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UNIFORM CIVIL CODE AND PERSONAL LAWS IN INDIA: CONSTITUTIONAL CHALLENGES AND FAMILY LAW REFORM

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ABSTRACT

The Uniform Civil Code (UCC) remains one of the most significant and debated questions in Indian constitutional law and family law reform. Article 44 of the Constitution directs the State to endeavour to secure a uniform civil code for citizens throughout India. However, India continues to recognise a plural legal framework in which marriage, divorce, maintenance, adoption, guardianship, inheritance, and succession are regulated through a combination of secular legislation, religious personal laws, and customary practices. This framework raises important questions concerning equality before the law, gender justice, religious freedom, individual autonomy, and cultural diversity. This review paper critically examines the constitutional foundations of the UCC, the relationship between fundamental rights and personal laws, and the contribution of judicial decisions to family law reform. It analyses landmark cases, including *Mohd. Ahmed Khan v. Shah Bano Begum*, *Sarla Mudgal v. Union of India*, *John Vallamattom v. Union of India*, *Shayara Bano v. Union of India*, and *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*. It also considers the significance and challenges of the Uniform Civil Code of Uttarakhand Act, 2024, which came into force in January 2025. The paper argues that meaningful reform requires a gender-just, constitutionally compliant, inclusive, and consultative approach that protects individual rights while respecting legitimate cultural and religious diversity.

KEYWORDS: Uniform Civil Code, personal laws, Indian Constitution, gender justice, religious freedom, family law reform, Article 44, secularism, equality.

INTRODUCTION

Family law occupies a distinctive position in the Indian legal system because it governs intimate relationships, family responsibilities, property rights, and personal status. Unlike several other areas of law that generally apply common statutory standards, family law in India has historically developed through religious traditions, customary practices, colonial legislation, and post-independence statutory reforms. Consequently, different communities may be governed by different legal rules concerning marriage, divorce, maintenance, adoption, guardianship, and succession.

The debate surrounding the Uniform Civil Code arises from the constitutional objective of establishing a common framework for civil matters irrespective of religion. Article 44, contained in Part IV of the Constitution, directs the State to endeavour to secure a Uniform Civil Code for citizens throughout India. The provision reflects the constitutional aspiration to develop common civil standards, but it must be understood alongside the guarantees of equality, liberty, religious freedom, and cultural rights.

The debate is not simply a question of whether uniformity is desirable. It also concerns the content of uniform laws, the process through which reform should occur, and the extent to which the State may regulate matters traditionally associated with religion and community identity. Supporters argue that a common civil framework can reduce discriminatory practices and strengthen women's legal rights. Critics express concerns about religious autonomy, minority rights, customary traditions, and the possibility that a uniform framework may reproduce the assumptions of a dominant community. Judicial decisions have repeatedly addressed these tensions. The Supreme Court has examined maintenance rights, conversion to Islam for contracting a second marriage, discriminatory succession provisions, and the constitutional validity of instant triple talaq. These decisions demonstrate that family law reform can occur through targeted statutory amendments and constitutional adjudication even without a comprehensive national UCC.

The implementation of the Uniform Civil Code of Uttarakhand in January 2025 has added an important practical dimension to the debate. It provides an opportunity to examine how a state-level common civil framework operates, while also raising questions about privacy, administrative compliance, customary practices, and legislative uniformity across India. The central challenge is to develop a family law system that advances substantive equality without unnecessarily restricting constitutionally protected freedoms.

Constitutional Framework of the Uniform Civil Code

Article 44: Directive Principle of State Policy

"The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India."

The provision reflects the constitutional aspiration to establish common civil rules applicable to citizens irrespective of religious affiliation. Its inclusion among the Directive Principles indicates that the Constitution expects the State to consider family law reform as part of its broader social and constitutional responsibilities. Nevertheless, Article 44 must be read with Article 37. Directive Principles are not directly enforceable by courts, although they are fundamental in the governance of the country and must be applied in making laws. Article 44 therefore provides constitutional direction rather than an independently enforceable demand for immediate nationwide uniformity. The constitutional challenge is to determine the content and implementation of a common civil code in a manner consistent with fundamental rights and India's plural social structure.

