

Ta'dib As An Alternative Concept Of Legal Education In Indonesia

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Abstract

Legal education in Indonesia as a legacy of the colonial period is full of positivistic paradigms. This paradigm is responsible for the separation of knowledge from its spirit in the form of transcendental values. Naquib Al Attas offers the concept of ta'dib in education to answer the challenges of modernity. This paper focuses its research on, first, how is the problem of legal education in Indonesia? Second, what is the concept of ta'dib and its urgency in legal education in Indonesia? This research uses text/ literature study methods related to legal education in Indonesia. The results showed that, first, legal education in Indonesia in the shadow of the positivistic paradigm gave birth to graduates who had normative views, giving birth to a dichotomy between science and reality. Second, legal education with the concept of ta'dib which is balanced between fardhu and fardhu kifayah science, a balance between science and charity, so that this civilized human being is able to produce justice

Keywords: legal education, ta'dib, adab

I. INTRODUCTION

The study of law and the legal profession is a relic of Western European civilization, in this case the Netherlands, which was a country that colonized Indonesia for hundreds of years. As a result, the development of Indonesian law in the early days of independence was actually only a continuation of what was practiced in the colonial period (Dimiyati & Wardiono, 2007).

The growth of legal thought in Indonesia after its independence still rests on the tradition of the Dutch

heritage law -the stem of the European continental- which grew behind the positivist paradigm that became the main paradigm in his birthplace on the European continent. (Dimiyati & Wardiono, 2005)

This viewpoint, if examined further, found its roots in the positivist view ofivism derived from Auguste Comte. This view of the natural sciences then developed also in science in the field of hukum. The positivist paradigm that developed into a new school of law looked at law within the framework of a

system of norms that had an autonomous and neutral nature. Kasim (2000) said that hukum is seen as a product of various rules derived from mutually decided agreements/agreements among citizens through community representatives in the form of government institutions.

In fact, Indonesia's legal paradigm is still dominated by truth realization based on authority, not based on scientific truth. That condition is also a contribution to the process of higher education in law which gives birth to scholars / jurists who will fill the posts of shapers, compilers, and law enforcement. In general, alumni of higher education at the undergraduate level tend to see law as a "rule and logic" thus preventing insightful professional legal scholars from seeing the real truth. The implication is that the practice of law cannot be complete and perfect. Therefore, there needs to be a "paradigm shift" that overcomes the positivist tendencies of Indonesian law, which leads to holistic law with the help of other sciences, and its educational product is not just applying the law with a very rigid "horse-eyed glass" model.

The development of legal principles is very much needed to produce law and legal knowledge with the character of Indonesia. The development of Indonesian law should be inseparable from the development of Indonesian law. Making the law the basis of the life of all Indonesian people, such as social, political, religious, and cultural life.

Postmodernism introduces moral as well as spiritual measures in scholarship. Indonesia, which has a Pancasila outlook on life, has spiritual values derived from religious values,

where Islam is a religion that is mostly embraced by the Indonesian population. From the Islamic point of view, tauhidi, not dichotomous, learning is born. Islam is a value system that sticks to most Indonesians, so it is certainly necessary to look back at the laws that grew up in Indonesia in accordance with the worldview attached to the Indonesian population, not the western worldview which was unwittingly forced in the legal science in Indonesia.

2. PROBLEM FORMULATION

The things discussed above are the initial illustration and basis for the emergence of problems in this study, namely, first, how are the problems of legal education in Indonesia? Second, what is the concept of ta'dib and its urgency in legal education in Indonesia?

3. METODE RESEARCH

This enelitian uses a normative research model. This research is also referred to as library research, which is an investigation carried out through library materials or literature as written sources (Muchi & Achmad, 2009). Qualitative methods become the basis for analysis of the library data obtained. Literature data is analyzed and presented systematically with the aim of making it easier to provide information on the results of research and its discussion. This analysis is carried out by classifying, comparing, and linking to be further compiled systematically according to the flow of discussion

4. DISCUSSION

4.1. Problems of Legal Education in Indonesia

Muhammad emphasized the (2018) study of the teaching of legal science in higher education / faculty of law in Indonesia, specifically in the teaching of the Introduction to Law (PIH) course as one of the main courses taught. Learning in the Introduction to Law (PIH) course is given to all law students in the first semester to demonstrate the basic principles for understanding and mastery of law. The scientific study conducted by Muhammad is also to analyze mandatory books that are reference for students and textbooks in PIH courses. Found in these references, one of the basic topics for the understanding of law is the classification of the forms and types of norms, the purpose of which is to understand legal norms and their distinction from other norms. It was later discovered that classification tends to be secular and can provide a foundation for secular thinking in students' methods of legal reasoning. Officially, Indonesia does not adhere to any religion, but in line with Pancasila which is the basis for Indonesia's legal views to be religious and certainly not secular.

