

Refugee Law Project Working Paper No. 1

*THE PHENOMENON OF FORCED MIGRATION IN  
UGANDA: AN OVERVIEW OF POLICY AND  
PRACTICE IN AN HISTORICAL CONTEXT*

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JUNE 2001

The Refugee Law Project (RLP) was established in November 1999 with the aim of protecting and promoting the rights of forced migrants in Uganda. The RLP operates as an autonomous project within the Faculty of Law of Makerere University, and focuses on three main areas: legal assistance, training, and research and advocacy. The Refugee Law Project works towards ensuring that asylum seekers and refugees are, as specified under national and international law, treated with the fairness and consideration due fellow human beings.

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The Refugee Law Project Working Paper Series is a forum for sharing information on issues relating to forced migration in Uganda. All comments are welcome and the RLP reserves the right to revise any Working Paper.

## **REPORT SUMMARY**

**This working paper offers a brief overview of Uganda's refugee situation. Uganda has been a major destination country for refugees throughout most of its history, and has generated many refugees itself. Additionally, conflict within Uganda has created a sizeable population of internally displaced persons (IDPs). Refugees in Uganda currently face serious humanitarian and insecurity problems. They are inadequately protected under Uganda's existing legal system despite the fact that Uganda has signed and ratified important international treaties on refugees.**

**This working paper is the combination of independent research endeavours by each of the authors: Lucy Hovil into historical and security issues, and Angela Naggaga into Ugandan law and policy. The authors wish to thank Kirk Huff for research assistance and Dr. Joe Oloka-Onyango, Zachary Lomo, and Eric Werker for comments on earlier drafts.**

## **GLOSSARY OF ABBREVIATIONS**

ADF: Allied Democratic Front  
CARA: Control of Alien Refugees Act  
DRC: Democratic Republic of Congo  
FUNA: Former Uganda National Army  
IDP: Internally Displaced Person  
JRS: Jesuit Refugee Service  
LRA: Lords Resistance Army  
NRA/M: National Resistance Army/Movement  
OAU: Organisation of African Unity  
REC: Refugee Eligibility Committee  
UNHCR: United Nations High Commissioner for Refugees  
UNOCHA: United Nations Office for the Coordination of Humanitarian Affairs  
UNRF: Uganda National Rescue Front  
USCR: U.S. Committee for Refugees  
WNBF: West Nile Bank Front

## 1 INTRODUCTION

Uganda has been, and continues to be, an epicentre for refugees, standing at the geographical centre of a region characterised by instability and conflict. As early as the Second World War, events in Uganda have been inextricably linked to the numerous issues surrounding the presence and creation of varying numbers of refugees. Uganda has presented several different images to the outside world during the course of its recent history, yet one that has received little recognition in the international arena is that of Uganda as one of the first countries to host refugees. The country has constantly had to balance the implications of its location within the Great Lakes Region with the need to promote stability inside its own borders. At the same time, Uganda has itself generated, and continues to generate, considerable numbers of refugees, most notably through the notorious years of social and political strife under Idi Amin (1971-79) and of civil war during the second Milton Obote government (1980-85).

This report aims to evaluate Uganda's claim to be a "friend to refugees" through an historical overview of the country's relationship to refugees and a brief assessment of the current situation. It does not pretend to cover in any detail the complexity of issues surrounding the subject, but seeks to summarise the most pertinent events and topics. Section 2 offers a chronological summary of Uganda's refugee problem, focusing on Sudan, Rwanda, and Congo, while providing an introduction to internally displaced. Section 3 describes the current humanitarian, security, and policy situation while Section 4 concludes.

## 2 HISTORICAL OVERVIEW

During the Second World War Uganda became the home to many Europeans displaced by the war<sup>1</sup>. They were allocated specified camps where they remained for the duration of the war. The next wave of refugees into Uganda came in 1955 from the then Anglo-Egyptian condominium of the Sudan<sup>2</sup>. This influx was soon followed by numerous refugees generated by unrest in the aftermath of the various struggles for independence in neighbouring countries: Kenyans during the Mau Mau struggle, Sudanese fleeing the conflict that followed its independence, Rwandese escaping the disastrous civil war of 1959 (which forced 78,000 "official" refugees into Uganda)<sup>3</sup>, and Congolese in the aftermath of Lumumba's assassination in 1961. The country also received a number of refugees from Ethiopia and Somalia during this period.

