

## The comparison of narcotics criminalization in Indonesia and The Netherlands

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### ABSTRACT

This article discusses the comparative punishment for drug crimes in Indonesia and the Netherlands, two countries with very different legal approaches to dealing with drug-related cases. This article's primary goal is to examine the variations in the two nations' criminal policy strategies, the types of sanctions, and the legal foundations. This study uses a comparative legal method by examining the laws, doctrines, and criminal policies in force in each country. The results show that Indonesia tends to use a repressive approach with the threat of severe criminal penalties, including the death penalty and life imprisonment, whereas the Netherlands adopts a limited decriminalization approach for certain substances, focusing on rehabilitation and harm reduction. These findings reflect the differences in criminal law philosophy between punitive and more progressive legal systems. This article recommends a re-evaluation of the effectiveness of punishment in Indonesia, taking into account a more humane and public health-based approach, such as that applied in the Netherlands.

**Keywords:** drug crime; criminal punishment; criminal policy

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## 1. INTRODUCTION

Drug crime is a form of crime that is a serious concern in various countries, including Indonesia and the Netherlands. The distribution and abuse of narcotics has become a complex global threat, impacting not only the physical and mental health of individuals but also disrupting public order, increasing crime rates, and burdening the criminal justice system and correctional institutions (Herindrasti, 2025). In response to this problem, each country establishes criminal law policies that reflect its value system, legal culture, and criminal policy approach adopted by each country (Muhammad Hatta, 2022).

Indonesia adopts a harsh and punitive legal stance on drug offenses. This is demonstrated by Law Number 35 of 2009 concerning Narcotics, which governs a range of harsh criminal penalties for offenders of significant drug offenses, from lengthy jail terms and hefty fines to the death penalty. This approach is based on a strong spirit of eradication, with the aim of creating a deterrent effect and suppressing the increasingly concerning rate of illicit drug trafficking in Indonesia (Iskandar 2019). Unfortunately, even though the criminal sanctions imposed are very severe, the rate of drug abuse and illicit drug trafficking is still high, and correctional institutions in Indonesia are experiencing overcapacity, most of which are inhabited by drug convicts (Juliansyah, 2022).

In contrast, the Netherlands has adopted a very different approach to tackling the drug problem. The country is known as a pioneer of a more liberal and progressive drug policy, emphasizing the principles of limited decriminalization and harm reduction. In its legal policy, the Netherlands distinguishes between soft and hard drugs and allows for the limited use of substances such as cannabis. This is regulated by the Dutch Opium Act (Opiumwet), which has been in effect since 1976 (Grund, 2017). This approach aims to reduce the negative impact of criminalization on soft drug users while focusing law enforcement resources on cracking down on hard drug trafficking networks. Rather than imprisoning users, the Dutch legal system emphasizes rehabilitation, education, and public health-based interventions.

These two contrasting legal approaches raise fundamental questions about the effectiveness, fairness, and humanitarian values of enforcing drug criminal law. Is a repressive approach, such as that in Indonesia, more successful in suppressing drug crimes? Or is a softer and more humane approach, like that in the Netherlands, more effective in reducing the social and health impacts of drug abuse? These questions form an important basis for this study to examine more deeply how differences in criminal law philosophy influence the sentencing policies and practices in the two countries. This study is motivated by the need to review the effectiveness of existing criminalization approaches, especially in Indonesia, which have so far emphasized punishment and have not optimally utilized non-penal approaches (Lubis, 2021).

In addition, a comparison with the Dutch legal system will provide new insights into the possibility of drug policy reform in Indonesia that is more oriented towards rehabilitation, human rights, and public health (Tarigan, 2017). In the global context, there is a tendency to revise overly harsh drug policies and replace them with a more balanced approach between the protection of human rights and law enforcement (Heryanto, 2021).

This study aims to examine and contrast the legal foundations, types of sanctions, legal philosophies, and societal effects of the drug criminalization systems in Indonesia and the Netherlands. This study uses a comparative legal method by analyzing the regulations, doctrines, policies, and criminalization practices applied in each country. It is hoped that through this approach, the weaknesses and strengths of each legal system can be found, as well as providing concrete recommendations for the possibility of adopting more effective and fair principles in narcotics criminal law policies in Indonesia (Mufty, 2025).

