Madame Chairperson, Distinguished Commissioners and State Delegates,

The World Organisation Against Torture (OMCT) and FIDH, under the framework of the Observatory for the Protection of Human Rights Defenders (the Observatory), thank the African Commission on Human and Peoples’ Rights (ACHPR) for this opportunity to raise some of the key issues with respect to the situation of human rights defenders in Africa.

While States have the duty to protect human rights defenders and to ensure that they operate in a safe and enabling environment, attacks, threats, judicial harassment, restrictive laws, smear campaigns against them continue to perpetuate an environment of hostility towards their activities.

1. Pursuit of criminalisation, threats and violence to silence human rights defenders denouncing human rights violations

In several countries, we are concerned that human rights defenders are criminalised in relation to their legitimate human rights activities recognised and protected under regional and international human rights instruments, particularly for denouncing human rights violations and corruption perpetrated by State authorities.

In Angola, despite new President Joao Lourenço’s promises to fight corruption and to open the democratic space, award-winning investigative journalist, Mr. Rafael Marques de Morais continues to be judicially harassed for his human rights activities. On March 19, 2018, Mr. Rafael Marques de Morais appeared before the Criminal Court of the Province of Luanda facing charges of “outrage towards a sovereign body” and “insult towards public authority”. If convicted, he faces up to four years and six months in prison. These charges come in retaliation to an article published on the anti-corruption website Maka Angola in November 2006, exposing the illegality of Angola’s former Attorney General, Mr. João Maria Moreira de Sousa’s activities as a property and real estate developer in addition to his legal duties. The article also reported that the President, Mr. José Eduardo dos Santos, supported some of his subordinates who had been accused of corruption.

In Congo – Brazzaville, Mr. Noël Mienanzambi-Boy, President of the Association for the culture of peace and non-violence in Congo – Brazzaville has been detained since January 21, 2017, without access to his lawyer for his role in establishing mediations between the authorities in Brazzaville and rebel leader Bintsamou Frederic. After publicly denouncing ongoing violations he observed during the process, he was arrested, detained without a warrant and charged with “undermining the security of the state”.

In the Democratic Republic of the Congo (DRC), on January 9, 2018, Mr. Paul Nsapu, President of the League of Electors (LE), and FIDH Deputy Secretary General, received death threats following the publication of a report on December 20, 2017, together with FIDH, entitled “Slaughter in Kasai: Crimes against humanity perpetrated to create chaos”, which gathers testimonies from Congolese refugees who had fled slaughters perpetrated in the Kamonia territory, Kasai province. The harrowing
testimonies published reveal the scale and seriousness of the crimes committed against the civilian population by the Congolese defense and security forces and their auxiliaries.

Most recently, on April 2, 2018, Mr. Eliezer Ntambwe Mposi, journalist and author of the online series Tokomi Wapo (“Where are we at?”) was arrested from his office by two officers on charges of “defamation”, “extortion through blackmail” and “damaging allegations”. These charges stem from a complaint filed by the Governor of Kasai Oriental, Alphonse Ngoyi Kasanjii, after Mr. Eliezer Ntambwe reported on a case of diamond extortion which has led to the assassination of the diamond holder.

In Egypt, the Observatory remains concerned regarding the arbitrary detention and judicial harassment of Mr. Omar Mohamed Ali, an independent journalist and human rights defender. Mr. Omar Mohamed Ali was arrested on June 1, 2015, in front of the Nile City boat in Zamalek, Cairo by three men in civil clothing, and was held incommunicado and tortured for 16 days in the State security building of Lazoughly and in a military intelligence building in Cairo. On May 29, 2016, Mr. Omar Mohamed Ali was sentenced to 25 years in prison by the West Cairo Military Court following an unfair trial based on the confessions obtained under torture. His sentence was confirmed by the Military Court of Appeals on March 26, 2018. In November 2017, the UN Working Group on Arbitrary Detention (WGAD) published an opinion in which it considered Mr. Omar Mohamed Ali’s detention to be arbitrary and urging his immediate release and his right to compensation.

