

Social and Legal Determinants of Informal Marriages in Mananggu District

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Abstract:

The phenomenon of informal marriages in various regions of Indonesia, including Mananggu District in Boalemo Regency, continues to persist despite legal regulations that mandate marriage registration, as stipulated in Law No. 1 of 1974 in conjunction with Law No. 16 of 2019 concerning Marriage. This study aims to analyze the factors influencing the prevalence of unregistered marriages and examine the social and legal impacts from the perspective of legal sociology. The research method employed is an empirical legal approach with field studies, including in-depth interviews with community leaders, religious affairs office staff, couples involved in informal marriages, and secondary data analysis from regulations, legal literature, and previous research findings. The study finds that several key factors contribute to the high rate of informal marriages, including social factors (out-of-wedlock pregnancies, customary pressures, and religious legitimacy), cultural factors (the belief that a marriage is legitimate based on Islamic law without state registration), economic factors (administrative costs and access to transportation to the religious affairs office), and administrative factors (complexity of document processing). The impacts are significant, both legally and socially. Legally, the wife and children lose legal protection for basic rights such as maintenance, inheritance, and civil status. Socially, negative stigma, vulnerability to discrimination, and barriers to accessing education and public services arise. In conclusion, informal marriages present a multidimensional problem that requires legal, administrative, and social solutions to ensure the protection of citizens' rights.

Keywords: Informal Marriages; Legal Sociology; Legal Protection

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Introduction

Marriage is one of the fundamental social institutions that has been deeply rooted in human civilization since ancient times. In the context of Indonesian society, marriage is not only viewed as a biological bond between two individuals, but also as a sacred agreement that connects two extended families with all its social, cultural,

and legal complexities. As a country that upholds religious values, Indonesia views marriage as a sacred bond based on ethics and aesthetics rooted in ukhuwah basyariah (human brotherhood) and Islamiah, particularly for the majority Muslim population (Alifi and Munir 2021).

Marriage, from an Islamic perspective, is not merely understood as a legal contract, but as an act of worship that has profound spiritual dimensions. The main goal of marriage is to establish a harmonious, loving, and compassionate family life, as stated in religious teachings. This concept aligns with the function of marriage as a means to maintain dignity, protect against immoral acts, and preserve lineage within an organized and civilized environment. Furthermore, marriage plays a role in creating a good social-cultural order through a harmonious family management system.

From a legal standpoint, Indonesia has a comprehensive legal framework to regulate marriage. Law No. 1 of 1974 concerning Marriage, as the main foundation, has established various provisions on the conditions, procedures, and legal consequences of marriage. Specifically, Article 2(2) of this law firmly states that "Each marriage shall be recorded according to the applicable laws and regulations." This provision is further reinforced by the Compilation of Islamic Law (KHI) Article 5(1), which emphasizes that "In order to ensure orderly marriages for the Muslim community, each marriage must be registered."

The development of marriage regulations in Indonesia has undergone significant updates with the enactment of Law No. 16 of 2019 concerning Marriage. One of the fundamental changes is the establishment of the minimum age for marriage, which is set at 19 years for both men and women, as stated in Article 7(1). This policy aims to improve the quality of Indonesia's human resources, control the relatively high birth rate, and ensure children's rights are met, including providing opportunities for them to complete their education before entering marriage (Arisman 2021).

However, empirical reality shows a significant gap between "law in the books" and "law in action" in Indonesian society. The phenomenon of unregistered marriages, also known as "informal marriages," continues to occur in various regions. In legal sociology, the imbalance between written legal norms and legal practices in

society is a common phenomenon, yet it can undermine the capabilities and effectiveness of the law itself.

Informal marriages present a multidimensional legal problem. Although religious or customary perspectives may deem such marriages valid as they fulfill essential conditions such as the *ijab qabul* (marriage vows), the presence of both parties, a guardian, and two witnesses, from the state's legal perspective, these marriages lack legal standing due to the absence of registration and oversight by Marriage Registrar Officers (PPN). As a result, these marriages are considered legally nonexistent, leading to significant legal disadvantages, particularly for women (Bachmid 2019).

