
The Power Plays of Identities on Commercial Farms in Zimbabwe: “Law and Gender” in Southern Africa Revisited¹

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Abstract: This article raises questions about the heuristic and political effects of “normalizing” sociological identities, the state and space through discussing gendered identities on commercial farms in Hurungwe District, Zimbabwe. It discusses how the various “interests” of men and women farm workers cannot be “read” off their gender but must be situated within the jural identities that have emerged within the specific legal space of commercial farms. Through approaching farm workers this way, it is suggested that academic studies and political interventions can better understand the jural identities and power relations involved on the commercial farms and in our own representations.

Résumé: Cet exposé traite de questions concernant les effets heuristiques et politiques des identités sociologiques «normalisantes», de l'état et de l'espace à travers les identités de genre portant à discussion dans les fermes commerciales du Hurungwe District au Zimbabwe. Il traite de la manière dont les divers «intérêts» des ouvriers agricoles hommes ou femmes ne peuvent être dans l'annonce de leur genre mais doivent être représentés dans les identités légales qui ont émergées à l'intérieur de l'espace spécifique des fermes commerciales requis par la loi. Par cette approche des ouvriers agricoles, on suggère que les études académiques et les interventions politiques puissent être plus compréhensives à l'égard des identités légales et des relations de pouvoir inhérentes des fermes commerciales et de nos propres représentations.

Introduction

Under the rubric of the “postcolonial,” social scientists and cultural theorists are trying to go “beyond” the inherited heuristic approaches, ontologies and epistemologies that have characterized their disciplines in order to more strategically challenge hierarchical social orderings. In anthropology, such critical attention has helped to destabilize the field of knowledge built around “culture” (Abu-Lughod, 1991, 1993; D. Scott, 1992; Thomas, 1994), while in feminist studies a similar disordering has been carried out on “women,” “sex” and “gender” (Butler, 1990; Haraway, 1989; Mohanty, 1983; J. Scott, 1992; Yanagisako and Delaney, 1995). The hope is that by de-hitching analyses from the presumed certainties guaranteed by the disciplinary foundations (e.g., everyone belongs to a unified “culture” or “gender”), the analyst can deploy criticisms strategically rather than embedding them within grand theories, teleological histories or programmatic politics (Faris, 1992, 1996).

I try to follow this current trend in this article by building on the important academic work that has investigated the role of gender in the construction of state laws and regulations in Southern Africa. I do so by going beyond problematic tendencies in this literature of “normalizing” sociological identities, the state and space. Most of these works presume constant (ahistorical and prediscursive) interests for the sociological categories of gender, race and class, and characterize “the state” and its laws as a somewhat transparent carrier of these interests. Such analyses indeed assume pregiven interests for men and women and use them as a norm to explain and criticize state regulations and the social responses they evoke. Moreover, this form of analysis tends to portray the implementation of laws and regulations as a geographically uniform process, assuming the “nation” (or “colony”) at large as its normative scale of analysis; a portrayal which glosses over how different sites become

distinctive legal spaces in (inter)national and local regulatory practices. Following the work of some current feminist and anthropological theorists (e.g., Butler and Scott, 1992; Hirsch and Lazarus-Black, 1994; Manicom, 1992), I aim to move beyond these tendencies to a necessary consideration of the ways in which gendered, racial, class and spatial identities produced in state and non-state laws and practices—the power plays of jural identities—have shaped the relations and interests of groups.

After sketching out a critical overview of this literature, I discuss commercial farms in Zimbabwe as a distinct jural space which I call “domestic government.” In so doing, I indicate how the jural identities of this site make it difficult to presume that there are unified “interests” amongst African women farm workers. To introduce some attributes of this “domestic government,” I provide an ethnographic depiction of a trial for adultery that occurred on a farm in Hurungwe District in north-western Zimbabwe. I give a historical outline of this legal space which, in turn, brings me to briefly examine how the current arrangement of domestic government contributes to different “interests” for married women than for “single” women. I conclude with brief comments on the problem of uncritically casting sociological categories such as gender into normative political identities.

