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**THE ALTERNATIVE DISPUTE RESOLUTION  
MECHANISMS IN ADDRESSING PROLIFERATION OF  
ILLCIT SMALL ARMS AND LIGHT WEAPONS IN KENYA:  
A CASE STUDY OF WEST POKOT COUNTY**

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**Abstract**

*Proliferation of illicit Small Arms and Light Weapons (SALWs) is a major security threat to global security. It is estimated that there are about one billion firearms in the world, of which only 15% are held by military and law enforcement organs while the rest are in civilian hands. The high number of firearms in civilian hands contributes to global insecurity in diverse forms. The adoption of Peace, Justice and Strong Institutions under Sustainable Development Goal 16 envisioned to significantly reduce illicit arms flows and combat all forms of organized crime by the year 2030 was based on this background. In Eastern Africa, proliferation of SALWs is attributed to civil wars in states in the Horn of Africa region. This has enabled cross-border trafficking of SALWs through the porous borders leading to proliferation of such illicit weapons in Kenya. The Northern region of Kenya is the most affected, and has experienced perennial insecurity occasioned by inter-ethnic conflicts and cattle rustling amongst the pastoralist communities. The Government has made various efforts in addressing illicit SALWs proliferation including law enforcement approaches, and Alternative Dispute Resolution (ADR). This study therefore aimed at*

*determining the effect of ADR in addressing proliferation of illicit SALWs in West Pokot County. The methodology applied was a desktop review of secondary data. Rational Choice theory and Social Identity Theory formed the conceptual framework. The study established that different ADR approaches were applied by peace and security actors and had different effects towards reducing proliferation of illicit Small Arms and Light Weapons. These approaches despite various limitations significantly contributed to reduction in proliferation of illicit SALWs in West Pokot County. It was recommended that the Government of Kenya should tap on the ADR to sustainably address this security threat.*

**Key Words:** *Alternative Dispute Resolution, Proliferation, Small Arms and Light Weapons*

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## **1.0 Introduction**

Proliferation of illicit Small Arms and Light Weapons (SALWs) is one of the major threats to global security. Some of the security threats orchestrated through the use of illicit SALWs include; civil instability especially in third world countries, organized crimes, and various other criminal offences either by individuals or groups (Ogana, 2013). This therefore implies that proliferation of illicit SALWs is a major precursor for national, regional and global insecurity (Hideg and Alvazzi, 2021).

The Global Firearms Holdings estimates that there are about one billion firearms in the world over of which 85% are in civilian hands, 13% are military owned and the remaining 2% are held by law enforcement organs. The high number of firearms globally in civilian hands contributes to global insecurity in one way or the other. The United Nations General Assembly was informed by this situation in 2015 when it adopted Peace, Justice and Strong Institutions as one pillar of the Sustainable Development Goals (SDGs) and envisioned to significantly reduce illicit arms flows and combat all forms of organized crime by the year 2030 (Nicolas et al, 2010).

During the UN Programme of Action on Small Arms (PoA) Conference in 2018, member states committed themselves to fully implement the PoA and the International Tracing Instrument which are essential for sustainable peace, reconciliation, security and development. Attaining this goal is however a mirage due to the secrecy, complexity and multifaceted nature in which illicit small arms trade is grounded (Ibid).

Regionally, African Union Small Arms Survey of 2018 estimated that civilians possess over 40 million small arms translating to approximately 80% of all small arms in the continent while the continent's armed forces and law enforcement personnel hold paltry 20%. Half of the civilian firearms are not registered and therefore illegally possessed, hence one of the key reasons of insecurity. Western Africa has the highest number of civilian-held firearms (10,972,000 firearms), followed closely by Northern Africa (10,241,000 firearms) while Eastern Africa has 7, 802,000 civilian-held firearms (Ibid). Gikonyo, (2015) attributes the proliferation of Small Arms and Light Weapons (SALWs) in the Eastern Africa region to among other things, civil wars in the Horn of Africa, particularly in Ethiopia, Uganda, Somalia and South Sudan. This has enabled cross-border trafficking of SALWs through the porous borders leading to proliferation of illicit Small Arms and Light Weapons in Kenya and other neighboring countries. According to Manasseh et al (2012), the northern region of Kenya is the most affected, and experiences perennial insecurity leading to its categorizations as a highly volatile zone.