In Kenya, the Observatory fears that the recent demolition of the Coalition for Grassroots Human Rights Defenders (CGHRD)’s office on March 27, 2018 comes in reprisal against the organisation’s peaceful and legitimate human rights activities, in particular against land-grabbing and the arbitrary detention of local residents. Over the past years, the Observatory has documented the shrinking space and the climate of hostility in which civil society organisations operate in Kenya. This happens under the same administration that has been undermining, for more than four years since its signing into law on January 14, 2013, the commencement of the Public Benefit Organisation (PBO) Act 2013, a law seeking to provide an enabling environment for NGOs.

Mr. Zine El Abidine Erradi, member of the Association marocaine des droits humains (AMDH), a Moroccan national who took refuge in France in 2015, was arrested upon his return to Morocco on April 4, 2018. He is now detained at the Aït Melloul - Agadir prison where he is serving a sentence handed down in absentia in 2016, on charges of “violent and unauthorized protest” and “civil disobedience”. These charges stem from his participation to a 2014 protest in Sidi Ifni when a popular upraise demanded the police to be held accountable for the murder of a youth.

Furthermore, the Observatory has documented the increasingly shrinking space in which civil society organisations are operating in the country. In particular, the Observatory has documented three techniques used by the Moroccan authorities to hinder their activities. Indeed, they face particular hurdles during their registration process, in their access to funding, as well as when implementing their peaceful and legitimate human rights activities. In early 2017, AMDH reported that 125 of its meetings, conferences and events had been banned by the authorities since 2014. Particularly targeted by the authorities, AMDH is now facing a procedure aimed at reversing its recognition as a public utility organisation. This comes in retaliation to AMDH’s support to popular movements in the Rif region, its regular denunciation of torture cases and its support to defendants in the Gdeim Izik trial, targeting human rights defenders in Western Sahara.

In addition, the Observatory reiterates its concerns regarding the ongoing judicial harassment under charges of “threats to State security” of Messrs. Maâti Monjib, historian, journalist and President of the association “Freedom Now” for freedom of expression in Morocco, Hisham Almirat, President of the Association des droits numériques (ADN), Hicham Mansouri, Project Officer at the Association marocaine pour le journalisme d’investigation (AMJI), Mohamed Essabr, President of the Association marocaine d’éducation de la jeunesse (AMEJ), Abdessamad Ait Aicha, former training project Coordinator of the Centre Ibn Rochd, journalist and AMJI member. Furthermore, Mr. Rachid Tarik and Ms. Maria Moukrim, respectively President and former President of the AMJI are accused of receiving foreign funding without notifying the authorities. Hearings in the case against the seven human rights defenders, which usually last for a couple of minutes, have been postponed over 10
times and the next one is scheduled on June 27, 2018. Charges against them are intended to silence and discredit their work for the promotion of freedom of expression and information.

In **Sudan**, following nation-wide demonstrations that began on January 6, 2018 and were set off by the announcement of Sudan’s 2018 budget and the lifting of subsidies and measures, effectively tripling Sudan’s U.S. dollar exchange rate and increasing the price of basic commodities, Sudanese authorities have carried out a campaign of massive arrests and detentions, including political party leaders, journalists, students, human rights defenders and other individuals for their involvement in the protests. On April 10, 2018, Mr. Osman Salih, lawyer, Mr. Salih Mahmoud Osman, Vice-Chairperson of the Darfur Bar Association and Mr. Amjed Fareed, blogger and human rights defender were released after nearly 3 months of arbitrary detention. Arrested in the same context, human rights defenders, Mr. Mohamed Abdallah Aldouma, Mr. Salih Mahmoud Osman, Ms. Rawa Jaafar Bakhit, Mr. Ahmed Jaden, Mr. Mohammed Abdulmonim, Ms. Nahid Jabrallah, Ms. Amel Habani and Ms. Hanan Hassan Khalifa had also been detained by Sudanese authorities. Acts of ill-treatment against Ms. Amel Habani have been reported as she was allegedly beaten with an electric rod during interrogation.

In **Uganda**, on February 9, 2018, nine unidentified individuals attempted to break-in into the Human Rights Awareness and Promotion Forum (HRAPF)’s premises, cut power to the building, disabled parts of the security system and assaulted two security guards on duty, who both sustained severe injuries, including a skull fracture to one of them. It is the second time in less than two years that HRAPF’s premises are suffering such gruesome attack, yet to date no effective police investigation lead to those responsible being brought before a court of justice.