In classifying science according to positivist understanding, in its development it can be seen that legal science occupies a separate classification compared to other humanities. The school of legal positivism views law not in the realm of practice/empiric but in the legal aspect of data as positive legal propositions. Positive legal propositions are not taken from field data in the form of empiric observations and measurements, but from laws/norms in abstracto and in concreto results from certain legal authorities, both rule-

makers and judges' decisions. (Dimiyati, 2015)

Imron argued that the development (2008) and formation of legal norms must start from exploring the values and philosophical sources of the people themselves. This means that perlu dido the excavation of the values of justice that live and develop in society, and are recognized and respected as a value embraced by a collection of these individuals. The Indonesian state makes Pancasila the source of all its sources of values and philosophy of science. In the legal science that develops in Indonesia, Pancasila must be a noble and true value of justice for all citizens. This is in line with the view of Nonet & Selznick (Nonet & Selznick, 2009) who stated that it is necessary to have harmony and integration in the treasures of legal, political and social theories so that the law becomes more in line with the views that exist in society. It also has an impact on the enactment of the law not only politically and juridically, but also sociologically.

In recent years, the science of law has always been viewed with a very simple context, without including more important views and aspects in the science of law itself. This indication gives rise to the unrest of legal intellectuals when looking at how the development of law is neglected from the object it regulates. Legal science with aspects of ontology, epistemology, and philosophy of value usually does not even take the ideas of scholars, because the approach to law study often goes hand in hand with conventional perspectives. Therefore, the review of the change of

paradigma in the law as something very essential.

Asmu'i shared an overview of the learning curriculum in Indonesia which he called a dichotomous learning. According to him, the teachings of Islam are monotheistic, not dichotomous. The dichotomy takes the form of a division between matter and mind, which fundamentally separates the subject from the subject, between universal science and religious science, rational experience, physics liberated from metaphysics. The results of this study until the birth of highly dichotomous scholars and scientists. Science recognizes only empirical and rational sources as a way to find knowledge, focused on science and science-based. This issue is incompatible with the concept of an Islamic worldview, since all sources of knowledge are contained in the epistemology of Islam and Islamic Aqidah. Therefore, the existence of westernization, especially in the field of legal learning in Indonesia, makes educational institutions not positioned to connect legal science with Islamic thought (Islamic worldview). (2016)

4.2. Ta'dib as a Legal Education Solution

In Islam, science was created and born from the Islamic worldview, which is closely related to the basic forms of Islamic philosophy, formulated according to the teachings, words of the prophet, ideas, experiences and intuitions. In this sense, the Islamic worldview is an Islamic thought of the fact and evidence that the inner eye shows the essence of being. (Al-Attas, 2014) This view of nature and islamic view of life also means islamic views and thoughts on a existence (ru'yat al-Islām li

al-wujūd). Therefore, basically, the Islamic worldview is a reality in the form of a unity of architectural views that serves as an invisible basis for the attitudes of all individuals, including scientific and technical activities. (Acikgence, 1996) Therefore, the activity of each person can be inferred from his view of life, or the activity of that person can be reduced to that view of life.

The biggest opponent of the Islamic worldview today is the Western worldview. It must be noted that what is meant by "West" in that regard is not the geographical area sourced to the compass located on the west side of the Islamic earth, or a political entity focused on Europe and America. But what is meant by "The West" in that regard is a civilization built by a very complex elementary aspect, which proves a variety of remarkable scientific developments in one part, but also various matters related to life in another.

