

An Analysis of Indian Municipalities under the 74th Constitutional Amendment Act in Light of the Present Urban Governance Situation¹

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Abstract: Urbanization has increased in India over the last few decades. As a result of urbanization, the Municipalities of the country have been facing enormous pressure of maintaining and regulating the urban affairs. Municipalities are dealing with lots of challenges to maintain its urban affairs smoothly. 74th amendment Act 1992 has played a major role in governing the Municipalities of the country. Every aspect like election, composition, regulation, functions, funding, budgeting has been elaborately mentioned in this Municipality act. But the present responsibilities of the Municipalities have been increased. This present article of mine will endeavour to understand the present situation of the Municipalities in India with regard to 74th Amendment Act. I would like to analyse various reports and Government recommendation in the functioning of Municipalities in regard to the present situation. This article will try to focus at the reasons why cities in India are lagging behind in terms of providing services and how much financial dependence becomes a major concern in this regard and conclude with some scope of further research.

Keywords: Urbanization, Municipalities, 74th Amendment Act, Municipal Performance Index, Ministry of Housing and Urban Affairs, JNNURM

Date of Acceptance: 12-05-2025

Date of publication: 15-06-2025

I. Introduction:

More than 30 percent population of India lives in urban areas and a trend towards rapid urbanisation has been distinctly visible (Census, 2011). These are about 7935 towns in India and each municipal town a unit of urban local government is at work. In big cities Municipal Corporations are at work and in other cities/urban areas Municipal councils are at work. For fast urbanising areas which are currently and basically rural areas, Nagar panchayats, Notified area committees and Town area committees have been established (Laxmikanth, 2016). For Cantonments, Cantonment boards have been established. Beside these, some special institutions like Improvements trusts, Port Trusts, Town Planning bodies, Urban development Agencies, and Housing Boards have also been created. According to Davis (1965), Urbanization is a progressive transformation from rural to modern economies. It is a long-term process and quantification of urbanization is very difficult. Kingsley Davis (1962) has emphasized urbanization as a procedure of switching of human settlements to one of concentration in city centres.

Since the dawn of independence, the urban local government has been working at the grass root level. Urban local government is engaged in meeting local needs with local requirements and resources through a local council organised by local people (Ghai, 2019). In 1992, the Constitution 74th amendment act was passed for revamping the urban local government with the view to ensure for its stability, more representatives and more powerful role. This was a major step taken by the then Government to implement the long demand of making cities autonomous local self-governing bodies.

Some salient provisions of 74th Constitution Amendment Act:

By the Act, Part IXA was inserted in the constitution. Municipalities have been divided into three tiers.

1. Nagar panchayat for an area in transition from a rural area to urban area-generally with population between 10,000 to 20,000.
2. Municipal Council for a smaller urban area-generally with population between 20,000 and 3 lacs.
3. Municipal Corporation for a larger urban area-generally with a population exceeding 3 lacs.

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If there is an industrial township and municipal services are being provided by an industrial establishment in that area, Municipality may not be constituted in such urban area. 'A transitional area', 'A smaller urban area', 'A larger urban area' means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agriculture activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purpose of this part (Sharma, 2009).

The state legislature shall make a law to endow the municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government. They may also invest with powers to prepare plans for economic development and social justice and in regard to schemes that may be entrusted to them (Sharma, 2009). Such schemes would include matters listed in the 12th Schedule. The legislature may likewise endow the committees with such power and authorities as may be necessary to enable them to carry out the responsibilities conferred upon them. In Schedule 11 are listed the matters in regard to which powers may be conferred on the Panchayats because they are core areas of its function. Likewise, Schedule 12 enumerates the core functions of the Municipalities (Bakshi, 2011). They include urban planning, land use, Roads and bridges, construction of buildings, water supply, public health, Fire services, parks, Gardens, Playgrounds, Slums, Street Lighting, and Parking etc.

