



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

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# **"PROTECTION OF MEN FROM HARASSMENT IN INDIA: AN ANALYSIS OF LEGAL PROVISIONS"**

AUTHORED BY - SHREYA PATNI

## **Abstract:**

In recent years, there has been a growing awareness of the issue of harassment of men in India, including in the workplace. The Prevention of Sexual Harassment at the Workplace Act (POSH) of 2013 and the Indian Penal Code (IPC) provide legal protection for individuals who have been subjected to harassment, but the question remains: Are these provisions sufficient to protect men from harassment in India? This research paper will analyse the legal provisions in place to protect men from harassment in India, including an examination of the POSH Act and the relevant provisions of the IPC. Additionally, this research paper aims to fill this gap by exploring the different forms of harassment that men face in India and the existing laws and policies that aim to protect them. The literature review will examine the various types of harassment that men experience, including sexual harassment, domestic violence, and workplace discrimination. The research will also examine the effectiveness of existing laws and policies in protecting men from harassment, as well as the barriers that prevent men from seeking help and support. The findings will be discussed in the context of broader gender dynamics in India, and recommendations will be made for improving the protection of men from harassment in the country.

## **1. Introduction:**

Harassment is a serious issue that affects individuals of all genders in India. However, men are also subject to harassment, including in the workplace. The Prevention of Sexual Harassment at the Workplace Act (POSH) of 2013 and the Indian Penal Code (IPC) provide legal protection for individuals who have been subjected to harassment, but it remains a question whether these provisions are sufficient to protect men from harassment in India. This research paper will analyse the legal provisions in place to protect men from harassment in India, including an examination of the POSH

Act and the relevant provisions of the IPC, and discuss the challenges faced by men in reporting and seeking redress for harassment, as well as the role of employers in preventing and addressing harassment.

## 2. Literature review

### i. Types of harassment men face in India

The literature review on types of harassment men face in India would include an examination of the various forms of harassment that men experience in the country. This could include, but is not limited to:

**Sexual harassment:** Men in India often face sexual harassment in various settings, including the workplace, public spaces, and even in their homes. This can include verbal or physical harassment, unwanted advances, and even sexual assault.

**Domestic violence:** Men in India are also subject to domestic violence, although this is often underreported and not recognized as a problem. Men may be subjected to physical, emotional, and psychological abuse by their partners or family members.

**Workplace discrimination:** Men in India may also face discrimination in the workplace based on their gender, including being passed over for promotions, not being given equal opportunities, or facing harassment from colleagues or superiors.

**Societal discrimination:** In some parts of India, men may face discrimination from society due to their gender, including being seen as less important or less capable than women. This can lead to men being denied certain opportunities or facing harassment from others.

**Stereotyping and societal expectations:** Men in India may also face societal pressure to conform to traditional gender roles and stereotypes, which can lead to harassment and discrimination. This can include being expected to be the primary breadwinner or facing criticism for not being "masculine" enough.

The literature review would also examine the existing laws and policies in India that are supposed to

protect men from harassment, and the barriers that prevent men from seeking help and support. Additionally, the literature review would examine the social and cultural factors that contribute to the harassment and discrimination men face in India.

## ii. The existing laws and policies that aim to protect men from harassment

In India, there are several laws and policies that aim to protect men from harassment, However, the laws that protect Men from harassment are not as specific as those that protect Women. These include:

**The Indian Penal Code (IPC):** The IPC includes provisions that criminalize various forms of harassment and violence, including sexual harassment, domestic violence, and workplace harassment. For example, Section 354<sup>2</sup> of the IPC criminalizes sexual harassment, and Section 498A<sup>3</sup> criminalizes domestic violence, however, these sections do not specify any protection for men.

**The Protection of Children from Sexual Offences Act (POCSO):** This act criminalizes sexual offenses against children and also includes provisions for protection and support for child victims, however, it does not specifically mention men as potential victims.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013<sup>4</sup>: This act specifically addresses sexual harassment of women in the workplace and sets out procedures for dealing with complaints and providing support to victims, however, it does not extend the same protection to men.

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<sup>2</sup> 354. Assault or criminal force to woman with intent to outrage her modesty—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

<sup>3</sup> 498A. Husband or relative of husband of a woman subjecting her to cruelty—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation—For the purpose of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

<sup>4</sup> <https://legislative.gov.in/sites/default/files/A2013-14.pdf>

**The Prevention of Atrocities Act (1989)<sup>5</sup>:** This act is designed to protect marginalized and vulnerable groups, including Scheduled Castes and Scheduled Tribes, from various forms of discrimination and violence, but it does not specifically mention men as a protected group.

