



Evolution of the Islamic Judicial System: Justice in the Governance of Caliph 'Umar Ibn Al-Khaṭṭāb

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Abstract

Justice in Islamic law has its significance and its inception dates back to the appointment of Prophet Muhammad. From that moment, the Prophet Muhammad assumed the role of the first judge in the Islamic world, overseeing and deciding all cases presented. Following the death of the Prophet, the authority of justice was transitioned to the caliphs. In so doing, the caliphs consistently adhered to the guidance of the Quran, the Sunnah, and Ijma. In addition to them, judges are individuals who possess a deep understanding of the Quran, the Sunnah, and Ijma. Compensation for judges is determined in accordance with regulations set by the caliph. Judges emphasize a commitment to justice in their rulings. The legacy of a just judicial system within the Islamic legal framework continued to thrive through upholding the foundations of the Quranic teachings and the Prophet's traditions.

Keywords: *judicial institution, Islamic justice, Quranic teachings, 'Umar ibn Khattab*

Introduction

As Islam proliferated and the domains of the Islamic state expanded to encompass significant regions such as Mecca, Medina, Taif, Yemen, Bahrain, Egypt, the Levant, Iraq, Persia, Basra, Kufa, Medina, and Azerbaijan, the imperative for a judicious administrative framework in these newfound territories became paramount. With the escalating duties of the Caliph and the mounting challenges faced by Governors, particularly in the resolution of proliferating disputes

and conflicts, "Umar Ibn al-Khaṭṭāb discerned the imperative to delineate powers among diverse regions (Malik, 2021). His intelligence ensures that state and legal matters are consistently addressed with wisdom, objectivity, and fairness (Ishaq & Ridwan, 2023).

In response to this challenge, 'Umar implemented a significant reform by entrusting comprehensive authority to the judicial institutions. This move aimed to enable Governors to concentrate more on the development of their specific regions. The judicial institutions were endowed with independent powers in each area, mirroring the executive and administrative authority structures. 'Umar pioneered the allocation of explicit authority to the judicial institutions, personally selecting judges to preside over diverse Islamic territories like Kufa, Basra, the Levant, and Egypt. 'Umar established a judicial system directly under his control, with the Caliph and Governors jointly responsible for appointing judges in their respective regions (Ibrahim, 2015). This demonstrated 'Umar's resolute leadership in shaping the fundamentals of management, government administration, and regulations governing state authority. 'Umar's *ijtihad* in several cases was grounded in a unified, integral, and authentic apprehension and comprehension to realize the benefit for the Muslim community, which constitutes the essence of the purpose of Islamic law. He implemented Islamic legal policies by attentively considering swiftly evolving social changes (Alshawawreh, 2023; Arrasyid, Pagar, Tanjung, & Mohd Nor, 2023).

The importance of the concept of separation of judicial powers from other state institutions during 'Umar's time is evident. Although judicial autonomy did not hinder separation in some matters, 'Umar allowed his Governors to handle judicial issues according to their competence. 'Umar communicated with Governors regarding judicial matters and sometimes delegated authority to them to resolve these issues. 'Umar also involved himself in the role of a judge in a judicial institution, even when there was already a judge in that region. He sent letters to Mughīrah ibn Shu'bah and Abū Mūsā al-Asy'arī as judges in the judicial institution, demonstrating his direct involvement in the Islamic judicial system (Abdullah, 2019). 'Umar implemented autonomous judicial separation in significant Islamic regions like Kufa and Egypt. Despite efforts to merge the powers of Governors in executive and judicial matters, 'Umar ensured that judicial affairs did not interfere with the Governor's responsibility in managing their territories.

Meanwhile, in Europe, the concept of governance and the fulfillment of people's rights began to emerge in the 18th century, as discussed by Montesquieu in his work, "*The Spirit of the Laws*." However, the implementation of basic governance principles could only be realized in the early 19th century, after the French Revolution. In contrast, Islam had established these foundations more than 14 centuries ago, making it one of the cornerstones of governance. These basic principles existed since the time of Prophet Muhammad (S.A.W.), when he sent Mu'adz to the region of Yemen. The Prophet asked him, "How will you judge, O Mu'adz?" Mu'adz explained

that he would judge according to the Book of Allah, the Sunnah of the Prophet, and if not found, he would use his own judgment. The Prophet then approved it.

