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Dumitru Stan

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Committing incest between ignorance and obliviousness

*Dumitru STAN**

Abstract

If the sociologists were to briefly define condition of society for the last five-six decades, then the best available formula for them would be „crisis after crisis”. Painful turmoil has been produced in politics, economy, army, administration, morals, family etc., that is to say both in the public and private area. It is interesting that these areas are overlapping post-modernity period and that we do not associate this age to its successes but to different forms of crisis. This study is therefore centred on the analysis of incest, a critical and private fact with enormous social effects, which humankind knew how to properly manage in post-modern ages since it applied various laws to explicitly forbidden it. A decrease of the social control over the incest along with a dramatic increase of the incest offenders is being currently reported. The next pages therefore will not only report the incest to the family crisis and identify the generic meanings of this fact, but it will also numerically estimate the incest offenders in Romania, delimitate categories of victims and aggressors and especially consider the opportunity/inopportunity of changing the Romanian laws towards not criminalizing non-aggressive incest.

Keywords: prohibition of incest, aggressive incest, non-aggressive incest, sexual communism, family crisis, sexual abuse, vulnerability, child abuse, victim, offender, psycho-moral maturity, social credibility.

* Dr. Dumitru Stan is Ass. Professor at „Alexandru Ioan Cuza” University from Iași, Romania, Department of Sociology and Social Work, Blv. Carol I, nr.11, tel: 0040.32201054, mail: dtrustan@yahoo.com

Post-modernity and Critical Condition

Humankind has entered a new era of its evolution since approximately half of a century: *post-modernity* (Lyotard, 1985). Logic of the history persuades us to associate the mobility of the human existence in this era to the *exceptional cultural answers* which it has promoted and which would define the current essence of man's identity. Few of the most quoted and evident superlatives of the post-modernist development shall be mentioned here: extended information technologies, automation of several productive technologies, controlled intervention on genetic phenomena, ultra-perfective infrastructures, cosmic exploring, and invention of the nano-technologies. From the perspective of these performances, post-modernity means cultural growth, massive presence of progress, wealth, knowledge, efficiency, precision, safety and generally all *seemingly desirable staff*. At the same time however, while taking a less fugitive look into it, one cannot ignore, within the very same post-modern spaces, the display of *several crisis situations*; the „economic crisis”, the „political crisis”, the „moral crisis”, the „ecological crisis”, the „crisis of values”, the „university crisis” etc. they are all phrases we can easily hear every day.

Post-modernity is therefore an age of *contrasting socio-cultural realities* and it incorporates both maximal achievements and upsetting failures. Nevertheless this paradoxical characteristic is not only relevant to post-modernity. Ages succeeded it equally featured wars *versus* Christian devoutness, opulent wealth *versus* poverty beyond the limit bearable, total respect towards individual and its being considered a climax of the creation *versus* its being treated as an inferior being or an „instrument with a man's face”, great valuable scientific findings *versus* cognitive attitudes dominated by ignorance and so forth. What post-modernity really achieved, but to a larger scale as compared to the ages preceded it, was to take exception to the symbolic order within given rejection of universals of the *social statistics*. Nothing in post-modern culture and civilisation seems unreach-able or un-removable any longer. From religion to national boundaries, from social hierarchies to tradition, from political order to communitarian life schemes, from juridical to moral standards etc. – they are all criticisable adaptable aspects relying on the *pursuing degree of meeting individual demands*. Individualism has replaced the communitarianism, and what is still considered nowadays a collective will is only preserved if it meets requirements to be comfortable to personal existence. Within this given context, the *family*, an old instance of the individual and social order, has entered a *hardly redeemable dissolution state*. Relationships between generations within extended families, relationships between spouses, between parents and children, between siblings, etc, tend to adopt concepts which people have not known or have rejected so far. For example, the *incestuous relationship* or the sexual/marital relations among kinships have been declared prohibited shortly after the anthropogenesis process. The norm repudiating this

relationship is considered to be *the oldest widely reported interdiction in the history of humankind*.

