

Probation for Juvenile Delinquents in the Framework of Community Psychology

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Abstract

The purpose of this study is to examine current state of the Japanese Probation System for juvenile delinquents and to explore an effective probation system in the framework of community psychology.

In Japan the probation system is mainly undertaken by probation officers who belong to the Probation-Parole Supervision Office, a government organisation, and in practice that is by a volunteer probation officer who is an ordinary citizen living in the community with face to face supervision of the subjects. In fact, the purpose of probation is to offer an alternative to custody that focuses on community-based rehabilitation with the aim of reducing or preempting the offences committed by them and reinstating them in society as law-abiding persons.

Probation's role is as an overarching bridge between the court and society and provides for the non-institutional treatment of juvenile offenders in the light of the UN Convention on the Rights of the Child, which provides that juvenile institutionalisation should be a measure of last resort. However, probation with supervision has rather limited effects which have become controversial because of the increase in the rate of recidivism.

Thus it is essential to reconsider the probation system in the framework of community psychology, because community psychology avoids blaming the delinquents and labelling them as deviants, and instead recognises their ecological systems such as the political, cultural, and environmental influences. With probation, social work and the Juvenile Law are inextricably connected. Social work and probation are mainly carried out by volunteer probation officers and should be considered from a community perspective. The underlying idea is that the community in which the crime has been committed is to some extent responsible for supporting the rehabilitation of offenders, because the community itself failed to prevent the offenders from committing these crimes.

The idea that the probation system should identify the best type of community-based treatment for juvenile offenders suggests that there should be an increase of non-institutional treatment for juvenile offenders based on the philosophies provided in international documents on children's rights, and in the framework of community psychology.

Key words: juvenile delinquents, probation, volunteer probation officer, community psychology, UN Convention on the Rights of the Child

I. Introduction

The Japanese Juvenile Law (hereinafter to be cited as the Juvenile Law) focuses on "the wholesome rearing of juveniles" to carry out protective measures relating to character correction and environmental adjustment (Article 1)¹. Thus the philosophy of the Juvenile Law introduces protective dispositional measures and the rehabilitation of juvenile delinquents rather than the imposition of punishment. Juvenile delinquents are remitted to the Family Court, where all juvenile cases are heard. Although two hearing proceedings, namely, an adjudicatory proceeding and a dispositional proceeding, are followed, they are not clearly differentiated by the Juvenile Law. In the dispositional proceedings, one of

the court decisions involves an order placing a juvenile under the supervision of the Probation-Parole Supervision Office.

The basic idea of probation for juvenile offenders is provided by two laws: the Juvenile Law and the Offenders Rehabilitation Act. Recently, a government working group whose members include criminologists, officers of the Ministry of Justice, and learned individuals concerned with probation discussed the effectiveness of the probation system and issued a recommendation paper for the reformation and development of the present probation system. This was done because some adult offenders committed serious crimes such as murder and abduction while on probation. This led to the conclusion that the objectives of social work concerning the probation system were not being

realised effectively and that either the laws related to probation should be revised or the two existing laws should be integrated to form a new law that provides for a highly effective probation system and helps determine a suitable disposition both for adult and juvenile offenders. Thus, in 2008 the revised Juvenile Law and Offenders Rehabilitation Act were formulated. However, the revised Juvenile Law and the Offenders Rehabilitation Act are characterised by a “get tough” policy toward offenders, in particular juvenile delinquents.

Probation is mainly undertaken by the Probation-Parole Supervision Office, a government organisation, and in practice that is by a volunteer probation officer (hereinafter to be cited as VPO) who is an ordinary citizen living in the community². The system allows a disposition rehabilitating of juvenile offenders while they continue to live in their community. Although VPOs are not formally qualified professionals, but the qualities required are stated in the Volunteer Probation Officer Law (revised in 2007). VPOs are required to adopt a serious approach toward issues related to rehabilitation of offenders both juveniles and adults as representatives of the community, and be financially stable and in good health. VPOs are given status as part-time officers of the Ministry of Justice and serve under probationary supervision officers who also belong to the Ministry of Justice. This is provided by the Volunteer Probation Officer Law that describes the duties in Article 1 as follows: “with the motivation of voluntary social service, VPOs serve to support the rehabilitation of offenders and juvenile delinquents, and at the same time to enlighten the public about on crime prevention, and thus to keep the community safe and to contribute to public and individual welfare.” There are some training courses for VPOs. Newly recruited VPOs must complete a course of mandatory pre-service training and new member training that are preparation and confirmation of the basic requirements for VPOs’ activities. Beyond this VPOs are expected to attend in-service training to improve their skills.

