

ROLE OF *DALIT* CIVIL SOCIETY AGAINST UNTOUCHABILITY: CHALLENGES AND PROSPECTS

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The paper is based on literature review complemented by interviews with *Dalit* civil society activists. After an introduction to the plight of *Dalit* communities in Nepal, the paper outlines the emergence of a *Dalit* civil society, the roles it has played and continues to play in national life, its achievements and the challenges *Dalit* associations have faced in the course of their work. The final section explores the prospects for Nepal's *Dalit* civil society.

INTRODUCTION

Nepal had already abolished untouchability and caste-based discrimination in 1963, ratified a number of International Human rights Instruments, established National Human Rights Commission and National *Dalit* Commission to protect and promote human rights, declared Nepal as a 'Secular' and 'Untouchability Free' state and ensured *Dalit* rights in the Interim Constitution of Nepal. Recently, Nepal introduced the 'Caste-Based Discrimination and Untouchability (Crime and Punishment) Act of Nepal 2011'. Despite these facts, more than 13% (*Dalit* activists claim 20%) of the total population are still not only treated as untouchables and victimised by more than 205 forms of discriminatory practices in the society, but also have been economically deprived, politically under-represented and socially discriminated and excluded for centuries (Bhattachan et al., 2003; Civil Society, 2009; Aryal, 2011).

Untouchability and caste-based discriminatory practices were institutionalised by Jung Bahadur Rana¹ by introducing the National Code (*Muluki Ain*) in 1854 which aimed to restructure the Nepali society based upon a fourfold caste hierarchy. The caste hierarchy provisioned Brahmins at the top to be engaged in philosophical and priestly work followed by *Kshetriya*, involved in military and state affairs, *Vaishya* engaged in business and agriculture, and *Sudra* (untouchables) at the bottom engaged in sanitation, physical labor and traditional art and craft to provide services to those in the other three Varnas (Dahal et al., 2002).

Bhattachan et al. argues that '*Muluki Ain*' was responsible for universalising, reinforcing and institutionalising caste-based discrimination and untouchability. It legally forced the upper castes to practice discrimination and untouchability against the castes placed below them

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¹ Jung Bahadur Rana was the first Rana Prime Minister who started family rule that lasted for 104 years in Nepal.

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(Bhattachan et al., 2003). This division of castes provided upper castes a favourable environment to pursue education, to get enlightened and empowered, and capture state power and resources. At the same time, the caste system prohibited untouchables from access to and use of the same public water taps as other castes, restricted entry into houses, temples, hotels and other public places and severely curtailed their opportunities to participate in social affairs. It affected their access to and participation in education, health care, job opportunity, hotel business and banking service, and state affairs. The caste system restricted *Dalits* to participate in bureaucracy, judiciary and legislative bodies. As a result, the system restricted their opportunity to secure an adequate standard of living as human beings.

The caste-based discriminatory practices and untouchability introduced legally by *Muluki Ain*, 1854 was eliminated by amending the *Muluki Ain* in 1963. Named it by *Naya Muluki Ain 1963*, it provisioned that everyone was equal before the law. However, the inhuman discriminatory practices continued (Bhattachan, 2008).

Along with the end of Rana rule and political changes in 1950, Nepal opened its doors to outside world, encouraging the process of democratisation and modernisation. The relatively open political stage provided a favourable environment for some conscientious people who organised movements in the late 1940s against caste-based discrimination and atrocities of untouchability in order to establish

a more egalitarian society with justice in economic, political and socio-cultural domains. During the course of these movements, hundreds of political and social organisations emerged who instigated activities against the violations of human rights, while mobilising and sensitising untouchables for their rights and dignity. They played significant roles in the democratic movement back in 1951, the movement against Panchayat regime in 1990, a decade-long Maoist movement from 1996 to 2006, the April Uprising in 2006 and the *Madhesh and Badi* movements in 2007 (Kisan, 2005; Ahuti, 2010).

By the continuous movements against caste-based discrimination and untouchability in Nepal, the untouchables have been recognised as *Dalits*² and the '*Dalit*' terminology has gained political recognition since 1968, whilst *Dalit* issues have become central in development and political discourse. The government and other stakeholders have started to adopt *Dalit friendly* policies, plans, programmes and strategies. *Dalit* issues have also gained the international attention and solidarity. The 100 Days campaign of the Office of the High Commissioner of Human Rights against Caste-based discrimination and untouchability in 2011 in Nepal is an example of the international solidarity.