The Observatory welcomes developments in two separate cases concerning human rights defenders in **Equatorial Guinea** and in **Zimbabwe**. On March 7, 2018 a court in **Equatorial Guinea** released Mr.Ramón Esono Ebalé, a cartoonist whose work is often critical of the government’s policies, after nearly six months of arbitrary detention. Mr. Esono Ebalé had been detained on trumped-up accusations of “engaging in counterfeit”. During the trial, the police officer who had accused him of counterfeiting admitted having made up the accusation following orders from his superiors. In **Zimbabwe**, on November 29, 2017, Pastor Evan Mawarire, a prominent anti-corruption activist who led last year’s #ThisFlag protests, was acquitted of charges of “inciting public violence” and “attempting to overthrow a constitutional government” which were linked to his role in the anti-government and anti-corruption demonstrations.

2. **Reprisals against human rights defenders and civil society organisations under the premise of national security, and against human rights defenders promoting democracy and electoral rights**

A significant number of the harassment and attacks documented by the Observatory occurred in increasingly securitized states, or against defenders promoting democracy or electoral rights.

In **Burundi**, since April 2015, following President Pierre Nkurunziza’s third term bid, human rights defenders continue to face increased intimidation, harassment, physical attacks and in the most worrying cases, enforced disappearance. Many have had to flee the country and continue to face intimidation in their country of relocation.

The Observatory is particularly concerned by the fate of Mr. Germain Rukiki, Association des juristes catholiques du Burundi (AJCB) staff member, President of Njabutsa Tujane, a community-based organisation fighting against poverty and hunger, and former Action des chrétiens pour l’abolition de la torture (ACAT-Burundi) staff member, who has been arbitrarily detained since July 13, 2017. Since his arrest, several infringements to his right to a fair trial have been documented, including the addition of three counts of charges without procedural authority in the midst of his trial. Mr. Rukiki is accused of “undermining State security”, “rebellion”, “assassination of military and police personnel, and civilians”, “degrading public and private premises” and “attempt to change the democratically elected regime” for his cooperation with ACAT-Burundi. During the last hearing of his trial, on April 3, 2018, the Public prosecutor requested a life imprisonment sentence against Mr. Germain Rukuki. The tribunal is expected to render its decision in early May.
The Observatory remains particularly concerned as on March 8, 2018, the Muramvya court sentenced in absentia Messrs. Aimé Constant Gatore, Marius Nizigama and Emmanuel Nshimirimana, spokespersons of the organisation Parole et Actions pour le Réveil des Consciences et l'Évolution des Mentalités (Parcem) to 10 years in prison and a 200,000 Burundian francs fine (about 90 euros) each for "undermining state security". The three human rights defenders have been arbitrarily detained since their arrest on June 13, 2017 while they were organising a conference on the publication of a report on the detention conditions in Muramvya.

Furthermore Mr. Nestor Nibitanga, former representative of the Association Burundaise pour la Protection des Droits Humains et des Personnes Détenues (APRODH) in Central-Eastern Burundi was arrested on November 21, 2017, after his home was surrounded by police and searched without a warrant. The reason for his arrest was not specified to Mr. Nestor Nibitanga at the time. On January 3, 2018 he was formally charged with "undermining state security". He remains arbitrarily detained at the Rumonge prison.

The Observatory strongly condemns the context of widespread repression targeting human rights defenders who are facing arbitrary detentions and judicial harassment, particularly in retaliation to their peaceful and legitimate human rights work with Burundian human rights organisations, now banned by the government. Furthermore, the Observatory remains particularly concerned about the fate of Ms. Marie Claudette Kwizera, Treasurer of the Ligue Burundaise des Droits de l'Homme ITEKA, who was forcibly disappeared on December 10, 2015. To date, Burundian authorities have refused to provide any information about her fate or whereabouts. Similarly, Mr. Jean Bigirimana, a journalist who worked for IWACU, one of the few independent media still active in Burundi, remains missing since he was abducted by members of the national intelligence services (SNR) on July 22, 2016.