There shall be constituted a wards committee, consisting of one or more wards within the territorial area of a municipality having population of three lakh or more. State Election Commission superintendence, direct and regulate the preparation of electoral rolls and the conduct of all elections to the municipality. The Act also stipulated that seat be reserved for Scheduled Castes (SCs) and Scheduled Tribes (STs) in proportion to their population in the municipal area. A revolutionary feature of the enactment was the mandatory provision of reserving one-third of every elected urban body for women representatives. Reservations were also provided for in the position of chairpersons of municipalities (Ghai, 2019). The sources of economy of Municipalities are-

a. Taxes, duties, tolls and fees etc. which the Municipality may be authorised by the State Legislature by law to levy and collect

b. Taxes, duties etc. that are levied and collected by the State but are assigned to the Municipality
c. Grants-in-aid to the municipality from the Consolidated Fund of the State.

Finance Commission to be appointed under article art. 243-I in relation to Panchayats shall also make recommendation to the Governor as to the principles which should govern -

(I) the distribution of net proceeds of taxes, duties etc. between the State and the Municipalities and allocation of shares to different Municipalities.

(II) The determination of taxes, duties etc. which may be assigned to the Municipalities.

(III) The grants-in-aid to the Municipalities.

It will also recommend measures to improve the financial position of the Municipalities.

Article 243-ZD contains provisions for constituting committees for (a) District planning and for (b) Metropolitan planning. The law made by the state legislature would contain provisions in respect to the composition of the District Planning Committee and the manner in which the seats will be filled. But 4/5th of the total number of members shall be elected from amongst the members of the Municipalities in the district. The seats would be allocated in the ratio of urban population of the district.

For each metropolitan area a Metropolitan Planning Committee shall be constituted. The State law would make provisions for the-

i. composition of the committee

ii. The manner of filling seats

iii. The representation of such committees of the Central and State Governments and of such organizations as may be deemed necessary

iv. The functions assigned to such committees

v. the election of the chairperson.

Trends in urbanization in India:

Table 1.1 shows that the urbanization trend in India since 1901 to 2011. Urbanization in India has not been developed in a decade or in a quick time. India has witnessed a long period of urbanization process and still this process has been continuing. The pattern of urbanization in India is characterized by continuous concentration of population and activities in large cities (Kundu, 1983). In 1901 census of India which was carried out by the Britishers. In 1901 total population of India was 23.84 crores and 2.58 crores people lived in the urban areas. Urban population percentage was 10.84 percent in India. Eventually almost 90 percent population used to live in the rural areas according to 1901 census. Gradually the urbanization process was taking place in India at moderate pace till 1941. Since 1951 to till date the urbanization process has been growing exponentially. The population in Urban areas have been increased a lot since then. In 1951 the percentage of urban population in the country was 17.29 percent. 6.24 crore people out of the total population

of 36.10 used to live in urban areas in the country. From 1951 to 2001, during this time the urban population has grown 10 percent. Urban population percentage which was 17.29 percent in 1951 has grown to 27.86 percent in 2001. Overall urban population also increased 6.24 crores to 28.86 crores. But the way the urban population has grown in india from 2001 to 2011 has not increased in any other dacade in the past. During 2001 to 2011, the overall population increased about 19 crores in the country and urban population increased from 28.86 crores to 37.71 crores. The urban population percentage has also gone up at exponential rate from 27.86 to 31.16 percent. This shows that urbanization and urban population growth have been carried out at a very fast rate especially from last few dacades. It is seen that with the growth of urban population, the rural population is declining a lot in the country. The numeber of rural population has been decling at a very fast rate in contrast to the urban population. Rural population percentage was 72.22 percent in 2001 in the nation which came down to 68.84 percent in 2011 and this trend is contunuing.

Table-1
Trends in urbanization in India

Year	Total population in Crores	Total Population in Crores	% of Urban population	% of Rural Population	Urban – Rural Ratio (%)
1901	23.84	2.58	10.84	89.15	12.16
1911	25.21	2.59	10.29	89.71	11.47
1921	25.13	2.81	11.17	88.82	12.58
1931	27.89	3.35	12.00	88.01	13.63
1941	31.87	4.41	13.86	86.14	16.08
1951	36.10	6.24	17.29	85.71	20.91
1961	43.92	7.89	17.97	82.03	21.91
1971	59.81	10.91	19.91	81.76	22.31
1981	68.33	15.95	23.34	76.66	30.44
1991	84.43	21.72	25.72	74.28	34.63
2001	102.70	28.86	27.86	72.22	38.47
2011	121.01	37.71	31.16	68.84	45.26

Source: Census of India Various Years, Office of the Registrar General & Census Commissioner, India.