As observed by al- Attas, the West was built by: metaphysical customs, learning, insight and Greek ethics; the Roman legal, legislative and constitutional system; the factor of Hebrew as well as Christian beliefs; (2001) civilizations value and nationalities of England, France and Germany; the delusions of scandinavians; and cannot forget, the natural sense of Islamic Civilization. From al- Attas' explanation, it seems clear that what the West calls a complex worldview, which is within special limits, is very modern and is the main rival of the Islamic worldview today.

Islamization is a method of conversion. In the background of the de-

westernization and decolonization of Higher Education in Muslim society in modern times, especially since the early 1970s, most of the articles on the final product of the Islamization of learning are the preparation of reading books, the renewal of academic disciplines, and the production or reform of socio-cultural and economic institutions. What seems to be left unthinkable is a reality if the ultimate goal of de-westernization, decolonization, and Islamization of contemporary knowledge and education must really focus on the formation of good people who want to carry out various positions in society. Plans for decolonization, de-westernization, and Islamization are not only a response to external situations that are not merely Islamic, but more meaningful, as well as essential, returning to the original goals and dispositions of people who bring people to the goal of recognition and the dissemination of knowledge and the meaning and purpose of education. (David, 2013)

A Muslim believes that God is the source of knowledge. Then whatever knowledge it is comes from God. In this regard, science can be interpreted as the process of the arrival of meaning or science itself into the human soul and also exalted until man to the meaning / science. The first process means that knowledge is given from God, the possessor of knowledge. While the second process is the process of moving human power and thinking towards science (al-Attas, 1999). These two processes basically affirm that endeavor is the realm of human beings who are constantly trying to achieve it. As for whether the knowledge is finally

obtained by humans or not, this is related to the owner of the knowledge itself.

The form of learning view offered by Al-Attas seeks to show the face of education for him, which is to produce good people who are universal (Insan kamil). Insan kamil is interpreted as: first the proportional and reintegration between the two dimensions of its character. Secondly, the person is balanced in the quality of his thoughts, prayers and actions. Al-Attas' integrated education system is illustrated in the development of the education system (Wan David, 1998) it developed, where it seems very real al-Attas' efforts to make efforts to stamp this universally good human being by making efforts to Islamize and integrate sert filsterization over the science that develops in the present. The combination of education that harmonizes knowledge derived from revelation (religion) and knowledge derived from rational and empiric findings is what can achieve educational targets as in top.

The relevance of Islamic education today for Al-Attas is the ta'dib/pendidikan system in the sense of the university (the highest and most perfect whole). The meaning of the university is that the systematization of science is very sophisticated and perfect—designed to reflect universality—also universal or perfect, so that at the end of it hcurrent shows a reflection of pribain insanul kamil. Therefore, Islamic education requires educational forums and institutions that can (Sassi, 2018) build perfect human beings.

Al- Attas actually sought to explain in the minds of Islamic intellectuals the low consensus in terms of educational standards in Islam. Adab and tadib for al- Attas are the important roots of Islamic education rooted in the thinking of the Islamic world. Islamic education in essence prepares students or students to be able to master and know the position of themselves in the order of existence and the creation of an orderly cosmos, and the relationship as a person with Allah the creator. With this description and understanding, the learner knows that whatever is done and learned is an endeavor to get closer to Him. The next connection must be born people who have a good attitude and are commendable both in daily life and in all life activities in the whole way.

Al-Attas represents an Islamic perspective in the sense that he has succeeded in exposing scientific methods that relate logical views as well as mysticism in a concurrent way. Al-Attas took the approach of Muslim philosophers and was therefore convinced that spiritual preparation would lead a man to a more noble position, namely al- nafs al- muṭmainnah. This highest result is the presence of the self to the level of intellect acquired ('aql al- mustafād), which is nothing but the holy Spirit (al-' aql al- qudsi). From this spiritual effort, one can reach the level of al-nafs al- muṭmainnah and from the perspective of the intellect he attains the intelligence obtained by al-aql almustafād. However, al Attas insists that all of them will return to Allah. (Zarkasy, 2018)

An educated human being is a good person. This means that the "good"

thing here is morality in an integrated sense of what is in the mind and deeds of a person who seeks to instill the quality of good he gets in education. Therefore, Al Attas defines a well-educated person from an Islamic point of view as a civilized person. Wan Daud describes what is in the philosophy of al-Attas's enshrinement as follows (Wan David, 1998):

"a good man is the one who is sincerely conscious of his responsibilities towards the true God; who understands and fulfills his obligations to himself and others in his society with justice or understands and administers the use of justice to himself and others in society; who constantly strives to improve every aspect of himself towards perfection as a man of adab/ insan adabi."