In Cameroon, the endless judicial harassment of six members of the organisation Dynamique Citoyenne, namely Mr. Jean Marc Bikoko, Ms. Bénédicte Jessie Bikoko, Ms. Agnès Adélaïde Metougou, Mr. Yves Léonardo Ndjalla Epangue, Mr. Sévrin Le Juste Bikoko, and Mr. François Fogno Fotso which started in 2015, continues. They are facing charges of "illegal demonstration and rebellion" after taking part in a peaceful meeting on democracy and electoral rights on the international day of democracy. After eighteen hearings, their trial has been postponed to June 27, 2018.

Furthermore, Mr. Mancho Bibixy’s trial is ongoing before the Military Tribunal in Yaoundé, where he is facing charges of “secession”, “terrorism”, “rebellion”, “inciting civil war”, “spreading false information through social media”, “attempting to change the constitutional regime”, “outrage to a public body” and “failure to hold his ID card” under the 2014 terrorism law and which carry the death penalty. Since the beginning of his trial on February 1, 2017, hearings have been postponed more than fourteen times, for different reasons. Mr. Mancho Bibixy had been arrested on January 19, 2017, while at a friend’s house in connection with the Angolophone crisis, by armed soldiers who violently broke into and shot at the house, and beat him. He is currently detained at the Kondengui central prison, a maximum-security prison in Yaoundé, where he does not have regular access to his family. He is currently sharing an overcrowded cell with fifteen other inmates with poor access to hygiene facilities, and his health condition has been deteriorating.

Since 2017, the Observatory has documented a quasi-systemic pattern of arrest, arbitrary detention, and judicial harassment by authorities in the Democratic Republic of Congo (DRC) against human rights defenders and pro-democracy movements including, the Lutte pour le changement (LUCHA), Filimbi, Compte à Rebours, Comité Laïc de Coordination (CLC), and Société Civile du Congo (SOCICO), who support the implementation of the 2016 New Year’s Eve political agreement.

Messrs. Timothée Mbuya, lawyer, Justicia Asbl President and member of the NGO Coalition for the respect of the Constitution, Jean-Pierre Tshibitshabu, SOCICO member and journalist on Kasumbalesa radio-television, Jean Mulenda, LUCHA member, Eric Omari Omba and Patrick Mbuya Kwecha, members of the Bomoko Foundation served sentences of six months in prison on charges of “inciting civil disobedience”. Mr. Timothée Mbuya has also been disbarred for 6 years.
Many human rights defenders and pro-democracy activists are being held for weeks or months in secret detention, without charge and without access to families or lawyers. Some have reported acts of mistreatment and torture, and some are suffering serious health complications. Many are put on trial on trumped-up charges. Amongst them, Mr. Carbóne Beni Wa Beya, Filimbi’s national director of operations, Mr. Mino Bompomi, coordinator of Filimbi’s Kinshasa branch and Messrs. Grâce Tshiuza, Cédric Kalonji and Palmer Kabeya, members of Filimbi in Kinshasa have been arbitrarily detained for over 4 months and facing charges of “undermining state security” following their participation in the organization of a peaceful demonstration on December 31, 2017. They do not have access to their lawyers.

Arrested in the same context and released on January 18, 2018, LUCHA members Messrs. Jedidia Mabele, Zacharie Kingombe, and Andy Djuma, are still facing charges of “inciting rebellion”. On April 13, 2018, the prosecutor requested a three-year imprisonment sentence against them.

The harassment and smear campaign targeting members of the Comité Laïc de Coordination (CLC), including Prof. Thierry Nlandu, Prof. Isidore Ndawel, Prof. Justin Okana, Prof. Gerturde Ekombe, Mrs. Leonnie Kandolo, Messrs. Jonas Tshiombela, Franklin Mbokolo and Brother Julien Lukengu is another illustration of the systematic repression targeting human rights defenders committed to the respect of civil and political rights as well as the right to peaceful assembly, in the DRC. In January 2018, the General Prosecutor of Gombe has issued an arrest warrant against the aforementioned human rights defenders, accusing them of organizing peaceful protests banned by the authorities, and demanding presidential, parliamentary, and provincial elections to be held before the end of 2017.

In particular, the Observatory condemns in the strongest terms the assassination of Mr. Rossy Thshimanga Mukendi, founder of the Mouvement Citoyen Collectif 2016 and CLC board member as he was taking part in a peaceful protest on February 25, 2018. Several witnesses of his assassination have since received death threats. Those threatened include his brother, Mr. Arsene Tshimanga, and Cocorico DRC members Messrs. Bajik Mpoyi and Timplard Mandianga. All three are currently living in hiding out of the fear of being arrested.

