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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

CENTRAL 27 MAR 1979 GOVT OF

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 27th December, 1978/Pausa 6, 1900 (Saka)

The following Act of Parliament received the assent of the President on the 26th December, 1978, and is hereby published for general information:—

THE SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS (AMENDMENT) ACT, 1978

No. 46 OF 1978

[*26th December*, 1978.]

An Act to amend the Suppression of Immoral Traffic in Women and Girls Act, 1956

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1978.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

2. In the Suppression of Immoral Traffic in Women and Girls Act, 1956 (hereinafter referred to as the principal Act), in section 2,— 104 of 1956.

(*a*) in clause (*a*), after the word "room", in both the places where it occurs, the word ", conveyance" shall be inserted;

(*b*) after clause (*a*), the following clause shall be inserted, namely:—

'(*aa*) "corrective institution" means an institution, by whatever name called (being an institution established or licensed as such under section 21), in which women and girls, who are in need of correction, may be detained under this Act, and includes a shelter where female undertrials may be kept in pursuance of this Act;';

(c) for clause (c), the following clause shall be substituted, namely:—

'(c) "magistrate" means a magistrate specified in the second column of the Schedule as being competent to exercise the powers conferred by the section in which the expression occurs and which is specified in the first column of the Schedule;';

(d) clause (e) shall be omitted;

(e) for clauses (f) and (g), the following clauses shall be substituted, namely:—

'(f) "prostitution" means the act of a female offering her body for promiscuous sexual intercourse for hire, whether in money or in kind, and whether offered immediately or otherwise, and the expression "prostitute" shall be construed accordingly;

(g) "protective home" means an institution, by whatever name called (being an institution established or licensed as such under section 21), in which women and girls, who are in need of care and protection, may be kept under this Act, but does not include—

(i) a shelter where female undertrials may be kept in pursuance of this Act, or

(ii) a corrective institution;'.

Insertion of new section 2A.

3. After section 2 of the principal Act, the following section shall be inserted, namely:—

Rule of construction regarding enactments not extending to Jammu and Kashmir.

"2A. Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.".

Amendment of section 4.

4. In section 4 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Where any person over the age of eighteen years is proved—

(a) to be living with, or to be habitually in the company of, a prostitute; or

(b) to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that such person is aiding, abetting or compelling her prostitution; or

(c) to be acting as a tout or pimp on behalf of a prostitute,

it shall be presumed, until the contrary is proved, that such person is knowingly living on the earnings of prostitution of another person within the meaning of sub-section (1).".

Amend-ment of section 7

5. In section 7 of the principal Act,—

(*a*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Any woman or girl, who carries on prostitution and the person with whom such prostitution is carried on, in any premises—

(*a*) which are within the area or areas, notified under sub-section (*3*), or

(*b*) which are within a distance of two hundred metres of any place of public religious worship, educational institution, hostel, hospital, nursing home or such other public place of any kind as may be notified in this behalf by the Commissioner of Police or magistrate in the manner prescribed,

shall be punishable with imprisonment for a term which may extend to three months.";

(*b*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*3*) The State Government may, having regard to the kinds of persons frequenting any area or areas in the State, the nature and the density of population therein and other relevant considerations, by notification in the Official Gazette, direct that prostitution shall not be carried on in such area or areas as may be specified in the notification.

(*4*) Where a notification is issued under sub-section (*3*) in respect of any area or areas, the State Government shall define the limits of such area or areas in the notification with reasonable certainty.

(*5*) No such notification shall be issued so as to have effect from a date earlier than the expiry of a period of ninety days after the date on which it is issued.".

Amend-ment of section 9.

6. In section 9 of the principal Act, in sub-section (*1*), for the words "having the custody, charge or care of any woman or girl", the words "having the custody, charge or care of, or a position of authority over, any woman or girl" shall be substituted.

Substitution of new sections for section 10.

7. For section 10 of the principal Act, the following sections shall be substituted, namely:—

Release on probation of good conduct or after due admonition.

"10. (*1*) A person convicted for the first time of any offence under section 7 or section 8 may, having regard to his age, character, antecedents and the circumstances in which the offence was committed, be released by the court before which he is convicted, on probation of good conduct,—

(*a*) in a case arising in an area where the Probation of Offenders Act, 1958, is in force, in the manner provided in section 4 of that Act; and 20 of 1958.

(*b*) in any other case, in the manner provided in sub-section (*1*) of section 360 of the Code of Criminal Procedure, 1973. 2 of 1974.