The benchmark defines the duties of probation officers engaged in social work, in a succinct phrase, as being to “supervise, advise, assist, and befriend.” In detail, subjects are required to regularly visit VPOs twice a month for supervising, and VPOs, in turn, are required to regularly visit subjects’ homes, albeit not frequently, in order to keep their families informed. VPOs should submit monthly reports to the Probation-Parole Supervision Office to give information about subjects and to facilitate an earlier lifting of the probation order. At the same time, VPOs engage in some activities for public awareness activities on the basis of a philosophy of rehabilitation, in order to explore social resources in the community. This idea is particularly

important for VPOs. In the probation, social work and Juvenile Law are inextricably connected. Social work is achieved in the community because of the nature of probation. Community-based probation could be considered from the viewpoint of community, namely with community psychology. This is because community psychology avoids blaming the delinquents and labelling them as deviant, rather it recognises that their ecological systems such as political, cultural and in particular environmental influences that are precisely and incidentally addresses by the article in the Juvenile Law, are the causes of the deviancy.

The aim in this paper is to argue some ideas related to the probation system, particularly probation and social work with respect to juvenile offenders in the framework of community psychology that seeks to identify the most suitable system of community-based disposition for juvenile offenders.

II. Aims of Probation in the Japanese Juvenile Law and the Offenders Rehabilitation Act

1. Idea of Probation for Juvenile Offenders

Many cases, particularly those concerning probation orders for juvenile offenders, are heard by the Family Courts in case it believes that the offenders needs help rather than being placed under institutional control. Some juvenile offenders are sent to correctional institutions, namely, Reform and Training Schools. This institutionalisation, in fact, involves not only correctional education but also certain punishment. The underlying idea is that the community in which the crime has been committed is to some extent responsible for support the rehabilitation of offenders, because the community itself failed to prevent the offenders from committing these crimes. This idea suggests that there should be an increase of non-institutional treatment for juvenile offenders in the light of the international children’s rights documents, in particular the UN Convention on the Rights of the Child (hereinafter to be cited as the Convention).

However, the revised Juvenile Law requires that delinquents should be sent to institutions in case they fail to conform to the regulations while under probation. As mentioned later in detail, this causes a dilemma in practice, particularly for VPOs in their support for offenders as lay social workers. This is because although VPOs may be confident of the rehabilitation and reintegration of offenders into society, they should evaluate the potential future risks.

2. Probation for Juvenile Delinquents

There are three protective measures to support the rehabilitation of juvenile delinquents: (1) to place the juvenile under the supervision of the Probation-Parole

Supervision Office; (2) to remit a juvenile to a Support Centre for Self-reliance or a Child Guidance Centre; and (3) to commit a juvenile to a Reform and Training School (the Juvenile Law, Article 24), (see Fig. 1). Probation entails offenders in the liberty of the community where they live but under the supervision of the Probation-Parole Supervision Office and VPOs for a specific period. During this period, the subjects are obliged to conform to the rules and regulations that are decided at the beginning of the probation, based on their offences and environments. Among these dispositional measures, more than 80% of the delinquents are placed under the supervision of the Probation-Parole Supervision Office. Thus probation is an effective method to clearly measure the effectiveness of the juvenile dispositional system. According to the White Paper 2007, 17.9% of juveniles committed offences while on probation. On the other hand, it is reported that 75% of the juveniles on probation had their probation order lifted before the completion of the probation period, because they were considered to be rehabilitated and showed a low likelihood of committing crimes again. However, the extent of recidivism refers to less serious offences such as shop-lifting and minor thefts and, as a result, an increase in the number of recidivist juveniles observed.