Table 1 shows the number of UAs/towns in India since 1901 census to present time. At the census 2011 as many as 7935 towns were delineated, which was 2774 more than the number at the 2001 census (5161). The number of towns at the 1991 census was 3768. The number of UAs in the country had risen from 381 at the 1991 census to 384 at the census of 2001. The statutory towns in census towns were in 1991 were 2987 and 1702 respectively. In 2001, India's overall population was 1027 million and about 285 millions was urban dwellers. After Independence there was a decline in the growing of urban towns which drastically fell 2363 in 1961 from 2843 in 1951. Urban population grew at a high rate from the decade 1921 to 1931 and until 1951. But the deace od 1951 to 1961 registered a share drop in urban population. It was mainly due to declassification of a very large number of towns during this period. In 2001, total number of statutory towns were 3799, the number of census tows were 1362 and the number of urban agglomerations were 384. In 2011, the total statutory towns were 4041, census towns were 3894 and the number of urban agglomerations were 475. This shows during this decade urban population has risen exponentially.

Table-2
Total Number of UAs/Towns in India

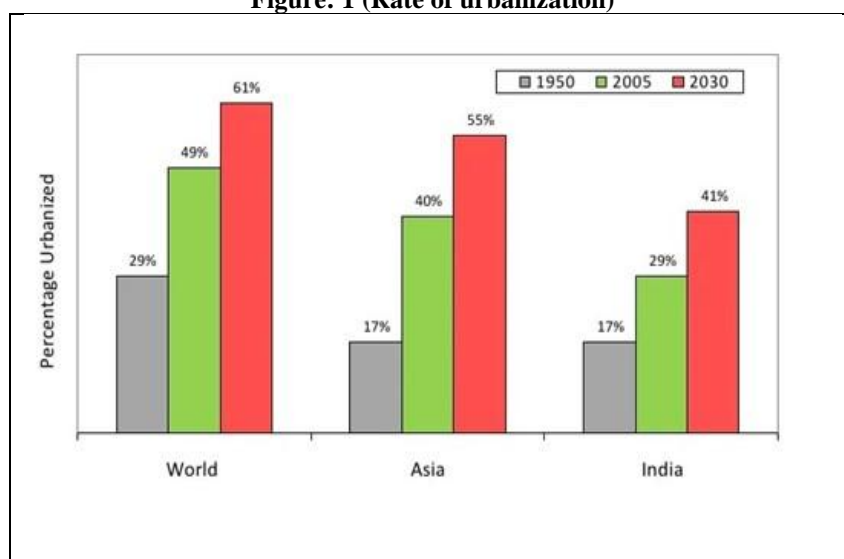
Year	Total number of UAs/Towns
1901	1827
1911	1825
1921	1949
1931	2072
1941	2250
1951	2843
1961	2363
1971	2590
1981	3378
1991	3768
2001	5161
2011	7935

Source: Census of India Various Years, Office of the Registrar General & Census Commissioner, India.

Urbanization and present trend in India:

The urbanisation of India is taking place at a faster rate than in the rest of the world (Chauhan, 2007). The United Nation in 2019 has predicted that India will surpass China's population and will be most populous country by 2027 (India may overtake, 2021). India's urban population will be enhanced at a rapid rate. During 2011-36, urban growth will be responsible for 73% of the rise in total population (MoHFW, 2019). Earlier estimations showed that the population of urban dwellers will be about 416 million in India between 2018 and 2050 (United Nations, 2018). India will be 50% urban by 2050 (UN-Habitat, 2017). The rapid inclination rate of urbanization demands better planning, policies and governance. 74th amendment act has provided a basic guideline to manage city affairs. Government of India and the State governments endeavour to implement a bunch of programmes which sought to impact quality of life in urban areas. But the fact is that, the success of the urban system in the country is dependent upon the success of the local self-government. Local urban bodies can ensure the urban development in a proper and organised way (Municipal performance, 2021).

