

## **Juridical Review of Regional Regulation Number 50 of 2020 Concerning Health Protocols as a Prevention and Control of Corona Virus Disease 2019 in Indragiri Hilir District**

KMS. Novyar Satriawan Fikri<sup>1\*</sup>

Faculty of Law, Universitas Islam Indragiri, Indonesia

Email: [novyarsatriawan3@gmail.com](mailto:novyarsatriawan3@gmail.com)

Jamri<sup>2</sup>

Faculty of Law, Universitas Islam Indragiri, Indonesia

Email: [jamrimas1@gmail.com](mailto:jamrimas1@gmail.com)

### **\*Corresponding author:**

KMS. Novyar Satriawan Fikri<sup>1\*</sup>

Faculty of Law, Universitas Islam Indragiri, Indonesia

Email: [novyarsatriawan3@gmail.com](mailto:novyarsatriawan3@gmail.com)

### **ABSTRACT**

Indonesia is currently hit by a health crisis due to the emergence of an outbreak of a virus commonly known as Coronavirus. Coronavirus is a group of viruses from the Orthocoronavirinae subfamily in the Coronaviridae family and the order Nidovirales. The Indonesian government has determined that the corona virus outbreak is a non-natural disaster in accordance with Presidential Decree Number 12 of 2020. Indragiri Hilir Regency is also one of the districts affected by Covid-19 issued a regulation, namely the Indragiri Hilir Regent Regulation Number 50 of 2020 concerning the Application of Discipline and Law Enforcement Health Protocol As an effort to prevent and control Corona Virus Disease 2019. this study aims to conduct a juridical review of these regulations.

**Keywords:** local regulations, covid-19, pandemic, juridical review

### **Introduction**

Corona Virus Disease or better known as the Corona virus or covid-19 which was first detected appeared in China to be precise in the Chinese City of Wuhan at the end of 2019 (Asyary and Veruswati 2020; Azhar and Arfiani 2020; Azhar and Novyar Satriawan Fikri 2020; Novyar Satriawan Fikri and Azhar 2020). The Indonesian government has determined that the corona virus outbreak is a non-natural disaster in accordance with Presidential Decree No.12 of 2020 concerning the Determination of the 2019 Corona Virus Disaster (COVID-19)(Ahmad et al. 2021; Apriyanto, Partini, et al. 2021; Asyary and Veruswati 2020; Megatsari et al. 2020), Indragiri Hilir Regency is also one of the districts affected by Covid-19, so in order to break the chain of the spread of Covid-19 the Regent of Indragiri Hilir issued a regulation, namely Regulation of the Regent of Indragiri Hilir Number 50 of 2020 concerning the Application of Discipline and Law Enforcement of Health Protocols as an effort to prevent and control Corona Virus Disease 2019 in Indragiri Hilir Regency(Apriyanto and Umanailo 2019; Djalante et al. 2020; Muharlisiani et al. 2019). If we look at the hierarchical order system of the Prevailing Laws, there is no mention of a Regent regulation.

In accordance with the Minister of Home Affairs Regulation Number 80 of 2015 Concerning The formation of regional legal products is the regional autonomy government system enabling regions to have rights and obligations to regulate their regions each. However, in implementing regional autonomy it is still under control by the central government and in accordance with the law. In order to carry out the duties of the Regional Government in their respective areas, the Regional Government given the authority to compile legal products in the regions, namely regional regulations as well as Regent Regulation or so on. In this case it needs to be something of interest to discussed, namely why the Regent of Indragiri Hilir issued a Regent Regulation, why not just issue a certain regional regulation or regional regulation Of course, this is not easy to just issue because before the issuance of a perda, it must go through the design stage and involve the DPRD but not with the regent's regulation, of course we need to examine this matter more deeply regarding the juridical basis for the issuance of the regulation, namely the Regent of Indragiri Hilir Regulation Number 50 of 2020 concerning the Application of Discipline and Enforcement of Protocol Law Health As an effort to prevent and control Corona Virus Disease 2019 In Indragiri Hilir Regency.

