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Galactic Gavel: Designing Justice for Life Beyond Earth

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ABSTRACT

This article examines the urgent need for a unified philosophy of incarceration as humanity prepares for the challenges of Mars colonization. Through a comparative analysis of Earth's diverse criminal justice models – highlighting the punitive approach of the United States and the rehabilitative model of Norway – it reveals the limitations of traditional penal philosophies when applied to the unique conditions of space. The distinctive demands of extraterrestrial colonization, including isolation, resource scarcity, and the critical necessity for communal cohesion, call for a paradigm shift towards restorative justice frameworks. These frameworks emphasize rehabilitation, community service, and social reintegration over punitive measures. The paper argues for a globally harmonized approach to criminal justice that is responsive to the constraints of space environments while embodying humanity's highest ideals of justice and dignity. This vision aims to ensure the security, well-being, and harmonious coexistence of future extra-terrestrial societies, proposing innovative and humane strategies for addressing crime and punishment beyond Earth.

Introduction

As humanity verges on the monumental task of establishing the inaugural Martian settlement, with projections setting such endeavours as early as the 2030s, the discourse extends beyond the mere technological and environmental challenges of colonizing a new planet. It encompasses the necessity to deliberate on the societal and ethical infrastructures underpinning these extra-terrestrial communities. At the heart of this deliberation is the philosophy of incarceration, a cornerstone in societal architecture that encapsulates both punitive and rehabilitative dimensions in addressing criminal behavior.¹ The significance of incarceration transcends the confines of physical detention, influencing broader societal constructs of justice, security, and rehabilitation.² The unique conditions of Mars – characterized by isolation, resource scarcity, and the imperative for communal cohesion – underscore the need for a unified stance on crime and punishment in these novel settings; the transition from Earth-based justice systems to Martian contexts requires significant

adaptation to account for the distinct environmental and social challenges posed by life beyond Earth. This quest for a global consensus on the treatment of criminality underscores a pivotal inquiry into human rights and societal values within extraterrestrial habitats.

This imperative is further accentuated by the divergent methodologies in incarceration and criminal justice observed on Earth, exemplified by the contrast between the punitive orientation of the United States and Norway's rehabilitative ethos. The United States, with its high incarceration rates, epitomizes a system inclined towards punitive measures. In contrast, Norway's approach, focusing on the rehabilitation and societal reintegration of offenders, embodies a more humanitarian outlook and a dedication to curbing recidivism.³ The philosophical and operational disparities between these approaches not only illuminate the diverse interpretations of justice, but also introduce formidable challenges in articulating a universal framework for criminal treatment as humanity embarks on extraterrestrial colonization. The endeavour to create a cohesive, humane, and efficacious criminal justice system is further complicated by the peculiar constraints and uncertainties inherent in space colonization. Here, conventional incarceration models may prove impractical or entirely infeasible, prompting a critical reassessment of our criminal justice paradigms. This transition to life beyond Earth necessitates an alignment of principles adept at preserving human dignity and maintaining societal order amidst the expanse of space.⁴ Correspondingly, this paper argues for an adaptive framework that aligns with the unique demands of Martian colonization while upholding humanity's highest ideals of justice and dignity.

Philosophy of incarceration

The philosophical discourse surrounding incarceration is multifaceted, engaging with core principles that question its fundamental purpose: retribution, deterrence, rehabilitation, and societal protection. These principles form the bedrock of criminal justice systems worldwide, deeply influencing the rationale behind the treatment of incarcerated individuals.⁵ Incarceration, rooted as a punitive measure, traces its origins to ancient legal codes, including the Code of Hammurabi, which prescribed imprisonment for certain transgressions.⁶ Nevertheless, the philosophy and ethics of incarceration have long been subjects of intense debate among philosophers, legal scholars, and human rights advocates. Michel Foucault, in *Discipline and Punish*, provided a seminal critique, arguing that the modern penal system is intertwined with a societal shift towards discipline and behavioral control.⁷