Deo, *et al* (2019), observes that insecurity in this region is as a result of inter-ethnic conflicts and cattle rustling amongst the pastoralist communities. Inter-ethnic conflicts occur as a result of communal competition for grazing land, scarce pastures, and water resources. On the other hand, cattle rustling has evolved and is now being practiced for commercial reasons. It occurs through community-oriented armed criminal networks that cross communal and

international borders unlike in the past when it was majorly for restocking after severe drought and for customary purposes and rarely resulted into violence and/or death.

This insecurity is attributed to proliferation of illicit small arms and light weapons amongst civilians inhabiting the pastoral areas of Northern Kenya, and those held by their neighbors from neighboring states. The increasing proliferation of illicit SALWs in Kenya is therefore manifest through; high number of firearms recovered during amnesties, and government sanctioned voluntary surrender of illegal firearms, illicit SALWs recovered during security operations, number of fatal and non-fatal injuries to both security officers and civilians inflicted using illicit firearms, increased number and intensity of crime incidents such as cattle rustling and banditry, closure of institutions such as schools in conflict prone areas, mass displacement of civilians etc. The impact of SALW proliferation that has been identified and documented in West Pokot County include; high rates of firearms' inflicted deaths and injuries corresponding to the scale of raids, breakdown in law and order, reducing power of traditional institutions of governance, increased number of cattle raids thus increase in poverty, and firearms infested areas rampant for ambushes to both locals and security officers (Mtutu, 2005).

In order to enhance national security by reducing proliferation of illicit SALWs, the Government of Kenya has taken various measures. These include; being a signatory to; UN Protocol on Small Arms and implementing its provisions, Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons (Adetiba, 2019). Nairobi Protocol and Declaration on Small Arms Trade, Eastern Africa Police Chiefs Cooperation Organization (EAPCCO) Cattle Rustling Protocol (Deo et al, 2019) among others. The government also instituted various other law enforcement approaches such as strengthening of counter terrorism programs, border controls, Disarmament, Disengagement and Re-integration (DDR), and so many other approaches (McDonald, 2005).

This study therefore aims at examining the effect of various Alternative Dispute Resolution mechanisms as applied by various stakeholders in Kenya in an attempt to provide policy resolution to the menace of illicit SALWs proliferation. West Pokot County was picked for the case study since it has for quite a long time experienced illicit SALWs inflicted insecurity.

## **2.0 Conceptual Framework**

For critical analysis of the problem under investigation, two theories were applied namely rotational Choice and Social Identity Theories. The rational choice theory considers the individual as a rational actor. The choices individuals make are based on risk versus the reward. The decision will not be made if the reward is outweighed by the risk. To make such decisions, consideration of resources available, time, and information are of essence (Garnett, 1970).

In the case of proliferation of illicit SALWs in Kenya, individual's character and motive drive the desire to possess an illicit firearm hence the rapid proliferation. If individuals were not motivated through cost-benefit analysis, proliferation of illicit SALWs would probably be non-existent and therefore would have no effect on national security. It is the rational decision of individuals and collective members of society to live with illicit SALWs in their midst while fully aware of the adverse security implications resultant thereof. Alternative Dispute Resolution mechanisms by various stakeholders are based on extensive reasoning with affected communities and this provides adequate time for rational decision making.

The Social Identity Theory was also applied since social identity is a key motivator of members of the society to maintain social cohesiveness and homogeneity (Jolle, 2012). If a society is associated with pastoralism, definitely community members will majorly be pastoralists. When community members engage in conflict with their

neighbors, and acquire firearms to gain dominance over their rival neighboring communities, thus engage in unlawful activities, socio-cultural and environmental dynamics will cause individuals to abide by those social norms and act to the whims of the larger society. Consequently, the effects of insecurity orchestrated by illicit SALWs in Northern Kenya has ethnic dimension as such conflicts are inter-ethnic and rarely intra-community. Also, when ADR approaches are applied, they vary from community to community and their effect depend on how a particular community perceives them.