It can be concluded that the interpretation of adab for Al-Attas relates the situation, as follows:

- a. Something to discipline the soul and mind
- b. The search for quality and qualities of a good soul and mind
- c. Right and proper attitude, which is contrary to wrong and bad attitudes
- d. Science with which people will be protected from a non-fixed decision and bad behavior
- e. Understanding and practice based on the location and position that is firm
- f. A knowing procedure that actualizes a position in an accurate and precise way
- g. The realization of justice is so also reflected by wisdom.

From the above brief explanation, it can be understood that in

the terminology of Al-Attas, it does not mean merely an attempt to instill morals in man and instill in learning. Morals can be called the core or content that needs to be instilled in Islamic teaching methods. Al Attas further stated that Adab can be called an image of justice reflected in wisdom. It is the perception of a level that differs in the rules of the level of being, existence, knowledge, and behavior according to that perception.

Adab means the discipline of body, body and mind. This adab shows the harmony of what is in the soul, the mind and the realization of a person over what is in his soul and mind. Al Attas interpreted the educational process as ta'dib based on his elaboration on the words of the Prophet Muhammad about himself that had been instilled adab by Allah. This is interpreted as the process of planting adab in a person is a concept of education.

Education that is carried out by a country, until what is an important reference is the teachings adopted and the Basic regulations of the country. The illustration is, if in Indonesia until the one that as the basis of the application of National education is Pancasila and the 1945 Constitution of the Republic of Indonesia, then education in Indonesia must be in accordance with the doktrin life in this country, namely Pancasila serta Constitution (UUD). In addition to the basics of education, the curriculum is also a frame of reference that must be prepared with goals and objectives to achieve it. The curriculum plays a fundamental role in all forms of learning, by involving a series of educational activities to achieve its goals. So the curriculum with the concept of ta'dib

embodies the ideas and values of life based on Islamic principles. This certainly makes this curriculum have peculiarities in goals, methods, evaluations perched on achieving its targets. This all leads to the formation of a typical curriculum and has its own uniqueness.

The specificity of Al Attas' metaphysical educational pattern emphasizes the value of hamlet and application of the science of Fardu 'Ain (individual obligation) and Fardu Kifayah (collective obligation). The emphasis on classification may be due to its focus on the role of people in the pursuit of knowledge and the development of methods. On the one hand, it is due to the infinite nature of knowledge, and on the other hand, personal life is restricted. (Ghoni, 2017)

The position of science and its teaching curriculum should be able to describe the excision of man and his position in various aspects. Man from the aspect of being a creation of god and man as a social being interacting with other beings who are both creations of God should be in harmony. Man also needs to understand his obligations as individuals and obligations that are collective in nature. From this science we find various disciplines that humans learn about themselves such as spirit and reason and human understanding of nature through biological and physical sciences. The various sciences are estuaries to make people aware of their rights and obligations and position in these various aspects.

Muhammad Naquib al- Attas' concept of education leads to a strict

reconstructive nature that seeks to show an integrative Islamic education system, which always protects the principle of harmony and human balancing that represents the concreteization of the important role of people as servants of Allah and caliphs on earth. Al- Attas's view can be observed from the applied learning curriculum, which seeks to combine science that is fard' ain and fard kifayah. And in principlea this is included in the concept of ta'dib as a way to develop akhlak which includes science and charity.

If the concept of curriculum is a reflection of the people, tawhid, then the university will produce civilized Islamic scholars. In other words, it is a curriculum that is formed based on the basic personality of the individual, and at the same time is compiled from a physical and psychological point of view and recognized as a whole whole. Secondly, the system and role of the faculty in the university, research, admissions, especially the offering of classes and the schedule of seminars, and some formal and informal activities need to outline this issue in as much detail as possible. In doing this, the university as an intermediary instills morals in itself so that as much as possible to model the personality of the Prophet Muhammad SAW. qualified science in the field he is engaged in (Asmu'i, 2016).