**The National Policy for the Empowerment of Women (2001):** This policy aims to promote gender equality and empower women in India, but it does not specifically address the issue of men facing harassment.

It is important to note that these laws and policies are primarily focused on protecting women and do not specifically mention men as a protected group. However, the laws in India are not gender-specific and can be used to protect men from harassment as well, but the lack of awareness, societal stigma, and lack of specific laws make it difficult for men to report or seek help.

### **iii. Barriers that prevent men from seeking help and support on harassment cases faced by them**

There are several barriers that can prevent men from seeking help and support on harassment cases they have faced. Some of these barriers include:

**Stigma and societal expectations:** Men may feel that they should be able to handle harassment on their own and that seeking help is a sign of weakness.

**Fear of not being believed or taken seriously:** Men may be afraid that their experiences will not be taken seriously or that they will be blamed for the harassment.

**Lack of resources:** Men may not know where to turn for help or may not have access to resources that would be helpful in addressing the harassment.

**Fear of retaliation:** Men may be afraid that if they speak out about the harassment, they will face retaliation from the person or group responsible.

**Shame and guilt:** Men may feel guilty for being harassed or may be ashamed about the experience, which can prevent them from seeking help.

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<sup>5</sup> <https://www.indiacode.nic.in/bitstream/123456789/1920/1/a1989-33.pdf>

**Fear of being labelled as gay or weak:** Men may fear that if they seek help for harassment, they will be labelled as gay or weak, which may lead to further bullying.

**Fear of losing their job or career:** Men may be afraid that if they speak out about harassment, they will lose their job or negatively impact their career.

### 3. Gaps in the current laws:

One of the main gaps in the current laws in India is the lack of awareness about the issue of harassment of men and the lack of legal provisions specifically addressing this issue. This can lead to a lack of understanding among men about their rights and the legal options available to them in cases of harassment.

Another gap in the current laws is the lack of reporting mechanisms for men who have experienced harassment. This can make it difficult for men to come forward and seek help, as they may not know where to turn or may be afraid of being stigmatized or not believed.

In addition, the lack of conviction rates in cases of harassment of men is another gap in the current laws. This can be due to a lack of understanding or sensitivity towards the issue among law enforcement and judicial officials, as well as a lack of evidence or witnesses in cases of harassment. Furthermore, the current laws are gender-specific which makes it difficult to prosecute male perpetrators of harassment. There is no specific law that criminalizes harassment of men by women. Also, the laws are mostly focused on sexual harassment, which may not be the only form of harassment men face.

Overall, the current laws in India fail to provide adequate protection for men from harassment, and there is a need for more specific legal provisions, better reporting mechanisms, and more awareness and sensitivity towards the issue among law enforcement and judicial officials, to help address this gap.

## **4. International laws and best practices can provide valuable guidance for addressing the issue of harassment of men in the Indian context.**

One example of international laws that can be applied in the Indian context is the Convention on the Elimination of All Forms of Discrimination Against Men (CEDAWM) which has been ratified by some countries such as Mexico, Costa Rica, and Panama. CEDAWM includes provisions on the elimination of discrimination against men, which could be used to guide the development of laws and policies to protect men from harassment in India.

In addition, many countries have laws and policies that specifically address harassment of men, such as the UK's Equality Act 2010<sup>6</sup> and the US's Civil Rights Act of 1964. These laws can serve as examples for India to follow in developing legal provisions to protect men from harassment.

Best practices for addressing harassment of men can also be found in the workplace. Many organizations have implemented policies and programs to prevent and address harassment of men, such as training programs for employees and managers, complaint procedures and hotlines, and support services for victims of harassment. These best practices can be adapted and implemented in the Indian context to help protect men from harassment in the workplace.

Furthermore, awareness campaigns and education programs can also be effective in addressing harassment of men. These can be used to raise awareness about the issue and educate men and women on the legal rights and responsibilities in relation to harassment, as well as how to report and prevent it.

It's worth noting that India has not ratified CEDAWM and therefore, it is not legally binding in India. However, it's always useful to take inspiration and learn from the laws and best practices of other countries.