## **Literature Review**

Human rights apply anytime, anywhere, and to anyone, so they are universal. In principle, human rights cannot be revoked. Human rights are also indivisible, interconnected and interdependent. Human rights are usually addressed to the state, or in other words, the state has the obligation to respect, protect and fulfill human rights, including by preventing and taking action against violations committed by the private sector (KMS. Novyar Satriawan Fikri and Azhar 2020; Supriatna 2020; Susilawati, Falefi, and Purwoko 2020). This also proves the commitment of the Indonesian people to regulating and protecting human rights better than before. One of the types of human rights that have just been included in the 1945 Constitution is the right to health as stated in Article 28H paragraph (1) which reads "Everyone has the right to live in physical and mental prosperity, to live, and to have a good and healthy living environment and the right to obtain health services." The human rights adhered to by Indonesia are derived from Pancasila as the philosophy of the nation and state. Pancasila accommodates the human aspect as an individual being and a social being. Recognition of human rights is principally reflected in the second principle (Pancasila) (Setiati and Azwar 2020). Establishment of Legislation is the formation of Regulations Legislation covering the stages of planning, drafting, ratification, or stipulation, and promulgation. Regulations on in essence is a form of written policy that is of a nature arrangements (relegen) made by the State apparatus starting from the MPR to with the Director General / Head of LPND at the national scope and the governor regional heads of district level / mayor level II regional heads in the regional scope / the area concerned (FSB 2020; Niles et al. 2020; Susilawati et al. 2020).

The laws and regulations, in the context of the Indonesian state, are written regulations established by state institutions or authorized officials and binding in general. In the practice of governance in In Indonesia we know many types of laws and regulations issued by the official or agency that has the authority to make legislation. The function of the Basic Law, functions as the

basic law for the formation of state institutions, functions, and their relationship between one with others, regulating relations between the State and citizens, and contains the ideals and goals of the State, the MPR Decree, basically functions organize duties and authorities. Functions of Government Regulations in Lieu of Law (PERPU) on basically the same as the function of the law. The difference between the two lies to the makers, laws are made by the President together with the DPR under normal circumstances while the PERPU is made by the President. Another difference is a law made in a normal atmosphere, meanwhile Government Regulations In Lieu of Laws were made in a state of urgency that is forcing.

The function of Government Regulation is the further regulation of provisions in laws that explicitly state how to carry out further regulation, other provisions in the law that regulate even though they do not explicitly mention them. The function of the Presidential Decree which contains the regulation is carry out general arrangements in the framework of the operation government power (Clotworthy et al. 2021; Matompo 2020). According to Article 4 paragraph 1 of the 1945 Constitution), organizes further regulation of the provisions in a firm Government Regulation call it, organize further arrangements other provisions in Government Regulation although it does not explicitly state it. The functions of the Ministerial Decree are as follows: general regulation in the context of exercising governmental power in its field (in accordance with Article 17 paragraph 1 of the 1945 Constitution), organizes further regulation of the provisions in the Presidential Decree, carry out further regulation of the provisions in a firm law call it, organize further provisions in the Government Regulation which explicitly calls it the Function of the Head Decree Non-Departmental Government Institutions are implementing the arrangements in general in the context of exercising governmental power in their respective fields, organize further provisions in the Decree President. Is a delegation based on article 17 paragraph (1) of the 1945 Constitution. The function of the Decree of the Director General of the Department is to carry out the formulation of the technical policy of the Ministerial Decree, organizes the arrangements further provisions in the Ministerial Decree (Fang and Song 2021; Lund and Ayers 2020).

The function of State Agency Decrees is to organize regulations further provisions in the attributing law and the Regulations The government concerned, organizes in general in the framework carrying out its functions and duties. Functions of Regional Regulations Regulated in article 69 and article 70. Law no. 22 of 1999, the function of regional head decrees is organize arrangements in the framework of implementing regional regulations concerned and governmental duties. The function of the Village Decree is to regulate everything that is needed for the implementation of village governance, which is made by the Village Head after get the approval of the Village Representative Body. Meanwhile, the Village Head Decree functions as implementation of village regulations and implementation of policies village head in government, development and community in the village. Process of Drafting Legislation In the Discussion Center about the process The compilation of legislation at the Center can conclude several things, namely Every form / type of statutory regulation has a procedure their respective arrangements. The compilation of MPR legal products in the form of The MPR Decrees include the preparation of draft decrees / decrees prepared by the Working Body until the discussion is carried out in the

Session MPR which has 4 levels of discussion / discussion. This is regulated specifically in the MPR Rules of Procedure (Fang and Song 2021).