## 2. METHOD

To examine the distinctions and similarities between the criminal justice systems for drug offenses in Indonesia and the Netherlands, this study used a comparative legal research methodology. Examining two distinct legal systems historically, philosophically, and practically to address drug-related issues is pertinent, which is why this approach was selected (Tolib Effendi, 2018).

Normative legal research, which focuses on library research by analyzing primary and secondary legal texts, is the research methodology employed. Laws and regulations currently in effect in Indonesia, such as Law Number 35 of 2009 regulating Narcotics, and comparable laws in the Netherlands, such as Opiumwet (Opium Law), are examples of primary legal sources. Secondary legal materials consist of academic publications, legal journals, scientific literature, reports from international organizations, and the views of specialists in criminal law and drug policy.

A descriptive-analytical approach was used to qualitatively analyze the data, namely describing and explaining the contents of legal norms, which were then critically analyzed to determine the fundamental differences in drug punishment between Indonesia and the Netherlands. This analysis was conducted by considering the social, political, and legal backgrounds of each country so that the results of the comparison are not merely mechanical or contextual.

The comparative legal method in this study is not intended to assess which legal system is better, but rather to understand the diversity of criminal law approaches in dealing with drug crimes, as well as to seek the possibility of integrating the values of justice, effectiveness, and humanity in drug punishment policies in Indonesia (Solikin, 2021).

### **3. RESULT AND DISCUSSION**

#### **3.1 Differences in Legal Systems and Criminal Approaches**

The results of the study show that there are fundamental differences between the Indonesian and Dutch legal systems in handling narcotic crimes, both in terms of legal structure, philosophy, and criminalization approach. The results of the study show that there are fundamental differences between the Indonesian and Dutch legal systems in handling narcotic crimes, both in terms of legal structure, philosophy, and criminalization approach.

Indonesia has adopted a repressive and legalistic civil law system. This is reflected in Law Number 35 of 2009 concerning Narcotics, which emphasizes strict punishment for perpetrators, both users and dealers. The criminal sanctions imposed in Indonesia are severe and include long-term imprisonment, life imprisonment, and death penalty. This approach was born from the spirit of eradicating narcotics as an extraordinary crime that is considered to threaten the nation's future (Malau, 2024). In actuality, Indonesia's criminal justice system is more focused on punishment than on social healing and rehabilitation.

In contrast, the Netherlands has a more progressive civil law system based on social policies. The Dutch Opiumwet (Opium Act) explicitly distinguishes between light narcotics (such as marijuana) and heavy narcotics. This policy allows for the limited consumption of marijuana for personal use without criminal penalties, as long as it is done in designated places and in designated ways, such as in government-regulated coffee shops. The focus of criminal law in the Netherlands is not on punishing users but rather on preventing the negative impacts of narcotics through a harm-reduction approach and public health-based rehabilitation (Firmansyah, 2024). Therefore, light drug users are more directed to social services or rehabilitation programs rather than prison.

This difference also reflects the differences in the philosophy of punishment. In Indonesia, drug laws are more punitive and aim to create a deterrent effect, whereas in the Netherlands, the legal approach is restorative and seeks to reduce social harm from drug abuse. However, the results of this study also show that although Indonesia has a threat of severe sanctions, there is no direct correlation between the severity of punishment and the decline in drug-related incidents. The Netherlands, on the other hand, has a more developed rehabilitation system and a more restricted number of abuses owing to its more tolerant approach.

This finding is different from most previous publications that tend to justify the repressive approach in Indonesia with the assumption that severe sanctions will have a deterrent effect. The results of the analysis in this article show that the repressive approach is not always effective and can even worsen the problem of overcrowding in correctional institutions and hinder drug users' social recovery process. Health-based drug policies, like those in the Netherlands, on the other hand, produce more humane and

long-lasting outcomes (Siregar, 2022).

Thus, this discussion confirms that the differences in the approach to punishment reflect the different legal paradigms of the two countries. This becomes the basis for re-evaluating the effectiveness of drug policies in Indonesia and opening up a discussion space for adopting more balanced principles between law enforcement and human rights protection in the future.