However, many serious human rights concerns still need to be addressed, including the issue of persisting caste-based discrimination and untouchability, although the situation of *Dalits* has improved after the April Movement and end of the decade-long armed conflict in Nepal.

² National *Dalit* Commission defines '*Dalits*' as the castes which have been discriminated against as well as considered untouchables in the society. This emerges from a practice where the water touched by them will be considered defiled and therefore the people from other castes would not drink it and must purify themselves in case it is touched by them, and the communities that have been made backward socially, economically, politically, educationally and religiously. While the term *Dalit* comes from the Sanskrit root '*dal*' and means 'broken, ground-down, downtrodden, or oppressed' it has been accepted for general use by the *Dalit* community.

Despite the fact that the state has already ratified International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and adopted some institutional and legal measures against social crimes, *Dalits* are still treated inhumanely. The cases of atrocities against *Dalits* across the country have been reported daily in the national and local media. The cases include killings of *Dalits* while entering into the kitchens of other castes, displacement of families following inter-caste marriages, being beaten ruthlessly while entering into temples, and being victimised from other discriminatory attitudes and behaviours (JMC, 2008; OHCHR, 2011).

Dalit civil society organisations which mushroomed with the restoration of democracy in 1990, have provided more space for identity groups to organise, assert, formulate demands and instigate work to more explicitly increase social, economic and political powers of *Dalits*. One criticism is that the activists of *Dalit* civil society are divided and still cannot come up with a strategic common agenda or roadmap on the modality of federalism, forms of government and electoral systems. Similarly, their efforts have not been as effective as expected in promoting enhanced economic security or changing the living standard of *Dalits*. Nevertheless, they are playing a crucial role in the struggle against the atrocities of untouchability. They are influential in raising the awareness of *Dalit* rights (including civil, political, social, economic and cultural rights) from the national to the grass-root levels, campaigning against violations of rights, and advocating for the inclusive and proportional representation of *Dalits* in all state mechanisms, plus additional rights for compensation due to historical exclusion, deprivation and injustice.

SITUATION OF *DALITS* TODAY

Dalits have been economically deprived, socially discriminated against, politically under-represented and excluded, and treated as untouchables for centuries. 42% *Dalits* (national average is 25%) are below the poverty line, the life expectancy for *Dalits* is 50.8 years (national average is 59 years), the literacy rate of the *Dalit* community is 33.8% (national average is 54), their representation at the gazetted level in the civil service is less than one per cent (0.9%), in Constituent Assembly their representation was 8.1% and in the present cabinet it is zero. 23% of Hill *Dalits* and 44% of Terai *Dalits* are landless. *Dalits* are still subjected to exploitative labour practices such as the *Haliya/Haruwa*, *Charuwa* and *Balighare* systems. Despite the commitment and initiatives of the state to abolish such practices, many *Dalits* remain trapped in bonded labour relationships. Those who oppose discriminatory practices may face the risk of being ostracised or boycotted or become the victim of physical violence. Being poor, and a woman, *Dalit* women have to bear a three-fold hardship of caste-based discrimination in the society. Their educational status is very low, with only 12% of *Dalit* women literate, as opposed to 33.9% for men (Civil Society, 2009; *Dalit* Civil Society, 2011; UNDP, 2009; NLSS, 2011; B. K., 2012).

DALIT CIVIL SOCIETY

At the elementary level, the concept of civil society pinpoints and values associational life-interest groups, professional and other associations, voluntary agencies, grassroots organisations, social movements and all other social orders because it brings people together in networks of shared concerns. Civil society is representative. The civil society in Nepal has fostered a rise of associational life within the

community as this political space allowed citizens to create awareness regarding the harsh regime and violation of their cultural, social and political rights. When the country became democratic for the first time in 1951, political opportunities became available to citizens to create societal linkages and many of the homogenous human communities operated harmoniously in order to promote a public good and collective human welfare. As the political environment became slightly more open and tolerant after a referendum was announced in 1980, many organisations of *Dalits*, indigenous nationalities and *Madheshis* emerged. Various cultural and socio-political associations were established such as *Nepal Bhasa Manka Khala* (a joint alliance for Newar organisations aiming to promote Newari language), the *Nepal Sadbhawana Parishad* (Nepal goodwill council) of the *Madheshi* community, and the *Nepal Rastriya Samaj Kalyan Sangh* (National Association for Social Welfare in Nepal) of *Dalits*.