### **3.0 Methodology**

The research applied mixed method design informed by desktop and library review of secondary data sources such as thesis documents, journals, organizational reports and books. The analysis of secondary data allowed for the review of existing literature to give a broader understanding of the subject, and also generate new knowledge in the subject (Kothari, 2003, Chava & David, 1996).

### **4.0 Research Findings**

The research established that different ADR mechanisms are applied by the key stakeholders i.e., the Pokot Council of Elders, Non-Governmental Organizations, and the National Steering Committee for Peace and Conflict Resolution (NSC) in addressing proliferation of illicit Small Arms and Light Weapons in West Pokot County. The effects of different ADR mechanisms in addressing proliferation of illicit SALWs are also diverse as outlined here below:

#### **4.1 Pokot Council of Elders (PCE) ADR mechanisms.**

##### **4.1.1 Settlement of Community Disputes**

Whereas incidences of cattle raids within the Pokot community is rare, the inter-communally cattle rustling with neighboring communities is very rampant. This is attributed to the discipline instilled within the community by the council of elders through dispute resolution mandate vested on them through their “courts” which are highly revered. Their pronouncements are “law” and consequences for non-compliance is very punitive to the offender(s). The elders’ intra-community peace mediation has significantly enhanced reduction of proliferation of SALWs in most parts of the county where threats of armed attack from the neighboring ethnic communities are minimal.

It is perceived as unbeneficial to possess an illicit firearm in the peaceful areas of the county since there is no opportunity to use it. When utilized against fellow kinsman in the unlikely eventuality, PCE perform a traditional ritual (*lapai*) that compels the clan of the aggressor to compensate several herds of cattle to the aggrieved family. The Pokot community citizenry supports this ADR mechanism and deviance is unheard of. To enhance full adherence to community norms, the PCE administers a ritual to boys on attaining maturity (*Savana*) where locals are inducted on community norms and consequences for non-compliance. For inter-community conflicts, the PCE works in collaboration with the counterpart Councils of Elders in resolving the issues but the outcome depends on the nature of relationships existing amongst the various community elders (Salim et al, 2021). Thus, intra-communal ADR by the Council of Elders has more positive impact in addressing proliferation of illicit SALWs than an inter-communal intervention by the same Council of Elders.

##### **4.1.2 Peace Meetings**

Local Peace Committees in conflict prone communities in Kenya incorporate elders as key stakeholders in conflict resolution. The Pokot Council of Elders as peace committee members have explicit and implicit mandates of calling for peace meetings within their community. Explicitly through their own informal traditional events where they

either convene their clans, or a whole community to deliberate on community matters. The research established that this was a popular approach for PCE to address community issues and prevail against unacceptable conduct amongst the community members. Implicitly, the elders work in collaboration with the National Security and Intelligence architecture from village to county level. Security agencies have applied this soft skill approach by organizing public meetings and allowing the elders to lead community deliberations and this has created a sense of partnership and responsibility for compliance.

Inter-County peace forums led either by County Governments, NGOs or the National Steering Committee on Peace and Peace Building (NSC) have capitalized on elders in setting the respective declarations, agreements and resolutions for peace and this contributes to reduced illicit SALWs proliferation.

#### **4.1.3 Supporting Amnesty and Voluntary Surrender of illicit Firearms**

Following, the perennial volatile security situation in Kerio Valley Basin, some of the interventions by the Government of Kenya have included issuing amnesty for surrender of illicit SALWs, and directives on voluntary surrender of illicit firearms. In West Pokot County, the PCE have been crucial to this effort whenever it is tasked to the national security agencies. In the voluntary surrender of firearms operation carried out in West Pokot County between 2020 and 2022, over 390 serviceable firearms were surrendered to the government in the Sub County Headquarters (County Crime Data, 2022). Security experts attributed this success to assistance accorded by the elders. They volunteered to sensitize the community to voluntarily surrender illicit SALWs, and followed up on the exercise and also provided intelligence to security agencies on those who failed to comply.

The research observed that the elders however lost faith in the exercise when they realized that their counterparts from neighboring counties did not equally comply to surrender back their illicit firearms in equitable scale.