Gender and Law in Southern Africa

Since the 1980s, scholars increasingly began to point out how the interests of colonial officials dovetailed with those of African male elders in legislation and judicial opinions which discriminated against African women (e.g., Chanock, 1982; Folbre, 1988; Schmidt, 1991, 1992). Coinciding with the “invention of tradition” literature (Hobsbawm and Ranger, 1983), these academics have critically examined the creation of “customary law” as a process that benefited particular class and gender interests of the colonizers as well as the colonized.

Elizabeth Schmidt has been the most prolific commentator on the subject in colonial Zimbabwe. In her rich work, one of her main theses is that colonial ordinances and legislation concerning African women in the first half of the 20th century reflect the convergence of the fears of African male elders and the concerns of colonial officials. The influx of European settlers and missionaries and the growth of towns and mining and farming compounds after the colony was established in 1890 provided avenues of escape for (particularly young) African men and women from the control of their elders.

The loss of control over African women particularly incensed African male elders since their own wealth and

power strongly depended on controlling women for bridewealth transactions and for their labour needs on their own farms. Some chiefs raised these complaints to colonial officials and pointed out that many men were hesitant to work outside the Reserves in case their wives abandoned them. For their part, Schmidt argues, colonial officials wanted to ensure that life functioned smoothly on the Reserves to maintain the interest of European capitalism through subsidizing the reproduction of labour—a system of indirect rule which rested on those very African authorities who were complaining:

With its own authority at stake, the colonial state sought to mollify male discontent by helping the men regain control. For unless patriarchal authority was in some measure restored, the growing disenchantment of older men and their female charges could throw into jeopardy the whole colonial enterprise. (Schmidt, 1991: 756)

One of the main instruments used for shoring up African patriarchy and abetting colonial capitalism was customary law: “the state, fearing the consequences of female emancipation, increasingly sought to legitimate ‘customs’ that would justify continued female subordination” (Schmidt, 1992: 107).

Schmidt, like others in this literature, offers a tidy functional explanation of the creation and maintenance of a sphere of colonial legislation, namely, that it served the interests of older African men and colonial capitalism and went against the interests of African women. As she succinctly puts it, “[r]ather than destroying African male authority *in toto*, the colonial state intended to harness it to its own ends” (1991: 121).

I want to briefly point out three problematic assumptions common to these works (see also Rutherford, 1996: 371ff.). First, “interests” are assumed to inhere in sociological categories like “gender,” “class” and “race.” This presupposition neglects the historical, contested and changing shape of the “experience” of people living these categories (see, e.g., J. Scott, 1992). Nancy Folbre takes this assumption of prediscursive, ahistorical “interests” to the extreme by suggesting in her analysis of patriarchy in Zimbabwe that (patriarchal) culture mystified African women, alienating them from their authentic selves. She argues that the “intensity of female socialization . . . no doubt impeded female rebellion” (Folbre, 1988: 66). Second, laws and state practices are assumed to simply reinforce these underlying economic and gender relations. They are not seen to be discursive practices themselves which have constitutive cultural and political effects (Hirsch and Lazarus-Black, 1994) but are rather empty vessels of class and patriarchal interests.

Third, the legal space is treated as an undifferentiated whole. Typically the laws of the colonial state are taken to have the same effects throughout its territory. This assumption neglects how various legal orders take on different meaning and power in discrete geographical locations and historical periods. In turn, these legal orders have distinctive rules and procedures which can intersect, reinforce and compete with each other (Santos, 1987).

Rather than beginning with normative assumptions about interests of sociological categories, the state and space to understand the intersection of gender and law on Zimbabwean commercial farms, I find it more fruitful to examine the intersection of different legal orders with actions taken by historically and geographically situated groups and individuals who produce and negotiate the jural identities of particular legal spaces.²

The Case against the Foreman (and Wives)

One Thursday evening in September 1992, the beer hall on Chidhadhadha farm was packed. Chidhadhadha is my name for a 1 300-hectare tobacco farm in Hurungwe District in northwestern Zimbabwe where I conducted research in 1992-93.³ Usually, weekday evenings brought only a few male farm workers into this compound structure, given that money was tight for most of the 230 permanent workers, and even more so for the 200 or so contract workers on the farm. But this night, there were over a hundred people squeezed into the beer hall—men sitting on the benches along the walls, women kneeling on the floor—and almost as many crowding outside the doorways and open windows. Only a few people were buying beer that night. Rather, the crowd was gathered to witness and participate in a *dare*, a court, called to investigate the allegations that Akimu (all names are pseudonyms), a junior foreman, was having sex with another worker's wife.