With the ending of the unitary Panchayat system, the restoration of democracy in 1990 and the introduction of the constitution of the kingdom of Nepal, the foundations for the associational activism were strengthened. The democratic constitution provisioned rights that provided more space for identity groups to organise, assert and formulate demands and mobilise. As a number of trade unions and ethnically exclusive NGOs were formally registered, the activism was geared up. Haklai (2009) notes that for many minorities, such activism is becoming an alternative form of mobilisation for advancing collective claims and is being used as a means to challenge majority dominance in the state. The emergence of these associations was facilitated by changes in the state structure and state-society relations. The opening up of political space allowed marginalised and excluded groups to create awareness of their cultural, social and

political rights, form their identities and subsequently mobilise their socio-politically aware members (Lawoti and Hangen, 2013).

The political space allowed *Dalit* NGOs, business communities, trade unions and students, activists, traditional occupational, professionals, teachers, professors, lawyers, artists, political cadres, and independent individuals to come together and tie up for their collective rights. Some *Dalits* are associated through homogenous communities such as *Bishwokarma Samaj*, *Mijar Samaj*, and *Pariyar Samaj* etc in pursuit of their rights whereas some of them are associated through heterogeneous communities. NGOs and Federations are the examples of organisations that include members from both Hill and Madheshi *Dalit* communities, and associate *Dalit* civil society at the national and grass-root levels. The *Dalit* activists claim that *Dalit* civil society is a part of broader civil society in Nepal in which a nominal number of non-*Dalits* too are proactively associated with the *Dalit* activism and movements. Though it is limited, we cannot ignore the contribution of Pro-*Dalit* human rights activists who join hands with *Dalit* rights activists for the movement against atrocities of untouchability and violations of *Dalit* Human rights throughout the country.

Dalit activism and movements in the form of associations began in 1940s. Some organisations, *Vishwa Sarvajana Sangh* (Association for the Peoples of the World), Tailors Union and *Nepal Samaj Sudhar Sangh* (association for social reforms) were established as early as 1947 with the explicit objectives of promoting the self respect of oppressed *Dalits*. *Nepal Rastriya Samaj Kalyan Sangh* was established in 1982 and *Utpadit Jatiya Utthan Manch* in 1988. After the restoration of democracy in 1990, hundreds of active nonpolitical, nonreligious, and nonprofit *Dalit*

NGOs and their Federations were established that are acclaimed as *Dalit* civil society organisations today. They are involved in addressing issues related to *Dalits* from local to national to international levels. Some of notable organisations include the *Dalit* NGO Federation (DNF), Nepal National *Dalit* Social Welfare Organisation (NNSWO), *Dalit* Welfare Organisation (DWO), *Jana Utthan Pratisthan* (JUP-Nepal), *Jagaran* Media Center (JMC), *Dalit* Feminist Organisation (FEDO), *Rastriya Dalit* Network (RDN), *Dalit* Welfare Association (DWA), Lawyers National Campaign against Untouchability (LANCAU), Professional and Development Research Center (PDRC), Association of *Dalit* Women's Advancement of Nepal (ADWAN), Samata Foundation and many among others. Many more are actively involved in Kathmandu and outside to protect and promote *Dalit* rights and end caste-based discrimination and untouchability. Among them, FEDO and ADWAN are particularly involved in the protection of *Dalit* women's rights. More than 300 *Dalit* NGOs from across the country form an umbrella organisation popularly known as DNF (Kisan, 2005; Lawoti and Hangen, 2013).