As mentioned above, the previous Juvenile Law, which served as a welfare policy for juveniles, is reformulated into the revised Juvenile Law, a strict policy that advocates punishment for offenders. As the Offenders Rehabilitation Act was enacted along with this revised Juvenile Law, it provides that if subjects do not show good conduct, that is, if they fail to conform to the regulations provided by the statute, there is a possibility that they will be committed to a Reform and Training School and other institutions rather than be allowed to stay in the community. This revised policy has been criticised by professionals involved in probation work, because it is believed that the success of rehabilitation depends on the strength of the good relationship between the subjects and their probation officers, in particular VPOs. However the new law might deteriorate this relationship, because the underlying idea of the new law is that one must always be suspicious toward or distrustful of offenders.

Meanwhile, the Offenders Rehabilitation Act clearly provides that juvenile delinquents should be ordered to probation after taking into consideration the need to transform them into law-abiding persons who will refrain from delinquency. As Professor M. Fukuda states, generally, juveniles who are alleged to have committed a crime encounter problems in their families, schools, and work-places, and when they do not have any social or individual support to resolve their problems, they inevitably tend to deviate from mainstream

society and become delinquents or offenders. They face problems in the family such as poverty, maltreatment, neglect or intervention, and collapse of the family function due to divorce or domestic violence. Meanwhile, juveniles also in their school environments, exhibit poor learning abilities, suffer bullying and thus have become school phobia. As a result, they lack self-respect and tend to harm themselves by cutting their wrists, or exhibiting violent behaviour toward others. Therefore, what they expect from probation is support and a receptive attitude toward their true nature, namely, as they are.

This implies that probationary social work for juvenile offenders should be considered and specified separately from that for adults. The purpose of ordering juveniles to probation is to ensure that their best interests are considered with respect to their development, as provided in the Convention³. To achieve this philosophy, it is suggested that probation for juveniles is thought of by an analogy with the role of advocates appointed for the trial and hearing. This means that the advocates not only aim to avoid erroneous fact-finding and reduce the ordering as in proceedings apply a softer approach for juveniles compared to that adopted for adults, but also try to support juveniles so that they develop self-confidence in order to achieve "the wholesome rearing of juvenile" through education and social work.

Hence this process does not mean to watch and keep juvenile offenders under surveillance with distrust but to support their independent development and autonomy in their community. We have an example of a supportive system within the Offenders Rehabilitation Act is the provision of novel system for treating victims of crime, alleviating their pain, and supporting their recovery from psychological and physical problems. Likewise we should reconsider probation profoundly in this context, that is, just as the Offenders Rehabilitation Act stands on the victims' side, probation should be carried out and utilised to work along the same lines as victim support: with insight into the virtues of psychological and educational support to encourage the rehabilitation of the subjects.

III. Reconsidering the Probation Programme in the Framework of Community Psychology

1. Community-based Treatment and Community Psychology

The Offenders Rehabilitation Act provides that probation should be carried out by VPOs, who as back-ups for professional probation officers employed by the Ministry of Justice collaborate with respect to their knowledge of sociology, pedagogy, psychology, and medicine. According to the statistics issued by the

Ministry of Justice, the number of personnel who involved in probation in 2006, at the time the government working group was organised, was as follows: 700 professional probation officers who served in actual probation practices; 48,000 VPOs; and 15,057 juvenile offenders who were on probation⁴. As pointed out by the government working group, this number indicates that the probation system is excessively dependent on VPOs and this is one of the reasons why the present probation system is not functioning effectively. To address this issue, the working group recommended an increase in the number of professionals and proposed a programme designed to develop their level of expertise.

However, the Japanese probation system is significantly involved with VPOs, although they are lay person living in the community. VPOs are considered as essential resources in the community, since they support juvenile offenders by introducing them to appropriate schools that can offer retraining or help them find new work places.

From this point of view, probation may be considered in the framework of community psychology. This is because community psychology considers the relationship between an individual and the environment as follows: community psychology represents a way of thinking about people's behaviour and well-being in the context of the entire community environment and social systems in which they live.

The approach to the ordering of juvenile offenders to probation should be considered distinct from that of adult offenders. Juveniles have plasticity and are at a developmental stage, where if they deviate once, it is relatively easy to reform them with appropriate support and treatment. Some VPOs have corroborated that if juveniles are recognised as being "valuable just as they are" that is, if one expresses a receptive attitude toward them, they can develop self-respect. In addition, as Freeman states, "what we must now set our minds to is finding ways of giving children a voice. Only with empowerment will come recognition of children as persons entitled to equal concern and respect."

