



Research Article



Indigenous Community Perspectives on Forest Area Protection Governance Policy

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Abstract: The objective of this study is to objectively analyze and examine the legal protection of the community regarding the status of area land in West Lampung Regency. This research is sociolegal because it only determines law as a social phenomenon. This research was conducted in West Lampung Regency; the research location was in Sukapura Village, Sumberjaya District, West Lampung Regency, and in the location of the forest land in the disputed area. The results of the authors can be concluded, firstly, that the regulation of tenure over forest area land in West Lampung Regency cannot provide legal protection for indigenous peoples because, in several findings, it is known that the land and the holder of rights over it are recorded for the first time in the registration book. Second, the regulation of valid land tenure rights (UUPA) in order to provide protection to the community regarding the status of forest area land in West Lampung is to check the status of the land. In the event that the means of proof as referred to in paragraph (1) are not available or are no longer available, proof of rights can be carried out based on the fact that the land parcel in question has physically been in possession for 20 (twenty) years or more consecutively by the applicant for registration and preliminary introduction with conditions.

Keywords: Forest Areas; Land; Protection; Policy;



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INTRODUCTION

Land is extremely valuable from all perspectives, including anthropology, sociology, politics, psychology, the military, and economics. This is due to the fact that the land is the origin and source of human sustenance. In order to preserve life and subsistence, humans are willing to make sacrifices and wage war in order to obtain land. Consequently, history documents the manner in which humans defend their territory, which is now known as "territorial." They recognize that the existence of territory is crucial to their survival. Throughout its development, land tenure conflicts persisted. The numerous legal regulations that were established did not adequately protect the parties.¹

Land conflicts have emerged as a result of a disparity between the rate of population growth and the amount of land available to satisfy all of the population's requirements.² The conflict over the management of protected forest land by the

¹ Drasopolino and others, 'The Forest Management Policy and Its Influence in Forest Area Utilization and Empowering Forest Communities in Yogyakarta', *Land Use Policy*, 127 (2023), 106539 <https://doi.org/https://doi.org/10.1016/j.landusepol.2023.106539>

² Nidia Catherine González and Markus Kröger, 'The Potential of Amazon Indigenous Agroforestry Practices and Ontologies for Rethinking Global Forest Governance', *Forest Policy and Economics*, 118 (2020), 102257 <https://doi.org/https://doi.org/10.1016/j.forpol.2020.102257>



community is one of the numerous land conflicts that have arisen. According to the Agrarian Reform Consortium's 2019 End of Year Records, there are at least 279 agrarian conflicts spanning 734,239.3 hectares. At least 109,042 household heads from 420 villages in 34 provinces of Indonesia were implicated in the conflict. According to existing records, he added, the number of forest land conflicts had decreased, but the escalation of conflict violence and the number of apprehended victims had increased. A study on efforts to provide legal protection for the community in forest land management is required in light of the high number of forest land tenure conflicts and the impact of losses borne by both the community and the state.³

In the Indonesian legal system, religious communalist values are required to regulate agrarian law under UUPA land management. This communalist notion is reflected in Article 1, paragraph 1, which states, "the entire territory of Indonesia is the homeland of all Indonesians united as the Indonesian Nation." These provisions contain two components: the "common property" component and the "duty of authority" component. The element of joint ownership is of a civil nature and does not imply legal ownership rights in the sense of "common land of all the people who have united to form the Indonesian Nation." The element of authority's task is public in nature: "to regulate and direct the control and use of privately owned land." This is reflected in the state's ability to regulate land ownership.⁴

On the other hand, protected forests play an essential role in human existence. Where in government regulation number 23 of 2021 pertaining to the Forestry Administration is the government's interest and evidence in resolving land issues that arise in forest regions? A region is a region whose primary function is protection or cultivation. This investigation focuses on a forest area in the West Lampung Regency, whose primary function is protection. A protected forest is a forest area whose primary purpose is to safeguard life support systems by regulating water management, preventing flooding, controlling erosion, preventing seawater intrusion, and preserving soil fertility. The designation of a forest area is the designation of an area as a forest area for the first time. Afterwards, this government regulation regulates the planning and administration of forest areas for parcels of land that are controlled and utilized after the land has been designated. Respecting the rights of indigenous and tribal peoples, the Forestry Law grants the state authority over forestry to regulate, manage, and determine matters relating to forests and forest products, determine the status of forest areas, and regulate legal subjects relating to forests and forest products. This is reflected in Forestry Law Article 4.⁵