The identity-based movements have become increasingly central players on the contemporary political and development stage in Nepal for preserving and reconstructing identities based on ethnicity, language, caste, religion and geographical region. Indigenous Nationalities including Tharus, *Madheshis*, Muslims and other cultural communities' movements are focussed on preserving their culture whereas *Dalit* movements oriented to breaking and reconstructing their identities. They are aimed at destroying their identity associated with untouchability and hatred while constructing a new one associated with equity, dignity and respect. The movements comprised of representatives who are interested in the

empowerment of particular segments of society. The membership in such movements is usually composed of individuals who are directly motivated by their objectives. The *Dalit* movement is often oriented against the dominance of the majority who have excluded them from mainstream politics and activism.

ROLE OF DALIT CIVIL SOCIETY

The *Dalit* civil society has played a significant role in fighting against the caste-based discrimination and untouchability. I have tried my best to include many of them in this writing. Anyone while reading this writing might notice that many of them have been missed out and that would be true. The most remarkable role is that the *Dalit* civil society raises awareness on their rights, campaigns against the atrocities of untouchability and advocates for the formulation of *Dalit* friendly policies and for their effective implementation. They also advocate in ensuring the inclusion of *Dalits* in all state mechanisms with additional rights. The *Dalit* civil society played a vital role to enter into different temples across the country. The efforts to enter into Pashupatinath temple in Kathmandu, Swargadwari temple in Pyuthan and Shaileshwari temple in Doti are some of the examples. The nationwide co-feast programmes (*Sahabhoj*), campaigns to fetch water from the same source of water, sell milk in the dairy (Collection Centres), movement against carrying '*Doli*', disposing of carcasses of dead animals in Siraha (*Chamar* movement) and Baitadi, movements against '*Haliya Pratha*', are some of the important contributions of *Dalit* civil society to protect and promote their rights. Other examples include the initiation of a *Dalit* Parliament by RDN, a campaign to declare an 'Untouchability Free Area' in Chainpur and Dhangadhi Municipality, and initiatives to establish *Dalit* Schools (Ahuti, 2010). *Dalit* civil

society played significant role in the democratic movement in 1951, the movement against the Panchayat regime in 1990, the decade-long Maoist movement from 1996 to 2006, the April Uprising in 2006 and the Madhesh and *Badi* movement in 2007.

Different *Dalit* organisations formed *Samyukta Dalit Sangharsha Samiti* and played a significant role in the April Movement of 2006 to fight against the king's regime. A *Dalit* leader³ tried his best to contribute in drafting a *Dalit* Friendly Interim Constitution of Nepal 2007. *Dalit Nagarik Andolan* formed by *Dalit* civil society gave pressure to guarantee 20% representations in Constituent Assembly (CA) in 2007. The *Badi* Movement in September 2007 backed by *Dalit Nagarik Andolan* contributed to guarantee the rights of *Badi* community in Nepal. *Dalit Nagarik Sammelan* (*Dalit* Citizen's Assembly) organised in Kathmandu pressurised political parties to ensure *Dalit* rights in new constitution. In 2007, 16 *Dalit* civil society organisations jointly organised a National Conference on "Ensuring *Dalit* Rights in New Constitution" in Kathmandu and declared the Kathmandu Charter of *Dalit* Rights-2007. Similarly, amidst a historic Conference of *Dalit* Women, the Nepali *Dalit* Women's Charter for New Nepal Building was declared in Kathmandu in 2007 (Bishwokarma et al., 2006; *Dalit* Civil Society, 2007; FEDO, 2007; *Dalit* Solidarity, 2006). These were all valuable contributions made by *Dalit* civil society.

Dalit Civil Society played a vital role in the Election of a Constituent Assembly (CA) on 10 April, 2008. They contributed in monitoring the election of CA through the organisation like National Election Observation Committee (NEOC) across the country. Though CA could not draft the constitution, its formation was a historic event and Nepali *Dalits* got an opportunity to participate in the constitution making process. The CA included 50 *Dalit* law makers that equals to slightly above 8 in percent (*Nagarik Samaj*, 2064). Two of the *Dalit* law makers were entrusted to chair⁴ the thematic and parliamentary committees respectively (Martin Chautari, 2010). One of the *Dalit* intellectuals⁵ was entrusted to coordinate the Commission for State Restructuring. Different campaigns of *Dalit* civil society during the constitution making process to cooperate and pressurise the *Dalit* law makers in order to make *Dalit* Friendly new constitution were notable.