We should also consider the international documents that provide and highlight the importance of non-institutional treatment for juvenile offenders. For example, the Convention provides that juvenile institutionalisation should be a measure of last resort. However, the attitude toward juvenile offenders has changed from the past, because of the changes in the sensibilities of local community and in the people's consciousness. As explained above, instead of the principle of "advise, assist, and befriend," we have shifted to "control, confront, and surveillance⁵."

2. What is Community Psychology?

Before discussing community psychology the concept

of a community should be explained. In community psychology, "community" does not merely imply a local community where people live or the geographic proximity and neighbourhood, rather, it implies the relationships between individuals with respect to their common interests, experience, and history. Thus, the concept of community psychology is defined as follows. Individuals have a relationship with each other in the social structure at multiple levels, with respect toward each other without feeling isolation. This affects or involves individuals with respect to their way of living their life, and they intentionally become more concerned with socio-economic systems at ecological levels. In this context, the ecological levels of analysis are illustrated with a metaphor suggested by Bronfenbrenner: the Russian nesting doll that contains a succession of smaller dolls each inside the other. According to this analogy, the relationship between individuals and society is explained by a layered metaphor in order as follows: the smallest layers are represented by individuals, the micro-system (family), organisations (school), and localities (local community), and the biggest layers are the macro-systems (government or country). However, in community psychology, these layers are considered as interdependent rather than dependent.

Indeed, juvenile delinquents are considered in the framework of community psychology, from the following viewpoints: (a) micro-systems that are their environments in which they directly engage and personally interact with others, thus forming face to face relationships, to (b) mezzo-systems such as the local community, school, and to (c) society or government as macro-systems that are the most influential, albeit not directly. Therefore it is difficult for the offenders, to recognise that they have such a relationship with these systems and are influenced by them (see Fig. 2). Here, the role of VPOs is defined as that of mediators or facilitators who form appropriate relationships and support the rehabilitation of offenders as individuals within the community.

Community psychology is a one of the studies of psychology to identify the occurrence of psychological problems and suggests that the delinquency involves not only the relationships between individuals and their parents but also socio-cultural environmental factors. Meanwhile, community psychology highlights how the collaboration of delinquents with professionals and lay person can be carried out in daily life. For example, at the school scene, a teacher as a professional in education and a school social worker who is a psychologist but not a professional teacher, both co-work on combating pupils' problems. This practice is applied in the same manner to delinquents in order to clinically support their rehabilitation in the community; that is the

practice should be carried out in collaboration with professional probation officers and lay person such as VPOs.

3. Role and Empowerment of VPOs

If the probation system is reconsidered in the framework of community psychology, the empowerment of VPOs could be achieved. As the government working group focused on the problems in the relationship between professionals and lay person, namely between probation officers and VPOs, it was found that probation officers do not appropriately instruct and advise VPOs, this is because one problem pertains to the shortage of labour, as mentioned above, and the other is that although probation officers are professionals, their individual abilities differ. Thus this complicates the relationship of VPOs with their subjects, although Article 32 of the Offenders Rehabilitation Act provides that VPOs have the role to compensate for the insufficient number and quality of probation officers. In addition, the roles of professionals and lay person are not clearly differentiated that confuses VPOs with respect to the extent to which they are supposed to participate and intervene in the matters of the subjects, for example, in helping the subjects find work or provide them with training opportunities. Therefore, whenever VPOs cannot decide upon the appropriate support for subjects, they should seek guidance from probation officers and follow the instructions provided. In these circumstances, the role of VPOs in the context of community psychology is not defined. Community psychology directs that "competition among agencies and groups for the same pool of limited resources becomes a crucial factor influencing what kinds and amounts of resources will be available and to whom." Here, the role of VPOs is to support the perpetrators who are also victims, according to Professor Fukuda. We can then conclude that juvenile offenders are also victims of the families, schools and the society.