³ Anastasia Baan, Markus Deli Girik Allo, and Andi Anto Patak, 'The Cultural Attitudes of a Funeral Ritual Discourse in the Indigenous Torajan, Indonesia', *Heliyon*, 8.2 (2022), e08925 <https://doi.org/https://doi.org/10.1016/j.heliyon.2022.e08925>

⁴ Koen Kusters and others, 'Formalizing Community Forest Tenure Rights: A Theory of Change and Conditions for Success', *Forest Policy and Economics*, 141 (2022), 102766 <https://doi.org/https://doi.org/10.1016/j.forpol.2022.102766>

⁵ Tatag Muttaqin and others, 'Asymmetric Power Relations in Multistakeholder Initiatives: Insights from the Government-Instituted Indonesian National Forestry Council', *Trees, Forests and People*, 12 (2023), 100406 <https://doi.org/https://doi.org/10.1016/j.tfp.2023.100406>



The regulation specifies the government's authority to regulate, administer, determine forest areas, and establish the legal relationship between legal subjects and forests. Those without a permit to use forest areas, including those who possess land in forest areas, are prohibited from using forests. The Forestry Law is implemented through the Consensus Forest Use Plan (TGHK) policy, in which the government, in this case the Ministry of Forestry, determines the boundaries of forest areas via the District Boundary Committee.⁶ In actuality, the community governs the land in forest areas, even though the Ministry of Forestry should be responsible for that land. The community thinks that customary law governs land ownership. The land under their control is an inheritance from their parents; it was previously cleared of trees. The same holds true for protected forest areas within the West Lampung Regency. Indigenous Peoples did not recognize the existence of a +52,000hectare Limited Production Forest (HPT) area on clan land that was already in the form of Repong Damar on the Krui Coast (in West Lampung, there were 22 clans or customary community units, 16 of which are on the Krui Coast).

The protected forests in West Lampung Regency have unique characteristics; this regency is the source of three watersheds [DAS] in Lampung: Semaka DAS, Tulang Bawang DAS, and Musi DAS [Lake Ranau]. In Regent Regulation No. 48 of 2009, West Lampung Regency's status as a Conservation Regency was established. With a total land area of 495,040 hectares, of which 65% (321,776 ha) are designated as forest areas, the majority of issues are forest-related, particularly the question of area boundaries. This paper explains why the implementation of the regulation of tenure over forest land in West Lampung Regency does not guarantee Indigenous peoples' legal protection. Second, how to regulate valid land tenure rights in order to guarantee the preservation of indigenous peoples in West Lampung regarding the status of land areas.

METHOD

The type of research that the authors use in this study is sociolegal research. The research approach that the author uses in sociolegal research uses research in social science research, including observations and surveys.⁷ The observation approach is the observation of an activity with the aim of understanding an event.⁸ This research was conducted in West Lampung Regency. The research location was in Sukapura Village, Sumberjaya District, West Lampung Regency, and at the location of the forest land in the disputed area.⁹ The author chose the research location with consideration of

⁶ Anne M Larson, Juan Pablo Sarmiento Barletti, and Nicole Heise Vigil, 'A Place at the Table Is Not Enough: Accountability for Indigenous Peoples and Local Communities in Multi-Stakeholder Platforms', *World Development*, 155 (2022), 105907 <https://doi.org/https://doi.org/10.1016/j.worlddev.2022.105907>

⁷ Jhon Urasti Blesia, Keith Dixon, and Beverley Rae Lord, 'Indigenous Experiences and Perspectives on a Mining Corporation's Community Relations and Development Activities', *Resources Policy*, 80 (2023), 103202 <https://doi.org/https://doi.org/10.1016/j.resourpol.2022.103202>

⁸ Fanisa Luthfia and Triani Triani, 'The Authority of Oil and Gas Special Task Force as a Company Holder and Implementers of Upstream Oil and Gas Bussiness Activity: A Juridical ViewPoint', *Journal of Sustainable Development and Regulatory Issues (JSDEI)*, 1.1 (2023), 31–38 <https://doi.org/10.53955/jsderi.v1i1.5>

