



**WORKSHOP ON THE DRAFT CSO BILL AND CIVIL
SOCIETY SELF-REGULATION INITIATIVES TO
STRENGTHEN THE SECTOR**

August 30, 2018

The event was sponsored by



**Venue: The Foster B. Pestaina Center,
Freeport, Grand Bahama**

Workshop on the draft CSO bill and civil society self-regulation initiatives to strengthen the sector

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Profound appreciation is due to Mark Palmer, Secretary, Civil Society Bahamas and Joseph Darville for their dedication to the coordination of this workshop.

Appreciation is also extended to Joseph Darville who opened the proceedings with a blessing. We thank our facilitator Mark Palmer, as well as Navitite Palmer who produced this report from a recording of the event.

Finally, and with profound gratitude, we thank the participants who made the time to be present and contribute to the collective work of civil society as we progress towards a strengthened sector and increased impact.

Shaun D. Ingraham
President Civil Society Bahamas
September 10, 2018

An electronic version of this document is available online at www.civilsocietybahamas.org

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LIST OF ACRONYMS

AG Attorney General
CARICOM Caribbean Community
CS Civil Society
CSB Civil Society Bahamas
CSO Civil Society Organization
CSOs Civil Society Organizations
BOD Board of Directors
HNI High Net Worth Individuals
ICT Information and Communication Technologies
IDB Inter-American Development Bank
ILO International Labour Organization
ORG Organization for Responsible Governance

OPENING PRAYER:

Joseph Darville - Save the Bays

WELCOME

Shaun Ingraham, President Civil Society Bahamas

Shaun welcomed the participants and thanked Joseph Darville for helping to organise the event.

He introduced One Eleuthera Foundation and spoke how it was important to have a vigorous Civil Society sector, and gave the example of how Civil Society is getting behind the Save Lighthouse Point campaign to support a new sustainable development paradigm for The Bahamas.

He asked how many people worked for a Non Profit Organisation and get paid. One hand went up.

How many people worked for a Non Profit Organisation and don't get paid? Most hands went up.

How many people here would like to work full time for a Non Profit Organisation and get paid? Almost all the hands went up.

Shaun explained that OEF was registered as a 501 3(c) company in the US in order that this company was responsible for raising funds for OEF. As a result, OEF had to start self-regulating. OEF Foundation adopted 6 Principles and 12 Standards. They had to register with GuideStar. Every nonprofit on Guidestar has to submit an annual report which documents things such as how much of the money is raised, how much money goes to programs and what the Executive Director makes. All this is to bring transparency and accountability to the sector.

The world is changing. Donors and angel investors are beginning to realise that the executive teams of nonprofits need to be paid. You can't expect them to run as volunteer organisations. Complex problems need complex solutions and to solve them you are going to have to pay the salaries of people to execute the programs. An angel investor wouldn't expect a for-profit company to execute its agenda with unpaid volunteers. Every business that starts has overheads and these overheads need to be paid in the first three years while the business gets off the ground, with the expectation that in year 4, the business is self-sustaining. It should not be any different for non-profits. At OEF our core budget is over 1 million dollars a year, as we employ 75 people in the organisation. OEF pays market rates and market salaries.

Another way things are changing, is that our poverty rates are going up. What is also going up is the numbers of high net worth individuals (HNIs). In a recent survey 66% of those HNIs said they would donate to a non

profit. So there exists a great opportunity to connect those HNIs, who live in Albany, Lyford Cay, Old Fort Bay etc. to non profits in The Bahamas.

Shaun asked the participants if any of them had heard of Dormant Funds. A few hands went up. Shaun explained that Dormant funds were unclaimed funds that financial services companies pay to the central bank and after a period of time those funds are remitted to the Treasury and then eventually into the Consolidated Fund. Shaun asked the participants if anyone knew what the figure was. He explained that the figure was 95 million dollars in 2016. He added that most developed countries had laws in place that those funds would be reinvested in charitable programs. We are hoping that part of the CSO Bill should speak to this and CSB is currently advocating for a similar plan to be enacted in The Bahamas. The interest alone each year would make a substantial difference to the sector. If we don't get together and do this, the money is just going to be lost in the Consolidated Fund.

