



**INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) AS AN ORGAN
REGULATING POLITICAL PARTIES IN NIGERIA: ISSUES AND CHALLENGES**

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ABSTRACT

The Independent National Electoral Commission (INEC) is the electoral umpire responsible for the conduct of general elections and other related electoral activities in Nigeria since the resurgence of democratic rule in 1999. INEC is also the organ regulating political parties in Nigeria as provided in the Nigerian Constitution and the Electoral Act 2010 (as amended). The electoral commission is faced with series of challenges in the management of the electoral processes due to the fact that the number of registered political parties by the commission are growing astronomically. Obviously faced with the challenges as observed, the electoral body no doubt, has to prove beyond all capabilities that it can hold political parties and by extension their agents to be accountable to the people by obeying electoral laws. The paper examines the challenges of Independent National Electoral Commission (INEC). It however showed that, INEC has not lived up to its responsibilities of conducting electoral processes in the country as enshrined in the statute. It recommends amongst others that INEC should assume its unbiased role by sanctioning, deregistering and proscribing any party, agent or individual from taking part in general elections if found to have violated any section of the electoral laws.

Keywords: Inec, Regulatory, Political Parties

INTRODUCTION

One index of assessing the stability, growth and development of any nation is that which has to do with its electoral process. This is because election is a significant pre-condition for modern democratic societies. Scholars are of the view that, for elections to be meaningful and credible, they need to be

periodic, competitive, definite and inclusive, in an atmosphere where citizens can participate actively without fear or intimidation by any political agent or institutions. In addition, election should be conducted in a proficient manner and in an environment of political goodwill devoid of anarchy, violence, intimidation, harassment or chaos. Therefore to achieve these goals, the electoral umpire saddle with the responsibilities must be functional, efficient, effective, unbiased and credible.

The Independent National Electoral Commission (INEC) has been the body responsible for the conduct of general elections in Nigeria since Fourth Republic (i.e. from 1999 to date). It was established by the provisions of the 1999 Constitution (as amended) and it has successfully conducted five consecutive general elections. The Commission has constitutional powers and the Electoral Act 2010 (as amended) equally mandates the Commission to undertake responsibilities of conducting elections and registration as well as monitoring political parties and their activities.

However, despite its constitutional powers, INEC could not monitor effectively and regulate political party financing, deregistration, sanctions of those whose activities and actions seem to violate several electoral laws during the various National elections that have been held till date mainly as a result of the lack of political will and the dubious nature of politicians' manipulation of processes. This is evident in the excessive campaign spending, by the two acclaimed major political parties; All Progressive Congress (APC) and Peoples Democratic Party (PDP) which was unprecedented in the history of Nigeria's elections.

Shortly after being sworn in as President on May 29, 2007, Yar'dua, (2007) cited in Vanguard, (2019), in his speech acknowledge the numerous challenges facing the electoral umpire and by extension the electoral processes. This he said included setting up an electoral offences commission with a view to assisting the electoral processes in Nigeria. He said, we acknowledged that our elections had some shortcomings. Thankfully, we have well established legal avenues to redress, and I urge anyone aggrieved to pursue them. I also believe that our experiences represent an opportunity to learn from our mistakes. Accordingly, I will set up a panel to examine the entire electoral process with a view to ensuring that we raise the quality and standard of our general elections a, and thereby deepen our democracy. Similarly, stakeholders also acknowledged this fears raised by the President

but also strongly canvassed that law guiding the electoral processes and the Commission set up to conduct elections must be strengthened and where necessary enforced without fear or favor.

In a remark by Adeoba.O (2011), on Stakeholders dialogue on Electoral reform laws, said in spite of the enactment of the 2006 Electoral Act which attempted some improvements on the legal provisions regulating the conduct of elections in Nigeria, the 2007 general elections failed to meet the yearnings and aspirations of majority of the electorate for a free and fair election. As such, renewed calls for review of the Electoral Act became increasingly louder. These calls for amendment of the constitution later found expression in Justice Uwais's Committee, which paved the way for the final amendment of the electoral laws late 2010.