In Niger, the Observatory is concerned about the arrest, arbitrary detention and judicial harassment of Mr. Ali Idrissa, national coordinator of the Réseau des organisations pour la transparence et l’analyse budgétaire (ROTAB) and of Publiez ce que vous payez-Niger (PCQVP), Mr. Moussa Tchangari, Secretary General of Alternative espaces citoyens (AEC), Mr. Nouhou Mahamadou Arzika, chairman of the Mouvement patriotique pour une citoyenneté responsable (MPCR) and Mr. Lirwana Abdourahmane, lawyer and MPCR member. On March 25, 2018, they were arrested at their respective workplaces without a warrant, as a national action day to protest the 2018 finance bill was organised by a number of civil society organisations. Local authorities in Niamey had prohibited the protest due to “recent terror attacks” in other parts of the country. On March 27, 2018, they were charged with “organizing and participating in an unauthorized demonstration” and “destruction of property”.

In Uganda, the premises of ActionAid Uganda (AAU) and Great Lakes Institute for Strategic Studies (GLISS) in Kampala as well as the house of GLISS Executive Director, Mr. Godbar Tumushabe have been raided by the police on September 20, 2017, in retaliation to their human rights activities and in particular their criticism against the constitutional amendment to lift presidential age limit to allow President Yoweri Museveni, 73, to run for another term in 2021.

3. Economic, land and environmental rights defenders particularly at risk

Throughout the African continent, our organisations remain concerned by the gravity of attacks against land and environmental rights defenders.

In Cameroon, on February 23, 2018, the trial against Mr. Musa Usman Ndamba, National Vice President of the Mbhororo Social and Cultural Development Association (MBOSCUDA), was resumed for the 57th time since its opening in May 2013. The plaintiff Mr. Baba Ahmadou Danpullo, a billionaire businessman, cattle rancher, tea plantation owner and a member of the Central Committee of the
ruling Cameroon People's Democratic Movement (CPDM) party, was not present at the hearing and was represented by Mr. Sama Francis Asanga, a senior official of the opposition Social Democratic Party (SDF). Mr. Ndamba has been accused of, “being a party in a judicial proceeding on oath and making false declarations”, “making a false report against Baba Ahmadou Danpullo liable to lead to his prosecution” and “injuring the reputation of Baba Ahmadou Danpullo by imputation of unprovable facts”. These offenses are punishable by up to three years of prison and a fine. Mr. Ndamba’s lawyers have reported several irregularities in the proceedings. These acts of harassment have increased after MBOSCUDA and its members submitted in early May 2013 a report in the framework of the United Nations Human Rights Council Universal Periodic Review (UPR) of Cameroon in Geneva, outlining the various obstacles faced by the Mbororo community.

Additionally, several members of the Organic Farming for Gorillas (OFFGO), a group of farmers founded in September 2015 to promote organic farming, environmental protection, opposing land grabbing and working for the protection of the cross-river gorilla in Mbengwi, in the North-West Region of Cameroon are still subjected to acts of judicial harassment and threats. Since April 13, 2018, while the National Commission on Human Rights and Freedoms (NCHRF) is meant to publish a report following investigations carried out into the abuses and judicial harassment targeting OFFGO members, several OFFGO members and their lawyer received renewed death threats.

In Egypt, Messrs. Mohamed Azmy, Maysara Abdoun, Ms. Seham Osman and 29 Nubian rights defenders were arrested and detained throughout September and November 2017, during peaceful demonstrations defending the constitutional right to return of Nubians to their ancestral lands, from where they were evicted in the 1960s and protesting against the death in custody of Mr. Gamal Sorour, French-Egyptian resident and prominent Nubian human rights defender. The 32 Nubian activists have appeared before Aswan State Security Emergency Court under charges of “participating in an unauthorised protest”, “inciting protests” and “disrupting public order” on the basis of the Protest Law No. 107 of 2013. If convicted under these charges, they could face up to five years in prison and fines of 100,000 EGP (approx. 4,734 EUR), with no possibility to appeal.