(*2*) A person convicted for the first time of any offence under section 7 or section 8 may, having regard to his age, character, antecedents and the circumstances in which the offence was committed, also be released after due admonition,—

(*a*) in a case arising in an area, where the Probation of Offenders Act, 1958, is in force, in the manner provided in section 3 of that Act; and 20 of 1958.

(*b*) in any other case, in the manner provided in sub-section (*3*) of section 360 of the Code of Criminal Procedure, 1973. 2 of 1974.

(*3*) The provisions of sections 5 to 17 (both inclusive) of the Probation of Offenders Act, 1958, shall apply to the cases referred to in clause (*a*) of sub-section (*1*) and clause (*a*) of sub-section (*2*). 20 of 1958.

(*4*) The provisions of sub-sections (*2*) to (*10*) (both inclusive) of section 360 of the Code of Criminal Procedure, 1973, shall apply to the cases referred to in clause (*b*) of sub-section (*1*) and clause (*b*) of sub-section (*2*). 2 of 1974.

(*5*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or any other law for the time being in force, no person convicted of an offence under sub-section (*1*) or sub-section (*2*) of section 3, or under section 4, section 5, section 6 or section 9 shall be released on probation or after due admonition. 2 of 1974.

(*6*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), if the person convicted of an offence under section 7 or section 8 for the first time is a woman or girl, she shall be dealt with under this section and no sentence of imprisonment shall be awarded to her unless the court is satisfied that, having regard to the circumstances of the case, including the nature of the offence and the character of the offender, it would not be desirable to deal with her under this section; and if the court passes any sentence of imprisonment on the offender on first conviction, it shall record its reasons for doing so.

(*7*) For the purpose of satisfying itself whether or not it would be desirable to deal with such woman or girl under this section, the court shall call for a report from the probation officer appointed

20 of 1958. under the Probation of Offenders Act, 1958, and shall consider his report, if any, and any other information available to it relating to the character and physical and mental condition of the offender.

Detention in a corrective institution.

10A. (*1*) Where—

(*a*) a female offender is found guilty of an offence under section 7 or section 8, and is not released under sub-section (*1*) or sub-section (*2*) of section 10; and

(*b*) the character, state of health and mental condition of the offender and the other circumstances of the case are such that it is expedient that she should be subject to detention for such term and such instruction and discipline as are conducive to her correction,

it shall be lawful for the court to pass, in lieu of a sentence of imprisonment, an order for detention in a corrective institution for such term, not being less than two years and not being more than five years, as the court thinks fit:

Provided that before passing such an order—

(*i*) the court shall give an opportunity to the offender to be heard and shall also consider any representation which the offender may make to the court as to the suitability of the case for treatment in such an institution, as also the report of the probation officer appointed under the Probation of Offenders
20 of 1958. Act, 1958; and

(*ii*) the court shall record that it is satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case are such that the offender is likely to benefit by such instruction and discipline as aforesaid.

2 of 1974. 36 of 1963. (*2*) Subject to the provisions of sub-section (*3*), the provisions of the Code of Criminal Procedure, 1973, relating to appeal, reference and revision, and of the Limitation Act, 1963, as to the period within which an appeal shall be filed, shall apply in relation to an order of detention under sub-section (*1*) as if the order had been a sentence of imprisonment for the same period as the period for which the detention was ordered.

(*3*) Subject to such rules as may be made in this behalf, the State Government or authority authorised in this behalf may, at any time after the expiration of six months from the date of an order for detention in a corrective institution, if it is satisfied that there is a reasonable probability that the offender will lead a useful and industrious life, discharge her from such an institution, without condition or with such conditions as may be considered fit, and grant her a written licence in such form as may be prescribed.

(*4*) The conditions on which an offender is discharged under sub-section (*3*), may include requirements relating to residence of the offender and supervision over the offender's activities and movements.".

Amendment of section 12.

8. In section 12 of the principal Act, in sub-section (*4*), for the words
5 of 1898. and figures "sections 112 to 126 of the Code of Criminal Procedure, 1898", the words and figures "sections 111 to 123 of the Code of Criminal Pro-
2 of 1974. cedure, 1973" shall be substituted.

Amendment of section 13.

9. In section 13 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) The special police officer shall not be below the rank of an Inspector of Police.

(2A) The District Magistrate may, if he considers it necessary or expedient so to do, confer upon any retired police or military officer all or any of the powers conferred by or under this Act on a special police officer, with respect to particular cases or classes of cases or to cases generally:

Provided that no such power shall be conferred on—

(a) a retired police officer unless such officer, at the time of his retirement, was holding a post not below the rank of an inspector;

(b) a retired military officer unless such officer, at the time of his retirement, was holding a post not below the rank of a commissioned officer.".