‘Umar's efforts in developing the judicial institution and separating judicial powers from other state institutions created a robust foundation for the Islamic judicial system. This comprehension offers insights into efficient management, government administration, and regulations governing state authority during that era. However, despite abundant literature and historical sources providing records of Caliph ‘Umar's governance, there remains a dearth of detailed theoretical studies delving into the role of the judicial institution during that period (Al Husni, 2018). Therefore, this research aims to contribute to a deeper understanding of the history of Islamic justice by elucidating the role of the judicial institution during the time of Caliph ‘Umar Ibn al-Khaṭṭāb.

Furthermore, the relevance of this research lies in its ability to explore the values of justice, wisdom, and legal firmness that may serve as inspiration for modern judicial systems. By identifying the fundamental principles underlying justice during Caliph ‘Umar's time, this research seeks to recognize universal values that can be adopted and applied in contemporary legal contexts. In order to achieve this goal, the research will explore various sources, including historical literature, hadiths, and relevant legal documents from that period. Additionally, a profound understanding of the social, political, and economic background during the reign of Caliph ‘Umar is crucial for comprehending the context in which the judicial system developed. Through theoretical analysis, this research is expected to present a holistic picture of the role of the judicial institution during the time of Caliph ‘Umar Ibn al-Khaṭṭāb. The results of this research are anticipated to make a significant contribution to our understanding of the history of Islamic justice and provide valuable insights into the implementation of Islamic legal principles during that era.

Methods

This research will utilize a systematic literature review to theoretically explore the role of the judicial institution during the time of Caliph ‘Umar Ibn al-Khaṭṭāb. The primary focus of this study is to investigate and analyze various literary sources, including historical books, hadiths, and relevant legal documents pertaining to that period (Carr, 2002). Initially, the research will identify and collect primary sources related to the Islamic judicial system during the rule of Caliph ‘Umar. These sources will encompass classical historical texts, travel accounts, and legal works discussing the roles of judicial institutions in various Islamic regions at that time. Subsequently, this approach will give attention to secondary sources to gain a more contextual and in-depth understanding of the social, political, and economic background of that era. The analysis of these secondary literature sources will involve academic studies, articles, and

research books discussing aspects of life during the time of Caliph 'Umar, particularly those related to the judicial system (Indaturrohmah, 2022). Through this literature review, the research will delineate the development of the judicial institution, Caliph 'Umar's role in appointing judges, and the separation of judicial powers from other state institutions. In-depth analysis will be conducted to unearth the values of justice, wisdom, and legal firmness embedded in the principles of Islamic law during that period. By summarizing the findings from these literatures, this research aims to make a new contribution to the understanding of the history of Islamic justice during the time of Caliph 'Umar Ibn al-Khaṭṭāb (Fitriani & Aziz, 2019). Additionally, the research is expected to identify legal principles that remain relevant and applicable in the context of modern justice, providing valuable insights for the development of contemporary judicial systems.

Finding and Discussion

The Development of Legal Sources during the Time of 'Umar Ibn al-Khaṭṭāb: Implications of Ijtihad, Ijma', and Judicial Decisions

During the time of the Khulafaurrasyidin, judges adhered to the legal foundations established by Prophet Muhammad (PBUH), which included the Quran, Sunnah, and Ijtihad. Ijtihad, a process of legal reasoning, is applied in legal inquiries to address problems that arise in society (Hasballah, 2021). This era reflected a faithful representation of Islam both in political and administrative aspects, akin to the period of the Prophet (Adeel, 2020). The concept of effective governance emerged and is known as a policy formulation with its implementation through synergistic participation by various sectors, including administrative, political, and economic, focusing on several characteristics efficiency, honesty, fairness, transparency, and accountability - to achieve a higher quality of governance (Al-Qudsy & Rahman, 2011).