At the same time, Uganda's own upheaval under Obote and Amin generated additional refugees within the region who fled to Sudan, Kenya, Tanzania, and further afield. For example, in 1972 Amin expelled all Ugandan citizens of Asian origin—an exodus that was shortly followed by the flight of large numbers of political and academic intelligentsia. In 1980 almost the entire population of the West Nile and Madi Region was forced into exile, while those living in the notorious Luwero Triangle and in North/North-eastern Uganda who could not cross international boundaries became internally displaced.<sup>4</sup> By 1985, refugees and

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<sup>1</sup> Gingyera-Pinywa, 1998, p.5.

<sup>2</sup> Gingyera-Pinywa, 1998, p.6.

<sup>3</sup> Prunier, 1999, pp. 62-63. Prunier goes on to estimate that this number had increased by 50% by 1990.

<sup>4</sup> Nabuguzi, 1998, p. 53.

internally displaced made up 7% of the population.<sup>5</sup> Furthermore, the 1986 clash between the National Resistance Army (NRA) and political/military factions in the north led to more people being forced out of Uganda.

Uganda continued to receive refugees from other countries during its own struggles in the 1970s and early 1980s and, just as the country was beginning to stabilise, a new wave of refugees entered Uganda fleeing conflicts in neighbouring states. Thus, with Uganda's war ended and its attention turned to post-war construction, the country was faced not only with border disputes, rebel uprisings, a collapsed economy, and an inefficient public service system, but also with thousands of refugees and Internally Displaced Persons (IDPs) who required assistance. In 1986, the same year that Yoweri Museveni came to power, Uganda became one of seven countries that represented the primary destination for forced migrants.<sup>6</sup> By 1995 Uganda was hosting over 300,000 refugees, with approximately 500 arriving per day in northern Uganda from the civil war in southern Sudan.<sup>7</sup>

Following the relative stability heralded by Museveni's rise to power in 1986, Uganda has resettled the majority of Ugandan refugees created by earlier regimes. However, some Ugandan refugees and IDPs did not resettle and, instead, were recruited into various rebel movements engaged in various levels of conflict with the National Resistance Movement (NRM) government. At the same time, Uganda's more recent history of refugee influxes is loaded with political overtones and complex international implications. The cases of Sudan, Rwanda, and Congo provide varying examples of this.

## 2.1 Sudan

For over two decades, the Ugandan government has been locked in a politico-military confrontation with Sudan. In 1980, two groups made up primarily of ex-Amin forces, the Uganda National Rescue Front (UNRF) and the Former Uganda National Army (FUNA), attacked Ugandan targets from southern Sudan.<sup>8</sup> In the late 1980s and 1990s, a number of refugees from the Amin and Obote years were recruited into the Lords Resistance Army (LRA) and the West Nile Bank Front (WNBFB), two groups that have challenged NRM rule with assistance from the government of Sudan for at least part of their campaigns.<sup>9</sup> At the same time, the Sudanese People's Liberation Army (SPLA) has been recruiting from among Sudanese refugees in Uganda.<sup>10</sup> This has led to increased tension between the Sudanese and Ugandan governments, with each side accusing the other of assisting the unfriendly rebel groups.

As the war in Sudan has intensified, increasing numbers of Sudanese asylum seekers have crossed over into Uganda. Since 1988 approximately 150,000 refugees have been resident in the West Nile districts of Arua, Moyo, and Adjumani in Northern Uganda. Responding to the initial arrival of refugees, Uganda assumed the crisis would be temporary and set up "transit"

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<sup>5</sup> Hansen and Twaddle, 1998, p. 20.

<sup>6</sup> Russell, 1993, pp. 297 – 349.

<sup>7</sup> GTZ 1995.

<sup>8</sup> Gersony, 1997, p. 74.

<sup>9</sup> Gersony, 1997, p. 30, 78.