#### **4.2 Non-Governmental Organizations' (NGOs) ADR Approaches and their effects**

The study further sought to establish effect of NGOs' ADR mechanisms on proliferation of illicit SALWs in West Pokot County. According to the findings, majority of the respondents at 94% acknowledged the positive role played by NGOs in peace building activities with only 6% having a contrary opinion. A few NGOs were randomly sampled in this stratum and their contribution are observed in specific interventions as follows:

##### **4.2.1 Peace Advocacy**

The NGOs in collaboration with other stakeholders are in the frontline advocating for peaceful co-existence amongst the Pokot, Turkana, Marakwet, and Tugen ethnic communities of Kenya and the Karamajong ethnic community of Eastern Uganda. NGOs undertook this through; livelihood sustenance projects, local media stations, social media, and routine verbal engagements.

The Northern Rangelands Trust (NRT) is particularly instrumental in West Pokot County through among other programs, the European Union funded *Ustahamilivu* (Resilience) Program. This program focuses on building drought resilience to communities living in the arid regions of the County. The program enables community resilience by enhancing food sufficiency, and adequate pastures for the livestock thus enhancing peace and security. This study has established that part of the key reasons why cattle rustling has been recurring in West Pokot and neighboring counties is that during droughts people lose most of their livestock due to lack of water and pastures and when it rains, they attack neighboring communities for restocking purposes. To execute this objective, communities find the justification for possession of illicit SALWs. The *ustahamilivu* program addresses insecurity through irrigation projects focused on drought tolerant early maturing crops, fodder, and installation of livestock watering points.

There is peace and security advocacy component by most NGOs working in West Pokot County. The I-Rep for instance advocates for peace through sensitization against Female Genital Mutilation and Child marriage in the remote areas of the county where the practice is prevalent. Immediately after the girls undergo the 'cut' they are ready for marriage and these retrogressive practices are accomplished through payment of hefty dowry hence the perpetual culture of cattle rustling to acquire more for dowry. I-Rep works towards an educated society where no youth will be motivated to possess illicit guns.

The establishment of border peace schools with some NGO support is one approach that advocates for inter-community integration, and fosters peace. Additionally, NGOs have been rendering welfare support such as food, clothing and cash transfer to poor households. Through this, they have encouraged high school enrollment for children and also gets opportunity to sensitize the community on the negative effects of illicit SALW.

#### **4.2.2 Facilitation of Peace Committees and Meetings**

Some NGOs such as The Finnish Church Aid, World Vision, Interdenominational Forum, etc. play critical peace roles by organizing public *barazas*, stakeholders' meetings, and seminars. In liaison with national security organs, and other peace stakeholders, the NGOs facilitate forums to address insecurity both within and outside the county. In such forums they support both community and government efforts aimed at reducing proliferation of SALWs. The support focuses on facilitating dialogue, conciliation, negotiation, mediation, and traditional dispute resolution mechanisms aimed at sustainable peace.

#### **4.2.3 Peace Caravans and Marathons**

Peace Caravan and Marathons are events organized to promote peaceful coexistence amongst the conflicting communities. The most cited was 'the Tegla Loroupe Annual Peace Race in West Pokot County which usually brings together warriors from West Pokot, Samburu, Turkana, and Elgeyo Marakwet Counties as well as participants from neighboring areas of Karamoja in Uganda and South Sudan. During these events; peace, development and security themes are publicized. Some common themes include "building bridges, and inspiring talents for peace and development." Peace marathons have enabled the warriors from conflicting communities to realize the need and beauty for co-existence. Peace Caravans by Interdenominational Religious fora such as the 2021 Caravan from Turkwel, Kainuk (West Pokot/ Turkana border) through Sigor (Pokot Central) to Chesegon (Marakwet/ West Pokot border) have contributed to peaceful co-existence hence reduction in illicit SALWs proliferation.

### **4.3 National Steering Committee for Peace Building and Conflict Management (NSC) ADR Interventions in West Pokot County**

Under the stewardship of the NSC Secretariat, various declarations, resolutions, and accords have been made in an effort to attain long-lasting peace amongst Kerio Valley Basin communities, and the pastoralist communities inhabiting the areas along the Kenya-Uganda. Some key declarations, accords, and resolutions include:

#### **4.3.1 Kolowa Declaration, 2002**

This declaration committed all security stakeholders in North Rift to make necessary efforts to reduce armed inter-ethnic aggression particularly cattle rustling. The declaration set a compensatory punishment where any livestock theft attracts a non-negotiable retribution equivalent to four plus one. The Four Plus One (4+1) means that for any single four-limbed animal stolen, the suspected culprit compensate the victim four equivalent animals plus one extra animal to symbolize the head of the animal raided.