Although the amendments provides a basis of optimism that elections could be free and fair in future, unfortunately, majority of the stakeholders are not aware of the amendments and their provision, while others who are aware, lack proper understanding of the implications of the amendments. Again, the current amendments represent far-reaching improvements with significant implications for electoral processes in Nigeria. Obviously one wants to see these changes reflected in party registration and deregistration, party nomination, party finance, roles and responsibilities of INEC, security agencies among others.

It is in this light that Jega (2018) acclaimed that deeply embedded unwholesome practices, such as the pervasive use of money, violence, incumbency powers, and a wide range of electoral malpractices and fraudulent activities in the electoral process grossly undermine INEC utility as a vehicle for liberal democratic development. The mere regularity in the conduct of elections does not, in itself, bring about desirable democratic development. Rather, regularity of elections merely becomes a ritual, which does not yield substantive results or enduring benefits to the majority of the citizens, unless the preparations and conduct of, as well as participation by stakeholders in, the elections have integrity. Indeed, dominant political classes can, and often do, highjack the electoral process through various means, to access power for selfish and self-serving objectives, rather than for democratic development that would satisfy the needs and aspirations of majority of the citizens in a country. In virtually all cases, ritualized elections, which lack integrity merely serve to legalize, if not 'legitimize', access and

control of power into executive or legislative arms of government by people unconcerned with, or indifferent to, the requirements of sustainable democratic development

For instance, Sections in the Electoral Act 2010 also empower INEC to monitor finances of political parties, regulate their assets and liabilities, their sources of income and expenditure in Sections 88(1-2), 89(1-4) and 91(1). However, recent revelations indicated that INEC was not able to monitor properly or rather apply the provisions in terms of limiting the campaign spending to the set limit and its discovery also did not in any way ginger INEC into the action of sanctioning the offenders. This might be for the simple reason that either Commission was not willing to sanction the offenders or it was overpowered by the politicians and the lack of political will from the policy-makers to allow the rules to prevail irrespective of who was affected in the process.

INEC AND THE ELECTORAL PROCESSES

An abridged version of the establishment of The Independent National Electoral Commission (INEC) indicates it was done by the Nigerian military in 1998 under Decree No 17 of 1998. On 5th August 1998, the Commission was decreed into law where it was stated that: The Federal Military Government hereby decrees as follows: There should be a body known as the Independent National Electoral Commission to be referred to according to this Decree as the "Commission." The Commission shall be a body that is corporate with perpetual succession, and may sue and be sued in its corporate name.

The Decree later became famously known as the Independent National Electoral Commission Establishment Decree 1998. The origin of electoral commissions in Nigeria started from the colonial period when the Electoral Commission of Nigeria (ECN) was established to conduct the 1959 General Elections that led to the ushering of political independence. The entire First Republic (1960-1966) elections were conducted by ECN. The ECN was dissolved after the first military coup in 1966. In 1978, a new electoral commission was established named the Federal Electoral Commission (FEDECO) by the military regime to conduct the 1979 General Elections. The FEDECO remained the electoral umpire in the country until after the military coup of 1983 which ended the Second Republic (1979-1983) in Nigeria and introduced another military rule for more than a decade (INEC, 2017). In 1990, the Military Regime of General Ibrahim Babangida established the

National Electoral Commission (NEC) which conducted the controversial June 12, 1993 Presidential Election that was annulled by the same Military Regime leading to the emergence of what was called the “Aborted Third Republic” in Nigerian political history. The Military Regime of General Sani Abacha dissolved NEC and established the National Electoral Commission (NECON) to pave way for another civilian rule. This was not actualized as a result of the eventual death of General Sani Abacha. In 1998, General Abdulsalami Abubakar’s Military Administration dissolved NECON and introduced a decree that led to the establishment of INEC as the current electoral body.

Powers and Functions of the Independent National Electoral Commission

Section 225 Sub-sections 1-6 and Section 226 Sub-sections 1-3 of the Nigerian 1999 Constitution empower INEC to monitor and supervise all electoral and financial activities of political parties and their members according to its periodic discretion. In addition, Section 88 and its Sub-sections of the 2010 Electoral Act empower INEC to monitor and sanction parties financially in terms of its income and expenditure. Section 91 Sub-sections 1-7 of the Electoral Act 2010 (as amended) empower INEC to set limits to maximum campaign spending for various elective offices at the federal, state and local levels and Section 92 Subsections 1-7 of the Electoral Act 2010 (as amended) provide for INEC to sanction any party or person that violates the provisions of Section 91. Other Sections in the Electoral Act 2010 empower INEC to monitor and regulate all activities and finances of political parties and candidates that contest for any elective office. Thus, the above legal provisions bestowed much power on INEC over political parties and contestants but the problem was whether such powers were efficiently utilized or not.