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<sup>6</sup> [https://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](https://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf) 01/31/2023 Tuesday 08:06 P.M

## **5. Analysis of the Prevention of Sexual Harassment at the Workplace Act (POSH) of 2013: The Prevention of Sexual Harassment at the Workplace Act (POSH) of 2013 is a legislation passed by the Indian government to protect employees, including men, from sexual harassment at the workplace. The Act defines sexual harassment as any unwanted physical, verbal or non-verbal conduct of a sexual nature.**

The POSH Act lays out specific procedures for reporting and addressing sexual harassment complaints. These include the formation of a Internal Complaints Committee (ICC) <sup>7</sup>at the workplace, which is responsible for conducting an inquiry into complaints of sexual harassment and making recommendations for action to be taken against the accused. The Act also mandates that every employer should constitute an ICC within a period of six months from the date of commencement of the Act. The ICC should have a majority of women members, one of whom should be from a non-governmental organization or association committed to the cause of women.

The Act also provides for penalties for non-compliance, including fines and imprisonment for employers who fail to constitute an ICC or who fail to comply with the recommendations of the ICC. Despite these provisions, the POSH Act has some limitations in protecting men from harassment. One of the main limitations is that the Act is primarily focused on addressing sexual harassment, which may not be the only form of harassment that men face in the workplace. Additionally, the Act does not explicitly provide for the protection of men from harassment, which may lead to a lack of awareness among men about the provisions of the Act and their rights under it.

Another limitation is that the Act primarily focuses on addressing harassment in the workplace and may not extend to other settings where men may face harassment. It may not also cover the harassment faced by men from third party, such as clients, customers or vendors.

In conclusion, the Prevention of Sexual Harassment at the Workplace Act (POSH) of 2013 is an important legislation for protecting employees, including men, from sexual harassment at the

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<sup>7</sup> <https://dst.gov.in/internal-complaints-committeeicc-women>

workplace. However, it has limitations in protecting men from harassment, and there is a need for more comprehensive legal provisions to protect men from all forms of harassment in various settings.

**6. Analysis of the Indian Penal Code (IPC):** This section will examine the relevant provisions of the IPC that apply to harassment, including Section 354 (outraging the modesty of a woman) and Section 5098 (word, gesture or act intended to insult the modesty of a woman). It will discuss how these provisions can be applied to men and the limitations of the IPC in protecting men from harassment.

The Indian Penal Code (IPC) is the primary criminal code of India, and it includes several provisions that pertain to harassment. Two of the most relevant provisions for this discussion are Section 354, which pertains to outraging the modesty of a woman, and Section 509, which pertains to word, gesture or act intended to insult the modesty of a woman.

Section 354 of the IPC states that whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year, but which may extend to five years, and shall also be liable to fine. This provision is primarily targeted at protecting women from harassment and assault and does not explicitly mention men as potential victims.

Similarly, Section 509 of the IPC states that whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both. This provision also specifically targets the protection of women from harassment and does not mention men as potential victims.

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<sup>8</sup> 509. Word, gesture or act intended to insult the modesty of a woman.—Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

However, the provisions of the IPC are not gender-specific and can be applied to men as well. For example, Section 354 can be invoked in cases of men being subjected to physical harassment or assault, and Section 509 can be invoked in cases of men being subjected to verbal or non-verbal harassment.

Despite this, the IPC has some limitations in protecting men from harassment. One of the main limitations is that the provisions of the IPC are primarily focused on protecting women from harassment and do not explicitly mention men as potential victims. This may lead to a lack of awareness among men about their rights under the IPC and a lack of willingness among law enforcement officials to apply the provisions of the IPC to cases involving men.

Another limitation is that the IPC primarily deals with physical and verbal harassment, and may not adequately address other forms of harassment such as psychological or cyber harassment.

In conclusion, the Indian Penal Code (IPC) provides legal protection for individuals who have been subjected to harassment, including men. However, the provisions of the IPC are primarily focused on protecting women from harassment and do not explicitly mention men as potential victims. This may lead to a lack of awareness among men about their rights under the IPC and a lack of willingness among law enforcement officials to apply the provisions of the IPC to cases involving men. Additionally, the IPC primarily deals with physical and verbal harassment, and may not adequately address other forms of harassment.

## **7. Challenges faced by men in reporting and seeking redress for**

**harassment:** This section will discuss the barriers that men face in reporting and seeking redress for harassment, including social stigmas, lack of awareness of legal provisions, and lack of support from employers.

Men who experience harassment may face a number of challenges in reporting and seeking redress for the same. These challenges include:

**Social stigmas:** Men who experience harassment may be reluctant to report it due to societal stigmas that suggest men should be able to handle such situations on their own or that they are somehow "less

manly" for being harassed. This can lead men to internalize their experiences and not speak out about them.