⁹ Iqbal Iqbal and Hilmi Rayhannafi, 'Legal Politics toward Natural Energy: Natural Gas Utilization in Indonesia', *Journal of Sustainable Development and Regulatory Issues (JSDEI)*, 1.1 (2023), 25–30 <https://doi.org/10.53955/jsderi.v1i1.4>



whether these regulations had been effectively implemented by the community and local government, so they wanted to find causes and problems if legal protection for the people in Sukapura Village had not been effectively implemented against presidential decree regulations.¹⁰

RESULT AND DISCUSSION

The seat of West Lampung Regency, Lampung Province, is Liwa. The district's entire area is 474,989 hectares. As much as 77.76% of the district's total area is covered by forest, indicating that only 22.24 % of the remaining land can be used for agricultural cultivation and other purposes. In 2004, West Lampung Regency had a population of 388,113 and an annual growth rate of 3.26 percent. These records demonstrate the rapid development of the local population. The bearing capacity of the area's space to provide land-based business opportunities remains constant, causing such high population pressure to overflow into forest areas. 1976–1986 was a period of widespread deforestation in coffee plantations, coinciding with the onset of spontaneous migration in the Sumberjaya region.¹¹

In 1978, 67% of the Sumberjaya region was covered by forest; by 1984, this percentage had decreased to 49%, and by 1990, it had dropped to 32%. Using Landsat enhanced thematic mapper (ETM) satellite imagery from 2000, multi-spectral scanner (MSS) data from 1986, and multi-spectral scanner (MSS) data from 1973, the data was analyzed and it was discovered that forest cover decreased to 12% in 2000, while coffee plantations (monoculture and multistrata) increased from 40% to 52% between 1994 and 2000 (monoculture, multistrata, and old coffee mixed with shrubs).¹² Land use changes within the Protected Forest Area Register 45B Bukit Rgis follow a similar pattern, as indicated by the Landsat satellite image analysis of land cover changes between 1973 and 2002 in the area. The rapid deforestation followed by the conversion of land to a monoculture (often referred to as the Semendo 4 system) or open coffee planting system (often referred to as the Semendo system) by the government, particularly the Ministry of Forestry, is viewed as unsustainable from an environmental standpoint and is viewed as the primary factor in the decline of coffee, downstream water, and watershed protection function. From 1991 to 1996, this led to conflicts that prompted acts of violence.¹³

In 2002, there were only 1,782 hectares of primary forest, 915 hectares of rice fields, 372 hectares of vegetation, and no falla (open land). Meanwhile, multistrata and monoculture coffee plantations grew to 4,276 hectares. The results of the satellite

¹⁰ Mutiara Maharani and Nabbiel Arbio Akbar, 'Utilization of Petroleum and Natural Gas on the Sustainable Development of Indonesian Economy', *Journal of Sustainable Development and Regulatory Issues (JSDEI)*, 1.1 (2023), 1–8 <https://doi.org/10.53955/jsderi.v1i1.1>

¹¹ Armalia Berlinda Irawan and Divka Aulia Esa Riawan, 'Executing Upstream Oil and Natural Gas Business Activities: Legal Status and Authority of the Oil and Gas Special Working Unit (SKK)', *Journal of Sustainable Development and Regulatory Issues (JSDEI)*, 1.1 (2023), 9–17 <https://doi.org/10.53955/jsderi.v1i1.2>

¹² Santi Pratiwi and Nataly Juerges, 'Addressing Energy Injustice in Rural Landscapes: Community Leadership, Indigenous Villages, and Micro-Hydro Diffusion in Indonesia', *Energy Research & Social Science*, 85 (2022), 102395 <https://doi.org/10.1016/j.erss.2021.102395>