As at end of January 2018, the comprehensive list of the 68 political parties legally permitted by the election management body, INEC, to participate in elections include: Accord Party (AP), Action Alliance (AA), All Blending Party (ABP), Advanced Congress Of Democrats (ACD), Allied Congress Party of Nigeria (ACPN), Alliance For Democracy (AD), African Democratic Congress (ADC), Action Democratic Party (ADP), All Grassroots Alliance (AGA), All Grand Alliance Party (AGAP), Alliance for New Nigeria (ANN) and Abundant Nigeria Renewal Party (ANRP). Some others are: National Rescue Movement (NRM), National Unity Party (NUP), People’s Alliance for National Development & Liberty (PANDEL), People For Democratic Change (PDC),

Peoples Democratic Movement (PDM), Peoples Democratic Party (PDP), Progressive Peoples Alliance (PPA), Providence People's Congress (PPC), Peoples Party of Nigeria (PPN), Peoples Progressive party (PPP), Peoples Redemption Party (PRP), People's Trust (PT), Re-build Nigeria Party (RBNP), Restoration Party of Nigeria (RPN), Social Democratic Party (SDP), Sustainable National Party (SNP), Socialist Party of Nigeria (SPN), United Democratic Party (UDP), Unity Party of Nigeria (UPN), United Progressive Party (UPP), Young Democratic Party (YDP) and Young Progressive Party (YPP).

INEC was expected, according to the decree that established it, to perform the following functions:

- i.** Organize, conduct and supervise all elections and matters pertaining to elections to, all the elective offices provided in the Constitution of the Federal Republic of Nigeria 1999 as amended or any other enactment or law;
- ii.** Register political parties in accordance with the provision of the relevant enactment or law;
- iii.** Monitor the organization and operation of the political parties including their finances;
- iv.** Arrange for the annual examination of and auditing of the funds and accounts of the political parties and publish reports on such examination and audit for public information;
- v.** Conduct the registration of persons qualified to vote and the preparation, maintenance and revision of the register of voters for the purpose of any election;
- vi.** Monitor political campaigns and provide rules and regulations which shall govern the political parties;
- vii.** Ensure that all Electoral Commissioners, Electoral and Returning Officers take and subscribe to the oath of office prescribed by law;
- viii.** Delegate any of its powers to any State Resident Electoral Commissioner and carry out such other functions as may be conferred upon it by a decree or any other enactment or law.

The above functions have been undertaken by INEC since 1999 although some might not have taken place or were dismal in terms of implementation. One can simply conclude in this section that if the rules are fully operated and INEC

is really independent, it has all the powers to sanction a fair and credible election in Nigeria. But why is it that always the elections are followed with lamentations of lack of credibility and series of litigation?

Elections and political party

Elections are a major features of democratic setting especially when it has to do with free, fair and credible. This is observed in all democratic government today as it has become a legal means to control political power. Elections therefore, according to Ojo (1973) can be seen as the process through which changes are carried out in a government through voting by the electorates at the end of the expiration of tenure of those in power.

Elections according to Ujo (2000), prevents tyranny, confirm authority, articulate externally determined truth, select and empower representatives, allow the will of the people to be articulated and carried into effect, prevent selfish interest from using the control of government to exploit others, promote the flowering of human potential and foster the development and maintenance of viable countries. However, Katz (2011) sees election as performing the function of legitimation, installation of officials, selection and choice of representative and popular involvement.

Political party has been severally defined to mean a group of likeminded persons seeking to take control of government through legal means. That is a body of people with common ideological bias working together to win elections and put their thoughts or ideas into work. It should therefore be noted that their main objective is to win elections which distinguishes it from other associations.

It is to this strength that Rodee (1998) sees political party as the organization and behavior of these groups which find in a congress or parliament a means of formalizing their political, economic and social claims on one another.