However, there were developments in two main aspects, the interpretation and application of Ijtihad, and the emergence of new sources such as consultation (musyawarah), shura, ijma', opinions, and qiyas. Legal sources during this period included the Quran, Sunnah, Ijtihad, Ijma', Qiyas, and judicial decisions made by the companions. Legal sources during this period included the Quran, Sunnah, Ijtihad, Ijma', Qiyas, and judicial decisions made by the companions (Purkon, 2022). Abundant accounts and guidance from the time of the Khulafaurrasyidin provide practical insights. For example, 'Umar advised judges to base their decisions on clear guidance from the Book of Allah and the Sunnah of the Prophet. If not found in either, they could refer to the decisions of leaders with guidance (Ridwan, 2018). If still unclear, judges were allowed to exercise ijtihad and consult with scholars and the righteous. In the context of ijtihad, 'Umar Ibn al-Khaṭṭāb acknowledged human limitations and asserted that truth emanates from Allah, while human opinions may be fallible (Meiloud, 2016). Ibn al-Qayyim

also depicted 'Umar's reluctance to reject Abu Bakr's opinion and underscored the necessity of adhering to the Book of Allah, the Sunnah of the Prophet, and the laws of the righteous.

Ijma' was also recognized as a legal source, especially in the absence of guidance from the Quran and Sunnah. Judges could seek the counsel of scholars, consult with companions, and legal experts to arrive at decisions based on the consensus of mujtahids (Eşit, 2019; Ayhan 2022; Selim, 2022). However, Ijma' during the time of Khulafaurrasyidin was relatively limited in Medina. Additionally, judges had the authority to refer to the decisions made by predecessors, including the caliphs, righteous individuals, and senior companions. 'Umar strongly adhered to the decisions of Abu Bakr and directed judges and governors to follow suit. Their opinions were considered superior as they emanated from hearts filled with light, faith, knowledge, understanding from Allah and His Messenger, and advice for the community. This was deemed more excellent than their individual opinions, which might be influenced by differences and polemics contrary to Islamic teachings (Zulfikar, 2023).

Qiyas, as the fourth legal source, played a pivotal role in legislation, jurisprudence, and law during the time of Khulafaurrasyidin. Decisions involving qiyas at that time were relatively infrequent. If a judge did not find a legal basis in Sharia texts, Ijma', or previous decisions, they were authorized to exercise ijthad, as elucidated in the hadith of Mu'adh. One of the crucial steps in ijthad was qiyas, where the judge employed analogy in cases not explicitly covered by Sharia texts but with similarities to texts that have established Sharia rulings (Iqbal, 2022; Iqbal, 2022b). In his letter to Abu Musa, 'Umar underscored the significance of qiyas, stating, *"He then compare matters in such conditions. Analyze their similarities. Then base what you think on what is most beloved to Allah and closer to the truth."*

Evidence Held by the Judge

During the era of the Khulafaurrasyidin, judges utilized various forms of evidence in their decision-making processes, encompassing confessions, witnesses, oaths, investigation of lineage cases, indicators, and judicial knowledge. Firstly, confessions were acknowledged as valid evidence, and written statements were deemed a form of confession. Secondly, witnesses played a pivotal role, with judges obligated to scrutinize the credibility of witnesses before admitting their testimonies. 'Umar r.a. once requested well-known witnesses, underscoring the significance of justice and honesty in providing testimony. Testimony held greater weight than oaths. Thirdly, an oath could not be administered by the judge unless the prosecutor failed to present evidence. 'Umar asserted that a false oath deserved more rejection than genuine evidence. Judges could enforce an oath if necessary to prevent falsehood, as 'Umar did in various cases. Fourthly, investigating lineage cases served as a robust indicator used to adjudicate matters. 'Umar and the companions frequently employed this inquiry in cases related to lineage. Fifthly, indicators, such as a cord (signifying virginity) on an unmarried woman, served as critical

guides in decision-making. 'Umar resolved the Tha'un Amwas case by considering the position of the corpse as an indicator. Sixthly, judicial knowledge had a limited role, especially in criminal cases. 'Umar stressed that a judge should not solely rely on knowledge, assumptions, or prejudices, particularly in criminal cases. In non-criminal cases, there was a divergence of opinion on whether a judge could utilize their knowledge in the absence of other evidence. 'Umar never encouraged individuals to confess to their wrongdoings; instead, he preferred them to conceal their mistakes and seek repentance from Allah. When handling cases in specific regions, 'Umar prohibited the disclosure of secrets concealed by Allah, emphasizing the policy of concealing sins and promoting forgiveness. Prior to conducting trials, 'Umar consistently prayed for guidance from Allah to uncover the truth, whether the resolution was imminent or distant. His prayers reflected sincerity and a commitment to making equitable decisions (Aziz, 2022).