¹³ Kazuhiro Harada and others, 'The Role of NGOs in Recognition and Sustainable Maintenance of Customary Forests within Indigenous Communities: The Case of Kerinci, Indonesia', *Land Use Policy*, 113 (2022), 105865 <https://doi.org/10.1016/j.landusepol.2021.105865>



imagery analysis confirmed the existence of a 187-hectare residential area within the forest area in 2002.¹⁴ This area was smaller than the 302.5 hectares mapped by residents and Watala NGOs through participatory mapping in 2003. It is believed that the disparity is due to the cloud-covered region in the photograph. There were 2,000 farmer households residing there by the end of 2000. In response to the evolution of deforestation since 1976, the government has taken steps to stop it. The government subsequently drew a map of the agreed forest use area (TGHK) in 1990, followed by the implementation of the boundaries, which resulted in numerous confrontations between local residents and government officials, including evictions and intimidation.¹⁵

In February 1995, in conjunction with the implementation of Operation Ranger I, the forestry department installed forest area boundary markers. On the basis of these boundary markers, it was determined that portions of several villages, including Sukapura, Purajaya, Purawiwitan, Muara Jaya, Simpang Sari, and Tribudisyur, are included in the Bukit Rigis Register 45B Protected Forest area.¹⁶ This resulted in disputes over land status and boundaries, particularly the vehement opposition from Sumberjaya residents who claimed that the land in the region granted to them by President Soekarno's government was given to them as BRN transmigrants. The change in the land cover composition of the Bukit Rigis Register 45B Protected Forest Area reflects fluctuations in power and access rights within the area, as well as the accompanying conflicts. Since the reform era, there have been more conflicts over land use and status.¹⁷

A positive aspect of Agrarian law is that the private sector can have land use rights (e.g., Land use Rights, land concession rights, building use rights, etc.); however, some local communities support Customary Law (e.g., customary rights, clan rights, and kinship rights). The issue is that the conflict of interest between the two parties is frequently the most common source of conflict. The number of land conflicts in Lampung Province during 1999–2000.¹⁸ Prior to 2006, only five groups of individuals had obtained access rights through the Community Forestry Policy, totaling 1,082 families with access to a land area of 1,987 hectares. The access owned by the five organizations can be classified as a right-based access mechanism because the government regulates the rights and sanctions for the community, specifically through

¹⁴ Brittany Novick and others, 'Understanding the Interactions between Human Well-Being and Environmental Outcomes through a Community-Led Integrated Landscape Initiative in Indonesia', *Environmental Development*, 45 (2023), 100791 <https://doi.org/https://doi.org/10.1016/j.envdev.2022.100791>

¹⁵ Rodd Myers and others, 'Coordinating Forest Tenure Reform: Objectives, Resources and Relations in Indonesia, Kenya, Nepal, Peru, and Uganda', *Forest Policy and Economics*, 139 (2022), 102718 <https://doi.org/https://doi.org/10.1016/j.forpol.2022.102718>

¹⁶ William R I Sopaheluwakan and others, 'Two-Decade Decentralization and Recognition of Customary Forest Rights: Cases from Special Autonomy Policy in West Papua, Indonesia', *Forest Policy and Economics*, 151 (2023), 102951 <https://doi.org/https://doi.org/10.1016/j.forpol.2023.102951>

¹⁷ Andika Putraditama, Yeon-Su Kim, and Andrew Joel Sánchez Meador, 'Community Forest Management and Forest Cover Change in Lampung, Indonesia', *Forest Policy and Economics*, 106 (2019), 101976 <https://doi.org/https://doi.org/10.1016/j.forpol.2019.101976>

¹⁸ Thita M Mazya and others, 'Finding a Neue Gemeinschaft in Rural Indonesia: A Discussion of Forest Community Digital Transformation', *Forest Policy and Economics*, 148 (2023), 102913 <https://doi.org/https://doi.org/10.1016/j.forpol.2023.102913>



the Decree of the Minister of Forestry No. 31/II-Kpts/2001 on Community Forest Management.¹⁹

Indigenous peoples, based on the understanding of the First Archipelagic Indigenous Peoples Congress (KMAN 1) on March 17, 1999, at the Indonesia Hotel Jakarta, which was attended by over 400 traditional leaders of the archipelago, agreed on the term "Indigenous Peoples," which is a cultural entity that inhabits a particular area and has its own ideological, economic, political, cultural, social, and regional systems. Generally speaking, indigenous peoples reside in the same area for generations. The pattern of existence of indigenous peoples is governed by customary norms, which they agree upon as norms of mutual agreement. The term indigenous peoples is governed by the 1945 Constitution of the Republic of Indonesia, which contains the fundamental law governing the administration of the Indonesian state and serves as the foundation upon which subsequent laws and regulations are based. Recognition of customary law communities is outlined in Article 18B (2), which states, "The State recognizes and respects customary law community units and their traditional rights for as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated by law."²⁰

