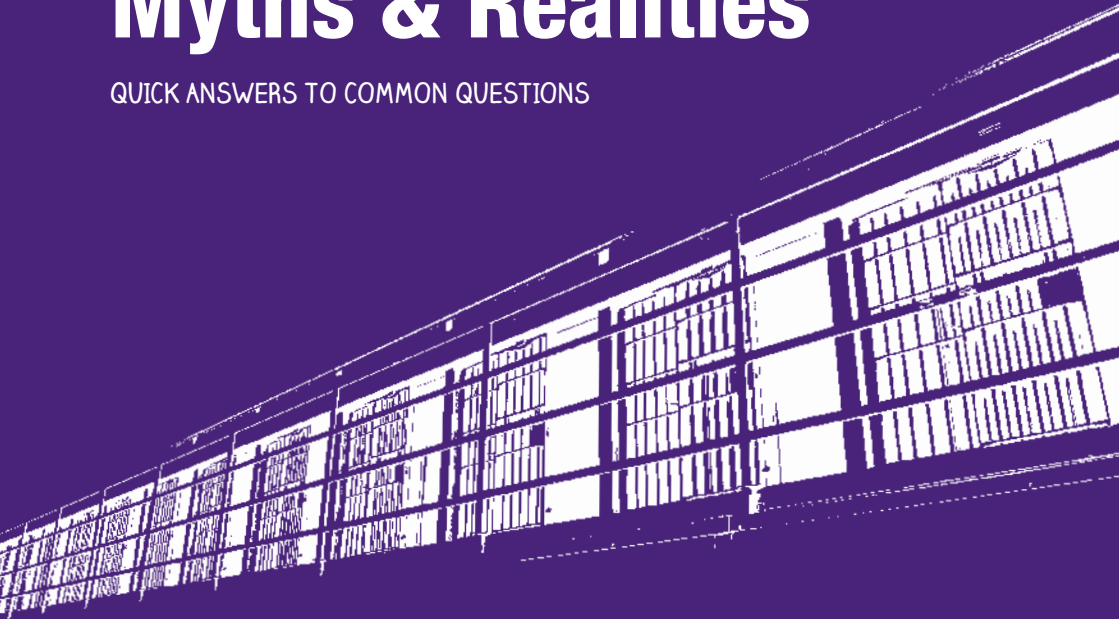
THE DEATH PENALTY

Myths & Realities

QUICK ANSWERS TO COMMON QUESTIONS



The Death Penalty: Myths & Realities

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THE DEATH PENALTY

Myths & Realities

QUICK ANSWERS TO COMMON QUESTIONS

MYTH 01

"THE DEATH PENALTY KEEPS SOCIETIES SAFER."

BASIS OF BELIEF

"WHEN THERE ARE HARSH SENTENCES FOR CRIMES, PEOPLE WILL NOT COMMIT THEM."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

THE DEATH PENALTY DOESN'T KEEP PEOPLE SAFER THAN OTHER SENTENCES.

No reliable research has found that death sentences prevent people from committing crimes more than other punishments. Many countries without the death penalty have lower murder rates than those that keep it. For example, in Canada, the murder rate in 2003 (27 years after the death penalty was abolished) was 44 per cent lower than in 1975 (before abolition).

The main thing that stops people from committing crimes is a belief that they will be caught. Therefore, increasing the chance of arrest is more effective than having severe penalties like execution.

Many crimes are committed in the heat of the moment, or under the influence of drugs or alcohol.

REALITY

THE DEATH PENALTY DOESN'T KEEP PEOPLE SAFER THAN OTHER SENTENCES.

In these cases, it is very unlikely that offenders will be influenced by potential punishments.

Far from making societies safer, the death penalty has been shown to have a brutalising effect on society. State sanctioned killing endorses the use of force and continues the cycle of violence.

In terrorism cases, executions can create 'martyrs' and become a rallying point for their organisations, encouraging more attacks and continuing the cycle of violence. People prepared to sacrifice their lives for their beliefs – for example, suicide bombers – are unlikely to be put off by execution: it may even encourage them.