The principle of Islamic science and civilization is a design that is clearly stated both in the qur'an and the hadith of the prophet. The descriptions and concepts contained then developed further into types and disciplines, such as interpretation and fiqh science. A comprehensive overview of the various

concepts that are mainly form a way of thinking, a way of acting and a way of responding to something with a broad point of view. This broad view includes not only an understanding of the world, but also an understanding of life in the hereafter. These concepts are then formed and become the structure and elements of the worldview. (Zarkasyi, 2007)

It was this worldview that later became the basis for seeing and assessing contemporary disciplines. This assessment is not only at the level of results or scientific products, but is deep into the realm of concepts, assumptions, symbols, and philosophical basis. In the context of the philosophy of science this understanding covers the realms of ontology, epistemology and axiology. The relationship between one science and another will also be examined in the context of this worldview. Then the impact and relationship of a science with social society also becomes a context for reviewing the view of life in modern science.

Muslims must recognize Islamic science and Western science simultaneously in order to apply these Islamic works in an ideal, objective, and integrated manner. Then a higher education institution or university with a specific curriculum concept and qualified teachers is needed in every aspect. The Islamization of science is the result of thinking about the creation of objective concepts according to human nature, based on the understanding handed down by God. This idea is not only based on antipathy towards Western science, but explains the attempt to adapt social science to the opinions,

knowledge, and masses that exist in the Muslim community.

The Republic of Indonesia is a democracy governed by the rule of law and a democracy based on law where these two things are not biased to be separated. Pancasila as the basis of the State becomes a reference for every law. The One True Godhead is the first precept in Pancasila which certainly shows the importance of the position of this precept. Therefore, the development of law must be dimensioned on the values of Godliness, as a source of integralistic justice, between the shapers, implementers, guards and citizens in forming a legal paradigm that has the essence or substance of godly values that have been described among them in the basis of the state (Pancasila). (Karsa, Muin, & Prihartono, 2018)

Asshiddiqie (2012) gave his view on legal development that there are 3 main things that underlie and surround law builders, namely: first, the development of legal materials or those related to rules. Second, it relates to the development of these lawkeepers ranging from drafters to law enforcement officials. Third, it is related to institutions as a form of means and infrastructure for the development of law. In later developments in this theory of legal development, the legal culture and protection of Human Rights gained its place. This also follows scientific developments in other fields, especially related to human rights.

Regarding the relationship between law and the change of society, there are two opposing views. In one view, the law is determined by the sense

of justice and moral feelings of the population, and a rule will be able to obtain results and receivers in society if it is born and in accordance with the norms that live first in those communities. According to another view, the law, in particular legislation, is a separate cycle with society. This is the law that makes social evolution happen (Setiadi, 2012)

Changes that occur in a social structure and society also affect changes in law. This is biased in terms of economic conditions, technology, and education levels which result in new things that have not been regulated in regulations and require lawmakers to respond to them so that legal protection and proper regulation of something new occur. Thus the law is called responding to the development of the times in this case adjusting to the development of society. This change is certainly a pending for the State as an institution that has a mandate from the community to regulate and enforce the law and provide penalties.

The law that developed as above is a form of positivist modern legal system that has a hand in eliminating the role of religion and God. Man seems to take over the role of God as the regulator of the order of life in this realm. The problem is that human limitations result in the emergence of limitations in responding to the needs of the times. There are many complicated problems in society that cannot be solved. (Absori & Nugroho, 2018)

The impact that occurs is also the regulation which is a response to the change of the times to dry from the value of ruhani. Human beings focus only on rationality and analysis of social facts

without involving religious guidance. This concept of punishment certainly has an impact on court decisions that will lose their religiosity as well. In the context of legal change and development, Indonesia as a country based on religious values by prioritizing the first precept on Pancasila certainly requires legal and legal science that provides space for divine values to be present in every legal product.

Development and development in legal science is certainly related to worldview. This worldview is formed from various concepts and basic assumptions that form the sautu of scientific buildings in a community of legal scholars. This device is the basis for the development of legal science which also leads to the development of law as a product. Discourse in the academic world will run in harmony if the worldview has been aligned as well. Even more so if the worldview of legal scientists is not rooted in divine ideolysis, instead it is a secular view.