Article 281 (3) elaborates: "the cultural identity and rights of traditional communities are respected in accordance with the times and civilization." Concerning indigenous peoples in areas within the territory of the Republic of Indonesia, there are still groups of indigenous peoples who live by the rules *lokok* agreed upon by these indigenous peoples, including indigenous peoples with customary law traditions on the island of Java and law communities with customary law traditions that exist outside of Java Island.²¹ As stated in articles 2 and 3 of Law No. 5 of 1960 concerning the Basic Agrarian Law, "the implementation of the state's right to control land may be delegated to autonomous regions and communities governed by customary law" protects and regulates the rights of indigenous peoples in relation to control over customary land rights. Customary rights and similar rights of indigenous peoples, so long as they still exist in actuality and are exercised in accordance with national interests, are exercised by local indigenous peoples in accordance with Law No. 6 of 2015 concerning villages.²²

¹⁹ Nnaemeka Andegbe Chukwuone, Kehinde Paul Adeosun, and Chiamaka Adaobi Chukwuone, 'Socioeconomic Factors Affecting Households' Use of Indigenous Forest Management Practices in Managing Non-Wood Forest Products: Evidence from Forest Communities in Nigeria Derived Savannah', *Heliyon*, 6.10 (2020), e05281

<https://doi.org/https://doi.org/10.1016/j.heliyon.2020.e05281>

²⁰ David L A Gaveau and others, 'Forest Loss in Indonesian New Guinea (2001–2019): Trends, Drivers and Outlook', *Biological Conservation*, 261 (2021), 109225

<https://doi.org/https://doi.org/10.1016/j.biocon.2021.109225>

²¹ Diana Hernawati, Rinaldi Rizal Putra, and Vita Meylani, 'Indigenous Vegetables Consumed as Lalapan by a Sundanese Ethnic Group in West Java, Indonesia: Potential, Traditions, Local Knowledge, and It's Future', *South African Journal of Botany*, 151 (2022), 133–45

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²² Hananto Kurnio and others, 'Resilience Learning and Indigenous Knowledge of Earthquake Risk in Indonesia', *International Journal of Disaster Risk Reduction*, 62 (2021), 102423

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The West Lampung Regency is one of Indonesia's Lampung Province's regencies. Liwa is the capital of the district. This regency was established by Law No. 6 of 1991, dated 16 August 1991, which resulted from the division of North Lampung Regency. Along Lampung's west coast, this neighborhood is dominated by hills with beaches. The mountainous region, which is the ridge of Bukit Barisan, is populated by several volcanic formations. This region is between 50 and 1000 meters above sea level. The Semangka disturbance traverses this region with a zone width of 20 kilometers. There was volcanic activity and the emergence of geothermal energy in numerous locations. With a total area of approximately 2,064 km² (61.5% of which is forest area, consisting of 39,231,27 hectares of Protection Forest and 87,725 hectares of TNBBS), the island has a forest cover of approximately 61.5 percent. Administratively, the West Lampung region encompasses 15 sub-districts, 131 sub-districts (village), and 5 sub-districts within the West Lampung regency. Customary forests, also referred to as clan or ulayat forests, provide a source of income for the majority of cultivators among the indigenous population of West Lampung. Pesirah Marga, who is also a local traditional leader, governed the administration of these customary forests prior to the enactment of Basic Agrarian Law No. 5 of 1960.²³