In addition to differences in philosophy and types of sanctions, differences in the approach to narcotics punishment in Indonesia and the Netherlands are also apparent in the grouping of perpetrators, legal procedures, and the involvement of non-judicial institutions in handling them.

### **3.1.1 Grouping of Perpetrators and Purpose of Punishment**

In Indonesia, the legal approach to narcotics frequently fails to make a clear distinction between dealers and users of narcotics. In many cases, drug users who should be directed to the rehabilitation process are instead given criminal sanctions in prison and are even charged with articles that are usually used against dealers. This has raised criticism that the legal approach in Indonesia is not yet fully just because it does not pay attention to the background of the perpetrators, their motivations, and their level of involvement in the drug distribution network (Budisarwono, 2022).

### **3.1.2 The Role of Rehabilitation and Health Institutions**

In the Netherlands, the handling of drug abuse does not only depend on the criminal justice system but also involves the health system and social services in a synergistic manner. The government funds rehabilitation centers, provides counseling services, and has programs for exchanging needles to stop the spread of HIV/AIDS among drug injectors. In addition to lowering crime rates, this strategy lessens the detrimental effects of narcotics on society. Meanwhile, Indonesia still faces many challenges in implementing rehabilitation. Although rehabilitation is legally recognized as an alternative punishment for users, its implementation in the field remains limited. The available rehabilitation facilities are inadequate in terms of quantity, quality, and reach. Consequently, many users end up in prison, experience stigmatization, and have difficulty reintegrating into society.

### **3.1.3 Effectiveness and Social Implications of Criminalization**

Overcrowding in correctional facilities has also been significantly impacted by Indonesia's harsh anti-drug policy. According to data from the Directorate General of Corrections, more than half of Indonesia's inmates have a history of using or dealing with drugs. As prisons cannot handle the overflowing number of inmates, this condition makes efforts to rehabilitate inmates more difficult and raises the possibility of human rights violations (Hamja, 2022).

## **3.2 Comparison of Handling and Analysis of Narcotics Case Examples in Indonesia and the Netherlands**

### **3.2.1 Narcotics Cases in Indonesia: Arrest of 110 Kg of Crystal Meth by BNN**

Once again, the Republic of Indonesia's National Narcotics Agency (BNN RI) discovered a drug case with an impressive amount of evidence. Six people were apprehended in two separate locations, with a total of 110,400 g of drugs.

The first case occurred at Laweung Beach, Muara Tiga, Pidie Regency, Aceh Province, which is a coastal area. The BNN RI Team identified three suspects with the initials HE, R and MF based on the material they had collected. The OSKADON ship was used by the three accused to transport crystal methamphetamine from Malaysian waters at Lengkwaw to Indonesian waters via the Laweung coast in Aceh Province.

The united team swept the Lampulo Beach area to the Laweung Beach area in cooperation with Aceh Province Customs and Excise, Aceh Province BNN, and Pidie City BNN. Additionally, the sweep

was conducted in the territory of Aceh Besar, Pidie to Ulim Pidi Jaya, Muara Tiga, and the Banda Aceh City region.

After nearly two weeks of combing, the three suspects were finally apprehended by the joint squad on Monday, June 19, 2023, as they were ready to depart from the Laweung Beach Coast, Aceh. The suspects acknowledged to the authorities that they had given the evidence to three guys at Tepi Kuala Pantai Laweung who had the initials BUL (DPO), RAH (DPO), and BIR (DPO).

The search continued until, on Tuesday, June 20, 2023, the joint team was able to locate four sacks of crystal methamphetamine, totaling 105,213 grams, concealed under a resident's home in the Jalan Gampong Masjid area, Muara Tiga District, Pidie Regency, Aceh. The three suspects face the death penalty or life in prison as the maximum penalty for their activities under Article 114 paragraph 2 Jo Article 132 paragraph 1 and Article 112 paragraph 2 Jo Article 132 paragraph 1 of Law No. 35 of 2009 concerning Narcotics.

On Friday, June 23, 2023, the following case involved the discovery of crystal methamphetamine smuggling in the Sanggau District of West Kalimantan. A total of 5,187 g of crystal methamphetamine was discovered in an automobile, concealed in the left and right doors of the vehicle. Three (Three) suspects with the initials HAR, MWA, and JOH were in the car. In the Jalan Tayan neighborhood of Sosok Village, Tayan Hulu, Sanggau, West Kalimantan, officers pulled over the cars of three suspects.

