

CRIMINAL LIABILITY TO CHILDREN IN TRAFFIC VIOLATIONS RESULTING IN DEATH (STUDY AT THE CENTRAL TAPANULI POLICE)

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ABSTRACT

This study examines criminal liability for minors involved in fatal traffic accidents, analyzes the sanctions and legal application imposed on child offenders, and identifies obstacles and solutions in resolving such cases. The research employs a normative juridical method with a descriptive-analytical approach, relying on library research through secondary data, including primary, secondary, and tertiary legal materials. Qualitative data analysis is applied by interpreting statutory regulations and relevant legal doctrines to address the research problems. The findings indicate that criminal liability for children who cause death in traffic accidents is determined based on age, in accordance with the Juvenile Criminal Justice System under Law No. 11 of 2012. Sanctions are imposed with consideration of the child's age, particularly for those over 14 years old. In the case occurring in Tapanuli Tengah, the matter was resolved amicably through restorative settlement between the families involved.

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INTRODUCTIONS

The number of traffic accidents involving minors and resulting in the loss of life and property of a person causes anxiety for road users. One of the factors causing it is the lack of supervision by parents and the responsible party in granting permission to drive four-wheeled or two-wheeled vehicles without having a Driver's License (SIM), this results in a child having committed a violation, namely not being eligible to drive a vehicle on public roads because he does not have a driver's license. (Indah et al., 2025)

In Article 20 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, it is stated that the State, Government, Local Government, Community, Family, and Parents or

Guardians are obliged and responsible for the implementation of child protection. So broadly speaking, child protection, where parents are the smallest scope that affects the growth and development of children.

The definition of a minor who is faced with the law is explained in Law No. 11 of 2012 concerning the Juvenile Justice System, in the general provisions of article 1 paragraph 3, namely that a child is a child who is 12 (twelve) years old, but not yet 18 (eighteen) years old, who is suspected of committing a criminal act. The number of traffic accidents involving minors and resulting in the loss of life and property of a person causes anxiety for road users, one of the factors causing is the lack of supervision by parents and the responsible party in giving permission to drive four-wheeled or two-wheeled vehicles without having a driver's license, this results in a child having committed two violations at once, i.e. not eligible to drive a vehicle on public roads because they do not have a driver's license, as stipulated in Article 77 paragraph (1) of Law No. 22 of 2009 concerning Road Traffic and Transportation. (Rahmi et al., 2023; Siregar & Saragih, 2023)

Traffic accidents involving minors who have been negligent in driving a motor vehicle resulting in traffic accidents and resulting in a person suffering loss of both property and loss of life. This must be accounted for by every perpetrator according to the applicable legal provisions even if the perpetrator is a minor. Regarding the liability regulated in the Criminal Code, there is a rule in criminal liability, that not everyone is said to be able to be responsible.

It is said that a person is incapable of responsibility, which consists of two visible aspects, the first aspect:

1. The state of his soul

- a) Disturbed by the disease, which is persistent (temporary).
- b) Have defects in growth (gagu, idiot, imbecile and so on).
- c) Disturbed by surprise, hypnotism, anger, overflowing, subconscious influences, slackening, delirium and so on.

2. His soul abilities

- a) He could not understand the nature of the actions he did.
- b) Unable to determine his will for the action to be taken.
- c) Unable to know the reprehensibility of such an action. (Winayaka et al., 2025)

The error as an element of criminal liability described by Asworth and Horder is an error in the sense of the psychic state of the maker. According to the common law system's view, mistakes related to the maker's psychic state are equated with the element of mens rea which is the maker's state of mind, which is a wrong state of mind. However, regulations in realizing security, order, smooth traffic and road transportation in order to support economic development and regional development as expected by Law Number 22 of 2009 concerning the Law on Road Traffic and Transportation, in reality still cannot be realized because the rate of traffic accidents that often occur and unsettle road users involving minors and resulting in fatalities is still high.