Juridically, the meaning of authority is the ability given by laws and regulations to create legal consequences. Meanwhile, the definition of authority according to H.D.Stoud is "bevoegheid wet, right worden omscreven als het geheel van bestuurechtelijke bevoegheden door publiekrechtelijke rechtssubjecten in het bestuurechtelijke rechtsverkeer "that authority can be explained as a whole of the rules that apply with the acquisition and use of government authority by public legal subjects in public law (Chandra, Gupta, and Agarwal 2020; Fang and Song 2021). Power is at the core of state administration so that the state is in state of motion (de staat in beweging) so that the country can take part, work, have capacity, excel, and perform to serve its citizens. Therefore the state must be given power. Power according to Miriam Budiardjo is the ability of a person or group of human beings to influence the behavior of a person or another group is such that it is behavior it is in accordance with the wishes and goals of the person or country. The nature of authority is generally divided into 3 (three) types, namely: bound, which are optional (optional) and which are free. It is so relating to the authority to make and issue decisions (besluiten) and stipulations (beschikkingen) by government organs so it is known that there are decisions that are bound and free (Chandra et al. 2020; Michelle J. Bayefsky, Deborah Bartz, and Katie L. Watson 2020).

General principles of government that are appropriate to serve as the basis for the procedure proper administration of government thus administration government to be good, fair, polite, free from injustice, violation of regulations, abuse of power, and arbitrary actions. Something government decisions / decrees that are contrary to the principles of governance feasible means contrary to legal regulations.

## Methods

The research method is essentially something that is used for acquire correct knowledge through systematic steps:

1. When viewed from its type, this research belongs to normative research or library research. Normative legal research is legal research that places law as a norm system building. The system of norms in question is regarding the principles, systematics of law and comparative law. Such research can be carried out (especially) on legal materials primary and secondary as long as these materials contain rules law. Furthermore, this study uses an approach to materials libraries and Legislation. Then it is seen from the nature of this research classified as descriptive analytical research, namely in the sense of providing an overview accompanied by a systematic, factual and accurate explanation.
2. Primary legal material is a material that is the main source in this research is; 1945 Constitution, Law Number 12 Year 2011 Concerning Establishment Regulations Legislation. Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07 / MENKES / 328/2020 About Prevention Guidelines and control of corona virus disease 2019 (Covid-19) in office and industrial workplaces to support business continuity in Pandemic situation. Regulation of the Minister of Home Affairs Number 120 of 2018 Concerning Establishment of Regional Legal Products. Regulation of the Regent of Indragiri Hilir Number 50 of 2020

concerning Implementation Discipline and Law Enforcement of Health Protocols as Efforts Prevention and Control of Corona Virus Disease 2019 in the District Indragiri Hilir.

3. Secondary legal materials are legal materials that have a function add / strengthen and provide explanation of legal materials primary, namely literature books that deal with the problem is being researched. Secondary legal materials in this research are in the form of a thesis, thesis, papers presented in national and international seminars, journals scholarly scholarships that are accredited by educational institutions, government agencies, or other institutions. Other secondary legal material is in the form of articles which comes from newspapers or magazines related to the object of this research.

The data that the authors obtain is from State Regulations and Laws Republic of Indonesia which regulates the central and regional government systems. Then the authors analyzed qualitatively, namely by way describe / describe, then compare between data and the provisions of the Prevailing Laws or the opinion of legal experts. Stages The analysis starts with data collection, data processing and the last presentation data. Furthermore, the authors draw conclusions, in this study are guided by the deductive way, namely the inference from general things to things a special thing.

## **Results and Discussions**

### **A. Juridical Review The enactment of the Regent of Indragiri Hilir Regulation Number 50 2020 Concerning the Application of Discipline and Enforcement of Protocol Law Health as an Effort to Prevent and Control Corona Virus Disease 2019 in Indragiri Hilir Regency**

Based on the provisions of the Indragiri Hilir Regent Regulation Number 50 of 2020 Regarding Discipline Implementation and Law Enforcement of Health Protocols as Efforts to Prevent and Control Corona Virus Disease 2019 in the District Indragiri Hilir Corona Virus, hereinafter abbreviated as Covid-19, is a disease Respiratory tract infections due to Severe Acute Respiratory Syndrome Corona Virus 2 (SARS-Cov-2) which has become a global pandemic as a non-natural disaster national based on presidential decree No. 12 of 2020 concerning Stipulation non-natural disasters The spread of Corona Virus Disease 2019 (Covid-19) as national disaster (Djalante et al. 2020; Michelle J. Bayefsky et al. 2020; Niles et al. 2020).

The philosophical foundation for the birth of the Regent of Indragiri Hilir Number 50 of 2020 Regarding the Discipline Implementation and Law Enforcement of Health Protocols as Efforts to Prevent and Control Corona Virus Disease 2019 in the District Indragiri Hilir is to break the chain of transmission of Corona Virus Disease 2019, this is done in order to seek various aspects both health and social as well as the economy as promised by the Indonesian government contained in the preamble to the constitution of the Republic of Indonesia, namely "to protect the whole Indonesian nation and all Indonesian bloodshed and to advance general welfare, educating the nation's life ". As we know it that the Covid 19 pandemic has swallowed a lot of human lives and not a little of the Indonesian people who lost their lives and lost their jobs due to the enactment of Social Distensing which makes society always have to be in the house. This is what causes many workers to be lost his job because the public places were previously closed for operate temporarily (Novyar Satriawan Fikri and Azhar 2020; Stogner, Miller, and Mclean 2020).