The boarding house of the offenders, which is situated on Jalan MT. Haryono in Akcaya, South Pontianak, West Kalimantan was also searched by the BNN team. As a consequence of the search, officers seized many cell phones that contained discussions about the three offenders' transactions. The three suspects are threatened with the death penalty or life in prison under the same provision of Law No. 35 of 2009 concerning Narcotics, specifically provision 114, paragraph 2 Jo Article 132, paragraph 1 and Article 112, paragraph 2 Jo Article 132, paragraph 1 (BNN, 2025).

Repressive-Maximalist Approach: Indonesia's legal system adopts a particularly strict repressive stance on drug offenses. The fact that both instances involved the death penalty and life imprisonment serves as an example of the punitive nature of the Indonesian criminal justice system, which is focused on general deterrence (Yusni, 2024).

The Role of State Institutions: The BNN, in collaboration with Customs, Police, and local governments, shows vertical synergy in handling narcotics cases. The action is militaristic: beach combing, pursuit, and intensive ambushes for weeks long. This shows a pattern of strong state intervention in narcotics policy (Gabriella, 2019).

Lack of Social and Rehabilitative Approach: There is no indication of a rehabilitative approach for the perpetrators. The focus of the justice system is on maximum punishment, not on the social reconstruction or reintegration of perpetrators (Ramadhan, 2025). This shows that the Indonesian criminal system remains dominated by a retributive paradigm.

### **3.2.2 Narcotics Cases in Indonesia: Arrest of 110 Kg of Crystal Meth by BNN**

The number of young men working for criminal organizations to "secure" the drugs coming from South America is rising in tandem with the amount of cocaine being smuggled through the Dutch port of Rotterdam. The BBC observed 'cocaine dealers', a crucial component of the European drug supply chain, in action.

CCTV footage shows several individuals sprinting for a container ship at the Port of Rotterdam, like military troops. They appeared to be shadows because of their black clothing. One 12-meter-long container still has the Colombian tropical fruit carrier's cargo even after the loading and unloading process is complete. A refrigerator containing 80 kilograms of cocaine valued at around €4 million (Rp64.3 billion) is located inside the container, which has the same appearance as thousands of other containers in the port.

The collectors' job is to take the drugs off the docks and out of the containers. The medicines are then shipped to London, Berlin, and Amsterdam for distribution. On the Dutch television network VPRO's Danny's World program, a man wearing a mask and hood said to journalist Danny Ghosen,

"The port is like a gold mine." "There's always work, it's close to home, and I can make a lot of money." These young men work for influential criminal organizations. "Each job is unique," the man stated. "You'll get some money to split between you," one supervisor offers. "You'll get drugs to sell yourselves," said another.

The profit margin for dealers is approximately €2,000 (\$2,300) for every kilogram of cocaine seized. The illegal industry is also expanding. Andre Kramer, who operates a container company at the port, stated, "We first saw them about two years ago." We barely saw them once or twice a year back then, and there was only one or two people. However, their numbers have grown over the past six months; now, there are 10 to 12 of them, and they visit three or four times a week.

Additionally, the growing volume of cocaine trafficked into the Netherlands has prompted dealers to employ advanced techniques. They don't always remove the cocaine from the port right away. With the assistance of insiders, they will move it to a different container that has been identified by the group that assigned them. Then and only then is the container driven out of the port. They will occasionally wait inside the port as well. Kramer says, "We just discovered three 'hotel' containers." The merchants appear to remain there for several days. There, they eat and drink. We discovered food wrappers, bedding, and empty water bottles.

However, it can be lethal to wait in a "hotel" container until the port is empty. The door of the container in which nine young guys were hiding jammed in early September, trapping them. Tree trunks were placed inside some of the containers. According to Jan Janse, the chief of the Rotterdam Port Police, "if you are trapped with biological material like fruit or wood that also needs oxygen, it means there is less oxygen for the people inside." "Usually they take care to open the container from the inside, but this time they were unable to escape due to an issue."