Pasirah Kenali, the Highest Traditional Head of Kaksian Buay Belunguh, is in charge of the village's customary forest. Pasirah Kenali also determines the allocation of customary land to each Indigenous Village Chief. For instance, the area of Sekincau District and Batu Ketulis District was once clan/customary land. Local indigenous peoples continue to practice farming techniques handed down from their progenitors, as well as the preservation of their respective ecosystems. Indigenous peoples continue to observe petata petiti, or norms inherited from their ancestors, such as pamali when selling land, etc.²⁴ Indigenous peoples who still adhere to traditional customary rules regarding the management and use of customary forests have been perturbed by the enactment of Law No. 41 of 1999 concerning forestry, which states in Article 1 sub f: "Customary Forest Is a State Forest Located on the Territory of a Community Governed by Customary Law." With this forestry law, the government, through the Forestry Service, placed restrictions on some of the customary lands of each village and transformed them into state forests under the jurisdiction of the Lampung Province Forestry Service.²⁵ The existence of these provisions created a conflict of interest between indigenous peoples and the government, resulting in the criminalization of individuals on charges of expropriation or destruction of state land. The indigenous people of Pekon Serungkuk, Belalau District, West Lampung Regency,

²³ Jocelyne S Sze and others, 'Indigenous Lands in Protected Areas Have High Forest Integrity across the Tropics', *Current Biology*, 32.22 (2022), 4949-4956.e3
<https://doi.org/https://doi.org/10.1016/j.cub.2022.09.040>

²⁴ Agung Wicaksono, Irni Yunita, and Gede Ginaya, 'Living Side by Side with Nature: Evidence of Self-Governance in Three Local Communities in Indonesia', *Heliyon*, 8.12 (2022), e12248
<https://doi.org/https://doi.org/10.1016/j.heliyon.2022.e12248>

²⁵ Shashi Kant and Ilan Vertinsky, 'The Anatomy of Social Capital of a Canadian Indigenous Community: Implications of Social Trust Field Experiments for Community-Based Forest Management', *Forest Policy and Economics*, 144 (2022), 102822
<https://doi.org/https://doi.org/10.1016/j.forpol.2022.102822>



were found culpable of vandalism and forest encroachment in Pematang Pekon Serungkuk District and sentenced to imprisonment and fines.²⁶

The Liwa District Court is responsible for the administration of the Belalau-West Lampung Regency. Regulations and the Government of West Lampung's Responsibility to Protect the Rights of Indigenous Peoples The approximately 2,304 indigenous communities that make up the archipelago have formed an independent social organization called the Alliance of Indigenous Peoples of the Archipelago (AMAN),²⁷ and the indigenous peoples' organizations of the archipelago held their first congress on March 17, 1999, at the Hotel Indonesia, with the aim of achieving a just and prosperous life for all indigenous peoples in Indonesia. In 2003, the congress was held. Thus, the customary rights of customary community entities in the West Lampung Regency are recognized, both in terms of customs and traditions.²⁸

CONCLUSION

The regulation of valid land tenure rights (UUPA) in order to provide protection to the community regarding the status of forest area land in West Lampung, it is necessary to check the status of the land. As for checking the status of land, there are 3 (three) ways to implement land registration, namely converting it into property rights if proof of ownership exists since the enactment of the UUPA, confirmation for lands that are subject to customary law but are not registered in the terms of conversion as land that can be converted for a land right according to the provisions of the BAL, but the land must be recognized as land of customary rights and recognition of rights, for land for which there is no evidence or no proof of rights.

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²⁶ Putu Eka Suarmika and others, 'Reconstruction of Disaster Education: The Role of Indigenous Disaster Mitigation for Learning in Indonesian Elementary Schools', *International Journal of Disaster Risk Reduction*, 72 (2022), 102874 <https://doi.org/https://doi.org/10.1016/j.ijdr.2022.102874>

²⁷ Asmita Kabra, Budhaditya Das, and Chhavi Bathla, 'Indigenous Tree Tenure in the Times of Charismatic Carnivore Conservation: Territoriality and Property in the Forests of Central India', *Political Geography*, 101 (2023), 102841 <https://doi.org/https://doi.org/10.1016/j.polgeo.2023.102841>

²⁸ Aoife Bennett and others, 'Forty-Year Multi-Scale Land Cover Change and Political Ecology Data Reveal a Dynamic and Regenerative Process of Forests in Peruvian Indigenous Territories', *Global Environmental Change*, 81 (2023), 102695 <https://doi.org/https://doi.org/10.1016/j.gloenvcha.2023.102695>



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