MYTH 02

"DNA EVIDENCE MEANS INNOCENT PEOPLE WON'T BE EXECUTED."

BASIS OF BELIEF

"MODERN (FORENSIC) EVIDENCE-GATHERING IS SO ACCURATE THAT WE KNOW WHO COMMITTED THE CRIME."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

YOU CAN NEVER BE 100% SURE YOU'RE KILLING THE RIGHT PERSON.

Forensic evidence includes DNA testing, ballistics, blood typing, fingerprinting, comparison of fibres, footprints or bite marks, forensic toxicology and forensic chemistry. It is a key source of physical evidence for identifying who is guilty and who is innocent. However, it is not infallible.

The equipment used to gather forensic evidence, particularly DNA, is expensive, and people doing it need to be trained how to collect evidence without contamination. Equipment and training are not available in many countries.

Forensic evidence can be contaminated through improper handling or storage, or fabricated by planting fake evidence at crime scenes or even

manufacturing fake DNA in a laboratory. Forensic evidence can also be inaccurately presented in court. This is exacerbated by the fact that justice systems are not perfect and in many countries can be inefficient or even corrupt. Courts may not be independent, torture may be used to gather evidence (especially false confessions), juries may be interfered with (by trying to change who is on the jury or what they decide), and appeals may only look at whether court procedures were followed, not the facts of the case.

Forensic evidence can help stop innocent people from being executed: since 1976, over 150 people in the USA have been released from death row with evidence of their innocence. But the death penalty is irrevocable and human error or discrimination means there is always a risk that the innocent will be sentenced to death.

REALITY

YOU CAN NEVER BE 100% SURE YOU'RE KILLING THE RIGHT PERSON.

MYTH 03

"PEOPLE WHO COMMIT AWFUL CRIMES DESERVE TO BE EXECUTED."

BASIS OF BELIEF

"THE PUNISHMENT SHOULD MATCH THE CRIME - SOME CRIMES ARE SO EVIL, ONLY DEATH IS APPROPRIATE."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

NOBODY CAN SAY WHO DESERVES TO DIE.

This argument is partly about beliefs, which can't be changed or challenged in the same way as facts. However, some beliefs are based on incorrect ideas.

Some people believe in retribution and vengeance – that there should be punishment, regardless of how helpful or effective it is. But if you want punishment for other reasons, such as protecting society, deterring others from committing crimes, or reforming offenders to become law-abiding members of society, you don't need the death penalty to do this.

Often people want a death sentence because they feel so strongly about how awful the crime was. But actually, what people would most like in that situation is for the crime (and the hurt it

caused) never to have happened. Obviously this is impossible, but there can be responses that prevent or limit further harm being done to anyone. Repeating terrible actions in retribution doesn't make them better or any more right.

It is not true that only evil people commit terrible offences. While a person's past experiences do not justify crimes like murder, many death-sentenced prisoners have themselves suffered terrible physical and mental abuse, and many have mental health problems as a result.

Human rights are there to protect everyone, no matter what you have done. They have at their core the right to life, which should not be taken away from anyone regardless of the crimes they have committed. The International Criminal Court, which prosecutes people for the worst offences like war crimes and genocide, does not have the death penalty as one of its punishments.

REALITY

NOBODY CAN SAY WHO DESERVES TO DIE.

MYTH 04

"THERE ARE HUMANE WAYS TO EXECUTE A PERSON."

BASIS OF BELIEF

"THERE ARE MANY WAYS TO END A HUMAN LIFE AND SOME OF THEM ARE QUICK AND PAINLESS."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

YOU CAN'T EXECUTE SOMEONE WITHOUT THEM SUFFERING.

Execution methods include hanging, electrocution, shooting, beheading, lethal injection, stoning and gas asphyxiation. All involve a deliberate assault on a prisoner and cause suffering. Even when execution is quick, it cannot be kind or humane.

Lethal injection is sometimes seen as the 'kindest' or most humane execution method. Unlike other methods, there are normally no visible side effects (no bleeding, burning etc). However, it can cause intense pain, especially if things go wrong and the drugs do not work or are not administered properly. Also, when governments seek to find a more 'humane' way of killing people, they may be doing so less for the prisoner themselves, and more to make executions less upsetting for the people carrying out the killing and the public in whose

name the execution is carried out, or perhaps to improve their own human rights standing.