<sup>10</sup> Hovil, 2001.

camps where the Sudanese could wait out the conflict. Yet the war shows no sign of letting up, and many of the temporary policies of the government are acting, insufficiently, as permanent solutions. Furthermore, the proximity of the camps to the Sudanese border has exacerbated the political tensions. Latest statistics estimate that there are currently 173,650 Sudanese refugees in Uganda.<sup>11</sup>

## **2.2 Rwanda**

Rwanda is another state that has generated considerable numbers of refugees, many of whom have fled to Uganda. The first influx following the civil war in the late 1950s consisted mainly of Tutsi fleeing ethnic discrimination and recrimination. The importance of Rwandese refugees in Uganda goes beyond their mere presence: as a result of persecution under Obote, some 3,000 (mostly Tutsi) Rwandese soldiers had joined Museveni's 14,000 strong NRA by the time it came to power. By 1990, as the size of the NRA itself increased dramatically, the number of Rwandese in the NRA had risen to about 8,000.<sup>12</sup> However, these soldiers began turning their efforts towards their homeland. In October 1990, stability in Rwanda began to unravel when a rebel force, composed mainly of Uganda-based Tutsi refugees, formed the Rwandan Patriotic Army (RPA) and invaded northern Rwanda. Although this heralded the return of many refugees, it also generated a new influx of refugees to Uganda. There are currently approximately 10,000 Rwandese refugees in Uganda, many of whom are Hutu who have fled since the 1994 genocide and subsequent formation of a Tutsi-dominated government.<sup>13</sup>

## **2.3 Congo**

The other main recent influx of refugees has come as a result of the war in the Democratic Republic of Congo (DRC). The war in the Congo is essentially between DRC government forces supported by external troops from Zimbabwe, Namibia and Angola, and rebels backed by Uganda and Rwanda. To date the conflict has resulted in the arrival of over 23,000 Congolese refugees in Uganda.<sup>14</sup> The assassination of President Laurent Kabila and the subsequent succession of his son, Joseph Kabila, has added new impetus to the peace process within the country, but the conflict is far from over.

## **2.4 Internally Displaced Persons (IDPs)**

The presence of large numbers of IDPs within Uganda is also important to acknowledge as the issues associated with their existence are closely linked to those of refugees. Conflicts within northern and south-western Uganda have undermined the stability of Uganda since 1986. Rebel insurgencies that claim to be targeting the NRM government—which, on the whole, have failed to gain much civilian support—rarely engage with the UPDF, instead targeting local populations. This, along with additional factors such as drought, has created a sizeable number of IDPs within Uganda. Displacement creates humanitarian issues and also brings into question the extent to which Museveni has managed to create genuine national unity within

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<sup>11</sup> United Nations 2001, p. 10.

<sup>12</sup> Prunier, 1999, pp. 70 - 71.

<sup>13</sup> United Nations 2001.

<sup>14</sup> United Nations 2001.

Uganda.<sup>15</sup> On 30<sup>th</sup> September 2000 it was estimated that there were a total of 639,760 IDPs in Uganda (2,000 in Adjumani, 114,000 in Bundibugyo, 370,000 in Gulu, 11,160 in Kabarole, 20,000 in Kasese, 82,600 in Kitgum, 5,000 in Masindi and 35,000 in Teso region).<sup>16</sup>

IDPs have been created by three main sources of conflict that dominate security problems in the northern part of the country. First, some Acholi in the north who supported Obote during his two stints in power have remained unreconciled to Museveni's rule. The inability of the government and UPDF to defeat the rebellion of the LRA in the north, active since the late 1980s, has not only left many people embittered towards the government, but has also created many IDPs. The LRA continues to victimise the inhabitants of Gulu and Kitgum, and atrocities are common. Between 1993 and 1998, for instance, the LRA abducted between 6,000 and 8,000 children to be used as concubines, cooks, porters and combatants. In addition, local officials estimate that the rebels have killed 5,000 to 10,000 civilians in the region.<sup>17</sup> Furthermore, the war has compounded poverty and widened the gap between the north and the south.