The legal disadvantages experienced by women in informal marriages are substantial and significant. Legally, women who are in unregistered marriages are not recognized as legal wives, thus lacking rights to maintenance, inheritance, and joint property in case of divorce. Moreover, socially, women in informal marriages often face difficulties in socializing, as they are frequently perceived as partners without official ties or even as mistresses, which leads to social stigma that is harmful to them.

This phenomenon is also closely related to the issue of polygamy that does not comply with legal procedures. According to Articles 4 and 9 of the Marriage Law, a husband wishing to marry more than one woman must obtain permission from the court with strict requirements, including the consent of the first wife, the ability to meet the needs of the wives and children, and assurance of fairness. However, in practice, there are cases where husbands conduct new marriages without seeking prior permission for polygamy, which becomes a separate legal issue (Fadli 2023).

In the theoretical context of legal sociology, the phenomenon of informal marriages can be analyzed through several perspectives. Lawrence M. Friedman's theory of legal effectiveness explains that the effectiveness of the law is determined by three main components: legal substance, legal structure, and legal culture. An imbalance between these components can result in the law not functioning as intended in society. Meanwhile, Soerjono Soekanto's theory of legal compliance emphasizes that community adherence to the law is influenced by several factors,

such as knowledge of the law, understanding of the law, attitudes towards the law, and legal behavior (Huda 2024).

Max Weber's social action theory is also relevant in understanding this phenomenon, as social actions within society in choosing informal marriage are influenced by traditional, affective, and instrumental rational values. In this case, society tends to prioritize practical and traditional considerations rather than adherence to formal state law.

Mananggu District in Boalemo Regency is one of the areas showing a high number of informal marriages. Empirical data collected from interviews with village heads and neighborhood heads in eight villages on December 13, 2024, shows that approximately 70% of marriages in this district are not officially recorded. This figure is concerning given the legal and social impacts (NUR HUDA 2024).

Data collected from 2020 to 2023 reveals varying patterns across different villages. Bendungan Village recorded the highest number of informal marriages, with a total of 14 cases over four years, peaking at 5 cases in 2022. Other villages such as Mananggu, Tabulo, Kramat, and Pontolo each recorded 10 cases, while Buti Village had 11 cases, Saililama Village 9 cases, and Tabulo Selatan Village 7 cases. This fluctuation indicates the complex factors influencing the phenomenon of informal marriages in the region.

Comparing this with other regions in Indonesia, it is clear that Mananggu is not an isolated case. Studies in Tanjung Limau Hamlet in Sapeken District and Pedamaran District in Ogan Komering Ilir Regency, South Sumatra, show similar phenomena with relatively similar contributing factors. This indicates that this issue is a national problem that requires comprehensive solutions.

Several key factors contributing to the high rate of informal marriages in Mananggu can be identified based on the socio-economic and geographic conditions of the region. First, socio-cultural pressures where the community places greater importance on customary marriage rites than on formal state procedures. This paradigm is deeply rooted in local values, where marriages that have been carried out according to custom and religion are deemed sufficient without involving state bureaucracy (Pura and Faridah 2020).

Second, limited access to administrative services becomes a significant obstacle. As a relatively remote area, the people of Mananggu face difficulties accessing marriage registration services at the Religious Affairs Office (KUA) or civil registry. The lack of information regarding marriage registration procedures, long travel distances, and limited transportation options create practical barriers that lead people to choose the shortcut of informal marriage.

Third, economic factors play a crucial role. The cost of conducting a formal marriage, including administrative fees, transportation to KUA, and required documents, is often a heavy burden for people with limited economic means. This prompts couples to marry simply without engaging in formal bureaucratic procedures.

Fourth, and most dominant, are marriages due to out-of-wedlock pregnancies. In some cases, couples experiencing pregnancy before marriage opt for informal marriage to avoid social stigma and legal consequences. They usually perform the marriage according to custom or religion first but do not immediately register it officially due to social and psychological considerations.

The consequences of this phenomenon are severe and multidimensional. Couples who marry informally lack adequate legal protection, particularly regarding inheritance rights, child custody, access to healthcare services related to marital status, and other civil rights. Children born from unregistered marriages also face difficulties regarding their legal status and access to various public services. Specifically, children from informal marriages only have civil relations with their mother and her family, as stipulated in the Constitutional Court Decision No. 46/PUU-VIII/2010 (Safira et al. 2021).