Ezia, in his position as Chairman of the Village Committee, was responsible for dealing with minor civil disputes in the farm compound. Ezia usually held the *dare* at his own hut in the compound involving only the parties of the case. But lately there had been a lot of disputes on Chidhadhadha over adultery, domestic violence, and hut-burning. Akimu, the accused foreman, had a reputation for being a womanizer. As a way to clear the air of his own alleged adultery and the general problems in the compound, Akimu suggested his case be heard in a public *dare* in the beer hall.

Ezia stepped into the cleared space in the front part of the beer hall and, after giving the ritual salutes to

ZANU (PF), the ruling party in Zimbabwe, began the *dare*. Akimu replaced Ezia in the cleared space and declared, in a slightly angry tone, that there were rumours of him fooling around (*kupinda-pinda*) with a married woman and they had to be put to the test tonight. He then sat down and Ezia called into the cleared space Tambu, the woman who was accused of sleeping with Akimu.

After giving a few salutes, Tambu sat with her legs beneath her on the floor and quickly recounted over fifteen minutes the various rumours she had heard about other married women fooling around and how she was told by a few friends that there was a story about her having sex with Akimu. She finished by declaring that she would want to hear someone say that she actually saw her and Akimu having sex.

Ezia next called one of the women said to have spread the story. While kneeling on the floor, she said she only heard the rumour from another woman. Several other women were asked to confirm the story. A few, including the wife of another foreman, declined to speak. Only two others went into the space to declare that they too only heard rumours and did not see anything. Ezia finally called the three women who had declared they passed the rumours, all of whom were married to permanent workers, to enter the floor together.

By this time, young men along the edges began to heckle the women, calling them whores and liars. A few older men entered the cleared space to berate the women close-up for spreading rumours. These three women themselves occasionally stood up and accused each other of being a "whore" with other men, an action that usually enraged the accused woman's husband. During the next hour, these accusations against the loyalty of wives continued. There also was explicit tension between Akimu and Ezia. Akimu even declared that if Ezia dared to find him guilty without any evidence, he would have the farm operators take the position of Village Chairman away from him—to which Ezia angrily responded that he would resign rather than accept this intimidation from a foreman.

Although Ezia did not resign, it was Akimu who eventually closed the *dare* by declaring that he would either go to the magistrate's court or to the "barns" with these women and their husbands to settle things. By this time the space between the women sitting on the floor and the audience had narrowed considerably and passions were running very strongly.

On its face, this case appears to be just a story about a man clearing his name against unsubstantiated rumours. However, there was much more going on. This

transformation of a case of adultery against a foreman into a venting of anger against adulterous wives strongly illustrates the attributes of power relations on Hurungwe commercial farms. Almost every worker and foreman I talked with afterwards assumed Akimu was guilty. Moreover, they believed that the three women witnesses refused to provide any evidence for his guilt because they were afraid that if they testified against him, all the foremen would give their husbands harder tasks at work and might even prevent the women themselves from getting any more seasonal jobs on Chidhadhadha. This fear of the power of the foremen also helps to explain why only a few of the women called as witnesses agreed to enter the cleared space at all and why, moreover, Akimu was brash enough to threaten Ezia, the Village Chairman.

But this event in the beer hall is not simply about the power of men—or, particularly, foremen and, by extension, the predominantly male farm operators on Zimbabwe's commercial farms. Rather to understand these dynamics—why women were afraid of retributions on their husbands at work for their actions, why women were seasonal workers, why there is a Village Chairman and why his authority was undermined by a junior foreman, why civil cases were being heard on commercial farms at all, and why this labelling of married women as “whores” by men—leads to a discussion of the wider forms of laws, regulations and jural identities on the site of commercial farms as well as changes to them since Independence; a discussion which centres on the figure of the European farmer.