Amendment of section 14.

10. In section 14 of the principal Act,—

(a) in the opening paragraph, for the words and figures "the Code of Criminal Procedure, 1898", the words and figures "the Code of Criminal Procedure, 1973" shall be substituted; 5 of 1898. 2 of 1974.

(b) in clause (*iii*) of the proviso, for the word "inspector", the word "sub-inspector" shall be substituted.

Amendment of section 15.

11. In section 15 of the principal Act,—

(a) in sub-section (2), the following proviso shall be inserted at the end, namely:—

"Provided that the requirement as to the respectable inhabitants being from the locality in which the place to be searched is situate shall not apply to a woman required to attend and witness the search.";

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) The special police officer entering any premises under sub-section (1) shall be entitled to remove therefrom—

(a) any woman, if in his opinion, she is carrying on, or is being made to carry on, or attempts are being made to make her carry on, prostitution; or

(b) any girl, if in his opinion, she is under the age of twenty-one years and is carrying on, or is being made to carry on, or attempts are being made to make her carry on, prostitution.";

(c) in sub-section (5), for the words "the girl", the words "the woman or girl" shall be substituted;

(d) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any search under this section as they apply to any search made under the authority of a warrant issued under section 94 of the said Code.". 2 of 1974.

Substitution of new sections for sections 16 and 17.

12. For sections 16 and 17 of the principal Act, the following sections shall be substituted, namely:—

Rescue of woman or girl.

"16. (*1*) Where a magistrate has reason to believe from information received from the police or from any other person authorised by the State Government in this behalf or otherwise, that—

(*a*) a woman is being made to carry on prostitution in a brothel, or

(*b*) a girl apparently under the age of twenty-one years is living, or is carrying on, or is being made to carry on, prostitution in a brothel,

he may direct a police officer not below the rank of a sub-inspector to enter such brothel, and to remove therefrom such woman or girl and produce her before him.

(*2*) The police officer, after removing the woman or girl, shall forthwith produce her before the magistrate issuing the order.

Intermediate custody of women and girls removed under section 15 or rescued under section 16.

17. (*1*) When the special police officer removing a woman or girl under sub-section (*4*) of section 15 or a police officer rescuing a woman or girl under sub-section (*1*) of section 16, is for any reason unable to produce her before the appropriate magistrate as required by sub-section (*5*) of section 15, or before the magistrate issuing the order under sub-section (*2*) of section 16, he shall forthwith produce her before the nearest magistrate of any class, who shall pass such orders as he deems proper for her safe custody until she is produced before the appropriate magistrate, or, as the case may be, the magistrate issuing the order:

Provided that no woman or girl shall be—

(*i*) detained in custody under this sub-section for a period exceeding ten days from the date of the order under this sub-section; or

(*ii*) restored to or placed in the custody of a person who may exercise a harmful influence over her.

(*2*) When the woman or girl is produced before the appropriate magistrate under sub-section (*5*) of section 15 or the magistrate under sub-section (*2*) of section 16, he shall, after giving her an opportunity of being heard, cause an inquiry to be made as to the correctness of the information received under sub-section (*1*) of section 16, the age, character and antecedents of the woman or girl and the suitability of her parents, guardian or husband for taking charge of her and the nature of the influence which the conditions in her home are likely to have on her if she is sent home, and, for this purpose, he may direct a probation officer appointed under the Probation of Offenders Act, 1958, to inquire into the above circumstances and into the personality of the woman or girl and the prospects of her rehabilitation.

20 of 1958.

(*3*) The magistrate may, while an inquiry is made into a case under sub-section (*2*), pass such orders as he deems proper for the

safe custody of the woman or girl:

Provided that no woman or girl shall be kept in custody for this purpose for a period exceeding three weeks from the date of such an order, and no woman or girl shall be kept in the custody of a person likely to have a harmful influence over her.

(4) Where the magistrate is satisfied, after making an inquiry as required under sub-section (2),—

(*a*) that the information received is correct; and

(*b*) that she is in need of care and protection,

he may, subject to the provisions of sub-section (5), make an order that such woman or girl be detained for such period, being not less than one year and not more than three years, as may be specified in the order, in a protective home, or in such other custody as he shall, for reasons to be recorded in writing, consider suitable:

Provided that such custody shall not be that of a person or body of persons of a religious persuasion different from that of the woman or girl, and that those entrusted with the custody of the woman or girl, including the persons in charge of a protective home, may be required to enter into a bond which may, where necessary and feasible, contain undertakings based on directions relating to the proper care, guardianship, education, training and medical and psychiatric treatment of the woman or girl as well as supervision by a person appointed by the court, which will be in force for a period not exceeding three years.