Challenges and Opportunities

The stability of societies depends to, a large extent, on smooth political succession and the mechanism of choosing elective public political office holders. It is, therefore, necessary that there is a level playing field for candidates and participants in the electoral process. But it has been shown that there were many challenges with the conduct of elections in Nigeria from the 1922 election to the 2019 election. It has been documented that elections

in Nigeria are constant tales of violence, fraud and bad blood. The challenges include among other things, irregularities which put the credibility of the entire electoral process in doubt; problems with the legislative framework, which put constraints on the electoral process. Several organizations are not playing their roles to ensure credible, free and fair election; the electoral system does not give room for inclusiveness; lack of independence of electoral commissions; long process of election dispute resolution; irresponsible behavior by many politicians and their followers, manifesting in thuggery and violence; lack of strong and effective democratic institutions and monetization of politics. It has also been documented that money not only determines who participates in electoral politics, but drowns votes and voices in Nigeria, as 'godfathers' openly confess about shady deals, funding or sponsoring elections for 'godsons' and purchasing electoral victory. The end result of the challenges is that the votes of the citizens did not count in those elections.

According to Kayode, (2019) Section 150(1) and (2) of the Electoral Act, 2010 as (amended) reveals that an offence committed under the Act is prosecutable in a Magistrate or High Court of the Federal Capital Territory, Abuja. Also, Prosecution under the Act shall be undertaken by any legal practitioner appointed by it. However, being vested with the power to prosecute cannot be equated with the existential reality of incapacitation as a result of some factors. In this case, it appears that INEC lacks the capacity to prosecute electoral offenders as a result of shortage of legal officers, non-availability of resources and huge workload as an election management body which involves core duties such as voters' education, continuous Voters' registration as well as the conduct of elections.

The 2011 general election was, however, adjudged by local and international observers to be free, fair and credible despite some challenges. 2015 general and subsequent elections were an improvement on the 2011 elections as noted from the review of the 2012-2016 INEC strategic plan. But there are still a lot of challenges. The challenge of the political and legal framework of electoral governance remains unsolved. Although, there was a review of the electoral law before the 2015 elections, it did not address some fundamental issues, such as Out of Country Voting (OCV), power of INEC to disqualify candidates who do not meet criteria for elections, and provisions on constituency delimitation. The challenges also include a political culture

characterized by violence; partisan use of state resources at federal, state and local government levels, through the power of incumbency and monetized politics. In other words, an unrelenting culture of impunity persists and is probably the greatest danger to the conduct of credible, free and fair elections in Nigeria. Similarly, the political parties have not been accountable to members and are unable to practice internal democracy leading to internal wrangling and factionalisation of parties. This is not unconnected with the lingering poor mindset of the political class, political parties and the general public on what it takes to win elections, which usually involves malpractices.

Parties floated based on pecuniary benefits

Lamentably, in a study carried out by the Daily Sun (2019) revealed that while only few of these parties are visible and vibrant; many others exist not as platforms or vehicle to change the society but only for material gains that come with it. They exist “only in name, inside the briefcases and homes of the politicians without any form of national outlook,” Many of them, from all indications have sustained themselves only by perpetually validating the more vibrant parties. For instance, cases abound of where many of the smaller political parties declare support for one of the dominant parties during elections both at the national and state levels.

Previously, many of the parties existed based on the financial reward INEC gives them as support to prepare for elections. Until the Act was repealed, INEC usually gave political parties some funds. It was in line with Section 91 (2) of the Electoral Act which provides that 30 per cent of the annual grant to political parties should be shared across board to all registered political parties while 70 per cent is shared among parties that won National Assembly elections in proportion to the number of seats won. Between 2003 and 2009, INEC released about N3 billion to political parties as subvention. According to INEC news bulletin. By virtue of this provision, it is financially attractive and rewarding for group of persons to form a political party solely for INEC’s subvention which, in some cases, run into millions of naira annually then. However, once INEC’s subventions stopped, most of the smaller political parties find it difficult to fund their activities.