“Domestic Government” in (Colonial) Zimbabwe

The vast majority of the approximately 4 500 commercial farmers in Zimbabwe today are “White”⁴ men. Just before Independence in 1980, only people officially classified as “Europeans” could own and operate these farms located in the best agricultural regions of the country. In the colonial period, those classified as “indigenous Natives” were required to farm on much smaller plots in what were usually overcrowded Native Reserves, located predominantly in the worst agricultural areas of the colony. Until 1979, the labour legislation covering farm workers was the *Masters and Servants Act*, a piece of legislation with roots extending to medieval England. After 1959, this act covered principally farm workers and domestic servants. Although this act certainly played a role in ensuring a cheap and docile labour force for European farmers, a politically important constituency of the

colonial government, the importance of the *Masters and Servants Act* for me here was less its service to some White (male) class “interests” and more the fact that it gave the jural identity of “European farmer” administrative authority over *his* (for the farmer's identity was always male) African farm workers; an administrative authority that after World War II combined concerns of “control” with worries about the edification of “Natives” (Rutherford, 1997).

Unlike farm workers, Africans living in the Native Reserves and those living and working in towns were the targets of a growing post-World War II administrative machinery linked to the emerging North-South “development” industry: Africans living in Reserves and in urban centres were seen respectively as “subsistence cultivators” who needed to improve themselves to become “peasants” and as “detrribalized Natives” who needed to improve themselves to become “urban proletarians” (Worby, 1994). These rural and urban Africans were put under the combined authority of government officials (i.e., the Native Affairs Department), state-sanctioned and somewhat representative organizations such as African Councils and trade unions, and “traditional” leaders such as chiefs and headmen (who were also in the civil service). By contrast, farm workers officially fell under the sole administrative authority of European farmers. Let me examine a feature of this official (“customary”) authority on commercial farms in regards to gender.

Part of the assumptions in national and international expert literature at the time was, first, that African workers should be men and that, second, to increase labour productivity these workers should be “stabilized” partly through the encouragement of having their wives and children live with them. In colonial Africa, officials and “labour experts” promoted this view to all European capitalists as a way to manage their work force (F. Cooper, 1996). In regards to European farmers, this gendered assumption respecting the labour force was modified by the suggestion that the wives and children of workers could assist as seasonal workers in the farm operations. Moreover, this emphasis on ensuring the proper “family” makeup of farm workers dovetailed with the state-sanctioned empowerment of the authority of the European farmer and his family as the means of administering farm workers to form what I call the “domestic government” of commercial farms: “domestic” in the double sense of officially promoting the “private” over “public” domain and of administratively valuing proper, paternalistic family and family-like relations of workers and between workers and farmers. This “domestic government”

empowered the jural identity of a “European (male) Farmer” as the primary administrative authority of farm workers—an identity produced in the interactions of (inter)national experts, the state and white farmers and their organizations; not an identity reflecting some essential attribute of the European male capitalist.

This “domestic government” was initially challenged by changes introduced with Independence in 1980. The former liberation group, now the ruling party, ZANU (PF) brought farm workers under the same legislation as other workers in Zimbabwe and, more importantly, set up party cells called Village Committees on commercial farms. These party organizations were established to adjudicate minor civil disputes of the compound and to encourage workers to organize and join unions to challenge the paternalistic authority of the farmer and his foremen (Ladley and Lan, 1985).

Farmers fought back through illegal mass retrenchments and by petitioning the government to “stabilize” labour relations. By the mid-1980s, eventually the importance of “stability” for the economic backbone of Zimbabwe (flue-cured tobacco, almost exclusively grown on commercial farms, is Zimbabwe’s number one export), coupled perhaps with the fact that many of the several hundred Black commercial farmers are connected to the upper echelons of ZANU (PF) (Thornycroft, 1991), led to decreased party support for Village Committees on farms. Official plans to legislate minimum standards for compounds and other government policies directed towards farm workers fell by the wayside. Today there do not seem to be many significant changes from the colonial concatenation of power relations for the site of commercial farms aside from the representation of farm workers by a relatively underfinanced and disorganized union (which negotiates national collective bargaining agreements with a well-financed and organized employers’ organization) and also the ability of farm workers to vote in national, but *not* local, elections (Loewenson, 1992).

Superficially, this notion that colonial forms of control reign unchallenged on commercial farms today seems to be confirmed in the case involving Akimu. Although the case was heard by the Village Chairman rather than the senior foreman as in the colonial period, authority was still vested more in Akimu than Ezia. The women witnesses were reticent to speak against Akimu since their status on the farm still depended largely on their husbands’ standing with the foremen. However, on Chidhadhadha and neighbouring commercial farms, the regulations of domestic government have been challenged by changes since 1980; these changes also signal

the dissonance between the jural identity of African women living under the forms of domestic government on commercial farms and the representation embraced by some academics of unified interests supporting the sociological category of “gender.”

