and claims that he did not want to die... it was merely out of disappointment that led him to that action. (Kuppuchettu, personal communication, August 1, 2012). Besides that, pharmacy should avoid selling a large amount of medicine to anyone without the doctor's prescription too. According to Kasinathan Nadesan (1999) in his research the youngest Malay victim was an 18-year-old unmarried, pregnant girl who swallowed chloroquin tablets. Chloroquin is considered as a drug that could induce abortion. Had she taken it with that intention, then her death may be considered as an accidental overdose. The question arose is how can an 18-year-old girl get Chloroquin tablets on a large amount?

Police should arrest a person who stands aimlessly at bridges and high rise buildings. Buildings and bridges should also place advertisement on toll-free numbers or help lines for suicidal people. All attempted suicide cases should be seen by a psychiatrist for further management, that is, for counseling and rehabilitation. "Not all cases are referred, some doctors refer and some don't. The psychology officer added that, hardly any cases will be referred to police unless, the accused was charged with the counts of murder under s 302 of the Penal Code". (Psychology Officer, Perak State Health Department, personal communication, August 10, 2012). Doctor's often underestimate the likelihood of suicide. There are still commonly held misconceptions related to attempted suicide. In particular, it should be noted that the method of previous suicide attempt is not a good predictor of the severity of future suicidal risk. Patients may take a 'mild overdose' on one occasion, and jump to death on the next. The golden rule to follow is that all suicidal attempts must be taken seriously. It is crucial to keep in mind that about 15% to 25% of people who have attempted suicide will make another suicide attempt within 3 months, and that 1% will kill themselves in the following year. Doctors should also share with others the duty of making our society a happier place for all (as cited in Wong, C.K., 2003)

## CONCLUSION

It is recognized that suicide is not a random and pointless act. It is seen as a way out of an intolerable situation, a crisis, a problem or difficulty. Yet this act is preventable, if the state intervenes directly by amending the current law. Law per se would not be a complete solution. Criminalizing attempted suicide is not going to reduce the suicide rates and help treat depression. It is like "put the carriage before the horse". These people need help, not imprisonment. The cry of pain by these failed attempters must not be punished. The state should be treating it right, from the very beginning. As the law, seems much more relevant at this point to address these issues. As for suggestion, only counselor who holds a valid practicing certificate should handle clients. At the same time, government should block website that teaches the suicidal people the detail step by step methods on killing oneself. Besides that, the society sometimes being ignorant as they feel that there is no consequence for them if they did not help those who said they have the suicidal feeling. Being silent towards this voice of cry is also a way of abetting to suicide and they should be charged under this act. The most important suggestion is that the sales of poisons, weedicides and pesticides should be controlled. When they are reduced to the access to pesticides, then the scenario of particular method is less likely to happen. Further, it is found that all suicidal cases should be seen by a psychiatrist for further management, that is, for counseling and rehabilitation first. Attempters need medical and psychological help and neither punishment nor court proceedings. The amendment of the Penal Code regarding suicide act is needed as it penalizes those who failed in their suicidal attempt. If no action is taken, suicide act can be a bad influence. It will keep on spreading to others and finally create a new means of escape from one's problem or despair. The study sample is limited with the laws of some jurisdictions only. Furthermore there is less information pertaining laws of suicide in these countries. Ideally the study should include countries which have the highest suicide rates exp. Japan and South Korea and Lithuania.

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