At present, against the background of multiple crises within society and especially the family crisis, incest is only defined as blameworthy and it is only considered a serious fact under some circumstances when it generates victims. Hence, it is *partially criminalized*, since the sexual relationship between consenting and rational kinships who have reached the age of majority would no longer endanger the individual or the group. Such an approach makes us believe that the incest is being ignored for the time being and that the individuals, including those in the Romanian society, are not fully aware of its dramatic consequences. To consent on an incestuous relationship and to feed it, even after the age of majority, does not exempt the incest offenders from the multitude effects of their act. If people involved in such relationships had been warned on the consequences of such an act and had been taught on fighting it, our society would have definitely avoided some forms of the family crisis and it would have been more powerful in repressing other crises it has been coping with. It is a rather implicit than explicit and a rather random and superficial than persistent and organised involvement in obtaining information on the incest and cultivating an attitude to reject it. The consistent elements of the anti-incest education unfortunately arise only after the detestable act under analysis has been committed and laid irremediable marks. To this painful conclusion another judgement is added, and it derives from a delusive civilisation: *the post-modern society of America and Europe, in particular, shows a hardly understandable lack of intransigency towards incest, as if the guilt of the incest offenders hadn't been too much*.

To people from these socio-demographic environments, all precaution on incest, which have been so active during former periods, would be useless and tiresome nowadays, while the control over the incest offenders would be much too difficult to achieve. This surprisingly comprehensive perspective on the incest could induce the false idea that the hyper-civilised world has got rid of the „incest fear” (Freud, 1991, pp. 13-30). In reality, committing incest is still being considered a very severe action, only that reference should be made to the number of individuals practising it, on the one hand, and, on the other hand, it should be re-defined from the individualism point of view, specific to post-modernity.

Semantics of Incest

The word incest is the result of a merge between two Latin words (*in* – meaning not, and *castus* – which could be translated by *chaste, untainted, pure*) while etymologically it indicates any marital/sexual relationships which is established between kinships and which forbidden by tradition/law. The incest prohibition or the incest taboo was, according to the anthropologist Fox (1967), the first rule in

the history of humankind, or, as Freud, Levi-Strauss and Ruth Benedict (Freud, 1991, Levi-Strauss, 1967); have stated, the proof of man's ultimate joint to the cultural way of life. To Levy-Bruhl, we should not even consider such rules, as the incest does not actually occur (Levy-Bruhl, 1963, p. 237); men have naturally eliminated from their behaviour all kinds of monstrosities such as the fratricide, the infanticide, the parricide, the anthropophagy, the necrophilia, the zoophilia and so forth, while the incest is among them. Consequently, according to Levy-Bruhl's ethnological view, it would be useless to have a rule about something unreal, scaring, horrible, *impossible to commit since it is being considered more serious than death itself*. A normal person would have automatically avoided committing incest. Just as no rules have been formulated to guide man into breathing the air, avoiding his enemies or consuming different goods to survive, similar there has been any rule on the interdiction of the incest – the same Levy-Bruhl suggests.

It is equally true that in some regions of Africa, Malaysia, Europe (Greece during the Classical Age) there has been no term to designate the incest. Committing the incest might have been either unmarked in those territories, since the individuals would practise sexual communism, or the number of incestuous relationships might have been so low then people did not feel like naming them. Undoubtedly getting away from sexual communism and promiscuity, when all men within a community (Morgan, 1971, Frazer, 1992) were allowed to have sexual relationships with all women of that community, without any restriction, might have required a limitation of liberties of sexual relationships among the first consanguinity. Labelling the relationships between parents and their children, as well as those between siblings as prohibitive has coincided with the establishment of the conventional sexual relationships and the recognition of *the rule of incest interdiction*.

The animal kingdom itself has its own „social conventions and epideictic displays” (Wilson, 2003, pp. 84-85, 435) when reproducing, we could therefore better consider that they have rapidly imposed themselves on human groups. Consequently it is not erroneous to state that the phase of sexual communism might have been very short for these groups, since they needed to protect themselves from the inside threats through all kinds of rules or conventions. It is so how it appeared the first and the most significant norm on the sexual relationships between people – the rule of incest interdiction. Many speculations on what happened about the incest during the archaic and traditional periods in the history of humankind have been made and will still be made. They usually concern the presence or the absence of the incest, its being severely criminalised or its being tolerated, the picturesque educational ways against the incest, the traceability of kinship and delimitation of the incest degrees, etc. On the other hand, we could equally state that the last two centuries in the history of humankind not only have they included the incest experience, but they also succeeded in changing from a