Foucault's critique illuminates significant ethical concerns regarding the inherent power imbalances of incarceration and questions its efficacy in delivering justice. In the retributive model, incarceration operates as

a means of imposing punishment proportional to the crime, echoing the principle of “an eye for an eye”.⁸ Retribution is conceptualized as moral vengeance, legitimizing the punishment of individuals based on their culpability and the belief that they merit suffering as a consequence of their actions.⁹ This principle underscores incarceration as a form of societal retribution, designed to inflict pain proportional to the offence as a means of deterrence and moral accountability.¹⁰ Proponents of retributivism argue that stringent sentences are necessary to uphold the rule of law, dissuade prospective offenders, and restore moral equilibrium within society.¹¹ However, in Martian settlements, where interdependence is critical to survival, retributive measures prioritising proportional suffering risk destabilising fragile communities. Additionally, Martian societies may be compelled to redefine retribution in ways that align with the practical imperatives of communal survival and resource conservation, in ways yet anticipated.

Deterrence, in contrast, offers an alternative model for consideration, aiming to prevent criminal behavior by cultivating fear of potential punishment. It operates on two levels: general and specific. General deterrence targets the wider public, intending to reduce criminal acts by showcasing the repercussions of unlawful behavior. The underlying assumption is that fear, induced by the observation or awareness of these consequences, will dissuade individuals from committing similar acts.¹² Specific deterrence, in contrast, focuses on preventing recidivism by setting examples of convicted individuals, thus aiming to discourage them from future criminal activities.¹³

While deterrence offers a structured approach to maintaining societal order, its effectiveness remains highly contested. Research suggests that while increased punishment may temporarily reduce crime rates, other factors, such as poverty, social inequality, and limited access to opportunities, often overshadow its impact.¹⁴ Critics argue that deterrence strategies, particularly those reliant on fear, can foster climates of mistrust and alienation, particularly among marginalized communities already disproportionately affected by the justice system.¹⁵ Persistently high recidivism rates also suggest that such strategies may inadequately address the complex needs of offenders, raising ethical concerns about using individuals merely as deterrent examples. While deterrence as a concept holds potential, its limitations and risks necessitate a broader understanding and the exploration of alternative approaches, including social development, economic opportunity, and restorative justice, as more promising strategies for reducing crime and rehabilitating offenders.¹⁶ In Martian settlements, where collective resilience and mutual trust underpin survival, deterrence models centred on fear may undermine social cohesion. This makes the adaptation of deterrence philosophies to the specific socio-environmental realities of space colonies essential, ensuring they promote unity rather than division.

The rehabilitative model of incarceration emerged in response to the perceived shortcomings of punitive systems, representing a constructive approach aimed at reforming criminals by addressing the root causes of their behavior. This shift is widely discussed as a response to the limitations of purely punitive systems. Cullen and Gilbert argue that the rehabilitative approach is rooted in the recognition that punitive measures alone are insufficient in addressing the underlying causes of crime.¹⁷ Foucault further critiques the penal system's power dynamics and dehumanizing effects, advocating instead for a rehabilitative approach that seeks to reintegrate offenders into society as law-abiding citizens through education, vocational training, and psychological support.¹⁸ John Stuart Mill's perspective, as articulated in *On Liberty*, underscores society's role in addressing conditions contributing to criminal behavior, emphasizing rehabilitation over mere punishment.¹⁹

In the context of Martian settlements, the rehabilitative model holds particular promise. Given the unique psychological stressors of living in isolated and resource-scarce environments, prioritizing mental health and social reintegration becomes not just a goal, but a necessity for communal survival. Rehabilitation strategies tailored to extraterrestrial contexts must address the challenges faced by diverse populations, including transient workers and permanent settlers, fostering a shared commitment to social cohesion and mutual support. Despite evidence that rehabilitative incarceration can cause long-term psychological harm and hinder reintegration, many advocate for rehabilitation as a humane, effective strategy to reduce recidivism, especially when compared to punitive approaches.²⁰ However, Martian communities, being more reliant on shared resources and collective harmony, may offer unique opportunities to experiment with rehabilitative programs that integrate community service, mental health support, and proactive conflict resolution into everyday life.

The principle of societal protection provides another justification for incarceration, prioritizing public safety as an essential rationale. This perspective, outlined by Mallory, presents imprisonment as a necessary safeguard to protect the public from potentially harmful individuals.²¹ From this pragmatic standpoint, incarceration becomes justified as a means to ensure community safety by physically removing threats. However, the implications of this principle shift dramatically when considered within the unique dynamics of Martian settlements. In such contexts, the isolation of offenders could disrupt community cohesion, an essential factor for survival in resource-scarce and interdependent habitats. In contrast to deterrence, which relies on the uncertain premise that fear of punishment will prevent crime, and rehabilitation, which is often a gradual process, societal protection offers immediate and tangible benefits by isolating potential threats from society.