Figure: 1 (Rate of urbanization)



Over the years, cities of India have been carrying enormous burden by the stresses and strains of unplanned urbanization process (Buch et al., 1993). Cities have expanded in un planned manner, which causes the deep negative impact faced by the poor and the marginalised, the biodiversity and the economy. In fact, during the Covid-19 pandemic situation, we have felt the dire need for more planning and management of our cities (NITI Ayog, 2021). Issues like lack of availability of infrastructure and service land, traffic congestion, extreme air pollution, urban flooding, water scarcity and droughts are the reflection of the infrastructure shortcomings in the cities of India. These shortcomings emphasise a deep and substantial lack of adequate urban planning and governance frameworks. Centre and State Governments have been putting a lot of efforts in the improvements of the urban areas of the nation. But still lots of effort and adequate attention need to be paid for the integrated development of cities, citizens and the environment (NITI Ayog, 2021).

Urban planning capacity has been restricting by several bottlenecks and impediments in the country. Significant portion of urbanization in the nation is unaddressed and unacknowledged (Mckinsey Global institute, 2010). According to 2011 census, half of the 7935 UAs/towns in India are census towns, and these towns are governed as 'rural' entities. The condition of small and medium towns is vulnerable due to inadequate planning and rapid growth. However, 74th amendment act has provided basic guidelines for the regulation the urban affairs and infrastructure. But in the due course of time, the current definitions of 'urban' is not reflective of the context of urbanization process in the country.

Master plans are the important requirement for the regulating and managing the urban infrastructure as well as 'spatial sustainability' (UN Habitat, 2014). Master plans are the statutory instruments to have a robust urban management system. Because urban areas are more densely populated and more commercial compare to rural areas (Wang, 2010). So naturally a master plan guides the city affairs in a proper way. Jawaharlal Nehru National Urban Renewal Mission (JNNURM) made it mandatory for cities to prepare a City Development Plan (CDP) and make their demands for specific projects against the backdrop of the CDP. However, 65% of the 7935 urban settlements do not have any master plan (Municipal performance, 2012). This leads to the chaotic situation and unmanageable haphazard construction, piecemeal interventions, urban sprawl and environmental

degradation. Due to lack of proper planning, the overall health of the urban areas of the country has been deteriorating.

Performance of Municipalities in the country:

To understand the performance of the municipalities across the country, we need to analyse the Municipal Performance Index (MPI) by the Ministry of Housing and Urban Affairs in 2020. The MPI ranks 111 municipalities on the ground of their performances based on five aspects of service, finance, planning, technology and governance. These five verticals comprise 20 sectors and 100 indicators. This initiative endeavours to support the foster competitiveness among cities, to support the process of healthy informed debate and provide the city managements to improve the developmental road map (Ministry of Housing and Urban Affairs, 2020). Municipal Performance Index assessed the municipalities and a broad range of index scores spanning from 66.08 to 12.07. Average index score coming to 43.13. This scorecard of cities projects that the municipalities need to improve their performances and they have immense latent potential. The population plays important differentiator in regard to the performances of the municipal bodies. The assessment framework under 2020 has categorized municipal bodies based on their population- Million+ (Municipalities having more than million population) and less than million population. In the million + category, Indore has ranked the top amongst the municipalities with the score of 66.08, followed by Surat (60.82) and Bhopal (59.04). In the less than million category New Delhi Municipal council has emerged at the top with 52.92 score followed by Tirupati (51.69) and Gandhinagar (51.59) (Ministry of Housing and Urban Affairs, 2020).

Besides enhancing competitiveness among the municipalities, the index also endeavours to promote peer-to-peer learning. For instance, other municipalities can learn from the top rankers, Indore and NDMC. Hidden beneath the average scores, there is significant variance in scores among the verticals. With a national average of 52.13, Municipalities have performed the best in Services. It suggests that the service delivery mechanism of most of the municipalities is their strongest suit. But the vertical of technology of the cities has emerged as the lowest suit with a score of 24.02. This implies that the cities need to develop the use of technologies to maintain the city infrastructure.

An observation of concern is the regional disparity reflected in the rankings. Municipalities from the southern and western parts of the country dominate the top ranks, while municipalities in the north-eastern, northern and eastern parts of the country have featured low in the rankings. This is a reminder of long-persisting regional disparities wherein the more prosperous cities located in western and southern India have continued to reap benefits of serving as financial and industrial hubs from colonial times, while the historically backward regions have fallen behind (Municipal performance, 2021). The fact that India continues to face this challenge even seven decades after independence calls for serious steps towards corrective action.