The long-term impact of this phenomenon on national development should not be overlooked. Unregistered marriages may hinder government programs in population, reproductive health, and child protection sectors. Data shows that Indonesia ranks second in ASEAN and eighth globally in terms of child marriages, with about 1.2 million cases recorded. The prevalence of child marriage in rural areas reached 16.87% in 2018, much higher than in urban areas, which was only 7.15%.

The phenomenon of informal marriages in Mananggu District, Boalemo Regency, reflects the complexity of the interaction between formal legal norms and

social-cultural realities in society. In this context, a legal sociology approach is highly relevant to understand the dynamics at play. Legal sociology does not only study law as a system of norms in itself but also analyzes how the law interacts with social structures, cultural values, and empirical conditions in society (Subarman 2013).

The urgency of this research is further reinforced by the principle "ubi societas ibi ius," which states that where there is society, there is law. However, in the case of informal marriages, there is tension between state law and the law living in society. In-depth research into the factors influencing this phenomenon is expected to contribute theoretically to the development of legal sociology and provide practical recommendations for formulating more effective policies.

Therefore, research on the factors influencing the prevalence of informal marriages from a legal sociology perspective in Mananggu District, Boalemo Regency, is crucial and urgent. This study is expected to uncover the underlying problems, identify the dominant factors contributing to this phenomenon, and formulate appropriate policy recommendations to comprehensively and sustainably address the issue, ensuring legal certainty and protection of citizens' rights.

Method

This research uses an empirical juridical method with a legal sociology approach, which is a type of legal research that not only relies on written norms (law in the book) but also examines how the law is implemented in society (law in action) (Juliardi et al. 2023). This approach is chosen because the phenomenon of informal marriages in Mananggu District, Boalemo Regency, cannot be understood solely from a normative perspective but must be analyzed through the social, cultural, and economic practices of the local community. The research data is obtained from two main sources: primary and secondary data. Primary data is gathered through in-depth interviews with village officials, religious leaders, community figures, couples who have entered into informal marriages, and Marriage Registrar Officers (PPN) at the local Religious Affairs Office. Secondary data is collected through literature review, which includes the examination of regulations, the Compilation of Islamic Law (KHI), court decisions, as well as academic literature such as journals, books, and previous research. The analysis technique used is qualitative analysis, which involves processing the data collected and then describing it systematically to identify

the factors contributing to the high rate of informal marriages and analyzing these factors within the framework of legal sociology theory. Through this method, it is expected that the research will provide a comprehensive picture of the gap between normative law and social reality in Mananggu District.

Factors Contributing to the Prevalence of Informal Marriages

The phenomenon of informal marriages in Mananggu District, Boalemo Regency, is a complex social and legal issue that arises from the interaction of various interrelated factors, including social, cultural, economic, and administrative aspects. Although national regulations emphasize the obligation of marriage registration as stated in Law No. 1 of 1974 in conjunction with Law No. 16 of 2019 and the Compilation of Islamic Law (KHI), the practices observed in society reveal a significant gap between normative rules (law in the book) and actual practices (law in action). This gap becomes more apparent when the high rate of informal marriages in Mananggu District, reaching approximately 70%, demonstrates that the formal legal system has not fully addressed the needs, values, and social conditions of the local community. This phenomenon is intriguing to study further because, at an empirical level, law does not only function as written instruments but also must be understood in terms of how it is accepted, adhered to, and internalized in community life (Alfin and Busyro 2017).

Socially, informal marriages are often seen as a quick and instant solution for couples facing urgent situations or certain pressures, the most dominant of which is out-of-wedlock pregnancies. In rural communities like Mananggu, premarital pregnancies are still considered a significant shame, not only for the individual woman but also for the honor of the extended family. A girl who becomes pregnant before marriage is seen as bringing dishonor to her family, leading the families of both parties to prefer a quick resolution to legalize the relationship according to religious customs, through a simple marriage ceremony involving a guardian, witnesses, and a local religious leader. In such cases, the registration process at the Religious Affairs Office (KUA) becomes secondary, often considered burdensome due to the time it takes and the increased risk of the event becoming widely known, which adds to the shame. This viewpoint illustrates how social norms often exert stronger pressure on individuals than formal legal obligations.