Article 14: Equality before the Law

Article 14 guarantees equality before the law and equal protection of the laws. It is a central constitutional basis for examining whether family law provisions create unjustified distinctions between individuals. For example, differences in maintenance, divorce, inheritance, and guardianship rules may affect similarly situated persons differently because of their religious identity or gender. Such differences require careful constitutional analysis. Not every legal distinction is automatically unconstitutional, but distinctions must satisfy applicable constitutional standards.

A UCC may promote formal equality by establishing common rules. However, equality also requires attention to the substantive effects of legislation. A common rule that disproportionately burdens women, disadvantaged groups, or persons with limited access to legal services may fail to achieve genuine equality.

Article 15: Prohibition of Discrimination

Article 15 prohibits the State from discriminating against citizens on grounds including religion, race, caste, sex, or place of birth, while also permitting specified measures for the advancement of disadvantaged groups. Gender-based inequalities in family law raise important questions concerning Article 15. Legal reform should ensure that women and men receive equal legal protection in matters such as property, maintenance, divorce, and parental responsibilities. The constitutional objective should not be limited to removing explicit

discrimination. It should also consider whether legal rules perpetuate unequal power relationships or deny women meaningful control over their economic and personal lives.

Article 21: Life, Liberty, Dignity, and Autonomy

Article 21 protects life and personal liberty. Constitutional jurisprudence has recognised that dignity, privacy, and personal autonomy are important dimensions of this guarantee. Marriage, divorce, family relationships, and personal choices may engage these interests. Consequently, legislation concerning personal relationships must respect individual dignity and avoid unnecessary or disproportionate interference with private life. A common civil framework should therefore protect individuals against discriminatory family practices while ensuring that registration, reporting, and administrative requirements do not unnecessarily intrude upon personal autonomy.

Articles 25 and 26: Religious Freedom

Article 25 protects freedom of conscience and the right freely to profess, practise, and propagate religion, subject to public order, morality, health, and the other provisions of Part III. Article 26 protects specified rights of religious denominations concerning religious affairs, subject to constitutional limitations.

These provisions are relevant because some personal law practices are connected with religious beliefs and traditions. However, religious freedom is not an unrestricted exemption from all civil regulation. The constitutional question is whether a particular legal rule concerns protected religious practice, a civil consequence of religious affiliation, or a matter that may legitimately be regulated in the interests of equality and social reform. A constitutionally sound UCC must therefore reconcile religious freedom with equality, dignity, and individual rights rather than assume that either religious autonomy or uniformity automatically prevails in every situation.

Legislative Competence and Federalism

Entry 5 of List III, the Concurrent List, of the Seventh Schedule covers marriage and divorce, infants and minors, adoption, wills intestacy and succession, joint family and partition, and other specified matters. Both Parliament and state legislatures possess legislative authority over subjects within the Concurrent List, subject to constitutional limitations.

Article 254 governs inconsistencies between parliamentary and state legislation on Concurrent List matters. Under Article 254(2), a state law reserved for the President's consideration and receiving presidential assent may prevail within that state in the circumstances specified by the provision, although Parliament retains the constitutional power to enact subsequent legislation. This framework is particularly important when

different states adopt different civil codes. State-level experimentation may contribute to reform, but differences among state laws can create uncertainty for citizens who move between states or whose marriages, property, and family relationships involve multiple jurisdictions.

Personal Laws in India: Structure and Major Issues

India's family law framework consists of several statutory and personal law regimes. These frameworks have undergone substantial reform, but differences remain in their substantive rules and administration.

Hindu Personal Law

Hindu personal law has been significantly codified through legislation, including the Hindu Marriage Act, 1955; the Hindu Succession Act, 1956; the Hindu Minority and Guardianship Act, 1956; and the Hindu Adoptions and Maintenance Act, 1956. These statutes regulate important aspects of marriage, divorce, inheritance, guardianship, adoption, and maintenance. The Hindu Succession (Amendment) Act, 2005 strengthened daughters' rights in coparcenary property under the Hindu joint family system. In *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1, the Supreme Court clarified the equal coparcenary rights of daughters under the amended law. These developments illustrate that significant progress towards gender equality can be achieved through reform within an existing personal law system.