preponderantly repressive to a preponderantly restoring approach on the incest cases. The most common sentence to be inflicted on the incest offenders in pre-modern stages was the death penalty. Modernity and especially the post-modernity have much reduced the radicalism of the sanction, while it has considered not only the act in itself, but its aetiology and its particular circumstances. This explains why „in some societies people would look at the incest with repulsion and disgust. In other societies the reaction to it is rather amusing. A harsh punishment would rely on the type of the incestuous relationship, whether the parties are children or adults, and the circumstances of norm violation” (Achim, 2002, p. 270). This how we can explain ourselves why the word „*incest*” allows a *great variety of significations* as reported to its cultural space: in Romanian, French, Spanish and English it means the violation of the moral principles and maculation of personal purity through a sexual intercourse between relatives; in the Germanic languages (Dutch and Norwegian), the word makes references to the „public opprobrium to a relationship denying blood relationships between partners; in Chinese, it defines the „disordered social relationships; in Indonesia, it makes references to something related to adultery, a very unpleasant and disgraceful thing (Needham, 1971) etc.

Mentioning this sequence of semantics together with the abundant examples provided by sociology, ethnology and anthropology reiterate the idea that societies have reacted differently to the incest, to its adjacent situations and to the part it plays in the individual’s sexual life. Hence, except for some few rebellious groups embracing total sexual liberty, all other socio-human concentrations comply with rules or at least with recommendations and rules of conduct related to the beginning of the sexual life, to the marriage commitment required before any sexual intercourse, to the marital selection criteria, to the establishment of the demographic structures where the marital and/or sexual share can be withdrawn from, to the types of sanctions expected to be applied to the individuals denying sexual interdictions and so forth. Finally we can say that *the more vulnerable the societies are in relation to what it is happening within them (famine, epidemics, strikes, ecological crises etc.), the more preoccupied they are to protect family as a community structure of surviving, and the better organised their procedures are to avoid, detect and punish the incest*. We could therefore understand now why in the USA there is currently a higher rate of incest than to the former redskins tribes, why in pre-modern China, as compared to the nowadays China, incest was followed up to the hundredth degree of kinship, while to the present Romanians an incestuous marital relationship is only considered to the fourth degree of kinship and no more than that, as it used to be in traditional period. As a matter of fact, the *regression of the attesting levels of incest* can be identified in all territories where social rationality capitalizes better the material culture, science and juridical norms to the detriment of morals, religion and tradition.

Despite the above-mentioned regression, the disadvantageous image of committing incest has been preserved. In all its definitions, two genus proximus aspects interfere: *sexual relationships forbidden by law and the kinships* (blood relatives or in-laws) between those who commit the sexual intercourse. To all these a good deal of elements are to be added specifying the impact of the incest and its increased undesirability: „moral insanity” (Lombroso, 1992), „way of biological decay” (Freud, 1991), „violation of the moral rules and of the normality of social relationships” (Păunescu, 1994), „form of sexual abuse” (Geiser, 1979), „miss appropriateness of the family social roles” and „spiritual suicide” (Mack, 2007), etc.

In the broadest meaning of the common sense, the incest is considered to be a form of deviant behaviour or a sin committed by irresponsible people or by people with a low level of responsibility which would result in *short-circuits of the individual and social lives* (blocked fertility, insanity, incurable disease, natural calamities, etc.) and would require immediate juridical, social, psychological and medical support. Nevertheless we find ourselves surprised by some findings especially available for the so-called „civilised” world, as they amplify the difficulty of the support intervention:

a. social representations of the incest are quasi-negative, but the number of the incest cases is increasing if the sexual relationships have been long and bashfully referred to or if they have been coined as „that thing” (Mc Laren, 2002, p. 64);

b. while the „crime” of incest has been talked about even less, sexuality is being a current theme nowadays while committing the incest is still being criminalized and yet it is considered one form of deviance among a long series of equally serious acts;

c. although the incest is being reported to be a highly jeopardizing human expression, the juridical reactions of protection to it have been inclined towards decreasing the virulence of penalties and diminishing the degrees and stages of the incestuous relationships to be punished;

d. justice as main modern and post-modern source of national reaction to incest, hazardously stakes more on the intervention power of the church, morals, tradition, education, etc. when producing/reproducing socio-cultural normality of individuals and less on its own correction elements ;