Yet, the focus on societal protection is not without ethical concerns. While pragmatically appealing, this approach can contribute to the erosion of trust

between communities and law enforcement, thus hampering cooperative crime prevention efforts. In Martian environments, where populations are tightly interwoven, such erosion of trust could have even more severe consequences, potentially undermining the colony's collective efforts to maintain stability and resilience. Furthermore, the economic burden of maintaining large, incarcerated populations diverts resources from social programs that could address the root causes of crime more effectively.²² This approach also raises the issue of disproportionate sentencing, as heightened perceptions of societal risk often result in excessive sentences, particularly affecting marginalized communities and revealing racial bias within the justice system.²³ In Martian contexts, justice systems must balance the imperative of public safety with the need for proportionality and fairness, ensuring that punitive measures do not alienate key members of the community or disrupt collective survival.

Incarceration philosophies manifest variably across global justice systems, shaping policies and the treatment of prisoners. Historically, the purpose of incarceration has fluctuated between punitive aims and rehabilitative efforts. For example, the Nordic prison model, distinguished by its emphasis on rehabilitation and humane conditions, starkly contrasts with more punitive systems elsewhere, which may prioritize retribution and deterrence.²⁴ These contrasting approaches highlight the tension between ethical considerations and practical implementation, raising the question of how to balance the needs of justice with those of societal cohesion, particularly in novel environments like Martian colonies. This interaction between philosophical foundations and practical application raises fundamental questions about the objectives of incarceration and the most effective means of achieving them. Moreover, as human societies expand beyond Earth, these philosophies must not only accommodate existing frameworks, but also adapt to the distinctive socio-political and resource challenges inherent in space settlements. As societal attitudes shift, so too does the dialogue surrounding these philosophies, with a growing emphasis on criminal justice systems that integrate punishment, rehabilitation, deterrence, and societal protection in effective, ethical, and humane ways.

Incarceration practices globally

Incarceration practices globally span a broad spectrum, encompassing rehabilitative strategies aimed at reintegrating inmates into society, as well as punitive measures that prioritize retribution and societal protection. These practices reflect the judicial philosophies, societal norms, and criminal justice approaches unique to each country. A comparative analysis of the incarceration practices in the United States and Norway, which represents the Nordic prison model, reveals stark differences. Notably, while the United States

embodies a predominately punitive orientation, Norway centres its approach on rehabilitation and societal reintegration.

The United States has one of the highest incarceration rates globally, emblematic of a punitive criminal justice stance. Its penal framework, heavily focused on retribution and deterrence, has contributed to an incarceration rate of 698 per 100,000 population, with over 2.3 million individuals behind bars – an outlier figure compared to the global average of 144 per 100,000.²⁵ This retributive philosophy manifests in lengthy sentences, mandatory minimums, and, in certain jurisdictions, capital punishment.²⁶ Critics argue that the emphasis on retribution often sidelines rehabilitative efforts, resulting in prison conditions marked by overcrowding, insufficient rehabilitative programming, and, in instances of inhumane treatment.²⁷ The prioritization of punishment in the American system reflects an adherence to deterrence that, while intended to reduce crime, frequently limits opportunities for reform and societal reintegration.

In contrast, the Norwegian penal system is predicated on a rehabilitative philosophy, demonstrating that prioritizing humane treatment and offender reintegration leads to more favorable outcomes. The Norwegian Correctional Service is distinguished by its commitment to humane conditions and dynamic security measures that foster positive interactions between staff and inmates.²⁸ This rehabilitative ethos is exemplified by institutions, such as Halden Prison, which focuses on preparing inmates for re-entry into society through extensive education, vocational training, and normalization programs, thereby aiming to lower the likelihood of reoffending.²⁹ The success of Norway's model is evident in its exceptionally low recidivism rates, one of the lowest globally, which attests to the effectiveness of rehabilitation-focused incarceration.³⁰

Recidivism rates are a key metric for assessing the efficacy of these contrasting approaches. In the United States, recidivism remains high, with approximately 67 percent of released prisoners reoffending within five years of – a statistic that highlights the limitations of a predominantly punitive system.³¹ In contrast, Norway's recidivism rate is notably low, with around 20 percent of released prisoners reoffending within two years, well below the global average.³² These figures underscore the long-term benefits of Norway's rehabilitative focus, suggesting that a model which emphasizes humane treatment and personal development for inmates yields more positive societal outcomes.