This must be accounted for by every perpetrator, as the sanctions that have been regulated by Law Number 22 of 2009 concerning Road Traffic and Transportation in Article 310 paragraph (3) and paragraph (4), namely: Paragraph (3) Every person who drives a Motor Vehicle whose negligence causes a Traffic Accident with serious injuries as intended in Article 229 paragraph (4), sentenced to a maximum penalty of 5 (five) years and/or a maximum fine of Rp. 10,000,000.00 (ten million rupiah). Paragraph (4) "In the event of an accident as intended in paragraph (3) that causes the death of another person, it shall be punished with imprisonment for a maximum of 6 (six) years and/or a maximum fine of Rp. 12,000,000.00 (twelve million rupiah)". (Nurfauziah & Krisnani, 2021; Syarifuddin & Lestari, 2022)

The provisions of sanctions for criminal violations regulated in Article 310 paragraph (3) and paragraph (4) are intended to provide a deterrent effect on a person who is negligent in driving a motor vehicle so that it results in a traffic accident and results in a person suffering losses both property and life and even death. Substitute liability, which was originally applied in civil law, is now being investigated further and it is undeniable that its existence will be

taken into account and may be implemented in the provisions of criminal law. Judging from the theory of *Recht Vinding*, judges should have the ability and activeness in finding the law, the judge should not impose a criminal sentence on his child on the grounds that the child committed a traffic violation that caused the loss of a person's life on the orders of his parents. This will not necessarily happen if parents do not tell their children to commit traffic violations.

One example of a case related to an accident involving a minor as a perpetrator is an accident in the Central Tapanuli Regency area, police report LP / 0214 / 15 / II / 2020 / Then, on February 3, 2020, where in the statement it was explained that the suspect Aditia Simamora had a collision with Jaten Hutagalung, where Jaten Hutagalung died. The suspect in this incident is a student, therefore he could not be detained even though he had been examined but released with parental guarantees. The results of the investigation found a solution where the victim's family did not receive compensation because the perpetrator's condition was classified as poor. (Lomban et al., 2021; Sufiyani & Marwenny, 2024)

According to Van Apeldorn, a Judge in his duty to establish the law must pay attention and firmly base it on the principle: Adapt the Law to concrete facts and can also add to the Law if necessary. Based on the description above and the problems in the criminalization of the perpetrators of traffic crimes mentioned above, the author is interested in raising it in a thesis with the title "Criminal Responsibility for Children in Traffic Violations That Result in Death (Study at the Central Tapanuli Police)". (Anggara et al., 2020)

Based on the background that has been presented, this study formulates three main focuses of the study. First, this study examines how the form of criminal responsibility for children who take someone's life in a traffic accident case. Second, this study analyzes sanctions and the application of the law against children as perpetrators of traffic accidents that result in the loss of other people's lives. Third, this study examines the various obstacles faced in the process of resolving traffic violation cases and solutions that can be applied to overcome them. In line with the formulation of the problem, the purpose of this research is to find out and comprehensively analyze the criminal liability of children, the form of sanctions and the implementation of the law imposed, as well as obstacles and solutions in the settlement of cases, so that a complete understanding of law enforcement against children in the case of traffic accidents resulting in death is obtained.

METHOD

This research is a normative legal research that is descriptive-analytical. Normative legal research is carried out by examining the legal norms written in laws and regulations as well as legal doctrines and theories that are relevant to the problem being studied. Descriptive-analytical nature is used to systematically describe the applicable legal provisions, then critically analyze them to answer the formulation of the research problem. (Sukmawan & Damayanti, 2025; Zainuddin & Karina, 2023)

The approach used is a sociological juridical approach with an emphasis on judicial behavior. This approach places court decisions and law enforcement practices as benchmarks in assessing patterns of legal behavior that occur in society. Through this approach, the research not only examines norms textually, but also understands their application in concrete legal events, especially in the case of traffic accidents involving children.

The source of data for this research consists of secondary data which includes primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations such as the 1945 Constitution of the Republic of Indonesia, the Criminal Code, Law Number 22 of 2009 concerning Road Traffic and Transportation, and Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. Secondary legal materials are obtained from literature, scientific journals, research results, and the opinions of legal experts, while tertiary legal materials are in the form of dictionaries, encyclopedias, and legal indexes that support the understanding of other legal materials.

The data collection procedure is carried out through library research and document studies. The researcher searches, inventories, and classifies legal materials relevant to the focus of the research. The collected data is then

selected, reduced, and compiled systematically before being analyzed qualitatively. The analysis is carried out by interpreting the provisions of applicable laws and regulations and legal doctrines, then drawing deductive conclusions to provide answers to the problems being studied.