The suffering is not only about the minutes when prisoners are actually killed; they live with the fear of approaching death from the moment the sentence is passed. Prisoners on death row spend an enormous amount of time anticipating their own execution, frequently in worse conditions than other prisoners. The combination of time on death row, extremely harsh conditions and the mounting anguish of awaiting execution is called 'death row phenomenon' and can cause severe mental trauma and physical damage. Even if you think people deserve to die for some crimes, they are not sentenced to become mentally ill and then be killed. Moreover, the prisoner's children and family members are also traumatised by seeing their parent or relative deteriorating on death row. They haven't committed any crimes themselves and shouldn't suffer for somebody else's crime.

REALITY

YOU CAN'T EXECUTE SOMEONE WITHOUT THEM SUFFERING.

MYTH 05

"PEOPLE SENTENCED TO DEATH HAVE COMMITTED THE WORST CRIMES."

BASIS OF BELIEF

"AS THE MOST SEVERE PUNISHMENT, THE DEATH PENALTY IS USED FOR THE WORST CRIMES."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

DEATH SENTENCES ARE GIVEN FOR MANY CRIMES, NOT JUST THE WORST.

All sorts of crimes carry the death penalty somewhere in the world. Different countries execute people for crimes including: murder, terrorism (whether or not anyone was attacked or killed), drug trafficking, drug possession, rape, robbery, arson, kidnapping, smuggling, fraud, selling hazardous food, corruption, treason, espionage and prison escape. Are these all the most serious crimes?

Some countries even execute people for acts such as apostasy (abandoning your religion), sex between unmarried people (adultery), homosexuality, surrender by soldiers, and sorcery. Are these even crimes at all?

REALITY

DEATH SENTENCES ARE GIVEN FOR MANY CRIMES, NOT JUST THE WORST.

The world's governments have agreed that the 'most serious offences' means only those with 'lethal or other extremely grave consequences'. In recent years, various United Nations experts have said that only intentional killing (murder) should be thought of as most serious.

Governments sometimes introduce the death penalty for a crime after a particular case is widely reported. Their motive often is to show that 'something is being done', rather than because it is the most serious type of crime or because they (actually) believe it will prevent future crime.

MYTH 06

"THE DEATH PENALTY IS APPLIED FAIRLY."

BASIS OF BELIEF

"THE LAW TREATS PEOPLE EQUALLY AND DOESN'T DISCRIMINATE."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

PEOPLE WHO ARE POOR, MENTALLY ILL OR FROM A MINORITY ARE MORE LIKELY TO GET A DEATH SENTENCE.

People who are poor, mentally ill, or members of ethnic or religious minorities are more likely to get the death penalty. The death penalty can also be used to silence political opponents or ‘troublesome’ individuals, like those who speak out against the government.

Poor people find it harder to afford a lawyer, which makes it more likely that they will receive a death sentence.

REALITY

If legal aid (the government paying for a lawyer) is available, it is often very limited, or the lawyers may do a bad job because they have heavy caseloads, low salaries, poor working conditions, or are just not well trained or experienced.

Whether or not they realise it, judges and juries can be prejudiced against people from minority groups and more likely to believe they are guilty. People from these groups are often more likely to be arrested in the first place.

People with mental health problems may not be able to properly instruct their lawyers, particularly if their mental health issues are not recognised.

PEOPLE WHO ARE POOR, MENTALLY ILL OR FROM A MINORITY ARE MORE LIKELY TO GET A DEATH SENTENCE.

MYTH 07

"VICTIMS AND THEIR LOVED ONES ARE IN FAVOUR OF THE DEATH PENALTY."

BASIS OF BELIEF

"THEY HAVE BEEN MORE AFFECTED, SO WE SHOULD DO WHAT THEY WANT; EXECUTIONS HELP VICTIMS' FAMILIES."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

SOME VICTIMS AND THEIR FAMILIES SUPPORT THE DEATH PENALTY, SOME OPPOSE IT.