All these findings could be fully seen in present Romania. The Romanian *traditionalism and religiousness could not cope with the aggression of the crisis in the recent decades*. Furthermore, although the Romanians have not reached yet the western civilisation standards, they have mimetically taken over from it the eroticism and the juridical clemency to incest. These options have taken them away from the opportunity to strengthen the immunity of the familial group and to coagulate its energies towards increasing its capabilities to effectively react to

the uninterrupted flows of economic, social and political crises that Romania has been facing lately. Apart from these forms of social crisis, the Romanians have succeeded in triggering an unprecedented crisis of intra-family relationships. Domestic violence, divorce rates, failure to fulfil roles and statues specific to family life, family abandon, children abuse, children neglect, intra-familial discriminations are only few of the faces of the crisis of the familial group in Romania. On top of all these, lies the incest, and the Romanians seem not to seize that they are on the verge of a pathological collapse and they do not react properly to it.

Dramatic nature of incest within the Romanian space

The previous pages result in the idea that the incest is an abominable, stigmatising act, originating in communitarian scandals, and implicitly grounds for constraining intervention on the offenders. Since it is associated to prohibitive sexuality and to marital relationship beyond law, the incest is usually neglected, not-acknowledged and kept secret by the offender. In many cases it is not only the offender who is concerned with not letting people know about his incestuous act, but it is the victim as well. The latter, when making known the aggression having been committed on him/her, fears of both the „social death” which the community is to rebuke him/her, and the offender’s reprisals. If we consider the opprobrium that not only the offender, but his family, his victim and the children born on an incestuous relationship are put through, we could then understand why would better deny the relationship or resign themselves to the sanctioning of the offender. This is why many of the incest offenders will not be punished while many of the incest situations will remain some personal traumatic secrets.

No exhaustive statistics on the incestuous cases within a society have ever been made and there will never possibly be. Not even within societies whose social control and records on the individual acts are well diversified, organised and followed up. So much the more for Romania, we could not expect finding statistic reports and records in here. On the contrary, instead of illustrative statistics we have estimations and approximations taken both from objective data (formally proven, certified cases) and subjective data (cases based on rumours, suppositions, unsupported accusations).

Starting from the statistics made by the Romanian police and from cases traced by the social work institutions, penitentiaries for incest convicts, hospitals with patients victims of incest, from the number of judicial processes related to incest accusations, as well as from information conveyed by the mass-media, we reach an alarming conclusion: 1% of the current population of Romania has lived/is living the direct experience of incest, either with a marital relation to a relative, or through a sexual relationship with a relative outside marriage.

This percentage represents, after *having it rounded*, about 200.000 incestuous people. We may find it an aberrant and unlikely figure since the police, for example, records 70 incest national cases every year. The figure is not so amazing as it may seem when we find out for instance that in the commune of Bogdanesti, county of Vaslui, there are 20 families practising the incest and the policemen do not involve in it or they only interfere to restore „public order” (and by no means to stop these incestuous relationships)*.

Complying with the specialists’ point of view, whenever we accomplish a numerical estimation on the incest cases we would better start from the premise that *concealing of the deed* has been so perfectly pursued that we could only reach a figure closer to reality provided that „to each reported incest case” we added “other twenty unreported incest cases” (Rădulescu, 2001, p. 54). We are not to make use of this estimation procedure but we shall apply another one based on the *iceberg principle*: the visible and socially acknowledged part of a phenomenon should be completed by its invisible or hidden part which is twice as bigger as the first one. In other words, to those 200 thousand of estimated incest cases there should be added another 400 thousand. The cumulative number that we finally get, that is 600 thousand, allows a significant negative correction, if we further consider the *social repulsion* to incest. In collective representations, it is susceptible to multiple (not only juridical), very harsh and long-term punishments. Under such extenuating circumstances, the maximal statistical reduction might reach up a quarter of the invisible quantity of the iceberg that is 100 thousand of cases.