In South Africa, Mr. Sibonelo Patrick Mpeku, leader of ESCR-Net member Abahlali baseMjondolo, was reportedly killed on November 19, 2017 in Sisonke Village, Lamontville, municipality of eThekwini, province of KwaZulu-Natal. To date, no arrests have taken place with respect to Mr. Mpeku’s murder. His murder is the most recent in a wider trend of ongoing threats and attacks perpetrated against community leaders in the informal settlements in and around Durban, in the municipality of eThekwini. With particular concern at the apparent impunity following these acts, various threats leveled against the human rights defender had been reported to the area councilor, the ward committee, the local police and offices of the governing political party, but no notable response by local authorities or the media was received.

In Sudan, the Observatory is concerned about the arbitrary detention of human rights defenders, Messrs. Hashim Ali Ahmed and Osman Albagir Osman, two community leaders from Port Sudan, Red Sea state. On December 11, 2017, they were summoned to National Intelligence and Security Services (NISS) offices after leading a peaceful protest of the Bishareen tribe members against activities of the Sudanese mining company “Abor Shirish” contracted by the government to search for gold in a number of archaeological sites in Halayib locality, Red Sea state. On December 17, 2017, the two leaders were intercepted by the NISS and arrested while they were travelling from Port Sudan to Halayib locality. The community leaders were then taken to the NISS offices in Port Sudan where they remained in detention until they were transferred to Khartoum on December 29, 2017. On March 6, 2018, the two leaders were released without charges.

4. Recommendations:

1) In view of the above-mentioned elements, the Observatory reminds States Parties of their obligation to comply with all the provisions of the African Charter, in particular those relating to the protection of human rights defenders. In that regard, States should immediately and unconditionally:
- Implement all the provisions of the 1998 United Nations (UN) Declaration on Human Rights Defenders, especially by guaranteeing in all circumstances their physical and psychological integrity and their capacity to operate in a safe and enabling environment;

- Release all defenders who are arbitrarily detained for their activities of promotion and protection of human rights and fundamental freedoms, in particular freedoms of expression, peaceful assembly and association;

- Ensure that the application of counter-terrorism and national security legislation is consistent with international human rights standards and is not used against human rights defenders in retaliation to their peaceful and legitimate human rights activities.

- Develop differentiated measures for the protection of the most vulnerable groups of human rights defenders such as land and environmental rights defenders, defenders working in rural areas, women human rights defenders or defenders working on LGBTI issues;

- Put an end to all acts of harassment - including at the judicial level - against human rights defenders;

- Order immediate, thorough, transparent investigations into allegations of violations of the rights of human rights defenders, in order to identify all those responsible, bring them before an independent tribunal, and apply them the sanctions provided by the law;

- Refrain from adopting any provisions that do not comply with international and African standards with respect to the exercise of the right to freedom of expression, peaceful assembly and association, and abrogate or revise any such provisions that may be in force;

- Send a standing invitation to the UN and ACHPR’s Special Rapporteurs on Human Rights Defenders and facilitate their country visits.

2) The Observatory also calls upon the ACHPR to:

- Highlight the legitimate work carried out by human rights defenders, and the need for their protection from harassment and attacks;

- Systematically raise the question of the situation of human rights defenders as well as denounce and condemn all human rights violations they face during the examination of the periodic reports of States parties to the ACHPR, and on the occasion of all visits conducted in a State party;

- Denounce the impunity that prevails with regard to these violations, and urge States to hold all those responsible to account;

- Increase its capacities to respond to urgent situations faced by human rights defenders;

- Ensure the effective implementation of its resolutions, concluding observations and decisions on communications in order that everyone, including human rights defenders, be able to effectively enjoy all the rights and freedoms recognised by the ACHPR, the Universal Declaration of Human Rights and the UN Declaration on Human Rights Defenders;

- Continue to strengthen the collaboration with the UN Special Rapporteur on the Situation of Human Rights Defenders, as well as with the other regional mechanisms dedicated to the protection of human rights defenders.

Thank you for your attention.

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Nouakchott, April 2018
The Observatory for the Protection of Human Rights Defenders (the Observatory) was created in 1997 by the World Organisation Against Torture (OMCT) and FIDH. The objective of this programme is to prevent or remedy situations of repression against human rights defenders. OMCT and FIDH are both members of ProtectDefenders.eu, the European Union Human Rights Defenders Mechanism implemented by international civil society.

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