RESULT AND DISCUSSIONS

Criminal Liability for Children Who Take Someone's Life in a Traffic Accident Case

The principles embraced in the juvenile criminal justice system include the best interests of the child, respect for the child's opinion, children's survival and growth and development, child guidance and guidance, deprivation of independence and punishment as a last resort, and avoidance of retaliation. The juvenile criminal justice system must also prioritize a restorative justice approach, and must strive for diversion with the aim of achieving peace between victims and children, resolving children's cases outside the judicial process, preventing children from being deprived of independence, encouraging the community to participate and instilling a sense of responsibility to children.

Juvenile Justice as a medium of criminal accountability committed by children is different from the judiciary in general considering the privileges that children have. The child is not an adult therefore he cannot be equated with a miniature of an adult, therefore he must be given different treatment, also because the child himself is in a period of growth and there must be protection from the beginning, that is what causes a difference in the treatment of children. (Sembiring et al., 2021; Yusuf et al., 2024)

The juvenile court was established as an effort to foster and protect in order to ensure the physical, mental, and social growth and development of children in a whole, harmonious, and balanced manner. Therefore, the provisions regarding the administration of justice for children are carried out specifically. However, the applicable procedural law, namely Law Number 8 of 1981, is also applied in juvenile court proceedings, unless otherwise stipulated in Law Number 11 of 2012. Based on Article 15 of Law Number 4 of 2004 concerning Judicial Power, it can be known that the Special Court can only be established in one of the judicial environments as referred to in Article 10 which is regulated by the Law.

In accordance with this, the Juvenile Court is a special Court, it is a specialization and its specialization under the General Court. Road traffic accidents that result in the death of motorists are regulated in Article 310 paragraph (4) of Law Number 22 of 2009 concerning road traffic and transportation, which states that every person who drives a motor vehicle whose negligence results in a traffic accident that results in the death of another person, shall be sentenced to a maximum of 6 (six) years in prison and/or a maximum fine of Rp.12,000,000, 00 (twelve million rupiah). According to the provisions of criminal law, a person or other criminal law subject who has been proven to have committed a criminal act must be held accountable for his actions, whether done intentionally or due to negligence. In traffic accidents that occur due to the negligence of motorists that result in the death of other people, in reality it can be done by anyone, both adults and children. (Anwar et al., 2024; Prakoso, 2022)

The regulation of acts due to negligence that result in death in traffic accidents is basically a special form of criminal acts against life due to negligence as known in general criminal law. This provision was previously regulated in Article 359 of the old Criminal Code and will remain maintained in the national criminal law after the enactment of Law Number 1 of 2023 as a new Criminal Code. In the new Criminal Code, acts due to negligence that cause the death of another person are recodified in Article 474 which stipulates that every person who, due to his negligence, causes the death of another person is sentenced to a maximum of 5 (five) years in prison.

The new Criminal Code also affirms the basic principles of criminal liability that are relevant in traffic accident cases. Article 36 of the new Criminal Code states that a person can only be punished if there is an error in him, while Article 37 of the new Criminal Code confirms that the mistake can be intentional or negligent. Thus, traffic accidents

that occur due to the negligence of the driver, including those resulting in death, still meet the element of criminal liability as long as it is proven that there is culpability in the act of driving a motor vehicle. (Rays, 2022)

In the context of traffic accidents, the provisions in the new Criminal Code function as a general norm (*lex generalis*), while the special arrangements still refer to the provisions of traffic accidents in Law Number 22 of 2009, especially Article 310 paragraph (4). Therefore, for the act of negligence in driving a motor vehicle that results in the victim's death, the application of criminal law still uses special provisions in the traffic law, while the new Criminal Code is the general basis for criminal liability for acts due to negligence that result in death.

