

Historical and Contemporary Factors Contributing to the Plight of Migrant Farmworkers in the United States

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Abstract:

Migrant farmworkers provide an essential service and perform jobs that many Americans are unwilling to do. Immigration practices and policies dictate the extent to which undocumented migrant farmworkers have access to governmental health and social services, and are ever-changing based on the political climate. This paper reviews historical and contemporary United States government policies relevant to migrant farmworkers. It refutes some of the common myths regarding documented and undocumented immigrants and migrant farmworkers, such as "U.S. public health insurance programs are overburdened with immigrants," "undocumented immigrants are taking advantage of the American system by 'free riding' and are a 'drain on the economy,'" and "undocumented immigrants take American jobs."

Even though their jobs involve significant occupational hazards, undocumented migrant farmworkers are ineligible for government services, and employers generally do not provide these workers with health insurance. Migrant farmworkers also face food insecurity, poor housing conditions, impaired access to education for their children, and even human rights violations. These conditions, as well as the nature of their work, affect the health of undocumented migrant farmworkers and their children. This paper analyzes these inequities and calls for a more just and equitable system that treats

migrant farmworkers fairly and provides them and their families with social services and health care.

Introduction:

American consumers rely on the labor of migrant and seasonal farmworkers, many of whom work for large agricultural corporations, to put food on our tables.¹ Immigration practices and policies dictate the extent to which migrant farmworkers have access to governmental health and social services. Even though their jobs involve significant occupational hazards, the majority of migrant farmworkers are ineligible for government services, and employers generally do not provide these workers with health insurance.¹ Migrant farmworkers also face food insecurity, poor housing conditions, impaired access to education for their children, and even human rights violations. This paper begins with a description of migrant farmworkers, then progresses to an historical discussion of immigration and labor laws, in order to help the reader understand the present day plight of the migrant farmworker. The paper also describes the workplace conditions, human rights violations, and lack of social services which migrant farmworkers confront every day in order to survive in an ever-expanding global marketplace.

Migrant Agricultural Labor in the United States Today:

A migrant farmworker is "an individual whose principal employment is in agriculture on a seasonal basis, and who, for purposes of employment, establishes a temporary home."¹ Approximately 1.6 million migrant farmworkers work on American soil, harvesting fruits and vegetables for American

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consumers, as well as for export, thus contributing to the American economy.² While the majority of migrant farmworkers are Mexican, others come from countries such as Guatemala and the Dominican Republic, with smaller numbers from other parts of Latin America, Asia, Canada, and Europe.³

An estimated 70% of migrant farmworkers (or 24% of all farmworkers) are undocumented, and the majority live below the poverty line.^{3,4} Their wages, relative to those of the leaders of the large corporate agribusiness operations which employ them, mirror the widening gap seen throughout U.S. industries between management and labor. While on average farmworkers in the U.S. earn \$7,500 per year, Archer Daniels Midland, the world leader in production of soy meal, corn, wheat, and cocoa, reaped \$1.7 billion in profits in 2003, and its chief executive officer, Allen G. Andreas, made a salary of over \$2.9 million. Dole, the world's largest producer of fruit and vegetables, made \$4.8 billion in revenues in 2003.⁵

Migrant farmworkers provide an essential service and perform jobs that many Americans are unwilling to do. Throughout the 20th century, the U.S. government and corporations have collaborated to make it possible to use farmworkers as cheap laborers, claiming that their policies decrease the cost of food, yet resulting in huge profits for American corporations.

History of Immigration and Labor Laws:

Agriculture's reliance on immigrant labor dates back to indentured servitude and slavery, both of which were critical to the economic development of the New World. In the 17th century, the colonies utilized indentured servants as an important source of labor. Indentured servants were afforded some rights, but as demands for labor grew, so did their cost. In order to maintain low wages, employers looked to slavery to fill their labor shortage. Unlike indentured servants, slaves were involuntary immigrants who lacked any rights of citizenship.⁶

After slavery was abolished in the 19th century, the U.S. agricultural industry began to use Mexican workers as a source of cheap labor.⁷ Because of a shortage of farmworkers during World War I,

Congress passed the Immigration and Nationality Act in 1917, creating a legal pathway for 73,000 Mexican workers to enter the U.S.⁷ As a result of this legislation, many Mexicans continued to come to the United States to find work even after the war. Then, in a reversal of policy brought on by job losses during the Great Depression, the Immigration and Naturalization Service worked with Mexican authorities to deport approximately 40,000 Mexican-Americans.