INEC’s admittance of the challenges ahead

The Chief Technical Adviser to the INEC Chairman, Prof. Bolade Eyinla, recently confessed in Abuja at a retreat organized by the National Institute for Policy and Strategic Studies, Kuru, that the commission got an inkling of the challenges ahead of it in 2019 during the November 18, 2017 Anambra

governorship poll. He lamented that with over 100 political associations seeking registration, the number of registered parties might exceed the current 68 before the 2019 elections, saying that it could cause problems of logistics for it, especially in the production of ballot papers. “Currently there are 68 registered political parties in Nigeria. As of today, there are more than 100 associations that have applied to INEC to register as political parties. This raises a number of questions,”

Bolade (2019) stated that he did not know whether INEC would be able to monitor the congresses, conventions and primaries of all the political parties contesting over 1,000 elective positions across the nation. While enumerating the threats the growing number of registered parties pose for the commission, he confessed further that “we are also going to be challenged if these 68 political parties and counting continue this way. We are just a commission. “I cannot begin to imagine even as the technical adviser, how we will divide ourselves to monitor party conventions and primaries of 68 political parties across the length and breadth of this country.

“Ancillary to this is the fact that political party agents will also increase. I can imagine 68 political party agents in a polling unit. I think these are issues that we have to manage; but most importantly, how do we manage the ballot paper for 68 political parties?” he queried rhetorically.

Expressing fears that if any registered political party is mistakenly omitted from the ballot paper, it could lead to the total cancellation of the exercise, Eyinla stressed that “I think perhaps one of the largest ballots that I have seen is that of Afghanistan where the ballot paper is nearly the size of a prayer mat. “Given our level of literacy, I think that is going to be a major challenge and as we know, the question of exclusion is a major issue in the electoral process. The chairman was literally sleeping and waking with the ballot for Anambra State election to ensure that no party was excluded; to ensure that the names and logo of the parties were correct because any slip could nullify the election. So, I think there is a challenge with managing the ballot that will come with the increasing number of political parties,” the commission admitted.

Also admitting this challenges aftermath of the Kogi governorship election in 2019, the umpire spokesman, Rotimi Oyekanmi in an interview with the Vanguard, (2019) said for instance, in Kogi, there was this particular judgement made about three days to the election when the court said we should include a political party candidate of the party on the ballot, but meanwhile we had printed ballot papers for the elections. What INEC had to do was to condemn the ballot papers and reprint another set of ballot papers within that short time. Now, if you give that kind of judgment 24 hours to the election, there is no way it won't affect the opening of polling units and the chain of activities we need to conduct on Election Day. Nigerians are not interested in all of these; people are interested in going to the polling units

and seeing INEC officials. This is part of the problem because we have to print ballot papers within a short period.

The powers and functions of the Independent national Electoral Commission are specified in the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and the Electoral act 2010 (as amended). Paragraphs 14 (1-2) and 15 (a-c) of the Third Schedule 226 (1-3) of the 1999 constitution (as amended) specify the establishment, powers and Composition of the commission. Sections 1,2 (a-c),3,4,6,7,8,25,33 and 87 and similar other sections of the Electoral Act 2010 (as amended) also specified some of these powers in relations to establishment and control over funds ,as well as supervision and monitoring of political parties. It should be re-emphasized that the Independent National Electoral Commission, as far back as its inception has been saddled with the challenges of formulating rules and regulations that would guide and ensure the credibility of the conduct elections by political parties.

At present, INEC revealed that are well over 80 political parties registered in the country resulting to claims by stakeholders that rather than deepening democracy, most of these political parties are only interested in collecting INEC's grants and be used by political orphans and desperate politicians seeking any platform to contest elections at all cost.

For instance Sections 25(a) of the Act proscribes that Any person who buys or offer to buy any Voters card whether on his own on behalf of any other person, commits an offence and shall be liable on conviction, to a fine not exceeding N500,000.or imprisonment not exceeding two years or both. Section 78 (6) also states that The Commission shall have power to deregister political parties on the following grounds: for failure to win Presidential or Governorship election or a seat in the National or State Assembly elections. Again Sections 86 (1) (2) (3) (4) was very clear on the subject of monitoring political parties where it stated herein that a political party which fails to provide the required information or clarification under Subsection (2) of this section or carry out any unlawful directives given by the Commission in conformity with the provisions of this section is guilty of an offence and liable to conviction to a fee of not less that N500, 000.