Another factor driving donations in other countries is that donors can give a certain amount to charities each year and get a write off in taxes. This does not happen in the Bahamas. There are however many Bahamians that live and pay taxes in other countries who could be persuaded to give to projects in the Bahamas. This is an initiative that CSB is working on.

The CSO Bill is going to bring benefits to the sector. However, if we just leave it to the Government, they will create a bill that will stifle the sector and over-regulate us. So who can ensure this doesn't happen? We have to drive this Bill so that it is going to be a bill that stimulates the sector and does not stifle it, and that is why it is so important to get your feedback and input.

The civil society sector is currently weak and anemic compared to Government and the private sector. For us to play an important part in governance, we are going to have to get our house in order. That will require Government regulation, self-regulation as well as strengthening of our sector.

Last year 365 Billion dollars was invested by donors into the US non profit sector. Shaun asked how much was being invested in The Bahamas? The answer is that nobody knows. Nobody is tracking this at the moment. Nobody knows what the true impact of our sector is, and that is one of the projects that CSB is undertaking to find out by mapping the sector in the coming year.

Another issue is the strengthening of the Civil Society sector. OEF has been working with several partners in Eleuthera to strengthen them and graduate them. This year we expect to graduate another 5 social enterprises

in Eleuthera. CSB is committed to a strengthening CSOs island wide. OEF has also created a credit union to help provide seed capital to social enterprises, as traditional banks have not been very helpful. Shaun concluded his presentation by saying that he believed this is the model that should be replicated across The Bahamas. Shaun then introduced Mark Palmer.

Session I - Introduction, The CSO Draft Bill - Mark Palmer, Secretary of Civil Society Bahamas

Mark Palmer opened his presentation by asking the participants who had heard of CSB. Not many hands went up. Mark Palmer then presented a credentials presentation on CSB.

Who We Are

Civil Society Bahamas (CBS) is an umbrella organisation representing the interests of all the non-profit and non-governmental organisations in the Commonwealth of the Bahamas.

Civil Society Bahamas is a non-partisan, non-governmental, civil society organization which focuses on the betterment of individuals through improvement of their general social, economic, spiritual and mental welfare.

Our Membership

Civil Society Organisations (CSOs)

Civil Society Individuals

The Bahamas Christian Council

The Bahamas Chamber of Commerce and Employers Confederation

The Trade Union Congress

The National Congress of Trade Unions

The University of The Bahamas

CSB Governance

1/ Incorporated as a Non Profit Company in the Commonwealth of The Bahamas.

2/ Approved Bylaws, which govern its members and regulate its affairs.

3/ Board of Directors that meet monthly to determine policy.

4/ Members who meet three times a year to give feedback.

CSB Program Areas

1/ Capacity Building - CSOs must develop, implement and sustain their own solutions to problems. We will achieve this by:

- Building the skills and confidence of individuals and CSOs, and expanding the leadership base;

- Creating CSO clusters, incubation and acceleration; and
- Building civil society awareness and education.

2/ Governance & Participation- CSOs must demonstrate their legitimacy by becoming more transparent and accountable. We will achieve this by:

- Enacting a workable, effective and inclusive CSO Bill;
- Implementing a system of self-regulation;
- Establishing a code of conduct and ethics; and
- Establishing principles and standards for CSOs.

3/ Sustainable Development - CSB is committed to national development planning and the achievement of sustainable development goals (SDGs). We will achieve this by:

- Connecting CSOs to the SDGs;
- Affirming the importance of the National; Development Plan (NDP) as a catalyst for Government to achieve specific development goals; and
- Identifying and suggesting priorities for joint project implementation with Government.

CSB Strategic Focus

1/ To institutionalise and make operational the CARICOM consultative mechanism as enshrined in the Civil Society Charter and the Revised Treaty of Chaguaramas.

2/ To be a strategic convenor and coalition builder for trusted national and local CSOs and civil society.

3/ To facilitate capacity building and strengthening of CSOs.

4/ To be an advocate of civil society views and concerns on key issues and concerns.

5/ To build awareness and educate the civil society sector.

Key Objectives

1/ To promote an enabling environment for CSO activities and efforts.

2/ To strengthen capacitance, collaboration and sustainability among and of members CSOs and other partners.

3/ To strengthen capacity of CSB to deliver its objectives.