To address agricultural labor shortages during World War II, Mexico and the U.S. partnered to create the Bracero program in 1943. This program allowed Mexicans to temporarily work in the American agricultural industry. Mexican laborers were required to return home after working for a given amount of time.⁷ During the economic boom that followed World War II, President Eisenhower expelled 1.5 million Mexican farmworkers, sixty percent of whom were legal residents, through "Operation Wetback."⁴

Even so, between 1942 and 1964 nearly 5 million workers came to the U.S. to help the labor shortages. The Bracero program continued until 1964, when Congress authorized the H-2 A visa program, designed to bring temporary low-wage workers into the U.S.² The H-2 A visa program continues today, allowing foreign nationals to enter the U.S. for temporary agricultural work and requiring that they return to their home country after a given amount of time. Many of these workers over-stay this time period, thus becoming "undocumented" immigrants. In addition, other undocumented immigrants enter the U.S. without a work visa.

There are many common myths regarding migrant farmworkers, both documented and undocumented. One myth is that they are taking advantage of the American system by "free riding," and as such constitute a "drain on the economy."^{6,8} In fact, evidence shows that all immigrants (documented and undocumented combined) contribute to the U.S. economy in proportion to their share of the population.^{6,9} Undocumented workers provide important services through their labor and pay state income, excise, and property taxes, as well as federal Social Security and Medicare taxes.¹⁰ A

2007 study by the Oregon Center for Public Policy (OCPP) estimated that undocumented immigrants contribute between \$66 and \$77 million in property taxes, state income taxes, and excise taxes annually in Oregon.¹⁰ While undocumented immigrants in other cities and states contribute the same amount or more to the local and state economy than they receive in local and state benefits, in other locales, state and local government spending on undocumented immigrants exceeds the cost of state and local services.^{8,9,10,11,12} Since undocumented workers are ineligible for most federal benefits, this shortfall is balanced by their contributions through social security and Medicare taxes (which are, however, not always distributed in proportion to a state's share of undocumented immigrants). The Social Security Administration estimates that nationwide, undocumented workers contribute \$7 billion in social security taxes and \$1.5 billion in Medicare taxes annually.⁸ On average, the National Research Council estimates each undocumented immigrant will contribute approximately \$80,000 more per capita over his/her lifetime than he/she will consume in governmental services.⁸ Such workers also contribute to the economy through rental payments and by purchasing goods and services (e.g., food, clothing, and utilities). Nevertheless, they are able to access few public, tax-funded social benefits, such as supplemental security income/disability, food stamps, housing assistance, and free legal representation. Elderly undocumented immigrants rarely qualify for Medicare benefits.⁸ Though undocumented immigrant children are provided free public education until high school (which accounts for a large percentage of the higher costs attributed to undocumented immigrants in those areas in which a shortfall exists), they are ineligible for federal student loans, and are therefore less likely to be able to afford burgeoning college tuition costs.⁸

A second myth is that undocumented immigrants take American jobs.⁶ In fact, U.S. unemployment rates have little to do with immigration and have more to do with neo-liberal “free-trade” policies that have effectively encouraged American companies to outsource manufacturing and service sector jobs to

countries with lower wages, fewer taxes, and more lax environmental and occupational health and safety standards. It is difficult to outsource farming, so instead corporations have found a way to import cheap labor. Furthermore, many corporations support policies that create domestic inequalities, including unfair immigration rules designed to provide a continuous stream of vulnerable workers, willing to labor for lower wages than unionized American employees (while simultaneously opposing unions).⁶ Employers who lay off undocumented immigrants will not see their unemployment insurance (UI) tax rates increase, since the undocumented immigrants cannot collect UI benefits, whereas employers whose workers receive UI benefits may see their state UI tax rate increase in the future.¹⁰