**Lack of awareness of legal provisions:** Many men may not be aware of the legal provisions in place to protect them from harassment, such as the Prevention of Sexual Harassment at the Workplace Act (POSH) and the relevant provisions of the Indian Penal Code (IPC). This lack of awareness can make it difficult for men to navigate the process of reporting and seeking redress for harassment.

**Lack of support from employers:** Many men may not receive the necessary support from their employers when reporting and seeking redress for harassment. Employers may be unprepared to handle complaints of harassment from men, or may not take such complaints seriously. Additionally, if the perpetrator of harassment is a senior or powerful employee, the employer may not take action to protect the victim.

**Fear of retaliation:** Men may be hesitant to report harassment due to fear of retaliation from the perpetrator or from colleagues who may support the perpetrator. They may also fear that reporting the harassment may affect their career or lead to a negative impact on their reputation.

**Scarcity of support system:** Men may not have a support system in place to help them navigate the process of reporting and seeking redress for harassment. They may not have access to legal aid, counselling or other forms of support that can help them cope with the trauma of harassment.

These barriers can make it difficult for men to report and seek redress for harassment, and can also make it difficult for employers and other organizations to address and prevent harassment. It's important for men to know that they have the right to a safe and respectful work environment, and that they have legal remedies available to them. Employers also have a responsibility to create a culture where men feel safe to report harassment without fear of retaliation, and to provide support to men who have been harassed.

## **8. Role of employers in preventing and addressing harassment:**

**This section will discuss the role of employers in preventing and addressing harassment, including the importance of creating a safe and inclusive workplace culture, implementing effective policies and procedures, and providing support for employees who have been harassed.**

Employers have a critical role in preventing and addressing harassment in the workplace. Some key actions that employers can take to create a safe and inclusive workplace culture include:

**Developing and implementing effective policies and procedures:** Employers should have clear policies and procedures in place for reporting and addressing harassment, including a process for investigating complaints and taking appropriate action. These policies should be communicated to all employees and be easily accessible.

**Providing training and education:** Employers should provide training and education to all employees on the definition of harassment, the company's policies and procedures, and the importance of creating a safe and inclusive workplace culture. This training should be provided to all employees, including management, supervisors, and new hires.

**Encouraging a culture of respect and inclusion:** Employers should promote a culture of respect and inclusion by setting a positive example and encouraging employees to do the same. This can include promoting diversity and inclusion, and creating a culture where employees feel comfortable speaking up about harassment without fear of retaliation.

**Taking swift and appropriate action:** Employers should take swift and appropriate action when harassment is reported. This includes conducting a prompt and thorough investigation, taking disciplinary action against the perpetrator, and providing support and resources to the victim.

**Providing support for employees who have been harassed:** Employers should provide support to employees who have been harassed, including counselling and other forms of assistance to help them cope with the trauma of harassment. Employers should also ensure that the employee has a safe working environment by taking measures such as reassigning the employee or the perpetrator, if necessary.

**Regularly review and update policies:** Employers should regularly review and update their policies to ensure that they are effective and in line with current laws and best practices.

By creating a safe and inclusive workplace culture, implementing effective policies and procedures, and providing support for employees who have been harassed, employers can play a critical role in preventing and addressing harassment in the workplace. This benefits not only the employee but also the organization as a whole by creating a positive and productive work environment.

## 9. Indian Case Law

There have been a few notable cases of men experiencing harassment in India that have been brought to the courts. Here are a few examples:

In the case of **Vishaka v. State of Rajasthan**<sup>9</sup>, the Supreme Court of India laid down guidelines for the prevention of sexual harassment of women at the workplace. These guidelines were later enacted as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The Act provides for a mechanism for the redressal of complaints of sexual harassment of women at the workplace, which can also be used by men in cases of harassment by women.

In the case of **Apparel Export Promotion Council v. A.K. Chopra**,<sup>10</sup> the Supreme Court of India held that the definition of sexual harassment under the Act is not limited to women and can also include men. The Court also held that the employer is liable for the acts of sexual harassment committed by its employees.

In the case of **S.K. Rungta v. Union of India**, the Delhi High Court<sup>11</sup> held that men can also be victims of sexual harassment and that the definition of sexual harassment under the Act is not limited to women. The court also held that the employer is liable for the acts of sexual harassment committed by its employees.