Judging from the criminal liability of minors outside the Criminal Code, in terms of regulations on criminal acts committed by a person who is an underage, in the provision of criminal sanctions, it can not only be seen in the punishment provisions contained in the Criminal Code as material law. Given the difference in the sanctioning of a minor and an adult who commits a criminal act, with this difference, so that in the criminal justice against a minor there are rules of conduct that other laws have regulated on the principle (*Lex Specialis Derogat Legi Generali*) special criminal acts that exclude general criminal acts that have been described in the Criminal Code and other provisions of the law are threatened with criminal penalties, unless otherwise stipulated by law. (Rauf et al., 2021; Yuliana, 2020)

This means that for juvenile criminal punishment, it has been regulated in special laws for children which are classified into several of them: Law Number 11 of 2012 concerning the Juvenile Criminal Justice System Law Number 23 of 2002 concerning Child Protection Law Number 4 of 1979 concerning Child Welfare. Therefore, the judge needs to pay attention and examine the content of the public prosecutor's indictment that will be submitted in the juvenile court, by paying attention to the elements in the article charged and the verdict made by the public prosecutor. In determining whether a minor has elements of a criminal act and not, it is necessary to look at several aspects, namely:

- (1) Judging from the responsibility of the child who commits a crime, it means that the child has fulfilled the provisions of the child's age that have been regulated in the juvenile justice law,
- (2) The element of criminal responsibility, which means more refers to the element of guilt that is an important element in a criminal act, to determine whether the child can be convicted or not. And the last aspect,
- (3) Evidence is based on evidence that will be proven in the juvenile justice process. (Anggara et al., 2020)

Criminal liability is a mechanism to determine whether a defendant or suspect is held accountable for a criminal act that occurred or not. In order for the perpetrator to be convicted, it is required that the criminal act he committed meets the elements that have been determined in the Law. From the point of view of the occurrence of prohibited acts, a person will be held accountable for the act of act, if the act is against the law and there is no reason to justify or eliminate the unlawful nature of the crime committed.

In Law Number 11 of 2012 concerning the Juvenile Criminal Justice System which leads to a restorative justice approach that prioritizes the interests of children as perpetrators in improving the future and self, punishment is the last resort. Parents' worries are quite great for their children who use vehicles such as motorcycles, but sometimes parents also privilege children to drive vehicles for the reason of making it easier for children, even though parents also know that minors are not allowed to drive vehicles because in addition to minors, the requirements to be able to drive a vehicle must have a driver's license which is in article 281 of Law No. 22 of 2009 about traffic and road transportation which explains the driving rules for minors, based on the Law, children under the age of 17 cannot get a driver's license (SIM). (Charisa, 2024; Suryandari et al., 2022)

The principles embraced in the juvenile criminal justice system include the best interests of the child, respect for the child's opinion, children's survival and growth and development, child guidance and guidance, deprivation of independence and punishment as a last resort, and avoidance of retaliation. The juvenile criminal justice system must also prioritize a restorative justice approach, and must strive for diversion with the aim of achieving peace between victims and children, resolving children's cases outside the judicial process, preventing children from being deprived of independence, encouraging the community to participate and instilling a sense of responsibility to children.

Juvenile Justice as a medium of criminal accountability committed by children is different from the judiciary in general considering the privileges that children have. The treatment of children needs to be differentiated because at that time the child's blood, body and soul are developing. Thus, it can be said that the child is in a state of instability. So there's something different when it comes to children. The child is not an adult therefore he cannot be equated with a miniature of an adult, therefore he must be given different treatment, also because the child himself is in a period of growth and there must be protection from the beginning, that is what causes a difference in the treatment of children. (Muhammad et al., 2022; Prayoga et al., 2024)

The juvenile court was established as an effort to foster and protect in order to ensure the physical, mental, and social growth and development of children in a whole, harmonious, and balanced manner. Therefore, the provisions regarding the administration of justice for children are carried out specifically. However, the applicable procedural law, namely Law Number 8 of 1981, is also applied in juvenile court proceedings, unless otherwise stipulated in Law Number 11 of 2012.