The divergent incarceration practices in the United States and Norway underscore a fundamental difference in criminal justice priorities. The system in the United States is rooted in the belief that punitive measures serve as both a deterrent and a moral imperative, resulting in widespread incarceration and significant socioeconomic impacts on communities. By contrast, Norway's model demonstrates that prioritizing rehabilitation and societal reintegration

can not only reduce recidivism, but also promote public safety. The efficacy of Norway's approach suggests that treating inmates with dignity and equipping them with skills for reintegration more effectively fulfils the broader aims of criminal justice. Norway's success exemplifies the compatibility of rehabilitation and societal protection as mutually reinforcing objectives rather than opposing goals.

This compatibility challenges jurisdictions reliant on punitive incarceration strategies to reconsider their priorities. Such a perspective advocates for a paradigmatic shift toward models that integrate rehabilitation, which could enhance the efficacy of criminal justice systems in achieving broader societal goals. Moreover, this analysis underscores the necessity of developing incarceration models that balance societal protection, offender rehabilitation, and ethical governance – a lesson applicable not only to justice systems worldwide, but also to the unique contexts of extraterrestrial settlements.

Rationale for a unified philosophy

The endeavor to extend human civilization to extraterrestrial realms, such as Mars, introduces a multitude of challenges, not least the application of terrestrial penal philosophies in such novel environments. Traditional criminal justice models – ranging from the punitive orientation prevalent in the United States to the rehabilitative approach exemplified by Norway – encounter unique constraints in the context of space colonization. Such challenges necessitate not an adaptation of these models, but a harmonized and innovative approach to justice that transcends the limitations of Earth's penal philosophies. Attempting to transplant Earth's divergent penal models into the embryonic societies of Martian colonies underscores the risk of replicating terrestrial systems without adequate consideration of their practicality or ethical implications in a Martian context.

The logistical and ethical challenges associated with incarcerating individuals in space colonies are significant and multifaceted. Space habitats, characterized by isolation, confinement, and resource scarcity, render traditional, resource-intensive prison systems impractical for extra-terrestrial environments. Given these limitations, space settlements will likely require an incarceration philosophy that prioritizes resource conservation, thus lending itself to restorative justice models that focus on community service and rehabilitation rather than punitive measures.³³ Space habitats, engineered for maximal efficiency and often limited in physical space, further diminish the feasibility of dedicating valuable areas to conventional correctional facilities.³⁴ These conditions highlight the importance of penal philosophies that integrate ethical governance with practical sustainability, ensuring that justice systems align with the unique demands of space colonization.

Moreover, the imperative for social cohesion within nascent Martian settlements cannot be overstated. The survival and functionality of space colonies will depend heavily on the cohesive efforts of every inhabitant, accentuating the necessity for a justice system that promotes community resilience rather than engendering division or alienation through punitive sanctions. In settings where survival hinges on interdependence, the alienation of any community member risks destabilizing the colony's fragile social fabric. Therefore, the disproportionate impact of any form of incarceration on the colony's sustainability, as well as on the overall viability of settlement operations, highlights the need for conflict resolution mechanisms that prioritize reintegration and reconciliation.³⁵ Justice systems in Martian colonies must emphasize individual accountability while simultaneously preserving communal harmony to support the long-term viability of the settlement.

The psychological effects of isolation in confined, high-stress environments, compounded by the critical demand for community cohesion, exacerbate mental health issues commonly associated with traditional incarceration models. Consequently, extraterrestrial justice systems will need to prioritize mental health support and rehabilitative measures over punitive actions.³⁶ The development of a globally harmonized philosophy of incarceration for space colonies is imperative to ensure that justice administration fosters safety, well-being, and the harmonious coexistence of a diverse settler population.³⁷

Given these unique challenges, criminal justice models that emphasize restorative practices and community welfare become essential. Approaches suited to space environments include the ideas listed below.