In addition to pregnancy, other social factors such as social prestige and the fear of committing zina (forbidden sexual acts) play a role. Many couples in rural areas choose informal marriages to protect themselves from actions prohibited by religion, feeling more at ease after performing the marriage vows, even if not officially registered. In this case, psychological comfort and moral legitimacy within society are prioritized over legal certainty from the state. Thus, this practice arises not solely due to a rejection of state law, but because of pressing needs that cannot be accommodated by the law's more prolonged formal procedures (Amrin 2024).

Cultural factors also play a significant role in strengthening the practice of informal marriages. The community in Mananggu District generally adheres to strong traditional and religious values. From an Islamic perspective, the legitimacy of marriage is determined by the fulfillment of marriage conditions, such as the presence of the bride and groom, a guardian, two witnesses, and the ijab qabul (marriage vows). When these elements are fulfilled, the marriage is considered valid in the eyes of religion. This view provides a strong foundation for the community to believe that state registration is merely an administrative matter and does not affect the religious legitimacy of a marriage. This belief is further reinforced by stories and experiences from older generations, who recall that marriages in the past were often conducted without registration but still went on harmoniously. This historical legitimacy has led to the collective belief that registration is not an absolute requirement but rather optional (Hardiansyah and Febrianti 2024).

Traditional customs also significantly influence societal perceptions. In local culture, the walimah (wedding feast or celebration) is considered the official announcement to the public that a marriage has taken place between two individuals. After the walimah, the couple is considered socially legitimate, accepted by the community, and no longer questioned. In other words, social legitimacy is prioritized over administrative legitimacy. With the social acceptance following the walimah, the community feels there is no further need to spend time, effort, and money on state registration. In this context, the walimah serves as a cultural legitimacy tool that shifts the urgency of formal legal registration.

Aside from social and cultural factors, economic problems cannot be overlooked. Mananggu District is an area where the majority of the population is engaged in agriculture, fishing, or other informal occupations, with relatively low income levels.

In such conditions, the cost of an official marriage is considered too high, even though the administrative costs for marriage registration at the KUA are not burdensome by normative standards. However, for the lower-income community, additional costs such as transportation to the KUA, fees for additional documents, and lost work time become significant obstacles. For farmers or fishermen who rely on daily earnings, leaving their jobs to handle the paperwork is seen as detrimental to the family. With this pragmatic mindset, informal marriage is ultimately considered a solution that is economical, quick, and hassle-free (Islam 2021).

Administrative barriers also have a significant impact on the prevalence of unregistered marriages in this area. Access to the Religious Affairs Office is limited, creating a unique problem for the rural population of Mananggu. The long distance between villages and the KUA office, along with inadequate road infrastructure, makes the public reluctant to go through the formal administrative process. Additionally, many families lack complete civil registration documents, such as birth certificates, family cards, or valid ID cards. To complete these documents, they must go through a layered bureaucracy that is exhausting, time-consuming, and costly. Bad experiences with public services, such as slow service, insufficient staff during working hours, or constantly changing document requirements, reinforce the perception that the process of official marriage registration is difficult and unwelcoming. These administrative barriers further encourage the community to seek an alternative, more practical route choosing to marry informally.

Low public knowledge about the importance of marriage registration also plays a major role. The lack of education and insufficient socialization has led the community to misunderstand the legal consequences of unregistered marriages. They are unaware of the risks, such as the fact that a wife in an informal marriage has no legal right to maintenance, inheritance, or joint property when divorce occurs. Children born from informal marriages also face legal status issues, as, according to positive law, children from unregistered marriages only have civil relationships with their mother and her family. This lack of awareness leads the community to perceive no issue with informal marriages, as they view the legitimacy of the marriage only from a religious perspective, while the legal consequences of the state's law are rarely considered (Mashuri 2023).

The interaction of these factors creates a cycle that reinforces the prevalence of this practice. With limited economic conditions, the community finds it difficult to access adequate education, resulting in a low level of legal understanding. This lack of legal knowledge makes them unaware of the importance of registration, and because they culturally and traditionally feel the marriage is valid, informal marriages continue to occur. Simultaneously, the inaccessibility of administrative services further strengthens the community's choice to ignore registration. With strong social and religious legitimacy, the community feels no need for additional validation from the state.