The Ministry of Housing & Urban Affairs uses the Ease of Living Index (EoLI) to assess the quality of life and the effectiveness of different urban development projects in the city. Ease of Living (EOL) helps measure how citizens' wellbeing has improved, as the ultimate aim of development is to enhance quality of life. The Index evaluates the quality of life in 114 Indian cities based on 3 main pillars, covering 14 categories and 50 indicators related to Quality of Life, Economic Strength, and Sustainability. In 2019-20, the EOL reached out to 114 cities across the country, engaging over 3.2 million citizens in a comprehensive survey conducted from February to March 2020. In 2020 EOLI survey, million+ category: Bengaluru emerged as the top performer followed by Pune, Ahmedabad, Chennai, Surat, Navi Mumbai, Coimbatore, Vadodara, Indore, and Greater Mumbai. In the Less than Million category: Shimla was ranked the highest in ease of living, followed by Bhubaneswar, Silvassa, Kakinada, Salem, Vellore, Gandhinagar, Gurugram, Davangere, and Tiruchirappalli (EOLI, 2019).

A study called "Assessment of Municipal Finance in India" was conducted by the Development Research Group (DRG) at the Reserve Bank of India. It looked at how Urban Local Bodies (ULBs) in India are doing. The study used data from 35 Metropolitan Municipal Corporations to figure out why some ULBs perform better than others in terms of finances and providing civic services. The combined income of all Urban Local Bodies (ULBs) in India is quite low, accounting for only about 0.75% of the country's GDP. In comparison, Poland's ratio is 4.5%, Brazil's is 5%, and South Africa's is 6%. According to the Twelfth Finance Commission report, there are a total of 3,723 ULBs in India, with 109 being Municipal Corporations, 1,432 being Municipalities, and 2,182 being Nagar Panchayats. The overall revenue of these ULBs increased from Rs.11,515 crore in 1998-99 to Rs.15,149 crore in 2001-02, with a compounded average growth rate (CAGR) of 9.6%. Similarly, their total expenditure rose from Rs.12,035 crore to Rs.15,914 crore during the same period, showing a CAGR of 9.8%. The investment needed for urban infrastructure, such as basic civic amenities, mass urban transport, and road infrastructure, has been calculated to be around Rs. 63,000 crore per year for the ten-year period from 2004-05 to 2013-14. This amount accounts for approximately 2.2 percent of the GDP. Out of this total, Rs. 28,000 crore is specifically allocated for basic civic amenities.

Achievements of 74th amendment:

Democratic decentralization has empowered urban local communities by giving them more power to participate in decision-making and implement development projects based on their specific needs and priorities. This has increased citizen involvement in governance and decision-making. Decentralization has also improved accountability and transparency in governance. Urban local governments are now more accountable to citizens, and decision-making processes are more transparent and open to public scrutiny. Additionally, democratic decentralization has enabled better representation of marginalized communities in decision-making, resulting in more inclusive policies that cater to the needs and interests of all citizens, regardless of their background.

Challenges of 74th amendment

However, despite the achievements, there are also shortcomings in various aspects. It has been discovered that municipalities have limited independence in carrying out their assigned tasks. Additionally, many states have not delegated most of the responsibilities to the local bodies, which renders the process of electing numerous representatives somewhat symbolic. They are also criticized for not altering the decision-making process at the central and state levels despite the formation of local bodies. Consequently, there has been minimal effective decentralization. Moreover, the reliance of municipalities on the State and Central Governments for financial support has hindered their ability to function efficiently. People at the local level still have limited authority in determining welfare programs or resource allocation.

Article 243Q includes a condition that prohibits the formation of municipalities in urban areas designated as industrial townships. This condition deviates from the main goal of the 74th amendment, which is to establish constitutionally mandated municipal bodies for self-governance in all urban areas. Of the 18 tasks that are listed under the 12th Schedule, only a few have been entrusted to the municipalities. Though the 74th Amendment contains a stipulation for ward committees, they exist only in a few states.