Finally, in a panic, the collectors summoned emergency services as the temperature inside the container rose. "At first, we received reports that nine people were in danger of dying inside the container, but the container was one of 100,000 in the airport. Janse stated that the collectors were unsure of their precise location. We conducted a thorough search, and we found helicopters, several police officers, customs officials, firefighters, and ambulances. We were fortunate to discover them in time.

It took four hours to find the collectors. A few of them were admitted to the hospital due to respiratory issues. For security considerations, Janse will not, however, disclose how they eventually located the collectors. "Let's just say we did some smart things," he replied. Rotterdam

Authorities in Rotterdam confiscated about 5,000 kg of cocaine at the port in 2014. The number rose to 41,000 kilos in 2020. "We anticipate reaching 60,000 kilograms this year," Janse stated. "Each year, we shatter records, but I'm not proud of that. We may grab it, which is fantastic, but it also implies that the quantity coming in is increasing annually. In the meantime, just a small portion of the drugs that are transferred through the illicit import chain are discovered at the port.

One week in September, 110 collectors were taken into custody in the port region. They will only be fined less than €100 (Rp1.6 million) for loitering at the port if they are not apprehended. If cops stop them, some collectors even have cash on hand so they may pay the fee right away. One collector wearing a mask who depends on this profession for a living stated, "We will say that 'we are just walking around... we are admiring the containers.'" "Have I brought anything? Did I bring any drugs? or additional apparatus? He went on, "No, I didn't bring anything."

At forty-two kilometers, the Port of Rotterdam is the biggest port in Europe. Over twenty-three thousand cargo are processed daily at this port. One significant element that helps the work of criminal groups and collectors is corruption. "I promise that you will be granted entry if you come here tomorrow morning. To receive 500 euros, you simply need to tell a worker, "Give me your pass until tomorrow," the collector stated. Without the assistance of a customs officer or other insider, it is challenging for us to perform our duties. In order to assist you, he can both check the container and take it off the checklist.

The largest port in Europe is the Port of Rotterdam, which is 42 kilometers long. Every day, this port processes more than 23,000 tons of cargo. Corruption is one important factor that supports the activities of criminal organizations and collectors. "If you come here tomorrow morning, I guarantee that you will be allowed access. Just tell a worker, "Give me your pass until tomorrow," and you'll get

500 euros, the collector said. Without the assistance of a customs officer or other insider, it is challenging for us to perform our duties. In order to assist you, he can both check the container and take it off the checklist.

The murder of Dutch crime writer Peter R. de Vries in broad daylight in Amsterdam is only one example of how the cocaine trade has affected the entire country. The founder of the youth organization YOUZ, Nadia Barquioua, claims that the criminal organizations are well organized, with recruiters, employees, HR personnel, and CEOs. In the south of Rotterdam, one of the poorest areas of the Netherlands and the origin of many cocaine dealers, YOUZ manages youth programs. The majority are immigrants, with almost 25% of the population under the age of 23.

People from outside the Netherlands moved to the area in the 1960s and 1970s because of the port's employment opportunities. However, employment declined as industrial activity shifted westward to make room for the larger ships. Some were able to relocate, which resulted in local poverty.

In order to keep young people away from possible criminal involvement, YOUZ's activities are conducted through schools, clubs, and community centers. Nadia Barquioua adds, "We have to show them that they have opportunities in the city and that earning money in a normal way is much safer than committing crimes." "Mending broken men is more difficult than raising happy children." In the Port of Rotterdam, the number of teenage cocaine sellers is also increasing.

"They [the recruits] are getting younger," adds Hillenaar, "and it's very concerning that there are boys as young as 14 or 15 doing this work." Although a "White Christmas" is being discussed in Rotterdam, it does not imply snow. For cocaine users, Hillenaar has a message as the holiday season draws near. "Over 40,000 lines of cocaine are snorted in Rotterdam every day," he claims. "There is a history of violence, extortion, and death in every line you snort."

The law will be changed in 2022, and Hillenaar hopes this would discourage people from becoming collectors. The law imposes jail terms of up to a year and eliminates penalties for illegal individuals loitering near ports. However, not everyone believes the law will be effective because of the enormous profits that collectors make.