4/ To be the lead negotiating agent for CSOs with the government, the private sector, and international agencies.

Projects

- *3 Year Strategic Plan for CSB*

Civil Society Bahamas (CSB) is developing a 3 Year strategic plan to help it execute its mandate for civil society.

The plan will be completed by the end of 2018. The purpose of the plan will be threefold:

- 1/ Strengthen the civil society sector to facilitate its role in the accountability, sustainability and development effectiveness and impact in The Bahamas
- 2/ Strengthen CSB to make it an effective Umbrella Organization of the civil society sector
- 3/ To deepen and facilitate empowerment at the broadest level of the Bahamian society

- *Self Regulation*

A key project for CSB is the implementation of a self-regulation initiative for civil society promoting a set of values developed by civil society for civil society.

It is intended to influence the governance, behaviours and practices of participating organisations and are to be consistently applied.

- *Civil Society Registry*

Civil Society Bahamas is developing Civil Society Organisation Registry as part of a self-regulation initiative.

The plan will be completed by the end of 2018. The purpose of the CSO Registry will be threefold:

1. Strengthen civil society by encouraging CSOs to group into clusters and collaborate within sectors and clusters.
2. Strengthen civil society by creating awareness of its diversity to potential volunteers, directors and donors.
3. Create a central area for delivering training resources to CSOs and funnel donations to them from potential donors.

- *Enact draft CSO Bill*

CSB helped draft a CSO Bill to standardise, regularise and bring uniformity to the operations of CSO's operating in The Bahamas.

CSB is partnering with the Caribbean Policy Development Center (CPDC) to advocate for the enactment of this draft bill. A series of workshop consultations are taking place and an advocate in Government identified to help enact the bill. The CSO Bill has several benefits as follows:

1. Regulates an important sector;
2. Provides registered CSOs with rights and privileges;

3. The Secretariat will strengthen registered CSOs;
4. Civil society is recognised for the role it plays;
5. Creates a functioning tripartite partnership; and
6. Provides public accountability and public participation.

CSB Focus for the draft CSO Bill

To achieve legislation where:

- 1/ Independence of Civil Society is preserved;
- 2/ Power is shared and not concentrated in one institution;
- 3/ Consultation between Government and Civil Society is institutionalized;
- 4/ The voice of civil society is enhanced, not restricted;
- 5/ The draft Bill is practical and workable; and
- 6/ Civil society is invigorated as a result of enactment.

Participant Feedback

Commend the idea of the Registry. Genuinely do not know if similar organisations exists. Currently we have to do a lot of research to find that out. And there is bound to be duplication of programs and little opportunity to collaborate or share. Also commend the idea of clustering as this will also allow organisations in similar sectors to work better together. The other issue is that mapping of the sector will be important as we will be able to calculate the impact of civil society, as no one really knows the exact impact. If they can calculate that over \$300 Billion is contributed in the USA, we should be able to do it here too.

Session II - Feedback on Amendments to Bill Received To Date

Mark Palmer, Secretary of Civil Society Bahamas

PART 1 PRELIMINARY

CL 2 INTERPRETATION

There is currently no definition of Civil Society

“civil society organisation” means a diverse group of non-governmental, non-profit organisations established for charitable purposes whose aims and objectives manifest the interest and will of the citizens an organisation having the mission and attributes referred to in section 4;

CL 3 PURPOSE

The draft Bill is silent on CSO standards

(d) The Establishment of an Authority and/or Regulator to impose standards and best practices; to evaluate, promote and encourage the development of Civil Society Organisations.

(e) The Regulation of CSOs in order to, inter alia promote the observance and compliance of minimum standards to be observed by Civil Society Organisations in order to create transparency and accountability in their operations.

CL 3 PURPOSE

There is potential for duplication of regulation

There is already some form of regulation of NGOs at the moment (the incorporation and registration of NGOs). Does the draft Bill intend to seek to repeal Part VI of The Bahamas Companies Act 1992 and the Companies (Non-Profit) Regulations 2014, 2017 etc on incorporation and regulation of nonprofits? Or can the draft Bill adopt or be subject to some of regulatory provisions already in existence?

PART II MISSION, ATTRIBUTES AND TYPES OF CIVIL SOCIETY ORGANISATIONS

CL 4 CSO MISSION

Mission should be expanded

There should be a statement about the promotion of inclusion and equality.