Muslim Personal Law

Muslim personal law in India is governed by a combination of statutory provisions, judicial decisions, and applicable personal law principles. Relevant enactments include the Muslim Personal Law (Shariat) Application Act, 1937, and the Dissolution of Muslim Marriages Act, 1939. The Muslim Women (Protection of Rights on Divorce) Act, 1986, also forms part of the statutory framework concerning divorced Muslim women.

The Muslim Women (Protection of Rights on Marriage) Act, 2019, declares certain forms of instant triple talaq void and illegal and establishes related legal consequences. Debates concerning Muslim personal law have addressed maintenance, divorce, polygamy, inheritance, and the relationship between religious autonomy and gender equality. These issues demonstrate the importance of distinguishing between legitimate religious freedom and practices that may undermine constitutional rights.

Christian and Parsi Personal Laws

Christian family law is governed by legislation including the Indian Christian Marriage Act, 1872, and the Divorce Act, 1869. Parsi marriage and divorce are governed by the Parsi

Marriage and Divorce Act, 1936. These enactments have their own requirements and procedures concerning marriage and divorce. Their historical development demonstrates that Indian family law is not divided simply between one uniform Hindu system and one uniform system for all other communities. Instead, it contains multiple statutory and personal law arrangements.

Secular Family Law Remedies

Certain civil remedies operate across religious communities. Section 144 of the Bharatiya Nagarik Suraksha Sanhita, 2023, provides a statutory framework for maintenance of wives, children, and parents, subject to its terms. The Special Marriage Act, 1954, also provides a civil marriage framework for persons who marry under its provisions.

Such laws demonstrate that common legal mechanisms can exist alongside community-specific personal laws. The existence of these mechanisms is relevant to the debate over whether reform should proceed through a comprehensive code, targeted amendments, or a combination of both.

Judicial Response to the Uniform Civil Code Debate

The Supreme Court has played a significant role in shaping the constitutional debate concerning personal laws. The following decisions illustrate the evolution of judicial reasoning.***Mohd. Ahmed Khan v. Shah Bano Begum* (1985)**

In *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556, the Supreme Court considered the maintenance claim of a divorced Muslim woman under Section 125 of the Code of Criminal Procedure, 1973, the predecessor to the relevant maintenance provision under the current procedural framework. The Court held that the secular maintenance remedy was available in the circumstances before it and discussed the constitutional desirability of a Uniform Civil Code. The judgment generated extensive public and political debate concerning women's rights, religious identity, and the scope of secular legislation. The case remains significant because it demonstrates the importance of ensuring that women have access to effective maintenance remedies. It also illustrates the difficulty of balancing individual welfare, religious concerns, and legislative policy.

***Sarla Mudgal v. Union of India* (1995)**

In *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635, the Supreme Court examined the legal consequences of Hindu husbands converting to Islam in order to contract another marriage without dissolving their existing Hindu marriages. The Court held that conversion did not automatically dissolve a marriage solemnised under the Hindu Marriage Act, 1955, and considered the legal consequences of a subsequent marriage contracted in violation of the

existing marital relationship. The judgment discussed the need for a common civil framework.

The decision is important for its emphasis on preventing the misuse of religious conversion to circumvent existing matrimonial obligations. It also demonstrates how conflicts between personal law systems can create legal uncertainty and affect the rights of spouses.

***John Vallamattom v. Union of India* (2003)**

In *John Vallamattom v. Union of India*, (2003) 6 SCC 611, the Supreme Court considered the constitutional validity of Section 118 of the Indian Succession Act, 1925, which imposed restrictions on testamentary dispositions for specified charitable or religious purposes by certain persons professing Christianity.

The Court struck down the impugned provision as unconstitutional. The judgment is relevant because it illustrates judicial scrutiny of discriminatory statutory restrictions affecting particular religious communities. The case also demonstrates that equality-based family and succession law reform can be pursued through targeted constitutional review rather than depending exclusively on the enactment of a comprehensive UCC.