(5) In discharging his functions under sub-section (2), a magistrate may summon a panel of five respectable persons, three of whom shall, wherever practicable, be women, to assist him; and may, for this purpose, keep a list of experienced social welfare workers, particularly women social welfare workers, in the field of suppression of immoral traffic in women and girls.

(6) An appeal against an order made under sub-section (4) shall lie to the Court of Session whose decision on such appeal shall be final.".

Amendment of section 18.

13. In section 18 of the principal Act, in sub-section (1), for the words "two hundred yards", the words "two hundred metres" shall be substituted.

Substitution of new section for section 19.

14. For section 19 of the principal Act, the following section shall be substituted, namely:—

Application for being kept in a protective home or provided care and protection by court.

"19. (1) A woman or girl who is carrying on, or is being made to carry on, prostitution, may make an application, to the magistrate within the local limits of whose jurisdiction she is carrying on, or is being made to carry on, prostitution, for an order that she may be—

(*a*) kept in a protective home, or

(*b*) provided care and protection by the court in the manner specified in sub-section (3).

(2) The magistrate may, pending inquiry under sub-section (3), direct that the woman or girl be kept in such custody as he may consider proper, having regard to the circumstances of the case.

(3) If the magistrate, after hearing the applicant and making such inquiry as he may consider necessary, including an inquiry by a probation officer appointed under the Probation of Offenders Act, 1958, into the personality, conditions of home and prospects of rehabilitation of the applicant, is satisfied that an order should be made under this section, he shall, for reasons to be recorded, make an order that the applicant be kept,— 20 of 1958.

(*i*) in a protective home, or

(*ii*) in a corrective institution, or

(*iii*) under the supervision of a person appointed by the magistrate,

for such period as may be specified in the order.".

Amendment of section 21.

15. In section 21 of the principal Act,—

(*a*) in sub-section (*1*), for the words "as many protective homes under this Act as it thinks fit and such homes", the words "as many protective homes and corrective institutions under this Act as it thinks fit and such homes and institutions" shall be substituted;

(*b*) in sub-sections (*2*), (*7*), (*8*) and (*10*), for the words "protective home", wherever they occur, the words "protective home or corrective institution" shall be substituted;

(*c*) in sub-section (*3*),—

(*i*) in the opening paragraph and in the first proviso, for the words "protective home", the words "protective home or corrective institution" shall be substituted;

(*ii*) after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that a person or authority maintaining any corrective institution at the commencement of the Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1978, shall be allowed a period of six months from such commencement to make an application for such licence.";

(*d*) after sub-section (*9*), the following sub-section shall be inserted, namely:—

"(*9A*) The State Government or an authority authorised by it in this behalf may, subject to any rules that may be made in

this behalf, transfer an inmate of a protective home to another protective home or to a corrective institution or an inmate of a corrective institution to another corrective institution or to a protective home, where such transfer is considered desirable having regard to the conduct of the person to be transferred, the kind of training to be imparted and other circumstances of the case:

Provided that—

(*a*) no woman or girl who is transferred under this sub-section shall be required to stay in the home or institution to which she is transferred for a period longer than she was required to stay in the home or institution from which she was transferred;

(*b*) reasons shall be recorded for every order of transfer under this sub-section.".

Amendment of section 22.

16. In section 22 of the principal Act, for the words, brackets, letter and figure "a magistrate as defined in clause (*c*) of section 2", the words "a Metropolitan Magistrate or a Judicial Magistrate of the first class" shall be substituted.

Insertion of new sections 22A and 22B.

17. After section 22 of the principal Act, the following sections shall be inserted, namely:—

Power to establish Special Courts.

'22A. (*1*) If the State Government is satisfied that it is necessary for the purpose of providing for speedy trial of offences under this Act in any district or metropolitan area, it may, by notification in the Official Gazette and after consultation with the High Court, establish one or more Courts of Judicial Magistrates of the first class, or, as the case may be, Metropolitan Magistrates, in such district or metropolitan area.

(*2*) Unless otherwise directed by the High Court, a court established under sub-section (*1*) shall exercise jurisdiction only in respect of cases under this Act.

(*3*) Subject to the provisions of sub-section (*2*), the jurisdiction and powers of the presiding officer of a court established under sub-section (*1*) in any district or metropolitan area shall extend throughout the district or the metropolitan area, as the case may be.