Section 88 (1) (a) is also clear on offences relating to the financing of political parties which holds that any person possessing any fund outside Nigeria in contravention of section 91 (3) (a) of this act commits an offence and shall forfeit the funds or assets purchased with such funds to the commission and on conviction shall be liable to a fine of not less than N500, 000. Also, Section (90) (91) consecutively deals with the issue bothering on the power to limit contributions to a political party and limitation on election expenses. Sets the maximum election expenses to be incurred at all levels of government. Stating for instance One Billion naira for Presidential, Governorship shall be Two

hundred Million Naira only, while National Assembly shall be Forty Million Naira for Senate member and House of Representatives shall be Ten Million naira respectively.

It is on this note that Sufuyan (2019), said the expectation therefore is that the Commission would ensure that parties do not violate the rules of the game, and, that where they do; appropriate rules and regulatory sanctions may be considered. Although section 78(7) empowers INEC to deregister any political party which fails to win any National or State Assembly seat in a general election, the commission has however failed to act on such criterion.

This was evidenced at the periodic meetings in Abuja with leadership of political parties, when the Commission Chairman, Prof. Mahmoud Yakubu expressed disappointment over the failure of 17 political parties to secure offices in Abuja while 18 of them could not constitute a National Executive Committee (NEC). Vanguard (2019).

He lamented that only five parties by the end of 2017, have complied with the statutory submission of election campaign expenses since the end of the 2015 general elections. The INEC boss, who warned the parties over the worrisome development, said “as I speak with you, the commission has over 100 political associations seeking fresh registration. We want to assure all the associations that the commission will register those that meet the legal requirements.

“But for those that have already been registered, I want to draw your attention to certain issues. The constitution is very clear on the processes and conditions for registration that must be complied with. Section 223 of the constitution, speaks on the validity of the composition of the political party’s NEC, but unfortunately, out of the registered political parties, only 28 parties are in compliance. Many other political parties have not complied.

Section 222 of the constitution requires political parties to establish offices in the FCT, but as we speak, only 29 political parties are in compliance while others have not. So, we have many political parties that either have no offices in FCT or their rents have expired which amount to the same thing as not having office in FCT, .On the failure of many parties to submit their 2015 general elections expenses to the commission, Prof. Yakubu said “Parties are expected to submit to the commission their election campaign expenses for the 2015 general elections but as we speak only five political parties are in compliance. While other political parties did not comply, the case of others is understandable because they were registered after the general elections. But for parties that contested the general elections, only five

complied," He was also quick to add that "I wish to remind all political parties that the law also provides for de-registration of parties. We shall vigorously apply this aspect of the law as the need arises."

Conclusion

The paper concludes that INEC, in its own capacity alone, cannot curb the violation of electoral rules especially in the monitoring of campaign spending of political parties and candidates, registration, monitoring etc. This is because although the rules are well elaborated in the Constitution and the Electoral Act which empower INEC to do so, it is failing to do its job because of the dubious nature of the politicians and their powers in subverting regulations to suit their personal interests. Other stakeholders need to be involved such as civil societies, anti-graft agencies and the general public.

RECOMMENDATION

1. INEC should review the process of registration, voting and distribution of permanent voter's card (PVC) to make it more voters friendly. It will enable an independent INEC to discharge its duties freely without any favor;
2. The maximum spending limit for elective offices stipulated in the 2010 Electoral Act should be reviewed upward especially at the top levels considering the nature of Nigerian politics where money played an influential role in the entire process because the current limit, going by the inflationary trend in the country, is not realizable;
3. Those who are caught in the act of bribery such as INEC officials, government officials,, voters, political parties etc. must be severely punished and the parties should be sanctioned by applying Section 92(1-7) on any violator of the rules;
4. There should be involvement of the anti-graft agencies; EFCC and ICPC, in the screening of candidates and monitoring of campaign spending alongside the INEC for a better collaboration;
5. Civil societies need to expand their work of civic voter education and consultation with INEC to include monitoring and whistle blowing of excessive spending of parties and candidates to the INEC and the public.
6. There is a need for a strong political will from the policy-makers in allowing INEC the free hand to monitor and sanction offenders without politicizing the process.
7. Conduct Voters Education on regular basis instead of waiting for election periods.
8. INEC should explore varied means of funding its operations, improve its budgeting processes, streamline its operations to make them cost

effective, use staff more efficiently and promote departmental cooperation and synergy.

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