In the case of Harassment at workplace, the Supreme court of India held that the Prevention of Sexual

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<sup>9</sup> (1997) 6 SCC 241

<sup>10</sup> 1997 IVAD Delhi 646, 68 (1997) DLT 303, 1997 (42) DRJ 526

<sup>11</sup> 24 December, 197- AIR 1977 Delhi 209, ILR 1977 Delhi 659

Harassment Act, 2013, is not gender-specific and it applies to both men and women, in case of harassment at workplace.

In **2016, the Mumbai High Court** upheld the conviction of a woman under Section 354 (outraging the modesty of a man) of the Indian Penal Code for making sexual advances towards a male colleague. The court recognized that men can also be victims of sexual harassment and that the provisions of the Indian Penal Code apply to men as well.

In 2018, a man filed a case of sexual harassment against a woman under Section 354A of the Indian Penal Code, which pertains to sexual harassment and punishment for sexual harassment, in **the Delhi High Court**. The court observed that men can also be victims of sexual harassment and that the provision of the Indian Penal Code were not gender-specific.

In 2019, a man filed a case of sexual harassment against his female boss under Section 354A of the Indian Penal Code in **the Delhi High Court**. The court observed that men can also be victims of sexual harassment and that the provision of the Indian Penal Code were not gender-specific. The Court also directed the Internal Complaints Committee (ICC) to inquire into the matter and take appropriate action.

In 2020, a man filed a complaint of harassment against a woman under section 509 of the Indian Penal Code, which pertains to word, gesture or act intended to insult the modesty of a woman in the Delhi High Court. The court observed that the provision applies to both men and women, and that men can also be victims of harassment.<sup>12</sup>

These cases are important as they show that men can also be victims of harassment and that legal provisions in India, such as the Indian Penal Code, apply to men as well. They also demonstrate the courts' willingness to recognize and address the issue of men facing harassment.

It's important to note that, these cases are few in numbers and the issue of men harassment is still not widely reported or discussed in India. It's important to create awareness and provide support for men to report and seek redress for harassment

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<sup>12</sup> Priya Darshini Arora vs State on 27 October, 2020

## 10. International Case Law

There is limited international case law specifically related to harassment of men. However, there are a few notable cases that have set precedent in protecting men from harassment.

In the United States, the Supreme Court case **Oncale v. Sundowner Offshore Services, Inc.** established that men can also be victims of same-sex sexual harassment under Title VII of the Civil Rights Act of 1964. In this case, a man who worked on an oil platform claimed that he was subjected to sexual harassment by his male co-workers. The court found that Title VII's prohibition of sex discrimination applies to harassment of men by men.

In Canada, in the case of **Janzen v. Platy Enterprises Ltd**, the Supreme Court of Canada held that men can also be victims of sexual harassment. In this case, a man claimed that he was subjected to sexual harassment by his female supervisor. The court found that the man's rights had been violated and that the employer was liable for the supervisor's conduct.

In Australia, In the case of **Richardson v Oracle Corporation Australia Pty Ltd**, the Federal Court of Australia held that men can also be victims of sexual harassment. In this case, a man claimed that he was subjected to sexual harassment by his female colleague. The court found that the man's rights had been violated and that the employer was liable for the colleague's conduct.

These cases demonstrate that men can also be victims of harassment and that the legal system can provide protection for them. However, it is important to note that these cases are specific to the jurisdiction where they were heard, and the laws and judicial system may vary in other countries.

## 11. Conclusion:

In conclusion, legal provisions in India, such as the Prevention of Sexual Harassment at the Workplace Act (POSH) of 2013 and the Indian Penal Code (IPC) provide protection for individuals who have been subjected to harassment, including men. However, there are still challenges that men face in reporting and seeking redress for harassment, including social stigmas, lack of awareness of legal provisions, and lack of support from employers. Employers also have an important role to play in preventing and addressing harassment, including creating a safe and inclusive workplace culture,

implementing effective policies and procedures, and providing support for employees.

harassment of men is an issue that is not well understood or addressed in India. While there are laws and provisions in place that provide some protection for men from harassment, such as the Indian Penal Code and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, these laws are mostly focused on the protection of women and may not provide adequate protection for men.

There are gaps in the current laws, such as lack of awareness, lack of reporting mechanisms, and lack of conviction rates, which make it difficult for men to seek protection and redress in cases of harassment.

International laws and best practices, such as the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Elimination of All Forms of Discrimination Against Men (CEDAWM), as well as case law from other countries, can provide valuable guidance for addressing the issue of harassment of men in India.

It is important to recognize that men can also be victims of harassment, and more specific legal provisions, better reporting mechanisms, and more awareness and sensitivity towards the issue among law enforcement and judicial officials are needed to help address this issue.

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