The declaration also commits the elders of one community to establish and reveal “footprints” of the stolen livestock to the elders of the community for which they believed their raided livestock were delivered who would then sign track and recover the stolen animals. The declaration does not however provide for incidences where livestock could not be recovered since with adequate local mechanisms, such cases were not anticipated. Though this declaration is not explicit on action against illicit SALWs holders, it however diminishes opportunity to utilize illicit weapons.

#### **4.3.2 Kainuk Accord**

This accord was passed at Reformed Church of East Africa (RCEA) Kainuk in Turkana County in May 2022. The Accord was reactionary following armed highway robberies along Marich-Kainuk-Lokichar highway stretch, increased cases of cattle raids between the Pokot, and Turkana communities, and increased firearms inflicted deaths. Notable were the killings of the Assistant Chief, two police officers and innocent passengers in different incidents within a week’s time span in that road stretch by suspected Pokot bandits hence causing a massive security crisis. In the accord, it was agreed that both communities should form grazing committees that would negotiate for pastures and water from the neighboring community during drought times hence no illicit firearms should “follow” livestock; security officers to evacuate all livestock illegally grazing in South Turkana National Reserve to create a buffer zone; Kenya Wildlife Service and Kenya Forest Service to deter erection of illegal dwelling structures, and livestock entry in the Game Reserve, and strengthened peace building efforts along the West Pokot/Turkana border. The respondents believes that this kind of engagement is fruitful in facilitating inter-community peace and security.

#### **4.3.3 Moruitit-Nabilatuk Declaration**

This declaration covered the Karamajong, Turkana and Pokot ethnic communities in addressing pastoralism related criminal incidents along Kenya-Uganda border. It was declared that for any incident of cattle rustling, the compensation would be equivalent to two plus one (2+1) of the number of livestock raided. All the signatory communities to the declaration and the respective government representatives committed themselves to full implementation of the declaration.

### **4.4 Challenges to Effective Alternative Dispute Resolution in West Pokot County**

#### **4.4.1 Declining Role of Pokot Council of Elders**

The traditional role of elders in many parts of the North Rift as a source of authority cannot be underscored. The elders have great influence over their communities and are believed to possess supernatural powers (Salim, 2021). Due to their powers, knowledge, and wisdom, the elders function as “courts” with powers to interpret evidence, impose judgments, and manage the process of reconciliation. Through performing traditional rituals, the elders identify potential raid zones and either bless or dissuade the warriors for/ against the task. They also punish community members who fail to adhere to traditional norms.

This trend has however changed and according to this research, the diminishing role of Pokot Council of Elders in prevailing over the errant warriors is now a new norm. The youths are increasingly downplaying the advice of the elders, regard themselves as self-motivated and are increasingly planning and executing their own raids either against neighboring communities or against fellow community members. This is due to political influence and commercialization of stock theft.

#### **4.4.2 Lack of adequate funding for Peace Building and Conflict Management**

The Sub County Security and Intelligence Committee members indicated that a key challenge to enhancing full actualization of Peace Building and Conflict Resolution is lack of finances to facilitate frequent engagements and monitoring implementation. With limited government funding, the security agencies cannot facilitate the peace

activities that require stakeholders' participation. As such, peace meetings have been held only when there are insecurity incidents. The NGOs also lack financial capacity to engage in full time peace building activities. Major peace declarations, accords and agreements have failed to take off due to inadequate financial support hence stakeholders blame the government for lack of commitment to the peace process.

#### **4.4.3 Inter- County Disparities in Disarmament and Voluntary Arms Surrender**

The research observed immense local support for the government approach to reducing conflicts in West Pokot County through recalling back the firearms previously issued to National Police Reservists (NPR), and ordering for voluntary surrender of illicit firearms possessed by civilians. However, one challenge noted was that the exercise is not conducted as initially planned, since as all NPR in West Pokot were disarmed, those in neighboring counties still possessed firearms and this exposes the respondents to greater aggression from their neighbors. Likewise, voluntarily surrender of illicit firearms is overboard in West Pokot County whereas in the neighboring communities the response was very low as the exercise didn't receive goodwill from their rivals. This disparity in enforcement efforts hindered the process of reducing illicit SALWs, and still predisposes communities to acquire more arms in competition for supremacy.