Dalit civil society is also engaged in strong advocacy at the international level, influencing the deliberations and conclusions of international human rights bodies. This included their role in the Durban Review Conference where they organised side events, and submitted a joint report for the review of Nepal under the Universal Periodic Review mechanism. This called on the government of Nepal to adopt relevant legislations and policies such as the then draft bill on caste-based discrimination and

3. Min Bishwokarma from Nepali Congress was entrusted to be a member in the Interim Constitution Draft Committee chaired by Laxman Aryal in 2007.

4. Nepali Congress (NC) lawmaker Shambhu Hajara Dusadh Paswan was the president of the Committee on Determination of Forms of Governance of the State, and Nepal Communist Party (United Maoist) law maker Padma Lal Bishwokarma was the Chairman of the Committee on International Relations and Human Rights of the Legislature-Parliament.

5. Dr Madan Pariyar was appointed as the coordinator of the nine-member State Restructuring Commission (SRC) on 6 Dec, 2011. The SRC was formed on November 22, 2011.

untouchability in compliance with international standards, and asked the government to ensure that cases of caste-based discrimination are reported, investigated, perpetrators prosecuted and victims compensated (www.can.gov.np; www.ccd.org.np)

ACHIEVEMENTS

Dalit civil society has added a brick in a *Dalit* movement to eliminate caste-based discrimination and untouchability and create an equitable and just society in Nepal. The awareness campaigns of *Dalit* civil society at the national and grass-root levels have contributed significantly to make the *Dalit* community aware of their rights and have empowered them to raise their voices. In addition, there are some great achievements contributed by *Dalit* civil society activism in Nepal. For instances: the institutional mechanism such as the Neglected, Suffered, and Depressed Class Upliftment Development Board was set up by Government in 1997 with the objective to uplift the *Dalit* Community. Later, the Depressed Class Upliftment District Coordination Committees were set up in all 75 districts across the country. The National *Dalit* Commission was established in 2002. Similarly, Nepal was declared as 'Untouchability Free State' and 'Secular' country in 2006. The political representation increased in the interim legislative parliament in 2007 (18 *Dalit* law makers) and in the Constituent Assembly (50 *Dalit* CA members). The doors were opened for greater inclusion in civil service and security forces: army, police and armed police force. The Women Commission has a provision of a compulsory *Dalit* member. The Interim Constitution of Nepal, 2007 has accepted the rights against untouchability and caste-based discrimination as the fundamental rights with the provision of punishment to

perpetrators and compensation to the victims. And more importantly, the state has endorsed the Caste-Based Discrimination and Untouchability (Crime and Punishment) Act in May 2011 with the provision to punish the perpetrators and compensate the victims.

Moreover, the government has adopted policies to provide incentives for inter-caste married couples and scholarships for general and technical education in order to increase the access of *Dalits* in education and employment. The '*Dalit*' terminology has gained a political recognition since 1968. The *Dalit* issues have been included as a political and developmental agenda by political parties, the government and other stakeholders in their policies, plans and programmes. Due to the efforts of *Dalit* civil society, the state has increased its commitment to uplift the social and economic status of *Dalits* by introducing the programs for elimination of all forms of discrimination through the periodical five year plans. *Dalit* issues and movements have gained international attention and solidarity. The UN agencies and international community have recognised *Dalit* organisations and civil society organisations, which is one among many prominent achievements of the *Dalit* civil society in Nepal.

CHALLENGES

Although *Dalit* civil society has done a wide range of policy campaigns and advocacy activities against caste-based discrimination and untouchability in Nepal, the large section of the society is still facing the ubiquitous practices of untouchability across the country. The importance of *Dalit* issues for overall human development has not been internalised by the upper castes yet.