Legal science is the fruit of what is discussed with jurists. In Indonesia, jurists were originally born from legal education institutions established by the Dutch colonial government. The product of this legal education was the dutch officers in the field of law. Because this education follows the concept of colonial government education, the scientific tradition inherits the european continental legal system and thinking or what is often referred to as the civil law system. The paradigm behind this legal thought is the philosophy of positivism. August Comte as an early figure in this positivist school was later developed in the science of law by Hans Kelsen. In legal science it is interpreted as a product

of the positiviation process. This process is in the form of a social contract of the community represented to the State so as to give birth to a legal system that has an autonomous and neutral nature. (Hidayat, The Orientation of Legal Thought with Character Indonesianness in the Perspective of Legal Theory, 2015)

Legal science, which then developed after Indonesia became independent, still maintains the legacy of legal science as a result of legal education in the colonial era. The paradigm that develops is certainly still similar to the previous paradigm, namely legal positivism. This legal positivism focuses on thinking about the State and the Rule of law issued by State institutions. This is also based on the development of the concept of the modern State which was born around the 18th and 19th centuries as the development of the traditional State system dominated by the concept of absolute monarchy. (Fuady, 2009)

The minds of Indonesian jurists are influenced by the results of intellectual reflections that cannot be separated from the situation of their times, which ideologically and politically moved towards the original indonesian legal thinking, as the beginning of national formation. During the Reformation, several major steps were taken to replace or reduce the laws left by the Dutch colonists. This shows that the orientation and characteristics of legal thought in Indonesia are inseparable from the social origin of society as a basis for seeking legal theories with traditional Indonesian values.

The characteristics of legal thought towards independence in Indonesia reflect a model of thinking that favors a commitment to customary law.

In the context of legal policy, formalistic thinking shows and pays attention to orientations that favor an imaginary legal order, such as the pursuit of a national legal system, symbolic expressions and legal idioms, whose entities boil down to customary legal values and religious morality. in national law. He no longer allows Indonesia to have the original legal basis, customary law and Islamic law, summarized in Pancasila, efforts to repeal the original law in Indonesia force many experts to pay attention, which eventually leads to the building of Pancasila law as well as theoretical thinking, progressive law, non-structural jurisprudence, developmental legal theory and finally integrative legal theory, but all legal theories offered so far are still difficult to color the mainstream law making (positivism) at the moment. (Hidayat, 2015)

In the New Order period, the discourse of legal development was as strong as economic development. Both seem synergistic in the desire to complement and support each other, and economic development and prosperity cannot be achieved without progress in the field of law, sources of rule and social order. One of the legal thoughts that seemed clearly developing was Mochtar Kusumaatmadja, who soon adopted Roscoe Pound's concept of "law as a tool of social engineering". The teachings of Mochtar Kusumaatmadja follow the thinking of Roscoe Pound which was further refined into "law as a tool of development" by stating that "the role of law in development is to ensure that change occurs in an orderly manner". In fact, Satcipto Rahardjo said that the rhetoric of "law and development" should be translated more effectively and

realistically into "helping the law and the suffering of the people". One of the forgotten things about domestic legal development is the "legal development plan", which is difficult to withdraw but very basic because it is difficult to determine the legal status of development without it.

Except for Mochtar Kusumatmadja and Satjipto Rahardjo, actually since Indonesia became independent, there have been many Indonesian legal scientists who have tried to study the development of national law, such as Sunrati Hartono who changed the theory of Bhanneka Tunggal Ika into a theory of national legal development, Hazarin based on morality, Kosno based on customary law and introduced legal pluralism, and introduced legal pluralism, and Satjipto Rahard yang offered progressive law.

CONCLUSION

Indonesian legal education in the shadow of the positivistic paradigm gave birth to normative-minded alumnus. This graduate is unable to perceive the actual reality, as a result, it leads to looking at the law as a provision regardless of reality. The result of being an individual is dichotomous between law and morals, separate between science and practice. Therefore, there needs to be a "paradigm shift", regarding legal learning in Indonesia, which is dominated by positivistic understanding, towards legal learning with a holistic understanding.

The Islamic view of life comes with the ta' dib model education pioneered by al Attas. The concept of ta' dib intends to give birth to a civilized person, meaning an educated person and

according to his practice. Legal education with this design balances the science of fardhu ain and fardhu kifayah, the integration between science and charity, as a result of which this character is able to create justice. This adab itself comes from the Wisdom given by God.

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