Supporters of the death penalty often say they are doing it for the victims, who have a right to see justice carried out through execution. But many victims, and in murder cases their families, oppose the death penalty.

Execution ‘for the victims’ encourages the idea that justice is about revenge and retribution, rather than deterrence, rehabilitation or public safety. Being a victim of serious crime creates a lot of suffering, upset and anger towards the offender, but this cannot justify cruelty towards the offender and his/her family.

REALITY

SOME VICTIMS AND THEIR FAMILIES SUPPORT THE DEATH PENALTY, SOME OPPOSE IT.

Many victims and their families find that an execution does not bring closure. The death penalty prolongs their suffering as they wait through appeal processes that can last years or decades. Death penalty trials have high media interest and the dignity of the victim can suffer in the reporting. The pain often remains after the execution, because it doesn't undo the harm of the crime.

The death penalty also creates additional victims – the family members and other loved ones of the person executed. When an individual is executed, little thought is given to the suffering or support of their families, who are often forgotten, marginalised or stigmatised in their communities.

MYTH 08

"THE PUBLIC WANTS THE DEATH PENALTY."

BASIS OF BELIEF

"GOVERNMENTS SHOULD DO WHAT THE MAJORITY OF PEOPLE WANT."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

THE PUBLIC CAN BE ILL INFORMED AND GOVERNMENTS OFTEN USE PUBLIC OPINION ONLY WHEN IT SUITS THEM.

Governments that keep the death penalty often claim that public opinion favours the death penalty, so therefore they cannot abolish it. However, the right to life is fundamental, and cannot be held hostage to public opinion.

Levels of public support for the death penalty change and tend to fluctuate: when a particularly horrible crime is in the media, death penalty support goes up; when a wrongful conviction is exposed or a citizen is sentenced to death abroad, support for abolition increases. It has been shown that the more people are aware of the facts, the less likely they are to support the death penalty. When people are shown that their reasons for supporting the death penalty (e.g. it stops violent

crime) are incorrect, they often change their mind. Moreover, opinion poll questions are easy to manipulate, and the wording of questions, or the order in which they are asked, influences people's answers.

Most governments that keep the death penalty don't give out information about it; some even make it a criminal offence to release such data. If the death penalty is considered legitimate, then why do governments hide simple facts about it?

Governments have a duty to *all* their people. This means they should protect any and all of their citizens from facing an extreme and irreversible punishment, even if most of the public seems to want it. Governments should lead public opinion in matters of human rights and criminal policy. Governments usually abolish the death penalty in the face of public opposition, but when they do, there is usually no great public outcry and it almost always remains abolished.

REALITY

THE PUBLIC CAN BE ILL INFORMED AND GOVERNMENTS OFTEN USE PUBLIC OPINION ONLY WHEN IT SUITS THEM.

MYTH 09

"OPPOSING THE DEATH PENALTY MEANS YOU'RE SOFT ON CRIME."

BASIS OF BELIEF

"STRONGER PUNISHMENTS FOR OFFENDERS WILL LEAD TO LESS CRIME."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

THE HARSHEST SENTENCE ISN'T THE SAME AS AN EFFECTIVE RESPONSE TO CRIME.

The desire to use the death penalty can be driven by politics as well as what is perceived as justice. Politicians may latch onto the death penalty as a way to show that they are 'tough on crime', or to accuse their opponents of being 'soft'. Calling someone 'soft on crime' is always an attack on them.

Crime prevention is a complex and long-term business, but it can falsely be made to seem like there are simple answers for dealing with (for example) murder, terrorism, child abuse or drug offences. The truth is that the death penalty doesn't scare people away from committing crimes. What stops people committing crimes is thinking that they will be caught and punished.

REALITY

THE HARSHEST SENTENCE ISN'T THE SAME AS AN EFFECTIVE RESPONSE TO CRIME.

Being 'tough on crime' is not the same as effectively catching offenders or preventing crimes. Addressing the root causes of crime and sentences that encourage people to change are more likely to be effective at reducing crime in the long run. If someone has nothing to live for and no hope things will get better, they have no incentive to improve.