Second, since 1996 the government has faced a new threat in the Rwenzori region of western Uganda in the form of the Allied Democratic Front (ADF). In December 1999, when there was a severe escalation in the number of attacks in the region, the number of IDPs in Bundibugyo rose to 120,000—nearly 85% of the total population. The region did not become safe enough for humanitarian agencies to resume their work until April 2000.<sup>18</sup> In addition, refugee and IDP issues merged when recent fighting around the Congolese town of Bunia between Lendu agriculturists and Hema pastoralists generated a flow of refugees over the Semiliki River into Bundibugyo.<sup>19</sup> Although this particular refugee population has been fluid, with many of the refugees going to the Congo during the day and returning to Uganda at night, it highlights the precarious nature of the area.

Third, IDPs have been created by conflicts generated by the Karamojong in north-eastern Uganda. The situation has been exacerbated by drought, which led to Karamojong cattle herders migrating with their cattle to neighbouring districts, and by the government arming the Karamojong in the name of protecting their cattle from the Turkana of Kenya. Violent attacks on the local population, using these weapons, have resulted in large-scale displacement throughout the region.

Since 1996 the government has encouraged uprooted persons to move into protected camps, mainly in the north. These camps were often overcrowded and lacked adequate food, shelter, water, and social services. Local newspapers reported a wave of suicides among camp residents allegedly as a result of such conditions.<sup>20</sup> In addition, the “protected camps” were often poorly protected and the camps became easy targets for rebel recruitment. These are problems that currently prevail as poor living conditions and insecurity persist.

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<sup>15</sup> Clark, 2000.

<sup>16</sup> United Nations 2001, p.10.

<sup>17</sup> USCR 1999.

<sup>18</sup> United Nations 2001.

<sup>19</sup> From an Informational Meeting at UNOCHA, 17<sup>th</sup> January 2001.

<sup>20</sup> USCR 1999.

### **3 THE CONTEMPORARY SITUATION**

The current situation of refugees in Uganda is no less challenging. Refugees live in hostile conditions, facing multiple humanitarian and security threats. They are insufficiently protected under Ugandan law, and many of Uganda's international commitments to refugees go unmet.

#### **3.1 Humanitarian and security issues**

There are numerous humanitarian and insecurity problems faced by asylum seekers and refugees currently in Uganda. The United Nations High Commissioner for Refugees (UNHCR) has had a policy of creating rural settlements for those not expecting to return home in the near future in an attempt to promote refugee self-sufficiency. Land has been made available for the refugees to use, but as Uganda's poverty is much worse in the remote, rural areas where many of the settlements are located, inadequate resources and infrastructure have seriously undermined such attempts. Although this "self-reliance" strategy has gone some way to integrate services provided to refugees and the local host population in order to reduce aid dependency, the implementation of the strategy has been constrained due to lack of resources and problems of insecurity according to a United Nations Report.<sup>21</sup> These real difficulties may be compounded by inappropriate timing of the implementation. Therefore many refugees continue to live in harsh conditions, with inadequate facilities for schooling, health, and other basic humanitarian needs.<sup>22</sup>

In addition to facing humanitarian problems, refugees often live in areas that are dangerous and vulnerable to attack. The extent of the problem is reflected in the fact that the number of people who die in Uganda's crisis areas from attacks by rebels, terrorists or cattle rustlers is significantly high to merit concern.<sup>23</sup> As many of the refugee settlements are located in areas where attacks are common, this indicates that security in and around refugee camps and settlements is largely inadequate and should be a cause of major concern to both the government and the UNHCR. Insecurity impacts every aspect of people's lives: it hampers aid work, stunts development, and creates a culture of fear and suspicion amongst people who have already been through considerable suffering.

#### **3.2 Legal framework**

Set against these logistical challenges is an insufficient legal structure. The legislation relating to refugees in Uganda is the out-dated Control of Alien Refugees Act (CARA). Enacted in 1964—over a decade before Uganda ratified the 1951 Convention relating to the status of refugees and the OAU convention governing specific aspects of refugee problems in Africa—the CARA is inconsistent with the international consensus on the treatment of refugees.

The Act was enacted in response to a mass influx of refugees from Rwanda, Congo and Sudan in the late 1950s and early 1960s. A panicky measure by a newly independent state, the Act

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<sup>21</sup> United Nations 2001, p. 17.