Will Religious institutions also be included? If so, then maybe something that acknowledges a focus on spirituality and moral values.

CL 5 CSO ATTRIBUTES

Attributes could be dealt with elsewhere

The attributes of the CSO (Clause 5) should be removed from the body of the Bill and transposed to a Schedule (as Schedules are appropriately used in legislations for details, lists, forms etc.)

A civil society organisation may apply for registration in accordance with this Act and the regulations

What will be the relationship between CSO registration and NPO registration?

It seems unfair to require both if they are similar.

Can organizations achieve both with one registration?

The attributes of a CSO are too specific

This detracts from the overall provision and appears to be restrictive.

A general approach should be taken in defining the Attributes or alternatively include the phrase 'includes but is not limited to'.

Problematic attribute that allows CSOs to distribute surpluses

(e) where it engages in revenue generating activities, uses revenue generated principally in pursuit of its aims, objects and purposes and distributes profit or surplus to its founders, donors, directors, trustees, shareholders or members only incidentally as a by-product of its activities;

CL 6 CSO ATTRIBUTES

Types of registered civil society organisations

This is a good inclusive list and demonstrates the need for standards and criteria. How does this relate to entities that are already regulated? (schools, churches, foundations, NPOs, etc.) Do those regulations and registrations supersede these? Could CSO registration come automatically, once an organization is registered in another area?

PART III REGISTRATION OF CIVIL SOCIETY ORGANISATIONS

CL 7 Registrar

The purpose and function of Registrar are not defined

It is recommended to add a clause defining the roles of the Registrar and Deputy Registrar including their powers and functions in relation to the applications for registration (as submitted by the CSO).

CL 8 CSO REGISTRATION

There is no code of governance

There should be a requisite submission of a declaration or certification that pursuant to the Code of Governance of the CSOs the Board of Directors are fit and proper persons (certification/confirmation should include proof of background check, police record, cause list search

CL 9 REGISTRATION OF CSOs

The procedure for approval/rejection is sketchy

A further clause should be created to supplement Clause 9 outlining the manner in which the registration process is to be carried out; more specifically identifying timelines for the processing of registration applications and giving notification of refusal etc. (or e.g. 14 (days) to review and advise of objections or lack thereof) . This may encourage efficiency in the processing of applications at the very least.

The appeals process is through the Supreme Court

The draft Bill should include the establishment of an Appeals Board or Tribunal and its legal jurisdiction to address the concerns related to issues and grievances within the CSO sector. It is important, however, that the legal jurisdiction of this Board/Tribunal be established within the draft Bill and further particularizing the binding effect of its decisions.

CL 9 DUTIES OF CSOs

A CSO has no duties and obligations in relation to being a registered body or maintaining its registered status.

(i) MUST implement appropriate standards, policies and procedures internally governing and evaluating Legal and Public Disclosure responsibilities; Financial Control and Oversight; Responsible fundraising methods and Good Governance

(ii) MAY implement other appropriate policies and procedures giving consideration to the size and complexity of the organisations, but at all times MUST be adequate for the proper administration of the CSO.

(iii) Must submit to on-site examinations

(iv) Must appoint a compliance officer to oversee compliance.

PART IV MANAGEMENT AND ADMINISTRATION OF CIVIL SOCIETY ORGANISATIONS

CL 17 ROLE OF MINISTER

The Minister may limit access to Government

I think it, in best case, limits CSO's voice and access to other areas of Govt and in worst, puts us at the mercy of one public servant. I would recommend that the CSO act mandate that all areas of the government must effectively engage CSOs in key points of decision or legislation. This should have prescribed process and vetting procedure for selection of CSO participants. This is what is contained in the FOIA and gives maximum control and power to the public. This should be the case for CSOs.

The Minister's role is too wide

The Minister's role in relation to the subject clause should be limited and / or restricted to that which is listed in Clause 17 (6) and what should be listed as Clause 17 (7). There should be an independent body established by the Bill that deals with the internal management and administration of the CSOs.

CL 18 CIVIL SOCIETY SECRETARIAT

The role and function of the Secretariat is insufficiently defined

That in order to achieve a harmonious, effective and efficient relationship between the Authority for the CSO and the Minister; details concerning the Secretariat's role and function in relation to both parties should be sufficiently particularized.