After American unions organized to improve working conditions and enforce labor regulations, corporations began to outsource manufacturing operations to developing countries. Because American agricultural industries could not feasibly relocate to developing countries, large agricultural corporations began to support the importation of “Third World” human labor. The ability of these corporations to continue to reap large profits is dependent on maintaining the secondary status of undocumented farmworkers.⁶ Neo-liberal “free-trade” policies and the desire to increase (or at least maintain) profitability have had many deleterious effects on society, including deteriorating human rights conditions on American farms.¹³ Many large food corporations have consolidated under the pressures of globalization. They subsequently underpay their growers and maintain poor working conditions in order to achieve a competitive advantage in the global food market. This situation has led to forced labor, beatings, sweatshop conditions, and modern-day slavery, which will be discussed in further detail below.¹³

The present-day situation regarding undocumented immigrants in this country is complex and controversial, and fair and just immigration reform is essential. President Barak Obama has proposed a plan for “immigration amnesty,” which would benefit up to 20 million

undocumented immigrants who are currently in the United States, by allowing them to obtain a green card. His plan would also increase border control and create incentives for undocumented immigrants to “come out of the shadows,” in order to earn the opportunity to become citizens. President Obama has also called for greater penalties for employers who hire undocumented immigrants.¹⁴

Social and Working Conditions of Migrant Farmworkers:

Relevant International Standards:

The International Labor Organization (ILO), created in 1919 at the end of World War I, formulates labor standards and basic rights for workers and works to promote social justice in the work place. The ILO stresses freedom of association, the right to organize, collective bargaining and the abolition of forced labor. In 2006, they adopted a plan to give a fair deal to the millions of migrant workers throughout the world, which addresses issues such as abusive practices, specific job risks, and safety.¹⁵

The 1948 Universal Declaration of Human Rights states, “Everyone has the right to a standard of living adequate for the health and well-being of oneself and one’s family, including food, clothing, housing, and medical care.”¹⁶ Though many countries have adopted this declaration, the United States government still does not view health care and many other social services as rights for immigrants to this country¹⁶ (or, for that matter, for native-born persons). This regressive position perpetuates the precarious circumstances faced by undocumented farmworkers, who are already vulnerable in terms of occupational and environmental dangers, poverty, language barriers, lack of transportation, and educational, legal, and political marginalization.

Evolution of Federal and State Policy:

Foreign guest workers temporarily working in the U.S. agricultural industry are vulnerable and subject to workplace violations.² During the 1950’s and 1960’s the American government started to pay attention to the plight of farmworkers. In the early 1950’s, the Public Health Service expanded its focus

to include community and preventive health care for migrant farmworkers, and in 1954, the Surgeon General created the Migrant Health Unit to carry out research regarding the health of this population. In 1955, spurred by presidential committee reports on poor conditions in work camps, Congress extended social security benefits to migrant workers.⁷ As a result of growing awareness of the poor working conditions and poor health of migrant farm workers, John F. Kennedy passed the Migrant Health Act in September, 1962. This act authorized governmental grants to pay for migrant health centers.⁷

On Thanksgiving Day in 1960, the documentary *Harvest of Shame*, by Edward R. Murrow, aired on television.⁷ This heightened public awareness of, and sympathy towards, the plight of farmworkers. Soon thereafter, Cesar Chavez, a Mexican-American labor leader and civil rights activist who founded the National Farmworkers Association, led farmworker labor strikes in California.* As a result of these strikes, in 1966 Congress amended the Fair Labor and Standards Act to require a minimum wage for farmworkers.⁷ In 1970, the Occupational Safety and Health Administration was created to develop safety standards for all workers, including farmworkers. Nevertheless, violations of workers’ rights continue. In 1983, Congress passed the Migrant and Seasonal Agricultural Workers Protection Act, which required employers to disclose employment conditions and wages to the government and to ensure that if housing was provided, it met certain standards.⁷

As discussed above, it is legal to employ a foreign farmworker for a defined amount of time, after which these same workers immediately become “illegal” residents of the U.S. In the past two

* Thanks to a Campaign by the United Farm Workers and others, the Texas School Board recently shelved a proposal to eliminate all textbook references to Hispanics, including Cesar Chavez, since the conquest of Mexico in the early 16th Century. The proposal was sadly ironic, given that Hispanics will soon comprise the majority of Texas schoolchildren. See United Farm Workers. Update on Cesar Chavez and the Texas history book situation. Available at http://www.ufw.org/board.php?mode=view&b_code=hot_issue&b_no=5861. Accessed 1/23/10.