***Shayara Bano v. Union of India* (2017)**

In *Shayara Bano v. Union of India*, (2017) 9 SCC 1, a Constitution Bench of the Supreme Court considered the validity of the practice of instant triple talaq, known as talaq-e-biddat. By a 3:2 majority, the Court set aside the practice through differing legal reasoning among the judges in the majority. The judgment became a major development in the constitutional debate concerning gender equality and Muslim personal law.

Parliament subsequently enacted the Muslim Women (Protection of Rights on Marriage) Act, 2019. The case illustrates the interaction between constitutional adjudication and legislative reform and demonstrates that a specific discriminatory practice may be addressed through judicial and statutory measures.

***Jose Paulo Coutinho v. Maria Luiza Valentina Pereira* (2019)**

In *Jose Paulo Coutinho v. Maria Luiza Valentina Pereira*, (2019) 20 SCC 85, the Supreme Court considered issues relating to succession and the application of civil law in Goa. The judgment discussed Goa's civil law framework in the context of the broader debate over the Uniform Civil Code.

Goa is frequently cited in discussions of a common civil framework because of its historical civil law system. However, its legal arrangements have a distinctive historical and statutory background and should not automatically be treated as a model that can be transferred to the whole country without examining differences in law and social context. The decision is

significant because it brings attention to the practical experience of a common civil framework while leaving open broader questions about nationwide legislative design.

***Vineeta Sharma v. Rakesh Sharma* (2020)**

In *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1, the Supreme Court clarified the rights of daughters as coparceners under Section 6 of the Hindu Succession Act, 1956, as amended in 2005. The Court held that a daughter's coparcenary right is by birth and does not depend upon whether her father was alive on the date of the amendment. The decision strengthened the principle of equal inheritance rights within the relevant Hindu joint family framework.

The judgment is relevant to the UCC debate because it demonstrates that substantive equality can be advanced through reform of existing personal law statutes. It also shows why the content of a law, rather than uniformity alone, must remain central to family law reform.

Judicial Principles Emerging from the Cases

The cases discussed above reveal several important principles:

1. Maintenance and economic security are essential components of effective family law protection.
2. Religious conversion cannot automatically be used to evade existing matrimonial obligations.
3. Discriminatory statutory provisions remain open to constitutional scrutiny.
4. Gender justice can be advanced through both judicial decisions and legislative reform.
5. Common civil rules must be evaluated in their specific legal and social contexts.
6. A UCC is not the only mechanism through which discriminatory family law provisions can be addressed.

Collectively, these decisions support a reform approach that places constitutional equality, dignity, fairness, and legal certainty at the centre of family law.

Uniform Civil Code of Uttarakhand: A Contemporary Development

The Uniform Civil Code of Uttarakhand Act, 2024, represents a significant state-level development in the evolution of the UCC debate. The Act received presidential assent in March 2024 and came into force on 27 January 2025. It establishes a common framework for specified civil matters, including marriage, divorce, succession, and inheritance, subject to the Act's scope and exemptions. The state has also issued implementation rules and subsequent amendments.

The Uttarakhand framework is important for three reasons. First, it moves the UCC debate from constitutional theory towards legislative implementation. Second, it provides an opportunity to assess administrative procedures, registration systems, and the operation of common civil rules. Third, it raises questions concerning the relationship between state legislation, existing central laws, and India's federal structure.

The Act does not apply uniformly to every group without exception. Scheduled Tribes and certain protected customary arrangements are excluded under its provisions. This qualification illustrates the complexity of reconciling a common civil framework with constitutionally protected tribal customs and specific community rights.

Another important aspect concerns the regulation of live-in relationships. Registration requirements and related administrative obligations raise questions about privacy, personal autonomy, and the proportionality of state intervention in private relationships. Such provisions must be assessed not merely by their stated objectives but also by their practical effects on individuals.

The implementation experience should therefore be evaluated through transparent evidence. Relevant indicators include registration accessibility, administrative costs, disposal of applications, awareness among citizens, treatment of vulnerable persons, and the extent to which the law improves substantive equality. The number of registrations alone cannot establish whether a UCC has successfully reduced discrimination or improved family welfare.

The Uttarakhand experience may inform future reform, but its provisions should not automatically be treated as an ideal national template. Any proposal for wider implementation requires independent constitutional scrutiny, public consultation, careful drafting, and an assessment of the state's distinctive social and legal circumstances.