One of the changes which have contributed the most to the challenging of domestic government on commercial farms in Hurungwe District has been the growing number of “single,” female farm workers on some farms. By being “single”—meaning unattached to a permanent worker as a wife, daughter or other female relative—these women have not fit into the proper domestic arrangements presumed by the jural identities within the government of commercial farms. Consequently, many disputes involving them cannot be accommodated by the normal procedures of administering “cases” on the farm. This has helped to forge for single women workers a transgressive identity, one that challenges the dominant identities which shape the power relations of domestic government.⁵

Although single African women (and men) have gone to European farms to escape their former life situations since the early colonial years, changes brought on by Independence have increased this process. Although women still tend to be only hired as seasonal rather than as permanent workers, they now get the same wages as men for doing the same jobs. This equivalence in wages combined with a new set of national laws that theoretically grant women many of the same rights as men has led, farm workers told me, to more single women living and working on commercial farms. As one older married woman farm worker remarked, “Divorce started to be too much [after 1980] as women were saying [to their husbands] ‘even if you divorce me, I will work for myself because the money which you are receiving and which I am receiving is just the same.’”

Although there were more single women seeking work on the farms, it was not always easy for them to get work or to receive treatment similar to other workers, given that they did not fit within the jural identities on commercial farms. In Hurungwe, some farmers refused to hire single women, since they only hired the wives and children of their own permanent male workers as seasonal employees (though often single women were working on these farm under the pretext of being attached to a worker). On the other hand, on farms such as Chidhadhadha which openly hired single-women workers, most of whom were divorcees or widows with children, the rules marginalized single women in terms of access to resources such as decent housing, cheap maize meal and credit. On these farms, this transgres-

siveness and marginalization of single women is best exemplified in disputes over sexual relationships.

If a single woman and a married man were having consensual sex, then most farm workers (and many Zimbabweans) would not see this as "adultery." They would not necessarily condone the relationship but they would not condemn it either. Since African men could have several wives, a man and a single woman having an affair could be seen to be "exploring" a future marriage arrangement. Thus, these actions could not lead to a "case" to be brought before a *dare*. Yet, given their vulnerable position within the farms, single-women workers were at the centre of many disputes on Chidhadhadha when I was there. For instance, single-women workers often tried to become "attached" to a male permanent worker as a girlfriend or, perhaps, a wife to improve the housing situation and credit access for them and their children, which led to conflict with any existing wife the man may have. Furthermore, in the few cases of rape on the farm when I was there, single women, not married women, were the victims.

There were at least two consequences of this marginalization of single, female workers from the jural identities recognized in the commercial farms. First, there was the constant tension between married women and single women. Married women tended to call all single women *mahuri*, "whores." Since there was no legal recourse to a farm *dare* for "adultery" cases involving single women, if a married woman suspected her husband was fooling around with a single woman and wanted to stop it, she would often fight the woman or set fire to her sleeping quarters. It was perhaps because of the annoyance of husbands with their wives for disrupting their trysts with single women that there was such anger unleashed against married women at Akimu's *dare*. Men were trying to equate married women with single women, casting all women as "whores." Yet single women were in a very different jural position than married women, problematizing such an equation, as seen in the following, and second, consequence.

When single women perceived themselves to be wronged, their own lack of attachment to the domestic government often led them to take their cases outside the jural space of commercial farms to the police, more so than other categories of farm workers. Such actions infuriated the farmers, especially if it was a case against their foremen, for it brought wider forms of government onto their own domestic space. Such actions, like single women themselves, transgressed the identities vital to the operation of "domestic government": they showed that commercial farms fall under wider spheres of au-

thority and laws. Since single women were unattached to a permanent worker, farm operators and foremen did not have the implied threat of giving their husbands harder work tasks to enforce the sanctity of the farm's rules. Instead, the only recourse they had was to fire them, to remove them from the legal space itself.⁶

Conclusion

By way of conclusion, I want to reflect on the importance of understanding the jural identities of a site in terms of its historical genealogy as way of critically understanding the forms of power regulating social interactions. Such identities do not reflect the "interests" of one sociological group over those of another. They are not serving the functions of some underlying economic and/or gender system. They are not identical throughout the territory of the state. Rather, these jural identities help to shape not only the formation of some of the "interests" of social groups but also the outlines of the groups and the site itself.