<sup>22</sup> It is important to note that the humanitarian conditions of the refugee population, with its external assistance, are often better than those of the local population. However, this fact does not make poor living conditions for refugees acceptable.

<sup>23</sup> United Nations 2001, p. 16.

focuses on the control of a large number of unwanted aliens who were considered to be a threat to the stability and development of the new nation.<sup>24</sup> Whereas international instruments relating to refugees clearly define a refugee as a person fleeing specific persecution,<sup>25</sup> external aggression, occupation, foreign domination, or disruption of public order,<sup>26</sup> the Act leaves the determination of who is a refugee solely to the Minister in charge.<sup>27</sup>

The CARA does not provide for any formal individual status determination procedure. By statutory instrument, the minister declares the class of aliens to be regarded as refugees then it is left to the discretion of an authorized officer to grant or refuse a residence permit.<sup>28</sup> A Director of refugees is set up for the purpose of supervising the establishment and running of refugee settlements, not for the determination of refugee status.<sup>29</sup> The Act sets up a system in which refugees are to be confined to refugee settlements: it prohibits refugees from moving out of settlements without the permission of a settlement commandant and makes it an offence for any person to harbour a refugee outside the settlements.<sup>30</sup>

Under the Act, the rule of law is not respected with regard to refugees. Various provisions directly contravene the 1995 Constitution and various existing national laws. Refugees are deprived of some of their most basic rights like the right to liberty, freedom of movement and the right to property.<sup>31</sup> They are governed by an administrative system that is oppressive and in many instances diverges from the 1995 Constitution and existing national laws.<sup>32</sup>

### 3.3 Current Practice

The Control of Aliens Refugees Act has never been strictly applied in Uganda. Although there have been no amendments to the Act, Uganda's international obligations resulting from the ratification of the 1951 Convention relating to the Status of Refugees, the 1967 protocol, and the 1969 Organisation of African Unity (OAU) Convention governing the Specific Aspects of Refugee Problems in Africa have forced the creation of a system that is more in line with international standards.

The current system has no statutory foundation; it is based on primarily unwritten policies made in response to the growing number and needs of refugees in the country and to the demands of international law and continued scrutiny by civil society. A Directorate of Refugees has grown out of the office of the Director of Refugees and has a much wider mandate: it processes asylum claims for individual status determination, provides identity documents to refugees, supervises refugee settlements, and issues education scholarships for

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<sup>24</sup> Kiapi, (?)

<sup>25</sup> Article 1 of the 1951 Convention relating to the status of refugees

<sup>26</sup> Article 1 - OAU convention

<sup>27</sup> Section 3 (1) - Control of Alien Refugees Act

<sup>28</sup> Section 3 (1), Section 6 (1)

<sup>29</sup> Section 4

<sup>30</sup> Section 17 (3), Section 13

<sup>31</sup> Sections 9, 10, 13, 19, 21

<sup>32</sup> For example, Section 21 (4) permits the director of a settlement to detain or fine a refugee for a "disciplinary offense". Furthermore, contrary to Ugandan rules of criminal procedure regarding crimes committed outside Uganda (Ayume, 19??, p. 15), Section 19 of the Act permits the detention of a refugee as an "unconvicted" prisoner for an offense committed outside the territory of Uganda.

refugee children. A Refugee Eligibility Committee (REC), an administrative body made up of officials from nine government ministries and the Senior Protection Officer of UNHCR (in an advisory capacity), has been set up to determine individual claims for refugee status.

The UNHCR assists government in the determination of status of *prima facie*<sup>33</sup> refugees from Sudan and Congo. In theory, the UNHCR is only supposed to recommend to the Directorate of Refugees that a refugee be given *prima facie* status. However, in practice this recommendation is as good as a final decision.

### 3.4 Commitments and practice

The lack of written law and transparent policy on refugees has resulted in an ad-hoc system depriving refugees of a number of their basic rights. For example, the REC does not sit at a standard time, and it can take a long period for a decision to be made on an asylum claim; some cases have slipped through the cracks and taken well over a year before a decision is made. Meanwhile, asylum seekers are only entitled to a maximum of six months (normally less because of financial constraints) of assistance from the Jesuit Refugee Service (JRS). Delays in status determination procedures therefore often cause immense hardship. Moreover, it is possible to ask for a review of a REC decision but no proper appeal structure has been put in place. Often without being informed of the reason for her rejection, an asylum seeker simply makes a written application to the very panel that rejected her.