Furthermore, the role of VPOs as social workers has changed in that they take actions intentionally to resolve each subject's problems individually, thus complying with the view that VPOs have a non-professional status. In other words, VPOs can be considered as professionals in the community rather than as professional social workers. For example, VPOs act as channels with a vocational arrangement involving voluntarily cooperating entrepreneurs who are willing to provide employment opportunities to the subjects and their rehabilitation. Therefore, if this non-professional status of VPOs, whose roles differ from those of the probation officers, is clearly defined, VPOs would be confident about the roles they play, and, as a result the empowerment of VPOs is achieved. VPOs have a status in the social work system and also act as a channel

between the community and subjects, it leads to an effective probation service.

4. Support within and Responsibility of the Community

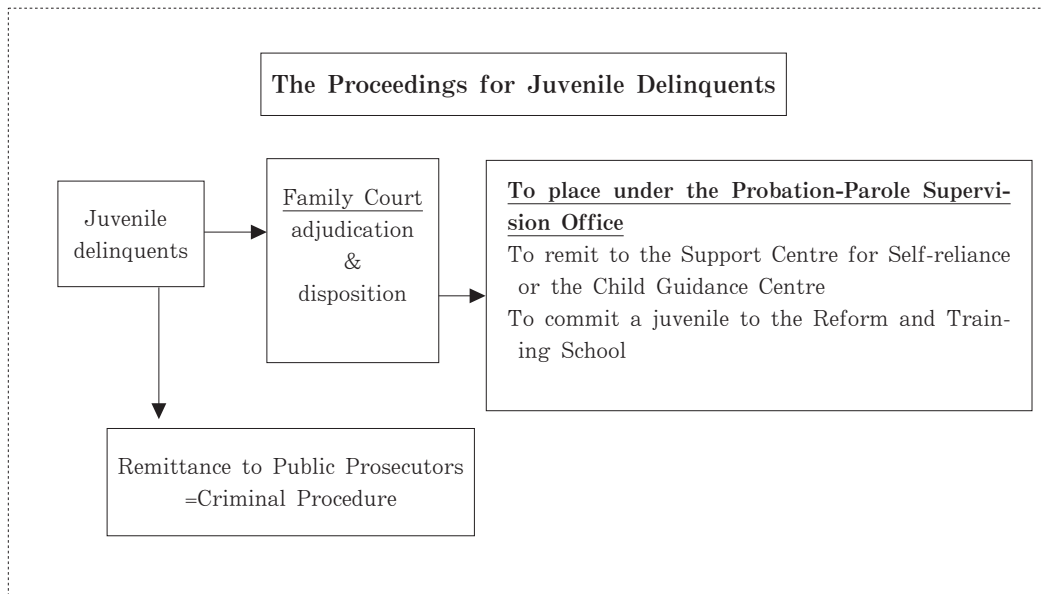
The revised Juvenile Law provides that if delinquents fail to conform to the regulations set by the Probation-Parole Supervision Office during their probation period, they may be sent to a Reform and Training School. This indicates that the philosophy of probation has changed to impose control.

As discussed above, young offenders lack basic educational skills and have few years of formal education. They often live chaotic lives, as do their families and peers. Therefore, we should not only delegate responsibility to them but also ensure that the community or the society as a whole take up their cause and shares responsibility. This is the most important idea of the probation system. One of the purposes of probation is social inclusion. If young people pose considerable risk to the community, the current government policy in Japan suggests placing them in a secure institution as punishment and expelling them from mainstream society as undeserving members. This strategy, at first glance, seems effective. However, this makes it difficult for juvenile delinquents to reintegrate into society and the local community to which they belonged.