Summing up the visible and the hidden corrected parts, we get a quantitative approximation of 500 thousand people practising incest within the Romanian area. This is not only an alarming or disturbing figure, but it makes us claim that the incest is a *dramatic social deed*. The feature of the dramatic nature increases more and more if we focus on the analysis of three *sociological dimensions of explicative complementarity* on the incest:

a. Dispersion or epidemic influential zone. The incest offenders would usually live within nuclear families, have relationships within their extended family, have neighbours, friends, work mates etc with whom they interact. When their act is revealed and spread within their communitarian space, it triggers a series of influences on the judgements, values, opinions, behaviours of those whom they have social relationships with. Individuals around incest offenders revise their stand so that they would not be taken for the latter, while the incest offenders themselves assume attitude of self-discrimination and escaping conduct so that they could survive the social environment confrontation. The *effects of the track left by the incest offenders* are powerfully felt in all residential areas where they are in the minority. If the reaction of the social environment is indulgent and

* Source: I.B, social worker and expert counsellor to psycho-social assessment and rehabilitation.

tolerant, then the achiever of the deviant behaviour tends to replicate this behaviour and to even become *a guiding model to people who find themselves in their early or imminent stages towards committing similar acts*. Regardless the stand the individuals of human groups take towards incest offenders (ignorance, toleration, reprimand, etc) and regardless whether the latter appreciate that they are sympathised/imitated/stigmatised/blamed by the former, the network of social relationships is epidemically marked or irradiated by the incest act. Starting from what psycho-sociology claims about the minimal relational requirements of an individual (a person does not alter her normality unless she joins a network of communication relationships with other four persons) and from the estimated number of incest offenders in Romania (500.000), we reach the conclusion that other 2 million inhabitants are being involved either in acts of preparing or thinking of an incestuous stance, or in approaches to assess and explain causes and effects of the incest, or in promoting attitudes to avoid those who practise the incest, or in situations to express their unambiguous anti-incest opinion. Consequently, the *incest detaches itself from the position of some deviant act* not only through its detestable socio-cultural consequences, but also through its imitative dispersion of negative influence on the family and sexuality conceptions. Negative expectations and representations associated to the incest, correlated with insufficient fight against it justifies placement of the incest within humane dramatic acts.

b. Categories predisposed to vulnerability of incest. While we make reference to the classical paradigm to the analysis and interpretation of the incest, we identify, on the one hand, the aggressing person or the initiator of the incestuous relationships, and, on the other hand, the victims who do not consent to such a relationship. The sexual intercourse between two relatives (kinship beyond legal limit) in which one has the role of an aggressor and the other the role of a victim is not only an act of incest but it is also a rape. To avoid legal assignment of sexual act committed under the form of a rape, it is sufficient that the incestuous people should be of age and consent on the act. „To consent on committing an act, any person should know what that act is about and have complete freedom to say yes or no. Children of our society lack necessary information to make a fully aware decision on sexual issues. They do not know the cultural significance of sexuality, rules and principles governing intimate relationships or the way in which the others react to it. Adults actually control all kinds of things that children are calling for (food, shelter, toys etc.). Sometimes children would consent to sexual relationships to an adult precisely because they have learned to obey it. Such consent is not fully aware and it is not freely expressed either (Rădulescu, 2001, pp. 54-55).

c. If the victims are preponderantly children, especially females, then the aggressors are usually adults and particularly males. The highest rates of incestuous relationships are those between fathers and daughters, step fathers and

step daughters, grandfathers and granddaughters. To these variants, there should be added lower shares of relationships between uncles and nieces, sisters and brothers, cousins, fathers and sons, mothers and sons, etc. Since the most of the victims of incest are females, with an average of about 10 years of age, it is easily presumed that they lack the necessary physical development, or discernment or the capability of opposing the aggressor especially if the latter is a male. His deed is firstly a *sexual abuse on a minor*, secondly it is a *rape*, since the sexual intercourse, even if agreed by the child, is not supported by a psycho-moral maturity and in the third place it is an incestuous act. If we did not operate such delimitations and we synthesised all sexual situations between relatives by the concept of incest, then the rate of the incest would be probably higher. Many male adults would stop to less serious sexual abuses (erotic talks, exposure to sexual organ, body touch, supply with pornographic materials etc. – Taylor, 1992, pp. 26-27) and avoid incestuous rape as they fear risks, such as the intervention of authorities, notification of doctors who have examined the aggressed little girls, their banishment from the family environment, loss of their local prestige etc. Such risks diminish when the victim suffers from mental retardation and her statements do not have *social credibility* to get the consistency of allegations. From this reason, numerous incest cases having been reported and examined by social workers in the region of Moldova confirm that persons with different degrees of mental retardation who react positively to physiological need for sex would often end as incest victims. Let us share another aspect related to incest: *incest occurs against increased vulnerability* both in relation to the victim (who cannot protect herself) and in relation to the aggressor (who can keep his temper, control himself). From the moment the incest is committed, not only does it fail to pull that vulnerability apart but it rather intensifies it while adding some other dimensions - moral, social, juridical, etc. which have been unknown or only presumed so far.