Underlying these issues is the divide between obligations and practice that currently prevails in Uganda. The Government of Uganda is a signatory to the 1951 Refugee Convention, the 1967 protocol, and the 1969 OAU Convention. However it has been hard for Uganda to reflect this generosity of commitments in practice. For instance, the fact that large influxes of refugees were entering Uganda at a time when it was recovering from prolonged civil war meant that although refugees were accepted, the government's priority was, inevitably, the rehabilitation of the economy and infrastructure. In addition, the government was aware of the security implications of having large influxes of refugees entering Uganda at a time when its own stability was fragile—refugees can exacerbate tensions as their presence is as much a political issue as a humanitarian one. And with voluntary repatriation considered the ideal, there has been a prevailing attitude that refugees are a temporary phenomenon, leaving the integration and assimilation of refugees largely overlooked. Thus despite Uganda's goodwill on a rhetorical level, the perception of refugees as an economic burden, a political/security problem, and as a temporary phenomenon has generally led to practices aimed at controlling, segregating, pacifying, depoliticising, and therefore marginalizing the refugees so that they do not become a source of conflict in intra and inter-state politics.<sup>34</sup>

### 3.5 Refugee Bill 2000

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<sup>33</sup> Latin for "on first look." Under the OAU Convention, Uganda may declare that asylum seekers from specified countries are assumed to be genuine refugees, barring evidence to the contrary, and thereby skip the lengthier individual refugee status determination procedure. Currently in Uganda, asylum seekers from Congo and Sudan are eligible for *prima facie* refugee status. Most *prima facie* refugees are registered in border areas, while other nationalities often go through the determination procedure in Kampala.

<sup>34</sup> Nabuguzi, 1998, p. 57.

Recognising the need to harmonise Ugandan municipal law with its international obligations in order to adequately promote and protect the rights of refugees, the Ugandan Refugee Law group was formed in 1997 for the purpose of developing new legislation for refugees. The result was the Refugee Bill 2000, which to date remains shelved in Parliament. (See Box 3.1)

Uganda's gap between commitments and practice means that it is vital that the Refugee Bill be passed through parliament as soon as possible. The bill would address legal issues such as taxation, freedom of

**Box 3.1: Refugee Bill 2000**

The Refugee Bill was written in order to fulfil Uganda's obligations under the 1951 UN Convention and the 1969 OAU Convention. Some of the notable features of the Refugee Bill are:

1. The creation of a department of refugees for the purpose of processing asylum claims, handling complaints from refugees and advising government on refugee policy. (Section 7)
2. The creation of an independent appeals body. (Section 16)
3. The right to be heard and have legal representation during asylum determination proceedings. (Sections 21 (3), 24 (2))
4. The incorporation of a Bill of Rights for refugees. (Part V)

movement, employment, and other pertinent issues. Through a transparent framework, it would enable the government to provide a legal framework within which asylum seekers and refugees can appeal, and create better accountability for those officials dealing with refugees. Most importantly, refugees would no longer be reliant on official goodwill that is unreliable at best, and profoundly unjust at worst.

#### 4 CONCLUSION

Uganda is bordered by five countries, three of which remain involved in armed conflict. This is a precarious position, and the numbers of refugees living within Uganda both exemplify the situation and exacerbate it. Given the circumstances, Uganda has been relatively effective at accommodating refugees. However, there are numerous problems associated with the socio-political and humanitarian conditions under which refugees are currently living within Uganda. The country's most dispossessed and vulnerable are in the most unstable regions of the country and live in a state of constant fear due to the inadequacy of protection within the settlements. At the same time, they suffer from the long-term implications of living with short-term solutions. There is therefore a backlog of issues which need addressing, most essentially the presentation of the refugee bill to parliament, so that Uganda can begin to live up to its claim to be a friend to refugees.

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