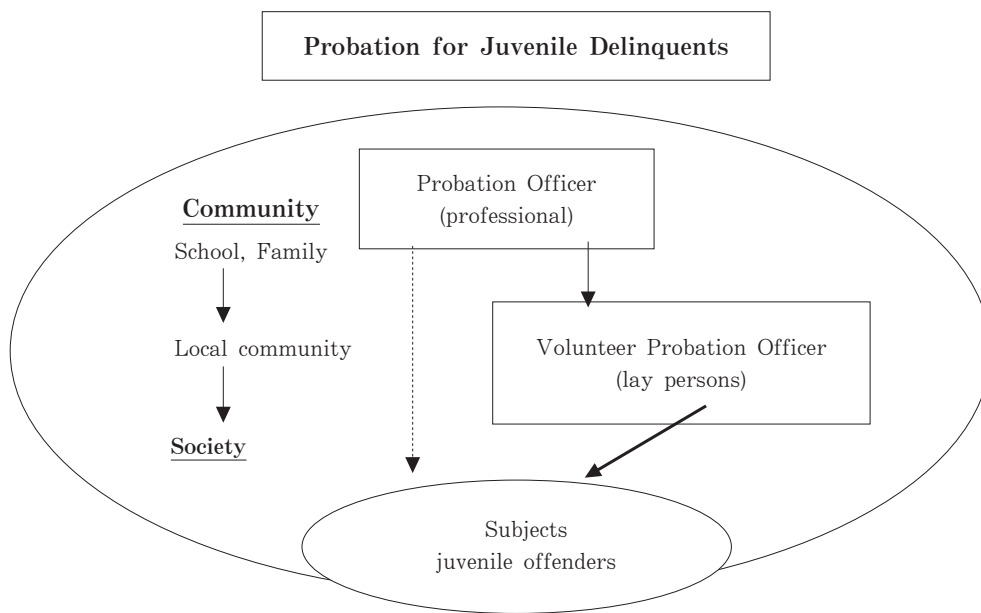
Because of their young age, even persistent offenders have sufficient flexibility or pliability to recover from their nature of committing offence and bring about a change in their behaviour, if they are provided with appropriate support and care by those around them; otherwise, after receiving punishment, they may easily become recidivists. Therefore, the support from their community is essential, because it involves rehabilitating the offenders in a familiar environment, a place where they have been brought up. Although rehabilitation in the community requires much more resources and time, in the long run, it is not punishment but rehabilitation that is much more effective for young offenders. Thus, it can be said that responsibility for young offenders has both an individual and a communitarian aspect. Young offenders should always be welcomed back into the community, regardless of its socio-cultural structure, in order to support their development and rehabilitation.

IV. Conclusion

Certain voluntary organisations under the Ministry of Justice have been established in line with the view that there is a need to share the responsibility of rehabilitating offenders, in particular juvenile delinquents. Among these, the Japan Rehabilitation Aid Association is the largest that publishes a monthly periodical



(Fig. 1)



(Fig. 2)

entitled Rehabilitation, and holds an annual event named “The Movement to Enlighten Society,” whose motto is “to support offender rehabilitation in the community and facilitate reintegration into society.” It celebrated its fifty-eighth anniversary this year (2008) and welcomed several attendants from all over Japan. As part of this movement, aiming at helping and supporting juvenile delinquents in the community is the primary objective of community members who should carry out support activities with a deep concern for delinquents and by acknowledging the fact that delinquency reflects the deterioration of the socio-cultural

values of society.

In this circumstance, we should reconsider probation in the framework of community psychology, which makes not only probation and its social work much more effective but also enables it to achieve social security in the community members as well as the delinquents’ rehabilitation. Community psychology aims at an effective relationship between individuals and their environment. In this context, probation is understood as an ecological issue. Here, the role of VPOs is that of non-professional mediators or facilitators of juvenile delinquents and the community where they live.

Although there still exists a viewpoint that even VPOs should have professional practical knowledge, for example, as psychologists or criminologists, nevertheless, as discussed above, ensuring that they have sufficient social resources, which are helpful for the rehabilitation of juvenile offenders, is the need of the hour. This would indeed lead to effective support for juvenile offenders to ensure their rehabilitation and integration into society.

Notes

- 1 Article 1: The philosophy of the Juvenile Law is described in its first article as follows: "The object of this Juvenile Law, with the aim of the sound upbringing of juveniles, is to carry out the protective dispositions for character correction and environmental adjustment of delinquent juveniles."
- 2 The author is serving as a VPO.
- 3 The Convention provides in Article 27-2 that "the parent (s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development."
- 4 White Paper 2006, issued by the Ministry of Justice
- 5 This is also shown in the Scottish probation system that influenced ASBOs as discussed in Kumeda, T., Community-based Probation Programmes for Juvenile Delinquents in Scotland and Japan, published by Ochanomizu University COE programme 2007. The Scottish legislation creates an even greater challenge for the probation service's involvement in child welfare. The idea that individuals should take responsibility for their actions rather than depend on the society indicates that the probation service faces difficulties with the enactment of ASBOs, it reveals that the public has now become intolerant toward young offenders, even in the case of minor offences.

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