(*4*) Subject to the foregoing provisions of this section, a court established under sub-section (*1*) in any district or metropolitan area shall be deemed to be a court established under sub-section (*1*) of section 11, or, as the case may be, sub-section (*1*) of section 16, of the Code of Criminal Procedure, 1973 and the provisions of that Code shall apply accordingly in relation to such courts. 2 of 1974.

Explanation.—In this section, "High Court" has the same meaning as in clause (*e*) of section 2 of the Code of Criminal Procedure, 1973. 2 of 1974.

Power of court to try cases summarily.

2 of 1974.

22B. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the State Government may, if it considers it necessary so to do, direct that offences under this Act shall be tried in a summary way by a magistrate [including the presiding officer of a court established under sub-section (*1*) of section 22A] and the provisions of sections 262 to 265 (both inclusive) of the said Code, shall, as far as may be, apply to such trial:

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the magistrate shall, after hearing the parties, record an order to that effect and thereafter recall any witness, who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.'.

Amendment of section 23.

18. In section 23 of the principal Act, in sub-section (*2*),—

(*a*) in clause (*b*), after the words, brackets and figures "under sub-section (*1*) of section 10", the words "where the women or girls are without a home" shall be inserted;

(*b*) after clause (*b*), the following clause shall be inserted, namely:—

"(*bb*) the discharge of an offender under sub-section (*3*) of section 10A from a corrective institution and the form of licence to be granted to such offender;";

(*c*) for clause (*c*), the following clause shall be substituted, namely:—

"(*c*) the detention and keeping in protective homes or, as the case may be, in corrective institutions of women and girls under this Act and their maintenance;";

(*d*) for clause (*g*), the following clause shall be substituted, namely:—

"(*g*) (*i*) the establishment, maintenance, management and superintendence of protective homes and corrective institutions under section 21 and the appointment, powers and duties of persons employed in such homes or institutions;

(*ii*) the form in which an application for a licence may be made and the particulars to be contained in such application;

(*iii*) the procedure for the issue or renewal of a licence, the time within which such licence shall be issued or renewed and the procedure to be followed in making a full and complete investigation in respect of an application for a licence;

(*iv*) the form of a licence and the conditions to be specified therein;

(*v*) the manner in which the accounts of a protective home and a corrective institution shall be maintained and audited;

(*vi*) the maintenance of registers and statements by a licensee and the form of such registers and statements;

(*vii*) the care, treatment, maintenance, training, instruction, control and discipline of the inmates of protective homes and corrective institutions;

(*viii*) the visits to and communication with such inmates;

(*ix*) the temporary detention of women and girls sentenced to detention in protective homes or in corrective institutions until arrangements are made for sending them to such homes or institutions;

(*x*) the transfer of an inmate from—

(*a*) one protective home to another, or to a corrective institution,

(*b*) one corrective institution to another or to a protective home,

under sub-section (*9A*) of section 21;

(*xi*) the transfer in pursuance of an order of the court from a protective home or a corrective institution to a prison of a woman or girl found to be incorrigible or exercising bad influence upon other inmates of the protective home or the corrective institution and the period of her detention in such prison;

(*xii*) the transfer to a protective home or corrective institution of women or girls sentenced under section 7 or section 8 and the period of their detention in such home or institution;

(*xiii*) the discharge of inmates from a protective home or corrective institution either absolutely or subject to conditions, and their arrest in the event of breach of such conditions;

(*xiv*) the grant of permission to inmates to absent themselves for short periods;

(*xv*) the inspection of protective homes and corrective institutions and other institutions in which women and girls may be kept, detained and maintained;".

Insertion of new Schedule.

19. In the principal Act, the following Schedule shall be inserted at the end, namely:—

"THE SCHEDULE

[*See* section 2(c)]

Section	Magistrate competent to exercise the powers
7(*1*)	District Magistrate.
11(*4*)	Metropolitan Magistrate or Judicial Magistrate of the first class.
12(*4*)	Metropolitan Magistrate or Judicial Magistrate of the first class.
15(*5*)	Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-Divisional Magistrate.
16	Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-Divisional Magistrate.
18	District Magistrate or Sub-Divisional Magistrate.
19	Metropolitan Magistrate, Judicial Magistrate of the first class, District Magistrate or Sub-Divisional Magistrate.
20	District Magistrate, Sub-Divisional Magistrate or any Executive Magistrate specially empowered by the State Government.
22B	Metropolitan Magistrate or Judicial Magistrate of the first class.".

Amendment of Act 20 of 1958.

20. In section 18 of the Probation of Offenders Act, 1958, the words and figures "or the Suppression of Immoral Traffic in Women and Girls Act, 1956" shall be omitted.

104 of 1956.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.

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