Examples of Legal, Criminal, and Civil Cases Handled by 'Umar

Here are examples of various legal cases faced by 'Umar Ibn al-Khaṭṭāb, along with the actions taken in each case. 'Umar's decisions were based on understanding the context and implementing wise resolutions to uphold justice and administer punishments in accordance with the circumstances and Sharia rules (Wiyanto, 2018):

Table 1.

'Umar's Punishments and Decisions in Various Legal Cases

| Case | 'Umar's Actions | Explanation |
|--------------------------------------|--|---|
| Forgery of State Seal | 100 lashes - Imprisonment - Warning - Another 100 lashes - Exile | 'Umar takes firm actions, including physical punishment, a warning, and exile, as a form of punishment for the forgery of the state seal. |
| Theft from Baitulmal in Kufah | Thief released - Thief lashed (as a deterrent) | 'Umar demonstrates wisdom by not imposing a severe punishment on the thief from Baitulmal but lashes them as a deterrent. |
| Theft in the Year of Famine | Hand-cutting postponed - Stolen property replaced with multiplied value - Exemption from hand-cutting punishment | 'Umar considers the emergency situation (year of famine), replaces the stolen property with multiplied value, and decides not to execute the hand-cutting punishment. |
| Mad Woman Accused of Adultery | Initially ordered stoning - Released after Ali ibn Abi Thalib reminded of the raised pen | 'Umar admits his mistake initially after being reminded by Ali ibn Abi Thalib and releases the woman. |
| Dhimmi Forcing a Muslim Woman | Crucifixion of the Dhimmi who violated the agreement | 'Umar imposes a severe punishment (crucifixion) on the Dhimmi who |

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|---|---|--|---|
| | | | violated the agreement by forcing a Muslim woman to commit adultery. |
| Rape of a Woman | Young man beaten; girls not beaten | | 'Umar beats the young man as punishment, without beating the girls, demonstrating wisdom and justice in handling a rape case. |
| Law for Zina Offender Unaware of the Prohibition | Ask if aware that zina is prohibited- implement punishment or give a warning | | 'Umar orders checking whether the zina offender is aware that the act is prohibited. If aware, implement the punishment; if not, give a warning. |
| Woman Marrying in the Iddah Period | Beating without the prescribed punishment- Separation of the couple - Husband beaten as a warning | | 'Umar administers a beating without the prescribed punishment, separates the couple, and beats the husband as a warning for violating the marriage during the iddah period. |
| Woman Marrying in Secret | Woman stoned to death- Second husband lashed 100 times | | 'Umar orders the stoning of a woman who marries while still having a secret husband, while the second husband is lashed 100 times as punishment. |

Table 2.

Legal and Justice Policies Under the Leadership of 'Umar Ibn al-Khaṭṭāb

| No | Case | Legal Policy/Issue | Emphasized Principle |
|----|--|---|---|
| 1 | Accusation of Zina against Syiham ibn Syu'bah | Rejecting punishment without complete testimony | Justice in law enforcement |
| 2 | Law Regarding Women Marrying Their Slaves | Rejecting based on Al Nisa:36 | Compliance with religious principles |
| 3 | Woman Accusing Her Husband of Zina with His Slave | Imposing 80 lashes as punishment | Firm action in response to false accusations |
| 4 | Implementation of Punishment for Insinuating Zina | Qadhif punishment for insinuating Zina | Upholding dignity and educating society |
| 5 | Legal Pardon for the Murderer of a Jew who Damaged Honor | Pardoning considering the context | Policies considering context and justice |
| 6 | Murder in the Name of Allah not Punished Forever | Pardoning considering humanitarian factors | Decision considering humanitarian factors |
| 7 | Threats of Murder against Shan'a Residents Involved | Threatening murder as a decisive action | Affirming principles of justice and punishment severity |