decades there has been an increasing focus on undocumented immigrants, and an increasing amount of legislation has been passed to penalize them and those who employ them. In 1986, Congress passed the Immigration Reform and Control Act (IRCA). While providing amnesty for some undocumented immigrants and a path towards legalization for certain agricultural seasonal workers and immigrants, this law penalizes those who employ undocumented workers, and makes it illegal to knowingly hire undocumented immigrants. To circumvent IRCA, farm employers began to hire subcontractors to provide them with undocumented workers. Farmworkers continued to be placed in a vulnerable, powerless position. Though there are minimal laws in place to protect farmworkers against employer abuse, no laws exist to protect them from a "middleman." The lack of regulations covering subcontractors has led to deteriorating conditions in the workplace and to further farmworker disempowerment.⁷

Both the Illegal Immigration Reform and Immigrant Responsibility Act ("Immigration Reform Act") of 1996 and the Personal Responsibility & Work Opportunity Reconciliation Act ("Welfare Reform Act") of 1996 have restricted immigrants' access to public services.⁷ The "Immigration Reform Act" bans legal immigrants from receiving Medicaid for five years after entering the country. The Act also requires family members who sponsor relatives to pledge that they will help to keep the immigrant above 125% of the federal poverty line, thereby exceeding eligibility requirements for governmental support. The "Welfare Reform Act" denies both undocumented and legal immigrants public benefits such as food stamps, Aid to Families with Dependent Children, and Supplemental Security Income if they came to the U.S. after August 22, 1996. In 2005, Congress passed the Deficit Reduction Act, which requires immigrants to show proof of citizenship when applying for Medicaid.¹⁷ The Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 expanded the State Children's Health Insurance Program (CHIP) and now covers children of legal immigrants without the previously-required five year waiting

period. However, undocumented immigrant children will continue to be ineligible for the program.¹⁸

The legislative measures of the past two decades have restricted public services to all immigrants, including farmworkers, and are in stark contrast to the increasing international focus on human rights endorsed by the United Nations.¹⁹ Large agribusiness and other employers of farm laborers have lobbied to prevent effective labor and immigration law enforcement in the workplace. For such employers, it is advantageous to hire vulnerable undocumented workers who will work hard, often in short contract cycles, without challenging unfair or illegal treatment.²

Violations of Social and Working Conditions:

The United States has relied on cheap agricultural labor since its inception, and has used concepts of racism and non-citizenship to perpetuate the second class status of its farmworkers.⁴ When migrant farmworkers leave their families to come to work in America, they are vulnerable, speak little to no English, and are often willing to work for little pay in order to support themselves and their loved ones back home. In 2006, Mexican remittances were \$23 billion, almost all of which was from Mexican farmworkers in the US. Remittances make up approximately 13% of the average Mexican family's income.²⁰ Without such remittances, Mexico would face even greater poverty, which in turn would stimulate further emigration to the U.S. and an increased need for U.S. foreign aid to alleviate the social unrest and crime (including drug crime) that poverty fosters.

Farm employers often take advantage of their employees' disadvantaged state, reaping benefits from farmworkers' labor without providing fair treatment in return. The United Nations Commission on Human Rights claims that the U.S. government violates the rights of migrant farmworkers and contributes to the propagation of modern day slavery by denying them the right to unionize, as granted by the National Labor Relations Act.¹³ In addition, many safety and fair pay regulations are minimally enforced in this population. The Coalition of Immokalee Workers (CIW) recently described

"systematic violations of the human rights outlined in Articles 1, 2, 3, 4, 6, 7, 8, 10, 20, 22, 23, 24, 25, 26 and 28 of the Universal Declaration of Human Rights" by agricultural employers, such as Taco Bell (a subsidiary of Yum! Brands).¹³ They claimed that employers and their contractors have forced agricultural workers in Florida to labor under poor conditions, with little or no pay, and with the threat of debt, deportation, and violence as weapons of control.¹³ According to a statement written by the Robert F. Kennedy Memorial Center for Human Rights, on behalf of the National Economic and Social Rights Initiative and the CIW, in Florida, inhumane working conditions are widespread:

*Sweatshop conditions in the fields are pervasive; violence and various forms of intimidation are common; and wages have plummeted while slavery has become more prevalent. Workers are pushed into severe poverty and dangerous working conditions, including up to 14 hour days for wages significantly below the official poverty rate.*¹³

Though outlawed almost 150 years ago in the United States, there have been six recent slavery court cases brought against growers in Florida. In one of these, Judge Moore of the Southern District Court of Florida decried "corporate individuals who are... sophisticated in the ways in which they can victimize the undocumented immigrants coming to the United States."¹³

To address slavery and deteriorating human rights among migrant farmworker populations, we must uncover the roots of discrimination and work to redress its consequences.¹³

Health Care Issues Related to Undocumented Migrant Farmworkers and Their Children

Migrant farmworkers have worse health outcomes than other workers in the United States, and often lack access to needed health care. Even those who are legal residents often receive only emergency medical care.²¹ Medical needs include detection, treatment, and control of infectious diseases such as HIV and tuberculosis; maternal and

child health care (including pregnancy care and immunizations); recognition, treatment, and prevention of pesticide poisoning; and prevention and management of chronic health conditions, such as heart disease, diabetes, and cancer.²² Communicable disease prevention is relevant to the health of other farmworkers, as well as to that of the general public.

Presently, some uninsured migrant farmworkers and their families obtain medical care through migrant health centers, which receive grants from the federal government. Though these clinics provide an important service, they cover only 12-15% of this population.²² Migrant farmworkers also can receive emergency health care through emergency Medicaid, and hospitals must comply with the Emergency Medical Treatment and Labor Act (EMTALA) when treating this population. EMTALA requires emergency rooms to diagnose, treat and stabilize all persons presenting for care and prevents patient "dumping" (i.e., transferring unstable persons who lack insurance to other institutions). Emergency care and hospitalization is less cost-effective, and certainly less optimal from a clinical perspective, than preventive care.

Children of undocumented farmworkers may work in agriculture starting at age twelve. Because of their migratory nature, children experience frequent moves and interrupted schooling. They (and their parents) encounter daily degrading and demeaning epithets (from being called "illegal" persons or hateful, demeaning racial slurs), which can impact their self-esteem and psychological development. Their lives are affected greatly by the immigration status and experiences of their parents.^{22,23} Families are often torn apart by Immigration Customs Enforcement raids. Almost 30,000 people are currently being held in administrative detention for alleged violations of immigration law, an increase of almost 50% since 2005.²⁴ Such centers have been cited for substandard medical care.²⁴

Undocumented children who come to the U.S. with their parents are excluded from non-emergency health care (except immunizations), unless they are able to be seen at a migrant health center, or a safety-net clinic, all of which are unable to meet the

growing demand to provide services to uninsured patients (both documented citizens and undocumented immigrants). Even children who are born in the U.S., and therefore eligible for governmental insurance, are often not enrolled in insurance plans because of language barriers, inadequate assistance in completing necessary paperwork, and parents' fears of deportation.²⁵ Though immigrant children use less ambulatory and emergency services, when emergency services are used, the amount spent is more than that spent on non-immigrant children. This may indicate that immigrant children are sicker when accessing emergency care, since they were denied cheaper, upstream preventive health measures that could have been provided in the outpatient setting.²⁶ Furthermore, such children are more susceptible to pesticide exposure and toxicity, as well as communicable and respiratory diseases which have both short- and long-term health consequences.

There is a common myth that U.S. public health insurance programs are overburdened with immigrants.^{6,8} This is not true, since undocumented immigrants are ineligible for federal services other than emergency Medicaid, and even emergency care is underutilized because of barriers such as transportation, low wages, and fears of deportation. However, twenty-one states have started using state-only funds to cover pregnant women and immigrant children.⁸ This is a cost-effective measure, since mothers who receive inadequate prenatal care are more likely to give birth to children with medical problems, and their children immediately become U.S. citizens at birth, making them eligible for government-funded health care through Medicaid.