Businessman Andre Kramer stated, "I genuinely don't think it will stop drugs coming into the port of Rotterdam." Additionally, he worries that violence in the port area may result from the rule change that stiffens the sanctions. Even while the dealers might get away with it today, it would be extremely concerning if they attempted to flee with firearms. A Wild West scene in your terminal is not what you want. The possibility of jail time may deter some young individuals from performing the task. However, not everyone can afford to ignore it because of the enormous earnings they can gain. They also understand that they are a crucial component of the cocaine supply chain in Europe. Furthermore, it won't finish very soon (BBC, 2025).

Drug Economy Model and Organized Crime: This instance demonstrates that drugs in the Netherlands are more closely linked to intricate logistics networks and international criminal networks than to lone offenders. Drug trafficking has developed into a criminal enterprise with a corporate structure, complete with recruiters, HR directors, and CEOs (Ramadhan, 2024).

Flexible and Reintegration-Based Legal Approach: Before the 2022 legal reform, offenders were only subject to small fines, often below €100. This represents a non-punitive and pragmatic paradigm, which tends to avoid over-penalization, especially against young offenders or light users. However, this also creates loopholes for abuse of the law by criminal organizations (Subroto, 2025).

Social Awareness and Regulatory Changes: Dutch law has started to evolve since 2022. Collectors may now face up to a year in prison; nevertheless, this change was made to resolve legal loopholes rather than as retaliation. accompanied by social initiatives from groups like YOUZ that concentrate on preventing criminal economic radicalization, raising awareness, and educating people. On the Root of the Problem: The Dutch government and civil society are beginning to realize that the drug problem cannot be solved by punishment alone. The focus is on preventing the recruitment of poor youth by drug mafias, alternative education, and structural social interventions (Hapsari, 2022).

**Table 1. The differences of criminal law between Indonesia and Netherlands**

Aspect	Indonesia	Netherlands
Approach	Repressive, criminal law as the main tool	Combination of repressive and preventive with a social approach
Punishment	Death penalty, life imprisonment	Light punishment → up to 1 year in prison
Legal Targets	Individu pelaku (pengedar, kurir)	Individual perpetrators (distributors, couriers)
Institution	Dominance of state institutions (BNN, Police)	Collaboration between authorities and civil society
Rehabilitation	Minimal or nonexistent	Focus on prevention and social reintegration

Table 1 makes it clear that differences in criminal law philosophy have a direct impact on the form of regulation, treatment of violators, and the ultimate goal of each country's criminal justice system. Indonesia tends to emphasize severe punishment, while the Netherlands prioritizes a more humane, pragmatic, and public health-based approach. This finding is an important reflection for the Indonesian legal system in evaluating the effectiveness of drug punishment policies (Kamati, 2025).

#### 4. CONCLUSION

The purpose of this study is to compare the criminalization of drug offenses in the Netherlands and Indonesia. Based on the analysis's findings, it can be said that the criminalization strategies used in the two nations represent underlying philosophical disparities in law. Indonesia prioritizes a repressive and punitive approach by emphasizing the deterrent effect through the threat of severe criminal penalties, including the death penalty. In contrast, the Netherlands emphasizes a rehabilitative and preventive approach that is oriented towards public health, with the implementation of harm reduction and partial decriminalization of narcotics (soft drugs). Implementation and Recommendations: Indonesia can consider reforming its drug sentencing policy by adjusting its approach to drug users, for example by prioritizing rehabilitation rather than imprisonment. This adjustment is not intended to weaken drug eradication efforts, but rather to increase their effectiveness through a more proportional approach based on the principles of humanity and public health. The government also needs to strengthen the national rehabilitation system, public education, and drug distribution monitoring mechanisms so that law enforcement is balanced between justice, prevention, and recovery.

#### **Ethical Approval**

Not Applicable

#### **Informed Consent Statement**

Not Applicable

#### **Authors' Contributions**

FF led the conceptualization of the study, developed the comparative legal framework, and drafted the main sections of the manuscript. He also served as the corresponding author, managing communication throughout the submission and review process. AI contributed to the analysis of Indonesian and Dutch criminal policy, conducted the doctrinal and statutory review, and provided critical revisions to enhance the clarity, accuracy, and scholarly quality of the manuscript.

#### **Disclosure Statement**

The Authors declare that they have no conflict of interest

#### **Data Availability Statement**

The data presented in this study are available upon request from the corresponding author for privacy.

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## Notes on Contributors

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