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|-----------|--|---|---|
| 8 | Punishment for Witches is Death | Ordering the killing of witches | Strict policy against harmful practices |
| 9 | Punishment for Intentional Killing of a Muslim and Killing a Dhimmi | Diyat for killing a Muslim and qisas for killing a Dhimmi | Approach based on Sharia principles |
| 10 | Integration of Diyat with Qasamah | Using qasamah to resolve disputes | Creativity in upholding justice |
| 11 | Rejecting Extreme Actions against Apostates | Rejecting extreme actions against apostates | Caution and wisdom in handling sensitive cases |
| 12 | Determining Punishment for Alcohol Drinkers as 80 Lashes | Increasing punishment for alcohol drinkers to 80 lashes | Stern approach to addressing social deviance |
| 13 | Burning of Liquor Shops | Ordering the burning of liquor shops | Decisive action against sources of social harm |
| 14 | Marriage Punishment as an Alternative | Establishing marriage punishment as an alternative | Compassionate approach to providing a second chance |
| 15 | Those Who Divorce Their Wives Do Not Inherit | Rejecting inheritance rights for those who divorce their wives without strong reasons | Need to consider women's rights |
| 16 | Minimum Pregnancy Duration | Setting a minimum pregnancy duration of four years | Attention to women's well-being and uncertainty of child status |
| 17 | Rejecting Expert Witnesses of the People of the Book for Hudud Cases | Affirming rejection of expert witnesses of the People of the Book in Hudud cases | Effort to maintain justice and equality before the law |

Integrating the information from Table 1.2, it becomes apparent that ‘Umar Ibn al-Khaṭṭāb, the second Caliph of Islam, is esteemed for his sagacious leadership and the application of Islamic law throughout his tenure (Al-Daajeh, 2023). This scrutiny explores diverse legal instances and the verdicts rendered by ‘Umar, offering insights into the fundamental principles and considerations that shaped his approach to justice. A noteworthy instance is ‘Umar's handling of an accusation of adultery against Syiham ibn Syu’bah. Despite the testimony of three witnesses, ‘Umar opted not to mete out punishment, underscoring the imperative of complete testimony for such grave allegations. This decision underscores ‘Umar's dedication to upholding justice and averting injustice in the legal proceedings. Another consequential case involves a woman marrying her slave, presenting ‘Umar with the contention that the Quran sanctions such unions (Adarudin, 2018). Nonetheless, ‘Umar dismissed this interpretation, not only annulling the

marriage but also reprimanding the woman. This choice illustrates 'Umar's steadfast adherence to religious principles and his determination to prevent deviations from Islamic teachings. In a situation where a woman accused her husband of adultery with his female slave, 'Umar imposed 80 lashes on the accuser. This illustrates 'Umar's approach to safeguard the integrity of accusations and deter false claims, advocating for a just and equitable legal system (Sipayung, 2022; Rizwan, 2022)

'Umar's handling of veiled accusations of adultery also provides valuable insights. He imposed a punishment of 80 lashes, demonstrating zero tolerance for slander and a commitment to preserving the dignity of individuals within the community. This decision aimed to educate society and protect the reputation of those falsely accused. The case involving the murder of a Jew whose honor was violated presented 'Umar with a complex situation. 'Umar's choice to release the perpetrator showcases his deep understanding of justice, taking into account the specific circumstances and avoiding unnecessary cruelty. This decision underscores 'Umar's dedication to justice and compassion, even when dealing with individuals outside the Muslim community. In the context of a murder seemingly committed for the sake of Allah, 'Umar opted not to impose a perpetual punishment. This decision reflects his consideration of mitigating circumstances and his emphasis on justice without undue cruelty. 'Umar's threat to execute individuals involved in the Shan'a murder exemplifies his stern stance against crimes that threaten societal peace. While not explicitly rooted in the teachings of the Quran or Sunnah, 'Umar's decisions are justified by his commitment to maintaining order and deterring criminal behavior. Although there were controversies at the outset of its implementation, given that the Prophet had never enacted a similar policy, the consensus among the people was that it contributed to the well-being and benefit of the Islamic government. Therefore, the actions taken by 'Umar Ibn al-Khaṭṭāb could serve as a model and basis for instituting analogous policies in Islamic governance (Muchsini & Manan, 2019).