PART V RIGHTS AND PRIVILEGES OF CIVIL SOCIETY ORGANISATIONS

CL 21 CSO PARTICIPATION

The CSO participation with Government takes place through the Minister.

This should be mandated for each section of government to have meaningful consultation and engagement of CSOs in key decisions, large contract decisions and legislation. There should be some funds allocated to support this effort. A more direct path for dialogue is simpler. CSOs need direct access to each relevant part of government and to be supported by the weight and number of the CSO sector or sub-sector

(3) A registered civil society organisation aggrieved by an act or omission by a Government entity in the participation procedure may challenge the legality of the act, omission or decision of the Government entity by way of judicial review to the Supreme Court.

This is an expensive process. Very few CSOs will have the capacity to do this.

PART VI ESTABLISHMENT OF BAHAMAS CIVIL SOCIETY UNITED AND CIVIL SOCIETY SECRETARIAT

CL 25 ESTABLISHMENT OF BCSU

The limitations of BCSU being a quasi-governmental entity

CSB maintains its primary effectiveness as an independent body. They could serve most of the described functions, but avoid the limitations of a quasi-governmental entity. I understand the value of a consistent budget and the structure to communicate with government. Government compliance with the act and CSO involvement can still be maintained with an independent sector effort and international pressure.

CL 25 ESTABLISHMENT OF BCSU

There is an existing apex body in CSB

CSB should be established as the Authority and be authorized by the Act to implement and impose standards on member CSOs. Therefore, the function of creating standards, a Code of Governance and a Code of Accountability and the overall regulation of the sector should be added to the functions of CSB. Where compliant CSB can issue Certificates of Good Standing or Certificates of Compliance. With these powers it would then create a self-regulating element and remain in the spirit of autonomy as envisioned. CSB can also implement a system of ongoing monitoring and conduct on-site visits and assessments to ensure continued compliance, advancement and development among the member CSOs.

CL 29 FUNCTION OF BCSU

BCSU to (d) as competent authority, be the clearinghouse for information passing from the Government and foreign nations, international organisations and foundations to civil society organisations in The Bahamas; and

I think this role is well intended, but could be used to restrict access for CSOs and prevents CSOs from being able to directly advocate and dialogue with relevant parts of government.

There is no role for BCSU implementing standards and guidelines for the sector

- (f) supervise compliance with the provisions of this Act;
- (g) to maintain surveillance over the civil society members and conduct on-site examinations;
- (h) to promote and encourage sound and prudent business practices;
- (i) to advise the Minister responsible for civil society matters;
- (j) to ensure that the provisions of the Financial Transactions Reporting Act, and other anti- money laundering legislation are being complied with; and
- (k) to do such other things as may be prescribed by this Act or any other written law.

PART VII MISCELLANEOUS

CL 31 POWER OF MINISTER

The Power of Minister to make regulations.

Regulations should be made by a task force comprised of government and independent representatives.

Standards should be based on CSB's independent efforts and the collective support of its membership.

CL 32 TRANSITIONAL PROVISIONS

The Registrar General shall act as the Registrar of Civil Society Organisations until such time as a Registrar is appointed in accordance with this Act.

The registrar general should maintain this role. It would ensure greater integration with the current registry of NGOs and businesses.

The Registrar General shall act as the Registrar of Civil Society Organisations until such time as a Registrar is appointed in accordance with this Act.

(2) The members of the first Board of Directors of BCSU shall —

(a) consist of the members of the board of Civil Society Bahamas, a non-governmental organisation incorporated under the laws of The Bahamas; and

(b) hold office for a period of one year, commencing from the date of the first general meeting of BCSU, and shall be eligible for re- election in accordance with section 26(1).