Major Constitutional and Practical Challenges

Equality Versus Religious Freedom: The most prominent constitutional challenge concerns the relationship between equality and religious freedom. A UCC intended to advance gender justice may affect practices associated with religious identity. Conversely, unrestricted reliance on personal law may preserve rules that disadvantage certain family members. The appropriate approach is constitutional reconciliation. Legislatures must examine the nature of the practice, the rights affected, the public purpose of regulation, and the proportionality of the proposed intervention.

Gender Justice and Substantive Equality : A common civil code may remove differences between religious communities, but it will not necessarily guarantee gender equality. If its rules provide unequal rights or fail to address economic vulnerability, formal uniformity may have limited practical value. Reform should provide fair standards concerning marriage, divorce, maintenance, inheritance, guardianship, and parental responsibilities. It should also ensure that women can access legal assistance, obtain effective court orders, and enforce their rights without intimidation or excessive expense.

Minority Rights and Cultural Diversity : India's plural society contains diverse religious, linguistic, tribal, and customary traditions. A uniform framework that does not adequately consider these differences may generate distrust and resistance. However, cultural diversity should not be used to justify serious violations of individual rights. The challenge is to protect legitimate cultural and religious freedom while ensuring that women, children, and vulnerable individuals are not denied equal legal protection.

Tribal Customs and Constitutional Safeguards : Tribal communities may follow customary systems concerning marriage, family relationships, inheritance, and community property. These systems may be connected with collective identity, traditional governance, and particular social structures. Any proposed reform must carefully consider constitutional protections, statutory exemptions, and the actual practices of affected communities. Consultation should involve tribal women, community representatives, legal experts, and other stakeholders rather than relying solely on assumptions about customary law.

Legal Pluralism and Federalism : India's existing framework contains several personal laws, secular statutes, and customary arrangements. Introducing different state-level UCCs may create additional variations rather than establishing nationwide uniformity. Such differences can complicate questions involving residence, migration, property, marriage, divorce, and succession across state boundaries. Legislative coordination and clear conflict-of-law provisions are therefore essential.

Privacy and Administrative Regulation : Mandatory registration and reporting requirements can improve legal documentation and access to remedies. However, poorly designed procedures may expose individuals to privacy risks, unnecessary surveillance, harassment, or disproportionate penalties. A modern family law framework should apply data minimisation, confidentiality, accessible procedures, and appropriate safeguards against misuse of personal information. Administrative requirements must remain proportionate to legitimate public purposes.

Public Consultation and Social Acceptance : Family law directly affects personal relationships, religious identity, and social practices. Reform undertaken without adequate consultation may face legal challenges and public resistance. A transparent process should publish draft provisions, invite comments, provide translations in relevant languages, consult affected communities, and explain the reasons for accepting or rejecting major recommendations. Public participation is particularly important when legislation alters long-established family arrangements.

Implementation and Access to Justice : Even well-drafted legislation may fail if citizens do not understand their rights or cannot access the institutions responsible for enforcing them. Rural communities, economically disadvantaged families, persons with disabilities, and individuals with limited digital literacy may face particular difficulties. Effective implementation requires trained officials, legal aid, accessible registration systems, affordable procedures, reliable grievance mechanisms, and periodic independent evaluation.

Major Findings

The review identifies the following findings:

1. **Article 44 is an important constitutional objective:** It directs the State to pursue a UCC but does not itself establish an immediately enforceable nationwide code.
2. **Equality remains the central criterion:** Any family law regime must be assessed against constitutional principles of equality, dignity, liberty, and protection against discrimination.
3. **Uniformity and gender justice are not identical:** Common rules can promote consistency, but the substance of those rules determines whether they produce equitable outcomes.
4. **Judicial decisions have advanced family law reform:** The Supreme Court has addressed maintenance, discriminatory succession provisions, conversion-related matrimonial issues, and instant triple talaq.
5. **Targeted reform remains important:** Existing personal law statutes can be amended to remove discriminatory provisions even if a comprehensive UCC is not immediately enacted.
6. **State-level implementation offers practical lessons:** The Uttarakhand framework provides an opportunity to study the operation of common civil rules, administrative systems, and privacy safeguards.