Large-scale Social Restriction Policies are based on Regulations Government Number 21 of 2020 Concerning Large-Scale Social Restrictions In For the Acceleration of Handling Corona Virus Disease 2019 (COVID-19). This policy then makes people have to do everything activities

at home when traveling only for urgent needs. All workers are also encouraged to carry out activities in the house as well as with school students from elementary to tertiary education level. This of course has a huge impact on the country's economy, even the country's economy was likened to being paralyzed as a result of the Covid-19 pandemic if the country's economy has been paralyzed then that will be new problems. Social distancing policy or PSBB (social restrictions on a large scale) and then it was no longer enforced because of that condition make it difficult for people to interact. Therefore it is necessary a regulation or rule that can be enforced in order to regulate everything when the pandemic is still ongoing so that people can continue to do activities like usually but still have to adhere to established health protocols. This virus outbreak that has spread to various regions in Indonesia is also wrong the only one is Indragiri Hilir District. Indragiri Hilir Regency itself has also done this experienced several positive cases of Covid-19 and not a few also arrived died. Therefore, the Regent of Indragiri Hilir also issued a regulation during a pandemic, namely Regulation of the Regent of Indragiri Hilir Number 50 of 2020 Concerning Discipline Implementation and Health Protocol Law Enforcement as Efforts Prevention and control of Corona Virus Disease 2019 in Indragiri Regency Downstream Based on the Minister of Home Affairs Regulation Number 80 of 2015 local governments have the authority to make local legal products such as Perda, Perkada, PB KDH and DPRD regulations in the form of regulations and determination. However, in implementing regional autonomy it is still controlled by central government as well as in accordance with the law is therefore a result of the emergence of this virus outbreak, the Regent of Indragiri Hilir issued a Regulation Regent of Indragiri Hilir Number 50 of 2020 concerning the Application of Discipline and Health Protocol Law Enforcement as Prevention and Control of Corona Virus Disease 2019 in Indragiri Hilir Regency (Apriyanto, Marlina, et al. 2021; Gaye et al. 2020).

As a result of the legal vacuum regarding the rules at the time of the COVID-19 pandemic, the Inhil Regent issued Indragiri Hilir Regent Regulation Number 50 2020 concerning the Implementation of Discipline and Law Enforcement of Health Protocols As an Effort to Prevent and Control Corona Virus Disease 2019 in Indragiri Hilir Regency as a legal product based on the Decree Minister of Health of the Republic of Indonesia Number HK. 01.07 / MENKES / 382/2020, Concerning Health Protocols for the Community in Public Places and Facilities In the Context of Prevention and Control of Corona Virus Disease 2019 (COVID 19). The birth of Indragiri Hilir Regent Regulation Number 50 of 2020 Concerning Discipline Implementation and Health Protocol Law Enforcement as Efforts Prevention and control of Corona Virus Disease 2019 in Indragiri Regency Downstream is a rule that is used by the community in the midst of a pandemic Covid-19 where the regulation was issued in the context of prevention and transmission of the Covid-19 virus, which is increasingly widespread in various regions in Indonesia (Arpah, Marlina, and Apriyanto 2020; Marlina et al. 2020; Matompo 2020). The new habits followed by the community can no longer run as usual because they still have to comply with the health protocols that have been stated in Indragiri Hilir Regent Regulation Number 50 of 2020 concerning the Application of Discipline And Law Enforcement of Health Protocols as Efforts to Prevent and Control Corona Virus Disease 2019 in Indragiri Hilir Regency. Mean from the enactment of this Regent Regulation is a guideline for all stakeholders in the application of discipline according to health protocols strictly towards a safe, healthy and productive society. Dissemination of the Indragiri Hilir Regent Regulation Number 50 of 2020 concerning the Application of Disciplines and enforcement of health protocols in order prevention and control of Corona Virus Disease 2019 (Covid-19) is necessary in order to accelerate the handling and control of outbreaks, especially in Indragiri downstream district, so that this pandemic ends

quickly too and can move normally (Djalante et al. 2020; Matompo 2020; Novyar Satriawan Fikri and Azhar 2020).