Money spent on death sentences and executions could instead be used to tackle the causes of crime through crime prevention programmes, or improve law enforcement capabilities to increase the rate of solving crimes.

Saying no to the death penalty is not the same as saying no to punishment. There is an understandable and legitimate public desire for accountability for serious offences, which can be met by proportionate sanctions, such as imprisonment and rehabilitation, so offenders have a chance to become law-abiding citizens.

MYTH 10

"NOTHING IN INTERNATIONAL LAW STOPS COUNTRIES USING THE DEATH PENALTY."

BASIS OF BELIEF

"INTERNATIONAL LAW DOESN'T EXPLICITLY FORBID THE DEATH PENALTY."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

INTERNATIONAL LAW SAYS COUNTRIES SHOULD MOVE AWAY FROM THE DEATH PENALTY.

Some international conventions (legally binding treaties among countries) forbid the use of the death penalty; some allow it with strict limitations. There are also resolutions (non-binding decisions) passed by the United Nations that detail the safeguards needed before an execution can happen, and that recommend countries abolish or stop using the death penalty.

Not all countries have signed the treaties banning the death penalty (slightly under half have). The oldest and most widely adopted treaty on the subject, the UN International Covenant on Civil and Political Rights (ICCPR), allows the death penalty but encourages abolition: the section

on the death penalty ends: ‘Nothing in this Article shall be invoked to delay or to prevent the abolition of capital punishment…’.

The ICCPR says that a death sentence cannot be given without a fair trial having taken place, and it can only be given for ‘the most serious crimes’. Certain groups must never be executed, specifically pregnant women and those who committed crimes while under the age of 18. Taken together, the various limits on the death penalty mean that countries can never be confident they are using the death penalty in accordance with international law.

The ICCPR also bans torture and other cruel, inhuman or degrading treatment or punishment. There is a growing view that the death penalty is torture (both the months or years in harsh prison conditions waiting to be executed, and the execution itself), which would mean that it is prohibited under international law.

REALITY

INTERNATIONAL LAW SAYS COUNTRIES SHOULD MOVE AWAY FROM THE DEATH PENALTY.

MYTH 11

"THE DEATH PENALTY IS USED AROUND THE WORLD."

BASIS OF BELIEF

"IT'S OKAY TO EXECUTE BECAUSE IT'S DONE ACROSS WORLD REGIONS AND CULTURES."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

FEWER THAN ONE IN FIVE COUNTRIES EXECUTES AND SOME WORLD REGIONS ARE DEATH PENALTY FREE.

Decades ago it was true that many countries across the world executed, but not any more.

Over the last 50 years, there has been a huge global shift away from the death penalty. Two thirds of the countries in the world have abolished the death penalty in law or practice. Few ever reintroduce it. Over 80 governments worldwide have signed treaties outlawing the use of the death penalty.

REALITY

Only about 20 governments carry out executions each year. China, Iran, Saudi Arabia, Iraq and the USA are currently the five countries who execute the most prisoners, with China estimated to execute more people than the rest of the world put together.

Europe is virtually a death penalty-free area, with only Belarus still using capital punishment. The continent of Africa is largely execution free, with only four countries conducting executions in 2014. The Caribbean has seen no executions since 2008. Nobody has been executed in Central or South America since 2000 and the entire region is effectively abolitionist. The death penalty is increasingly restricted to a few countries and regions.

FEWER THAN ONE IN FIVE COUNTRIES EXECUTES AND SOME WORLD REGIONS ARE DEATH PENALTY FREE.

MYTH 12

"DEATH PENALTY CASES ARE LONGER AND MORE EXPENSIVE THAN OTHER CASES."

BASIS OF BELIEF

"LONG TRIALS AND APPEALS, AND EXPENSIVE LAWYERS, MAKE DEATH PENALTY CASES COSTLIER."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

DEATH PENALTY CASES ARE LONGER AND MORE EXPENSIVE THAN OTHER CASES, BUT ONLY IN THE USA.