- **Restorative Justice Models**Such models advocate for offender rehabilitation through reconciliation processes involving the victim, offender, and wider community. This approach seeks to repair the social fabric disrupted by criminal acts, prioritizing accountability and amends over retribution.³⁸ Restoring trust and harmony becomes paramount in interdependent space colonies, where social fractures have far-reaching consequences.
- **Preventive Measures and Education**Preventing crime through educational initiatives, mental health support, and the reinforcement of community ties directly addresses the underlying causes of criminal behavior. Proactive strategies, including conflict resolution training, are especially pertinent in small, tightly knit communities where individual actions significantly impact collective well-being.³⁹
- **Community Engagement in Justice Processes**Engaging the entire community in the justice process ensures that resolutions align with communal values and needs.⁴⁰ Such participatory approaches foster shared

responsibility and solidarity, both crucial for the effective reintegration of offenders and the colony's overall health.

- **Adaptive Legal Frameworks** Developing legal and judicial frameworks that are both flexible and responsive to the evolving dynamics of space colonization are vital.⁴¹ Integrating technology and evidence-based practices into these frameworks ensure they remain efficient, fair, and scalable.
- **Upholding Universal Human Rights** Ensuring that all aspects of the justice process respect human rights and dignity is fundamental. A commitment to humane treatment guarantees that the justice system remains equitable, upholds the intrinsic worth of every individual, and aligns with broader humanistic values.

The establishment of extraterrestrial colonies demands not only technological advancements, but also a shift towards more restorative, preventive, and community-centric models of justice. Addressing the unique challenges of these settings, a globally unified philosophy of incarceration can act as a cornerstone for fostering societal cohesion and ethical governance beyond Earth. Reaching a global consensus on these principles offers a unique opportunity to forge a criminal justice framework that not only navigates the complexities of space colonization, but also reflects humanity's highest ideals of justice and dignity. This endeavor not only facilitates the peaceful expansion of human civilization into space, but also presents an opportunity to refine terrestrial justice practices, exemplifying a shared commitment to a humane and rehabilitative future.

Discussion

As humanity approaches the threshold of a new era marked by ambitions to establish extraterrestrial colonies, the necessity for a universally accepted approach to criminal justice becomes increasingly urgent. Achieving a global consensus on penal philosophy is essential not only for unifying diverse approaches, but also for developing a justice system capable of navigating the novel challenges unique to space colonization. Such a framework transcends theoretical discourse; it is critical for ensuring the survival, stability, and harmonious coexistence of nascent human societies beyond Earth's confines. The broad landscape of incarceration philosophies on Earth – reflecting a wide array of cultural values, societal norms, and historical contexts – highlights the diversity and complexity of human justice. However, space colonies, characterized by extreme isolation, limited resources, and profound interdependence among settlers, demand a harmonized justice system that balances practicality with ethical governance. The absence of a unified strategy create inconsistencies in the treatment of individuals, potentially disrupting community equilibrium and undermining the broader objectives of space colonisation. Thus,

a globally negotiated framework becomes of paramount importance to align justice systems with the demands of extraterrestrial environments.

In the context of humanity's first permanent settlement on Mars, one can envision a hypothetical scenario that brings this necessity to light: consider an individual caught stealing food supplies in an environment where every ounce of water and food is meticulously accounted for and recycled. Such an act, though a violation of community laws, represents an existential threat to the colony's fragile ecosystem and, ultimately, the survival of all its inhabitants. This situation brings forth a moral quandary: how does one weigh the potential desperation, psychological distress, or motives of the individual against the broader needs of the community? Traditional punitive responses, that focus solely on retribution, risk depleting resources and fracturing community cohesion. As Levchenko et al. observe, an approach that emphasizes retribution and consumes scarce resources conflicts with the rehabilitative and resource-conscious mindset essential for extraterrestrial survival.⁴²

Such offences in space environments necessitate justice mechanisms that prioritize both community welfare and the offender's reintegration. Restorative justice practices, for example, engage the offenders in processes to repair the harm caused, fostering accountability while aligning with resource conservation. This approach includes a system where the offender contributes to replenishing community resources through acts of service or finds ways to mitigate the impact of their actions. Such a system not only meets the colony's resource needs, but also strengthens social solidarity, echoing the balance of rehabilitation and societal protection, essential for long-term cohesion.