#### **4.4.4 Underdevelopment**

According to National Cohesion and Integration Commission (NCIC) the major conflict corridors in West Pokot County are Akulo, Amaler, Chesegon, Kameley, Masol, Ombolion, Turkwel, Orwa and Sarmach among others (*Ibid*). One characteristic of these areas is that they have poor infrastructural development characterized by poor security roads network, harsh terrain, communication network inaccessibility, and scanty social amenities such as schools, health centres, and water access among others. The underdevelopment in these areas predisposes the residents to cattle rustling tendencies with full knowledge that the local security apparatus cannot easily gain access to them.

### **5.0 Discussion of the Findings**

Kariuki (2018) defines Alternative Dispute Resolution (ADR) as all the decision-making processes other than litigation including but not limited to negotiation, enquiry, mediation, conciliation, expert determination, and arbitration. ADR is recognized in both international and national legal systems as a method of conflict management. The United Nations Charter, Chapter VI on Pacific Settlement of Disputes, and Constitution of Kenya in Article 159 Section (2) (c) gives legal framework for Alternative Dispute Resolution. The role of Pokot Council of Elders, Non-Governmental Organizations, and National Steering Committee on Peace Building and Conflict Management on their different ADR approaches are considered and their effects on proliferation of illicit SALWs in West Pokot County established.

The ADR role of Pokot Council of Elders aims at addressing proliferation of illicit SALWs includes; sanctions and punishment through traditional rituals, supporting NSC in convening community peace activities and leading a unilateral decision of the community, and supporting amnesty and voluntary surrender of illegal firearms and ammunition. NGOs performs key roles towards peace and security notably, supporting other stakeholders in their peace realization efforts. This is through facilitation of peace meetings, consultation forums, workshops, seminars, advocacy, and other engagements where various stakeholders converge to dialogue, negotiate, and mediate on conflicts either within the county or inter-county.

Finally, the National Steering Committee for Peace building and Conflict Management (NSC) brings to the negotiating table the various peace stakeholder namely; government agencies, county governments, councils of



elders, NGOs, youth and women to deliberate on national security. The most successful ADR instrument was a collaborative approach where NSC brought together all stakeholders involved in a conflict and set agenda for reconciliation and possible restitution to the offended parties. This has been in form of Declarations, Accords or Resolutions that are binding to all the parties though not statutory. The agreements steered by NSC that had popular support from respondents were; the Kolowa Declaration, Kainuk Accord and the Muruitit-Nabilatuk Declaration. However, these agreement arrangements have not been honored by some communities hence creating distrust.

## **Conclusion**

This study aimed at establishing the effect of Alternative Dispute Resolution on proliferation of illicit Small Arms and Light Weapons in Kenya, with a case study of West Pokot County. The Rational Choice Theory, and Social Identity Theories formed the conceptual basis for the study.

The findings established that save for few challenges already mentioned, the ADR instruments has immensely contributed to reducing proliferation of illicit SALWs in West Pokot County. This is attained through various ADR mechanisms employed by councils of elders, NGOs including religious organizations, and National Steering Committee on Peace Building and Conflict Management. The challenges to effectiveness of the ADR in West Pokot County were also addressed.

## **Recommendations**

1. From the findings, it's critical that Alternative Dispute Resolution mechanisms should be supported, and strengthened by both the county and national governments, and other peace and security actors. This should entail capacity building of peace actors, financial facilitation to NSC, and security committees, and facilitating implementation of various local peace declarations and accords. Donors should also financially support as a priority through Non-Governmental Organizations programs that enhance peace, alternative livelihood and community resilience.
2. The Councils of Elders should be supported by both the executive (through NSC), and local political leadership in their peace and security efforts. This should be facilitated at both intra-county and inter-counties levels so that traditional dispute resolution approaches can be strengthened. This will ensure that they implement and follow up on all previously agreed upon declarations, agreements and accords to enhance sustainable peace and security.

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