Recommendations by Government with regard to 74th Amendment Act:

Our cities need to ensure performances for urban dwellers and need to deliver activities for the people. At this crucial juncture, the MPI 2020 provides a current picture to all of us on the current performances level of our local urban bodies. MPI 2020 shows the various dimensions of urban governments with respect to performances towards the people who are dependent on it. But the ranking suggests the scope of improvement of the urban governments and to enhance its performance. The initiative can leverage MPI 2020 to ignite action towards transforming our urban local bodies into true local self-governments, as envisaged in the 74th Amendment.

But the true fact is that the municipalities are not able to perform adequately and most of the cities of the country are facing lots of difficulties with regard to regulate urban system. To find out the answers of this dilemma, Ministry of Housing and Urban Affairs noted that the financial autonomy of municipalities across the country is “far from being achieved” (Municipal performance, 2021). Ministry of Housing and Urban Affairs is the apex authority of the Government of India to formulate policies, programs, sponsor and coordinate the activities of various central ministries, State Governments and other nodal authorities and monitors the programs concerning all the issues of housing and urban affairs in the country. This nodal housing and urban affairs authority recommended a constitutional amendment to address the problems faced by Indian cities (Urban affairs ministry recommends, 2021).

According to Ministry of Housing and Urban Affairs, the 74th Constitutional Amendment is not able to address adequately the problems are faced by the Indian cities today. Lack of proper implementation and the lack of robust will to find the creative solutions for the problems of urban government. However, when the law is implemented, it lacks proper autonomy in the urban local governing bodies in the decision-making process. Due to insufficient funds and financial autonomy, the local urban governments are failing miserably implementing the policies. For this reason, according to Ministry of Housing and Urban Affairs recommend to amend the 74th Act in order to meet the challenges of the present situation (Urban affairs ministry recommends, 2021).

Only 20 cities out of the 111 cities surveyed have the power to borrow and invest funds without state approval (MoUHA, 2020). This report says that “This is a serious blow to the goal of the 74th Constitutional Amendment Act. Inherently, major financial decisions of Municipal bodies are taken by state governments, and not the Municipal office-holders themselves”. Cities are more capable of utilising state grants than the Central ones. Half of the participating Municipalities generate less than 23 percent of their total revenue themselves and rest half of the cities generate 80 percent of their revenue through taxes alone and 14 cities are solely dependent on taxes for their revenue (Urban affairs ministry recommends, 2021). Municipal authorities cannot take adequate decisions in regard to the development of the urban area. Municipal authorities have to be largely dependent on the funding of the State government. This report also suggests establishing a five-year mayoral term across India and consolidating development, planning, water, housing and environmental activities to

report to municipalities rather than State Governments across the country. Municipal laws and financial autonomy of cities varies by state, the report finds if Municipal authorities are given more financial autonomy they would better perform in service and governance delivery. Highlighting the minimal paths for city finance beyond State and Central allocation, the report suggests shifting revenue sources from the State to the city. It also recommends actualising the roles of ward committees in the planning process, as they were envisioned in the 74th CAA.

II. Conclusion:

Indian urbanization has evolved due to rural push of poverty induced migration. Megacities of India have been growing by urban population not in urban culture and prosperity (Nayak, 1962). Hence this urbanization process is without urban functional characteristics. Indian mega cities have suffering by extreme filthy slums, environmental crisis, drinking water, sanitation and extremely rural migration (Kundu et al. 1999). According to scholar Brees (1969), Urbanization in India is different from the western countries. Here Urbanization happens due to population arrive in cities due to rural push not for urban pull. It is true that 74th Amendment Act showed a new path of Indian urbanization. But this act has been working for 30 years and with the due course of time Indian cities are facing enormous challenges. One of the among problems is the weak financial structure of Indian Municipalities. One of the crucial points has been highlighted in the report is the low credit scoring for the majority of Indian municipalities, especially those with less than a million population. It is true that Indian urban centres are heavily dependent on the grants of State and Central governments. It actually hampers the capacity and potentials of the cities to become self-sustaining economic units that can find the solutions of the challenges by itself. The cities are the heart of the State economy. In fact, these big cities actually control and regulate the economy of the entire country. So with the passage of time, new challenges are arising and existing law need to be reviewed and adapted.

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