Based on Article 15 of Law Number 4 of 2004 concerning Judicial Power, it can be known that the Special Court can only be established in one of the judicial environments as referred to in Article 10 which is regulated by law. In accordance with this, the juvenile court is a special court, it is a specialization and its specialization under the general court. Road traffic accidents that result in the death of motorists are regulated in Article 310 paragraph (4) of Law Number 22 of 2009 concerning road traffic and transportation, which states that every person who drives a motor vehicle whose negligence results in a traffic accident that results in the death of another person, shall be sentenced to a maximum of 6 (six) years in prison and/or a maximum fine of Rp.12,000,000, 00 (twelve million rupiah). (Fauzi, 2020; Zakaria et al., 2024)

According to the provisions of criminal law, a person or other criminal law subject who has been proven to have committed a criminal act must be held accountable for his actions, whether done intentionally or due to negligence. In traffic accidents that occur due to the negligence of motorists that result in the death of other people, in reality it can be done by anyone, both adults and children. The provisions of the new Criminal Code also provide special provisions regarding criminal liability for children as perpetrators of criminal acts. Law Number 1 of 2023 in Articles 38 to 42 emphasizes that special provisions apply to children who commit criminal acts in accordance with the juvenile criminal justice system. The new Criminal Code emphasizes that the criminalization of children must pay attention to the best interests of children, coaching, and avoiding the deprivation of independence as a last resort.

Thus, although a child may be held criminally liable for his or her negligence in a traffic accident that causes death, the application of the sanctions is still subject to specific provisions in the juvenile criminal justice system. This shows that the new Criminal Code still maintains the principle that children are legal subjects who have criminal responsibility, but with different treatment and punishment goals than adults. Traffic accidents most accidents begin with a violation, this violation can occur due to deliberately violating the rules, or a lack of awareness of the meaning of the applicable rules or not seeing the provisions that are carried out in driving. The occurrence of traffic accidents on the highway can also be caused by the negligence of the victim, in addition to the driver of the vehicle while driving. (Muhammad et al., 2022; Nugroho & Pujiyono, 2022)

Criminal liability for the perpetrator's criminal acts according to the Criminal Code (KUHP). Vehicle driver errors can often be concluded to be non-compliance with traffic regulations. For example, he does not give a signal to turn, or he drives a car or motorcycle that is not in the left lane, or at an intersection does not give priority to other vehicles coming from the left, or runs the vehicle too fast beyond the speed limit specified in the traffic sign. The existence of an accident is a driver factor with the absence of caution and negligence in driving the vehicle. The mistake of the driver of the vehicle that was negligent in causing death can be said that the person has committed a criminal act. (Nastiti & Maskur, 2024)

Zulkifli as the Secretary of Meunasah Pulo said that motorcyclists were careless and did not focus too fast in riding motorcycles at high speeds, causing an accident that caused the victim to die. Criminal liability of traffic violators by minors that result in the loss of a person's life, as well as several forms of sanctions that can be applied. The author concludes that a minor can be held criminally responsible for his or her actions, based on these provisions which are regulated in the provisions of the juvenile justice system, the provision of sanctions based on the provisions of the child, namely being over 14 years old, the need to look at age in determining sanctions that have been regulated in Law No. 11 of 2012, in Article 69 paragraph (1) which specifies two sanctions in the application of the responsibility of a person who is in Call it a child, in the form of action sanctions and criminal sanctions, each of which has a basis for enforcement.

As for the provisions of the main and additional penalties regulated in Law No. 11 of 2012, it regulates as follows:

- a. Criminal warning,
- b. Criminal with the conditions divided into;
 - 1) Out-of-Touch Institutions,
 - 2) Community services or
 - 3) Supervision
 - c. Job training
 - d. Coaching in the board and
 - e. Prison.

Meanwhile, regarding additional crimes consist of;

- a. Deprivation of profits obtained from criminal acts; or
- b. Fulfillment of customary obligations. (Dewi et al., 2021)

Obstacles and Solutions Faced in Solving Traffic Violation Cases

Accidents on the highway that occur in Indonesia almost every day are due to the fault of the driver himself who does not comply with traffic rules that cause fatalities. There are still many people who commit traffic violations due to the lack of public knowledge of traffic regulations or traffic rules, so that people ignore their own safety and can even have an impact on the safety of others. To avoid this, it is necessary for the public to increase their knowledge of traffic regulations.