From the perspective of legal sociology theory, this phenomenon shows the imbalance between legal substance, legal structure, and the legal culture of the community, as described by Lawrence Friedman. The substance of Indonesian law clearly states that marriages must be registered for legal certainty. The legal structure, in the form of the KUA as the marriage registrar institution, is also present, although it is limited in terms of service and accessibility. However, the legal culture of the community has not aligned with the legal substance and structure. For the people of Mananggu, the value they hold most is religious, customary, and social legitimacy, rather than the administrative requirements of the state. This imbalance is what causes the law to be ineffective (Fachrur, n.d.).

In other words, the issue of informal marriages is not solely a matter of legal non-compliance but rather a misalignment between state legal norms and the social and cultural norms of the community. This phenomenon proves the classic legal sociology adage that law cannot exist as a mere statutory text but must be understood in the context of the social life it governs. A good law is one that "lives" and can address the practical issues of society. Therefore, solving the issue of informal marriages requires a more holistic approach: in addition to law enforcement, practical solutions are needed to address economic and administrative barriers, as well as more intensive legal socialization that takes into account the cultural and religious values of the local community. Only with such an approach can the gap between law in the book and law in action be narrowed, and the effectiveness of marriage law in Indonesia be realized.

Legal and Social Impacts of Informal Marriages

The legal and social impacts of informal marriages in Mananggu District, Boalemo Regency, have wide and complex dimensions, affecting not only the formal legal aspects but also seriously impacting the social, economic, and psychological lives of the individuals involved. From the perspective of Indonesian positive law, informal marriages, or marriages not registered by Marriage Registrar Officers (PPN), lack binding legal power before the state. This means that although the marriage is considered valid under Islamic law as it fulfills the required conditions, from the state's legal standpoint, the marriage is deemed nonexistent. The most fundamental legal consequence is the loss of legal protection for those involved, especially women and children born from such marriages. Women who are considered wives in informal marriages do not have a clear legal standing when facing various domestic issues, including domestic violence, economic neglect, or unilateral divorce by the husband (Fikri 2016).

When divorce or domestic disputes occur, women from informal marriages have no legal foundation to claim maintenance from their ex-husbands. Unlike women in legally registered marriages, who are protected by the Marriage Law and can file for maintenance through the Religious Court, women from informal marriages do not have access to this legal protection. They also cannot claim joint property acquired during the marriage, because their marriage is not recognized legally, and thus, there is no legal basis for dividing joint property. Worse still, they have no inheritance rights from their husband's estate when he passes away. In the Islamic inheritance system, which has been codified in the Compilation of Islamic Law, a wife's inheritance rights are only recognized if the marriage is officially registered. Without proof of a valid marriage, the woman cannot claim her rights as an heir, often resulting in her husband's estate being passed on to his extended family or children from other wives whose marriages are officially registered (Hidayah 2024).

A similarly serious legal consequence is the status of children born from informal marriages. According to the Constitutional Court Decision No. 46/PUU-VIII/2010, children born from unregistered marriages only have civil relationships with their mother and her family. Although this decision offers some protection by acknowledging the civil relationship with the biological father if proven through science and technology, this is often difficult to implement because it requires substantial costs and complicated legal processes. As a result, these children have no

inheritance rights from their father, cannot legally use their father's surname, and face difficulties with various administrative matters. When they grow up and want to marry, they will encounter problems in determining a marriage guardian, as they have no legal relationship with their biological father (HUDA, n.d.).

From the perspective of civil registration, children from informal marriages experience significant difficulties in obtaining identity documents. Their birth certificates only list the mother's name, leading to social stigma and discrimination. When they want to continue their education, apply for jobs, or process various other important documents, their status as children of unregistered marriages often becomes a bureaucratic barrier. Some educational institutions or workplaces still practice discrimination against children with such status, despite it contradicting the non-discrimination principle guaranteed in the constitution.

The social impacts of informal marriages are also highly complex and detrimental, particularly for women. In a patriarchal and conservative society like Mananggu, women in informal marriages often face ongoing negative stigma. They are seen as lacking a clear status in society, frequently labeled as "mistresses" or "loose women" who violate the moral values of the community. This stigma not only affects the women involved but also extends to their children, creating long-lasting social discrimination. In various community social events, women from informal marriages are often treated differently, excluded from decision-making processes, or even ostracized from certain social activities (HULU, n.d.).