If I had followed the dominant tendencies in the literature on gender and the law in Southern Africa and treated gender as a normative sociological category with inherent interests, I would miss the important jural dimension of marriage within the power relations of the legal space of commercial farms. Although women farm workers, as a "group," suffer discrimination because they are given only non-permanent jobs, the criterion of marriage to a permanent worker determines whether or not one is "attached" to the rules of the farm: it not only has a strong bearing on which farm resources a woman farm worker has access to but also the procedures of enforcement and dispute resolution which are available to her. Such a criterion of marriage contributes to creating a mainly antagonistic division between married and single women on Chidhadhadha; a division which would be glossed over by assuming that African women share common "interests" as "women" and which would be feebly explained by invoking the label "mystification" to construe divergence from these so-called "interests."

To challenge the marginalization of women farm workers generally, and single, female farm workers in particular, requires working with farm workers and, especially, their organizations (trade unions, women's clubs) to devise strategies that could dismantle the ability to gain access to certain resources such as particular jobs and housing based on the criteria of gender and marriage status. Such a challenge, in my opinion, needs to be cognizant of the various jural identities within the concatenation of power relations which I call domestic

government in order to be potentially effective. By not taking such a strategy and assuming, say, that all female workers should unite together on the basis of their shared interests as “women” would neglect the serious division of “interests” between married and single women workers, and thus would likely be a less effective approach.

Finally, my article reiterates a larger question posed by others about the politics of setting agendas for the edification of those who are disempowered (e.g., Abu-Lughod, 1993; Mohanty, 1983). In our attempts as academics to politically challenge disempowered groups, such as women farm workers in Zimbabwe, it is important to understand not only the jural identities which shape the power relations and the differentiated “interests” of and within these groups and their jural sites, but also to understand those jural identities which structure our own interventions and productions. It is vital to challenge discriminatory laws, but not in a way which employs other normative standards that subsume the possibilities to listen to and mobilize with those for whom the struggle is waged.

Notes

- 1 Earlier versions of this article were presented at the Canadian Association of African Studies annual meeting, held in Peterborough, Ontario on May 10-13, 1995, and at the Canadian Anthropology Society annual meeting, held in Montreal on May 27-29, 1995. I thank Eric Worby, Laura Farquharson, John Galaty and Andrew Lyons and an anonymous reviewer for their comments.
- 2 Hirsch and Lazarus-Black offer a useful synopsis of such an analysis: “We ask how legal identities like wife, slave, undocumented alien, delinquent, and colonial subject—categories imbued with ‘naturalized’ notions about race, gender, class, and citizenship—structure the practice and consciousness of those who embody and encounter them. We do not assume that subordinated people come to courts only as victims or supplicants; we focus instead on how power and law are transformed by their words and actions” (1994: 13).
- 3 I would like to thank the Social Sciences and Humanities Research Council of Canada as well as the Social Sciences Grants Sub-Committee and the Centre for Society, Technology and Development of McGill University which provided support for my 16 months of field and archival research in Zimbabwe.
- 4 The adjectives “White” and “Black” are commonly used in Africa to denote people whose ancestry lies in Europe or sub-Saharan Africa respectively. There is a tendency in academic literature to treat these labels as more “natural” indices of human differences (i.e., of phenotypical variation) than, say, biological “races” and thus somehow not culturally constructed (Wade, 1993). Although I will not place

quotations around these terms in the remainder of the text, I want to stress that this does not mean that they are somehow outside of culture any more than the terms “European” and “African.”

- 5 For other examinations of the various divisions amongst African women based on various moral discourses, see B. Cooper, 1995; Jefremovas, 1991; Ogden, 1996; and White, 1990.
- 6 During my research, there were several examples of such actions. For example, a senior foreman hit a single woman while she was working in the coffee fields. She eventually reported the incident to the police who arrived at the farm to charge the foreman. The farm owners were irate and paid a fine on behalf of the foreman. Shortly thereafter the woman was “let go” (see Rutherford, 1996, for further details).

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