d. Juridical news on the incest. The Criminal Code still in force defines the incest as „the sexual relation between direct relatives” and it stipulates a deprivation of liberty from 2 to 7 years against offenders. The new Criminal Code which will be applied as for 2010, introduces an unprecedented distinction between the *aggressive incest* (or with a victim) and the *non-aggressive incest* (or without a victim). About the aggressive incest we may say that the Criminal Code is more inhibiting to the aggressor and more protective to the victim. If the aggressive incest is a rape too (section 216), then the penalty mentioned in it is imprisonment from 5 to 12 years, so more than in the current code. Moreover if the incest is juridically labelled as a sexual act with a minor (section 218), the related penalty mentioned in the current Criminal Code is larger: imprisonment from 3 to 10 years and restriction of some rights. Regulations in force criminalize the incestuous parties even if they consented on the sexual intercourse and they overpass the conventional age of majority. The incest of this type is defined as

victimless crime and the regulator has so far considered that the parties should be punished due to the immorality of their act. *The new Criminal Code moves the stress from the moral dimension to the will and discernment of the adults practising the incest and under these circumstances they are exonerated from any penalty.*

This new outlook on the incestuous cases is baffling; the terrifying non-aggressive incest, having been addressed to with strictness and in an exemplary manner so far, has failed to be criminalized. The change of philosophy about incest and of the reaction to it makes us suspect the regulator of superficiality and implicitly of encouraging multiplication of incestuous practices. The way in which the non-aggressive incest, with or without victims, is being justified by the regulator is less convincing:

- In penitentiaries there is a too small number of persons definitively sentenced to prison for having committed the crime of incest and we should not therefore grant too much importance to it since it is not a mass phenomenon.
- Romania should harmonize its legislation to the European laws (France, Spain, England, Portugal, Belgium, etc.) where they have given up incriminating the non-aggressive incest.

In reality the estimated number of the incestuous Romanians is impressively high, and the traced non-aggressive incest will result in being considered as *family matters* in the years to come. The traditional means to protect people against incest will be less and less effective and the *communities will acutely require a stronger support from legislation*. Unfortunately, instead of consolidating and mastering the expanding of the incriminating act, it tends to become more and more concessive. Fears related to the amplification of the incest phenomenon within the Romanian area are coined as naiveties by Cioclei, one of the authors of the new Criminal Code, who would find them insulting to the native inhabitants: „He who thinks of a «cohort» of brothers and sisters, of parents and children eagerly waiting for the legalisation of the incest, may have a problem himself. People practising the incest without victims place themselves outside society, and they are capable of feeling the public opprobrium, and they have the representation of the sin they are living in. Their punishment is their very deed and its burden”. Consequently the author questions himself: „is criminal penalty effective in such cases? Could people be stopped by the spectrum of penalty? Could they be restored by punishment? Could punishment stop them from persevering? The school, the civil society, the media and the church should fight with their own weapons against this evil. If to preserve the moral order, our only weapon is the criminal law, then the battle is almost lost” (Cioclei, 2009).

Conclusions

The argumentative logic driven by the author of the quoted article is subtle and captivating. At the same time, we find that the theme approached by him – the incest without victim – has not the gift of calming the spirits, on the contrary it incites, it criticises and it generates counter arguments. The larger their number is, the sooner they will understand that the incest act is a pathological reality to the Romanian society nowadays. Consequently, to ignore the social, moral, demographic, biological, juridical, etc. effects of the non-aggressive incest might mean a new test (we wonder how many we have already passed through) to the Romanian people, a test of unconsciousness or of social immaturity.

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