7. **Legal pluralism requires constitutional safeguards:** Cultural and religious diversity must be considered without allowing it to become a justification for denying equal protection.
8. **Effective implementation is essential:** Legal awareness, accessible institutions, affordable procedures, and independent evaluation are necessary for meaningful reform.

RECOMMENDATIONS

1. Any proposed UCC should be grounded in constitutional equality, human dignity, personal autonomy, and access to justice. The objective should be substantive fairness rather than uniformity for its own sake.
2. Legislatures should systematically review existing personal laws and related statutes to identify unequal treatment in marriage, divorce, maintenance, adoption, guardianship, and inheritance. Immediate and clearly identifiable injustices should not be left unaddressed while wider debates continue.
3. Reform proposals should be developed through consultation with women's organisations, religious and community representatives, tribal groups, legal professionals, academics, civil society organisations, and affected citizens. Consultation should be meaningful, transparent, and supported by accessible draft legislation.
4. A possible reform strategy is to establish common minimum standards protecting equality, dignity, consent, maintenance, inheritance rights, and the welfare of children. Such standards could provide a foundation for reducing discrimination while allowing constitutionally legitimate cultural practices to continue.
5. Legal rules should provide equal legal status and procedural protection to spouses and family members. At the same time, gender-neutral drafting must recognise the disproportionate economic and social vulnerabilities that women may experience after separation, divorce, or abandonment.
6. Registration and reporting requirements should be carefully justified and proportionate. Legislation should provide confidentiality safeguards, restrict unnecessary disclosure of personal data, and prevent administrative procedures from becoming instruments of harassment or intrusive monitoring.
7. Legal aid services, family courts, legal services authorities, and public awareness programmes should be strengthened. Information about marriage registration, maintenance, divorce, inheritance, and legal remedies should be available in accessible formats and relevant regional languages.

8. Parliament and state legislatures should consider the implications of overlapping statutes and different state-level frameworks. Clear provisions concerning jurisdiction, transitional arrangements, inter-state disputes, and the relationship with existing laws are necessary to avoid legal uncertainty.
9. State-level UCC frameworks should be assessed periodically by independent bodies. Evaluation should examine legal outcomes, access to remedies, administrative costs, privacy protection, gender equality, and the experiences of vulnerable groups. Findings should be published transparently and used to improve legislation.
10. Rather than assuming that one legislative model is suitable in every context, policymakers should assess the consequences of alternative reform strategies. Targeted statutory amendments, common minimum standards, and a comprehensive code should be evaluated on their constitutional merits and practical outcomes.

CONCLUSION

The Uniform Civil Code occupies an important position in India's constitutional and family law debate. Article 44 expresses the constitutional aspiration to establish a common civil framework, but its implementation must be considered alongside the fundamental rights to equality, liberty, dignity, and religious freedom. The challenge is not merely to eliminate differences between personal laws; it is to ensure that every individual receives fair and effective protection in matters affecting family relationships, economic security, and personal status. Judicial decisions such as *Shah Bano*, *Sarla Mudgal*, *John Vallamattom*, *Shayara Bano*, *Jose Paulo Coutinho*, and *Vineeta Sharma* demonstrate that constitutional adjudication and targeted legislation have already contributed to family law reform. These developments also show that discriminatory practices can be addressed through multiple legal mechanisms.

The Uttarakhand Uniform Civil Code provides an important contemporary example of state-level implementation. Its operation may generate useful lessons concerning registration, legal accessibility, administration, privacy, and the relationship between uniform rules and customary practices. Nevertheless, the effectiveness of any code must be judged by its actual contribution to equality and justice rather than by the formal adoption of common provisions alone. A sustainable approach to family law reform should combine constitutional scrutiny, inclusive consultation, gender-just rules, protection of legitimate cultural diversity, accessible legal remedies, and independent evaluation. The objective should be to create a family law system in which religious identity does not result in unjustified inequality and in which common civil standards strengthen, rather than undermine, individual dignity and

constitutional democracy. The ultimate measure of a Uniform Civil Code should be whether it improves the lives of those affected by family law, protects vulnerable persons, and advances substantive justice while remaining faithful to India's constitutional values.

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