Based on the results of the study, it is also known that there are several obstacle factors in the process of handling traffic accident cases for child perpetrators in the jurisdiction of the Central Tapanuli Resort Police, namely:

1. The nature of minors who are still labile has been prohibited but after no reprimand is held, they make the same mistake again, this is due to their unstable souls, negligence and carelessness in driving, lack of knowledge about the rules of traffic signs, and others.
2. Economic factors, in the process of resolving the problem, the victim's family asked for a sum of money for funeral expenses, etc., as has been discussed. The perpetrator's family objected because the amount of money requested was too large and did not immediately give or accept what had been discussed and asked the victim's family to give some time to respond to the request.
3. The community environment does not care about children who carry motorcycles in the neighborhood where they live, on the highway and bring motorcycles to school even though children who are not old enough are not allowed to ride motorcycles because they do not have a Driver's License (SIM) from the Police.
4. Parents who prioritize their children allow their children to ride motorcycles to make it easier for the child to travel. (Indah et al., 2025; Siregar & Saragih, 2023)

In addition to these obstacle factors, in the perspective of the new national criminal law, the settlement of cases of children who commit traffic violations must also pay attention to the provisions in Law Number 1 of 2023 concerning the National Criminal Code (National Criminal Code). The new Criminal Code emphasizes that children as perpetrators of criminal acts still have criminal responsibility, but the criminalization of children must prioritize guidance, protection, and the best interests of children and avoid deprivation of independence as a last resort.

This provision is in line with the principle of resolving children's cases through deliberation and providing compensation to victims as found in the practice of resolving traffic accidents involving children in the research area. The obstacle in the form of the perpetrator's family's objection to the amount of compensation is basically related to the restorative justice approach, where the settlement of the case does not only focus on the punishment, but also the recovery of the victim's losses and the social responsibility of the perpetrator.

The new Criminal Code strengthens the approach to resolving children's cases in traffic accidents through a more restorative and educational mechanism. This shows that obstacles in the form of difficulties in payment of compensation, family objections, and the need for deliberation are actually a consequence of the model of criminal responsibility for children that is not solely repressive, but also emphasizes recovery and coaching. (Nurfauziah & Krisnani, 2021; Sufiyani & Marwenny, 2024; Winayaka et al., 2025)

And as for the solutions provided by the author, namely:

1. The traffic police unit must improve and maximize its performance in order to improve security, order, and maintain the safety of life, body and property as well as provide a deterrent effect to children who drive motorcycles on the highway and those who bring motorcycles to school.
2. In overcoming obstacles in law enforcement, the police should increase traffic police personnel and build traffic police posts. The police are also expected to increase guidance to parents, children and the community by providing counseling to schools and community environments and schools can participate in preventing traffic violations committed by children.
3. It is hoped that the traffic police will cooperate with schools and provide socialization and guidance to prevent an increase in motorcycle drivers by children and to parents to be more supervised in children in their environment. This is to avoid an increase in motorcycle drivers by children and minimize accidents to motorcycle drivers by children.
4. Students should comply with the regulations that have been made and socialized by the police so that in riding motorcycles, students are more careful and orderly in traffic regulations such as by carrying a complete Driver's License (SIM) and helmet. (Anwar et al., 2024; Sembiring et al., 2021)

CONCLUSION

Criminal liability for children who cause death in the case of traffic accidents is determined based on the age limit as stipulated in Law Number 11 of 2012 concerning the Juvenile Criminal Justice System. This study found that the determination of sanctions must take into account the age of the child at the time of committing the act, especially for children who are over 14 years old. Article 69 paragraph (1) regulates two forms of sanctions, namely action sanctions and criminal sanctions, the application of which is adjusted to the age requirements and the fulfillment of the elements of unlawful acts without any justification or forgiveness.

The application of sanctions against children who commit traffic violations cannot be equated with adults. Judges and law enforcement officials are obliged to consider the child's personal condition, family background, social environment, and recommendations from community institutions. This research shows that the approach used emphasizes the principle of protection and the best interests of children, so that the sanctions imposed can be in the form of criminal or actions with a coaching orientation.

The case of a traffic accident that occurred in Central Tapanuli on February 3, 2020 shows that the settlement of cases against 13-year-olds is pursued through a family mechanism. The factors of the age of the perpetrator who are still minors, his status as a student, and the economic condition of the family who are unable to afford it are the main considerations. Victims and families chose a peaceful settlement without claims for damages, which reflects the application of a restorative approach in the practice of child settlement.

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