Suppose, however, that terrestrial governments retain authority over punitive responses to crimes committed in Martian colonies. This raises further complications in the quest for a unified penal philosophy. How might a government, such as that of the United States, historically inclined toward punitive justice, vote on such matters? In contrast, how would a state, like Norway, known for its rehabilitative approach, respond? These contrasting philosophies underscore the difficulty of reconciling Earth's diverse legal systems with the collective needs of extraterrestrial societies. A fragmented system risks perpetuating inequalities and inefficiencies that jeopardize the colony's stability. The dialogue surrounding this harmonization is not merely relevant, but essential, as it speaks to the extension of human rights, societal values, and justice into the novel domain of space colonisation. Without a harmonized philosophy, the justice system risks failing to address the ethical and practical challenges unique to space, ultimately compromising the integrity and longevity of human presence in on Mars.

The urgency of this unified approach becomes more pronounced when considering severe crimes, such as murder, within a Martian colony. Crimes of this magnitude challenge not only the moral foundation of extraterrestrial

communities, but also the practicality of Earth-derived penal practices in an environment where conventional means of secure confinement are limited. Traditional responses to serious crimes often rely on extended incarceration or, in some cases, capital punishment. However, in a Martian context where community interdependence is crucial, such approaches are untenable. For instance, capital punishment, although still practised in some Earth jurisdictions, starkly contrasts with the principles of rehabilitative and humane governance envisioned for space. Its implementation in a Martian society erodes the collaborative and ethical foundation necessary for the colony's survival, highlighting the limitations of terrestrial models in this new frontier.

The unique demands of space colonization render Earth's punitive systems inadequate. Adapting justice to this setting means prioritizing rehabilitation, mental health support, and community reintegration over retribution. Levchenko et al. emphasize that punitive systems not only risk resource depletion, but also strain social cohesion, which is indispensable in isolated colonies.⁴³ The risk of alienating individuals within such close-knit environments is far greater than on Earth, where societal structures can absorb the effects of exclusion. The potential repercussions of alienation in a Martian society highlight the need for justice that upholds community bonds and prioritizes restoration, even in the face of serious offences.

Furthermore, the psychological and social challenges inherent in space colonization underscore the necessity of a justice system attuned to mental health and communal support. High-stress environments, combined with physical confinement and isolation, can exacerbate mental health issues that may lead to criminal behavior. Consequently, justice systems in space colonies must not only prevent crime, but also cultivate resilience through robust mental health initiatives and conflict resolution training.⁴⁴ In this context, a unified philosophy of incarceration should go beyond mere punishment, promoting well-being and resilience among colonists while accommodating the ethical imperatives unique to space.

Conclusion

The broader implications of space colonization extend beyond legal considerations to embody the philosophical ideals humanity hopes to carry into the cosmos. Developing a cohesive extraterrestrial society necessitates a collective, international effort to create incarceration philosophies that reflect humanity's highest values, while remaining adaptable to the unique demands of the Martian environment. Establishing a global consensus on justice philosophies that incorporate restorative, preventive, and community-oriented approaches reinforce the moral foundation of space colonies and exemplify an evolution in humanity's approach to criminal justice, reflecting an ongoing commitment to principles of dignity, equity, and collaboration.

As space exploration progresses, international dialogue on justice must evolve in tandem, transcending terrestrial paradigms and embracing models that promote communal resilience, mental health, and ethical integrity. This forward-looking collaboration establishes a criminal justice framework that is both grounded in terrestrial experience and sufficiently flexible to accommodate the unique challenges of life beyond Earth. By forging these agreements, humanity not only lays the groundwork for a harmonious and resilient society in space, but also reimagines its terrestrial justice practices, epitomizing a commitment to a humane and rehabilitative future that honours the principles of justice across all frontiers. The establishment of a global consensus on the philosophy of incarceration becomes an essential legacy, setting a standard for ethical governance that can sustain humanity's presence on Mars and beyond. Until this vision is realized, the "galactic gavel" remains poised – a symbol of justice yet to take full form, awaiting humanity's resolve to make it resonate across future space settlements.

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