The psychological pressure faced by women in informal marriages is intense. The uncertainty of their legal status creates ongoing anxiety because they lack legal guarantees when facing domestic issues. This feeling of insecurity is exacerbated by the awareness that their husbands can easily abandon them without significant legal consequences. Unlike women in officially registered marriages, who can file for divorce and claim their rights through court, women from informal marriages do not have access to this legal protection. This situation often forces them to remain in unhealthy relationships or even endure domestic violence because they feel they have no other options.

Children born from informal marriages also suffer from serious psychological impacts. The social stigma attached to their status creates feelings of inferiority,

especially when interacting with peers who have legally recognized statuses. In school environments, they are often the subject of teasing or discrimination, which negatively affects their academic performance and personal development. As they grow older, this psychological trauma can affect their ability to build healthy social relationships and achieve their full potential in life (Nayla 2020).

The economic impacts of informal marriages cannot be ignored either. Women from informal marriages often experience high economic dependence on their husbands, as they do not have legal protection to claim maintenance if abandoned. When their husbands die or leave the family, these women and their children often fall into poverty because they lack access to inheritance or social security related to their marital status. They also face difficulties accessing various government assistance programs that require proof of legal marriage, such as family welfare programs, educational assistance, or family health insurance.

In the long term, the impacts of informal marriages can create a cycle of poverty that is difficult to break. Children from unregistered marriages who face discrimination in education and employment opportunities tend to have limited economic prospects. When they grow up and start families, they may repeat the same pattern due to limited knowledge and access to legal services. This creates a generation that continues to be marginalized and unprotected by the law (Rahman 2021).

This phenomenon also impacts the legal and administrative system of the state as a whole. The high number of informal marriages leads to inaccurate population data, which affects development planning and budget allocation for various social programs. When a significant portion of marriages is not registered, the government faces difficulties in mapping community needs and allocating resources effectively.

From the perspective of legal sociology, the impact of informal marriages shows how ineffective law can create systemic social injustice. John Rawls' theory of justice emphasizes that just social institutions must provide equal protection for all citizens. When part of society is not protected by the law because their marriages are unregistered, systemic injustice occurs, which can erode social cohesion (Ramadhan 2024).

This condition demonstrates that informal marriages are not merely an administrative issue or procedural violation, but a problem that causes long-lasting social, economic, and psychological harm. These impacts are not only felt by the individuals involved but also by future generations and society as a whole. Therefore, comprehensive and sustainable efforts are needed to address the root causes of informal marriages, including improvements in administrative services, increased legal awareness in the community, strengthened social protection, and regulatory reforms that are more responsive to the needs of the people, so that every citizen can enjoy equal and dignified legal protection.

Conclusion

The overall discussion regarding the phenomenon of informal marriages in Mananggu District, Boalemo Regency, reveals a significant gap between state law and social practices within the community. From a normative perspective, the Marriage Law, the Compilation of Islamic Law (KHI), and related regulations have firmly mandated marriage registration as a requirement to ensure legal certainty and protection for the husband, wife, and children. However, empirical reality shows that many people still engage in informal marriages due to various structural and cultural factors. Social factors, such as the pressure to quickly marry couples with out-of-wedlock pregnancies, cultural views that emphasize religious legitimacy over state registration, and social legitimacy gained through the walimah (wedding feast), lead to the perception that state registration is unnecessary. Economic factors further reinforce this perspective, as administrative fees, transportation costs, and lost work time are seen as burdensome for rural communities. Administrative barriers and limited access to the Religious Affairs Office (KUA) add to the difficulties, while limited legal knowledge leaves the community unaware of the risks and legal consequences of unregistered marriages. As a result, women and children become the most disadvantaged groups. Wives lack legal rights to maintenance, inheritance, and joint property, while children face social stigma and difficulty obtaining legal identity. On the other hand, the state loses the accuracy of population data, which should serve as the basis for development planning. Therefore, this phenomenon cannot be viewed solely as an administrative legal issue but as a social-legal problem that requires comprehensive solutions, including improvements in service systems, legal education, strengthening cultural values aligned with state law, and affirmative

policies that can protect vulnerable groups, ensuring that all citizens receive legal certainty and equal justice.

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