Various laws and court rulings in the USA have set high requirements for how cases must be conducted before an execution can take place. This includes a division ('bifurcation') in the original trial so that there is one hearing on guilt and a separate one on the sentence, having at least two appeals before a death sentence can be applied, and that the government must pay for a lawyer for the defendant at all stages if they are unable to pay for themselves. Death rows are very expensive to administer, partly because of the restrictive and high-security conditions death rows have.

REALITY

DEATH PENALTY CASES ARE LONGER AND MORE EXPENSIVE THAN OTHER CASES, BUT ONLY IN THE USA.

The average time between sentencing and execution has more than doubled in the last 30 years, with prisoners now spending an average of 15 years on death row.

However, in other countries the reverse is true. Death sentences may be cheaper than alternative sentences (such as life imprisonment): there are not the same costs for trials and appeals as in the USA. This increases the risk of false convictions and executions of innocent people. Often, very little money is spent on running death rows, and prisoners can spend months or years in conditions that are so inhumane that international experts have called them torture.

MYTH 13

"NOBODY WILL MISS SOMEONE WHO COMMITTED TERRIBLE CRIMES."

BASIS OF BELIEF

"NOBODY COULD LOVE SOMEONE WHO HAS DONE SUCH APPALLING THINGS."

TURN OVER TO FIND OUT MORE ABOUT THE REALITY

REALITY

DEATH SENTENCES AND EXECUTIONS ARE DEEPLY TRAUMATIC FOR THE PRISONER'S FAMILY.

Families of prisoners, especially children, are deeply upset and traumatised when a loved one is executed or threatened with execution. Children can be confused between loving their parent and knowing that they have done a terrible thing, but almost all children would rather have their parent alive than dead. Someone can have committed a very serious crime, yet still be a good parent. Even years after an execution, families remember the trauma of the killing – birthdays and execution anniversaries are particularly difficult.

REALITY

DEATH SENTENCES AND EXECUTIONS ARE DEEPLY TRAUMATIC FOR THE PRISONER'S FAMILY.

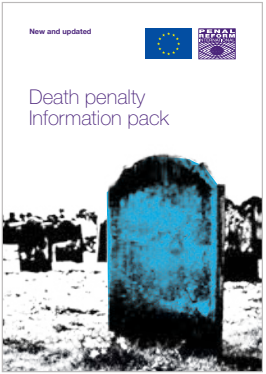
Children (and families) face many other problems when a parent is sentenced to death or executed. They can become depressed, traumatised, isolated from friends, stigmatised because of their relationship with the offender, and have financial problems (both loss of any income from the imprisoned parent and extra costs of visiting them). When one parent is executed for killing the other, these children face a host of further difficulties.

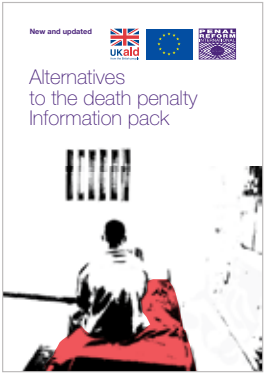
These problems can remain far beyond the execution, with some children hiding the truth for decades, even from their own partners, because of the shame. Visits to parents on death row are very often unsatisfactory because of the restrictive conditions (such as short visit times, or no touching allowed). These children are rarely thought about and rarely given any support by governments or other groups.

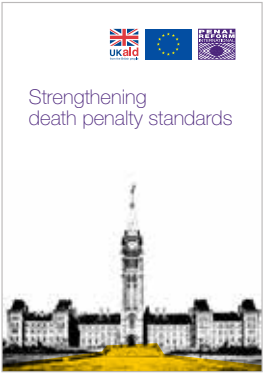
FIND OUT MORE

Sources for the information in this publication can be found at:
www.penalreform.org/priorities/death-penalty

We also have a range of useful resources on our website for anyone seeking to find out more about the death penalty.
www.penalreform.org/resources







Death penalty Information pack

A short guide to fundamental issues and arguments linked to the abolition of the death penalty.

■ ENGLISH ■ FRENCH ■ RUSSIAN

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A short guide to life imprisonment and what replaces the death penalty.

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