Besides, *Dalits* are divided and there is the practice of untouchability within the community. The caste superiority and inferiority within the members of *Dalit* Civil Society is one factor which weakens the unity and solidarity, and jeopardises the *Dalit* civil society. Though the community has organised and come to a common flat-form for the campaign against inhuman atrocities and violations of *Dalit* rights, they have not developed a common agenda for the advocacy of the modality of federalism, electoral system and forms of government from which the *Dalit* communities could benefit a lot to ensure their rights in the longer term. For instance, DNF secretary, Shushil BK highlights the contradictory views of *Dalit* activists and leaders who are advocating four different modalities of federalism for *Dalits*: Territorial, Non-Territorial, Proportional Representation and Alternative for Federalism (BK, 2012:4). They are divided according to their social groups, involvement and affiliation to the political ideologies. It is often criticised that *Dalit* civil society organisations are dominated by a single caste group. Most of the *Dalit* NGOs are headed by Bishwokarma and the movements which are dominated by them then sideline other groups from the mainstream of *Dalit* activism.

Furthermore, *Dalits* are affiliated to different political parties and leading their *Dalit* sister organisations. The *Dalit* issues and agenda of one political faction rarely obtain solidarity from the others thinking that the issues arise from the opponent party's lines and principles. The *Dalit* rights violated by political groups are not or less condemned by the associated *Dalit* sister organisations. There is no precise cooperation and coordination between the *Dalit* political sister organisations and *Dalit* civil society organisations. Most of the *Dalit* civil societies, basically NGOs, are dependent on funding agencies, so their role is effective until the project is funded (Lamsal, 2010).

PROSPECTS

As it is well recognised and accepted by the UN and international community, there is a greater opportunity for *Dalit* civil society to work for *Dalit* rights and the internationalisation of the issue. Recently, *Dalit* issues have become central in development discourse and political agenda. They have also gained the international solidarity. Government and other stakeholders have adopted *Dalit* agenda in their strategy, policy, plans and programmes for their upliftment and emancipation. *Dalit* civil society can have a good opportunity to work together with all concerned stakeholders for the effective implementation of their plans and policies. The National *Dalit* Commission can work together with *Dalit* civil society in order to increase the active participation of socially, economically, politically, educationally most backward *Dalit* Communities in the mainstream of national development by preserving and augmenting their fundamental rights provisioned in the existing law and constitution, and creating the environment favourable to the *Dalit* community who can enjoy the equal rights, self-esteem, services and privileges as equal as other social groups (www.ndc.gov.np).

The *Dalit* civil society has the potential to work as a watch-dog at the national and local levels for the effective implementation of *Dalit* Friendly laws and regulation. They can monitor the effective implementation of Caste-Based Discrimination and Untouchability (Crime and Punishment) Act of Nepal, 2011. The Neglected, Suffered, and Depressed Class Uplift Development Board were established in the centre and the Depressed Class Uplift District Coordination Committees in all districts. *Dalit* Civil society is well suited to work closely with these structures for planning and allocation of budgets, programs and resources to the needy

Dalit community at the national and local levels. The government has adopted numerous other measures, programs and policies to increase the access of *Dalits* in all state mechanisms. *Dalit* Civil society has ample opportunities to monitor their effective implementation.

CONCLUSION

The contribution of *Dalit* civil society against the caste-based discrimination and atrocities of untouchability in order to make a just and prosperous Nepal is noteworthy. They campaign and advocate influencing state to ensure inclusive and proportional representation of *Dalits* with additional rights in all state mechanisms. They raise public awareness regarding the violation of *Dalit* Human rights and work for empowering them through micro-finance and income-generation activities. They have advocated for the proper budget allocation for *Dalit* upliftment and appropriate scientific land reforms with prime rights to *Dalits* that should be sufficient for living. They have campaigned for the *Dalit* friendly modality of federalism, electoral system and forms of

governance. They have also advocated for modernising and industrialising the traditional/ indigenous occupation of *Dalits* with prime rights for their occupation.

Dalit civil society organisations have prepared a model constitution, mobilised *Dalit Samsad*, raised the issue of fully proportional electoral system with additional rights for the compensation of the centuries-old exclusion, deprivation and injustice and have progress in preparing a common *Dalit* agenda to include *Dalit* rights in the constitution. They are also contributing in uniting more than eight political parties' *Dalit* fraternal wings in order to cooperate to ensure their rights and to create an equitable and peaceful society. To make the campaign and advocacy successful for creating an equitable society regardless of caste-based-discrimination and untouchability, *Dalit* civil society has the opportunity to work together with other government and non government stakeholders for the implementation of their policies, plans, strategies and programs effectively at the national and grass-root levels.

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