NEXT STEPS

- CONSULTATION - Data Collection from CSO sector
- SURVEY CSOs - WITH THE AMENDMENTS To Ascertain The Wishes Of The Sector
- GOVERNANCE COMMITTEE TO DRAFT CLAUSES To Present To The AG

Session III - Question & Answer Session

Clarification was sought on the comment that related to religious and moral issues. How do you reconcile religious dogma which may have an impact on other civil society organisations. Churches have their specific regulations regarding dogma, so how could they be part of civil society which goes contra their beliefs on homosexuality, individual rights such as women's rights etc. If we are going to include religious bodies, which are almost synonymous with political bodies, you should also include political parties in civil society. With the fundamentalist views that are so endemic in our society we are never going to create a progressive society. You are not going to get fundamental Christians to understand the concept of marital rape and the basic recognition of human rights of people. Mark palmer responded that CSB has its rules and its core values too. One of those core values speaks to human rights and gender equality. So, organisations with extreme views may not want to join CSB, because they would have to comply with CSB's rules and core values. The legalisation of marijuana is another issue that is quite polarised, so we will have to find a way to deal with such issues knowing that in a room you are going to have a spectrum of views.

Why does it take so long to register as a non profit? Why can't the regulations be more like the for profit sector where things are expedited faster. The Minister recently said that under fast track system, if you haven't heard from the Minister in two weeks, you can have temporary approval.

You cannot apply for a non profit registration in Grand Bahama. You have to go to Nassau, which is crazy. Why can't they have a way of doing it in the Family Islands. And why do you have to go to a lawyer. Why can't there be a simple template where you can go to the local Administrator and register your non profit. So registration is difficult. If you can't register you can't get a bank account either. This is a catch 22 situation with kills so many non profits in The Bahamas. In the USA you can open a bank account in 20 minutes. Why does it take 2 months in The Bahamas?

The other issue is that if you want to register as a non profit you have to go the Grand Bahama Port Authority and get a business licence. But we are not a business. The Port Authority didn't know how to deal with that. The Registrar said that we had to reserve a name and act like a church in the meantime, which did not make sense. In the end they said I had to go to Eight Mile Rock to see the Administrator there to circumvent the Port Authority rules. He agreed to help, submitted the paperwork and when I came back to see him, he had retired, so a few more years went by. In the end I had to get a lawyer and register in Nassau and I still haven't heard anything since. So after being in the nonprofit sector since 1988, I am technically still not legal. This needs to be cleaned up. It's too long to wait 18 months to 2 years. Can you imagine how long it will take when the Bill becomes enacted.

Why can't the non profit registration be done online?

CONCLUDING REMARKS

CSB is extremely grateful for the input received from the participants of the workshop. It is important to keep the momentum going and it is CSB's intention to set up a steering committee in Grand Bahama to be the eyes and ears of CSB on the ground.

We are committed to the Family Islands and It is CSB's intention to return to Grand Bahama soon and continue to help strengthen the local Civil Society sector and do what we can to encourage economic development on the island.

APPENDICES

I. Agenda

II. Participating Organizations

I. AGENDA



AGENDA

Workshop on the Draft CSO Bill and Civil Society Self Regulation Initiatives to strengthen the sector
Thursday 30 August, 2018
Foster B. Pestaina Centre, Pioneer's Way, Grand Bahama, The Bahamas

ITEM	
6:00 p.m. - 6:30 p.m.	Registration
6:30 p.m. - 6:35 p.m.	Opening Prayer: Joseph Darville - Save the Bays
6:35 p.m. - 7:15 p.m. SESSION I - Introductions, The CSO Draft Bill	Facilitator: Shaun Ingraham - President, Civil Society Bahamas
7:15 p.m. - 8:15 p.m. Session II - Feedback on Amendments to Bill Received To Date	Presenter: Mark Palmer - Secretary, Civil Society Bahamas
8:15 a.m. - 9:00 p.m. Session III - Question & Answer Session	Facilitator: Mark Palmer - Secretary, Civil Society Bahamas
9:00 p.m - 10:00 p.m. FELLOWSHIP and NETWORKING	

II. PARTICIPATING ORGANIZATIONS

Name	Organisation	Telephone	Email
Keturah Babb	Rotary International	375-7030	kbabb81@gmail.com
Ginger Moxey	700 Partners	727-2095	gmoxey@immersebahamas.com
R Wilchcombe		816-4623	rwilchcombe@gmail.com
Shavanthi Griffin-Longe	Solicitor	533-6522	karell.longe@gmail.com
Mark Palmer	Agape Foundation Bahamas	465-6763	markalexpalmer@gmail.com
Margaret Tatem-Gilbert	National Association of JPs	557-9719	lucyanlady@yahoo.com
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