'Umar's imposition of the death penalty for sorcery represents another significant decision that underscores his unwavering stance against practices perceived as harmful to society. This choice reflects his dedication to eliminating elements that could undermine Islamic values and the well-being of the community. Cases involving intentional murder and the killing of non-Muslims (dhimmis) reveal 'Umar's commitment to Quranic principles. The implementation of diyat for the former and qisas for the latter illustrates his adherence to justice based on Islamic legal foundations (Fitra, 2016).

'Umar's innovative approach to dispute resolution is evident in the integration of diyat with qasamah, showcasing his flexibility in finding equitable solutions while upholding justice. The decision not to resort to extreme measures against apostates, coupled with 'Umar's emphasis on education and guidance, reflects his strategic thinking in addressing sensitive issues. It demonstrates his intent to safeguard the unity of the Muslim community while allowing

room for repentance. 'Umar's choice to escalate the punishment for alcohol consumption to 80 lashes reveals his stringent approach to combatting social decay. This decision, endorsed by prominent companions such as Ali, underscores a collective commitment to curbing behaviors perceived as detrimental to society. The burning of liquor stores serves as evidence of 'Umar's decisive action in eradicating sources of societal corruption, aligning with his proactive stance against practices that could harm the community. 'Umar prioritizes the principle of *maslaha*, characterized by a holistic approach, and emphasizes the principles of social justice, peace, and human development (Opwis, 2005; Lobah, 2016; Kamali, 2021).

'Umar's approval of marriage as an alternative punishment demonstrates his innovative thinking, offering a path to redemption for those involved in immoral acts while instilling a sense of responsibility. The case of disallowing inheritance for a man divorcing his wife without valid reasons underscores 'Umar's dedication to protecting women's rights, emphasizing the importance of fairness in marital relationships. 'Umar's recognition of a four-year pregnancy limit illustrates his practical approach to addressing uncertainties in legal matters, reflecting his concern for the well-being of pregnant women and the necessity for clear legal standards. By excluding non-Muslim witnesses for *Hudud* cases, 'Umar aimed to ensure a fair legal system in line with Islamic principles, showcasing his commitment to equality and justice even in challenging situations. In conclusion, 'Umar Ibn al-Khaṭṭāb's legal decisions exhibit a delicate balance between strict adherence to Islamic principles and a pragmatic approach to societal issues (Malik, 2021).

'Umar was concerned about meeting the needs of judges and litigants, addressing both their physical and moral conditions, to create an atmosphere of integrity and justice within the judicial proceedings among the people (Al-Qudsy & Rahman, 2011). His commitment to justice, mercy, and community welfare is evident in meticulous resolutions to complex legal cases, establishing him as a key figure in the development of Islamic jurisprudence.

Conclusion

The theoretical exploration of the judiciary's role during the time of Caliph 'Umar Ibn al-Khaṭṭāb leads to the conclusion that there is a necessity for a thorough examination of the roles and legal policies implemented by 'Umar Ibn al-Khaṭṭāb as the second Caliph of Islam. Through this theoretical analysis, it is evident that 'Umar Ibn al-Khaṭṭāb adopted a comprehensive approach to the judiciary, implementing various policies that reflected the principles of Islamic justice. The focus of this research revolves around the caliph's role as the leader of the state and the arbitrator of disputes.

'Umar Ibn al-Khaṭṭāb, renowned for his fairness and firm leadership, established legal policies rooted in Islamic teachings. His commitment to justice, protection of individual rights,

and alignment of legal actions with Islamic principles were paramount. The research delves into key legal cases handled by 'Umar Ibn al-Khaṭṭāb, addressing accusations of adultery, contentious marriages, and legal measures related to various crimes. A meticulous analysis of these cases provides valuable insights into the legal principles applied by 'Umar bin Khattab when confronted with intricate situations.

Furthermore, the research outlines 'Umar Ibn al-Khaṭṭāb's policies in managing murder cases, ethical transgressions, and social conflicts. His balanced and flexible approach to law enforcement reflects wisdom and justice, laying the groundwork for the judicial system during his reign. The research concludes by underscoring the significance of the judiciary in upholding social order and ensuring legal certainty throughout the rule of Caliph 'Umar Ibn al-Khaṭṭāb. The caliph's dual role as a leader and dispute resolver exemplifies the practical implementation of Islamic principles in the legal system, offering enduring relevance and inspiration for contemporary judicial frameworks.

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