In 1994, voters passed California proposition 187 [which was later struck down by the State Supreme Court], making undocumented immigrants ineligible for all medical services except for emergency services. In addition, it required health care providers to report suspected undocumented persons to the Immigration and Naturalization Service. In a study assessing the effect of this law on the medical system, Fenton et. al.²⁷ found that proposition 187 resulted in a shift of mental health visits from the outpatient setting to crisis services, which are more

expensive. Patients may have failed to access outpatient services or to fill their prescriptions secondary to fear of deportation.²⁷

Conclusions and Call to Action:

In the U.S., we take our ability to buy cheap food and other items for granted. Very few people question where their food comes from, where their clothes are made, or the conditions under which those providing such items labor. Large corporations have been a party to the unjust nature of the agricultural industry, striving to keep costs down and profits up.⁷ There are many grassroots organizations, both nationally and in Oregon, that are addressing important issues pertaining to migrant farmworkers. The Coalition of Immokalee Workers (CIW) recently began the "Fair Food: Field to Table" campaign, which promotes fair treatment for farmworkers and a more socially just food system.²⁸ The American Civil Liberties Union has launched the "Immigrants Rights' Project," which focuses on expanding the rights of immigrants, and addressing discrimination against them.²⁹ Founded in 1962, by Caesar Chavez, the United Farm Workers is a farmworkers union that fights for the rights of farmworkers, including advocating for immigration reform.³⁰

In Oregon, Oregon Health and Science University's Center for Research on Occupational and Environmental Toxicology studies pesticide exposures and, through its "Reducing Pesticide Exposure in Minority Communities" program, focuses on improving the health of migrant agricultural workers.³¹ The Washington-based organization, Yakima Valley Farm Workers Clinic, runs several safety-net, migrant health clinics throughout Washington and Oregon, providing comprehensive health care to underserved patients, both documented and undocumented, with a mission to "improve the quality of life for the farm workers, the underserved and others as we work to strengthen the health of our communities."³² Others have tried to raise awareness regarding the injustices experienced by farmworkers in a country that "was founded on the principle that all people are born with an unalienable right to freedom."³³ The table lists

What can be done to improve the health of migrant farmworkers? (adapted from ref. 22)

Create a stronger public health infrastructure

- ✓ Enroll more healthcare providers to work with underserved populations
- ✓ Employ more community outreach workers
- ✓ Train bilingual and bicultural health care providers
- ✓ Encourage alternative healthcare delivery methods (e.g., “healthcare vans”)
- ✓ Implement more advanced information tracking systems that can be networked among clinicians
- ✓ Increase preventive health services such as dental care, family planning, accident prevention, and detection and control of chronic diseases
- ✓ Broaden legislation and protection through improved U.S. Department of Labor, Occupational Safety and Health Administration, and Environmental Protection Agency standards to eliminate overcrowded and unsanitary living conditions and workplace hazards and exposures
- ✓ Create a system of universal access to care
- Improve education among migrant farmworkers and healthcare providers
 - ✓ Educate migrant farmworkers about prevention, detection, and treatment at their homes, workplaces, or community centers
 - ✓ Include migrant health care in medical, nursing, dental, and public health school curricula
 - ✓ Improve physician recognition, management, and reporting of pesticide-related illnesses

specific actions which can be taken to improve the health of migrant farmworkers.

These issues are not unique to the United States, as rural agricultural laborers throughout many countries experience human rights violations and adverse health consequences resulting from their work. Collecting accurate data is paramount to informing change, and official government data are often corrupted. In Argentina, the non-governmental organization South Watch helped to reveal the inaccuracies in “official data” regarding the extent to which rural agricultural workers experience work-related health problems. As Maria Silva noted, reassuring yet inaccurate data can create an “official silence,” leading many to underestimate the hardships farmworkers suffer and remain ignorant of the reality of their situation.³⁴

Since these problems are germane to most countries, it would benefit farmworkers everywhere for activists and governments to collaborate across national lines. Through independent research, educational campaigns, and consumer actions designed to raise public and professional awareness and affect change, the U.S. and other countries can hopefully move toward a more just and equitable system based on international labor and human rights standards. Such a system would provide safe working conditions (including all necessary safety equipment to avoid exposure to pesticides and herbicides); a fair, living wage; adequate housing;

comprehensive social services; and quality medical care to undocumented workers who contribute to society, even if they are not legal residents. Ideally such a system would also involve a return to smaller, family and cooperative farms where organic methods are employed to encourage soil and water conservation and limit environmental pollution.^{35,36,37}

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