To expand information on Indragiri Hilir Regent Regulation Number 50 of 2020 concerning the Application of Discipline and Enforcement of Protocol Law Health in the Context of Prevention and Control of Corona Virus Disease 2019 (Covid-19) The Regional Government of Indragiri Hilir Regency mobilized the participants members of the Indonesian National Army or TNI for short, the Republican Police Indonesia which was later called the Police, and the Civil Service Police Unit called Satpol PP to carry out monitoring and checking in places general violation of health protocol discipline rules. Then the officers were assigned to guard on several roads for monitor the public to keep wearing masks when outside the house. The regulation is also disseminated through voice media (radio) and newspapers or newspaper. For individuals who violate / do not comply with tax health protocols not wearing a mask, the officer gives punishment to the perpetrator not orderly in adhering to health protocols as contained in Indragiri Hilir Regent Regulation Number 50 of 2020 concerning the Application of Discipline and law enforcement of health protocols in the context of prevention and control of Corona Virus Disease 2019 (Covid-19) district government Indragiri Hilir in article 10 (Gaye et al. 2020; Novyar Satriawan Fikri and Azhar 2020; Wu, Leung, and Leung 2020).

The widespread spread of Covid-19 has spread so quickly officially on March 31, 2020 President Jokowi issued Presidential Decree Number 11 2020 concerning the Determination of Corona Virus Public Health Emergencies Disease 2019. After the decision was made by the President of the regions in Indoneisia then proposed large-scale social restrictions, however over time the conditions for the spread of cocid-19 remain insurmountable quickly, because in the provisions of Law Number 6 of 2018 About Health Quarantine is not sufficiently able to analyze how is the real method in overcoming the spread of covid-19, because Law number 6 of 2018 was indeed enacted before the outbreak covid-19, until finally the Ministry of Health made internal guidelines overcoming the spread of covid-19 stipulates a Minister of Health Decree Republic of Indonesia Number HK. 01.07 / MENKES / 382/2020, Concerning Health Protocols for Communities in Places and Public Facilities in the Context of Prevention and Control of Corona Virus Disease 2019 (COVID-19) (Buřtíková and Baboš 2020).

## **B. Position of Indragiri Hilir Regent Regulation Number 50 of 2020 In Hierarchy System of Order of Legislation**

The order of the Laws and Regulations in article 7 ayat (1) Law of the Republic of Indonesia Number 12 of 2011 concerning the Formation of Regulations The Invitation Law states:

1. The 1945 Constitution of the Republic of Indonesia
2. The Decree of the People's Consultative Assembly
3. Laws / Regulations in Lieu of Law
4. Government Regulations
5. Resident's Praturan
6. Provincial Regulations and;
7. Regional / Regency City Regulations

Regional Head Regulation in the hierarchy of statutory regulations can be interpreted through Article 8 paragraph (1) and (2) of Law Number 12 Years 2011 concerning the Formation of Legislation. That regulation legislation other than those mentioned in the hierarchy is still possible its existence as long as it is commanded by a higher Rule. This legislation product falls

within the scope of delegated legislation / secondary legislation (Azhar and Arfiani 2020; Azhar and Novyar Satriawan Fikri 2020).

Article 8 paragraph (1) of Law of the Republic of Indonesia Number 12 of 2011 Regarding the Formation of the Prevailing Laws then states: "Types of laws and regulations other than what is meant in Article 7 paragraph (1) covers the regulations stipulated by the *yawaratan* Consultative Assembly People, Regional Representatives Council, Supreme Court, Constitutional Court, Supreme Audit Agency, Judicial Commission, Bank Indonesia, Ministers, Agencies Institutions, or commissions at the same level as established by law or government of the Law, the House of Representatives, Regions Province, or the Governor, and the Regency / City Regional People's Representative Council, Regent / mayor, Village Head or equivalent ". Position of Indragiri Hilir Regent Regulation Number 50 of 2020 Concerning Implementation of Discipline and Law Enforcement of Health Protocols in Order Prevention and Control of Corona Virus Disease 2019 (Covid-19) The Regional Government of Indragiri Hilir Regency is clearly covered by the Regulation The People's Consultative Assembly as mentioned in Law Number 12 of 2011 concerning the Formation of the Invitation Laws in article 8 paragraph (Wijaya, Ying, and Suan 2020).

Regional legal product numbering to the City / Regency regional head was carried out by the head of the Regency / City legal section or by other names Numbering of products Regional law in the form of such regulation uses a round number. Regent Regulation which has been stipulated and promulgated in the regional news. Regent Regulation / Regulation The mayor who has been promulgated is conveyed to the governor. Regent Regulation started is valid and has binding power on the date of promulgation except determined otherwise in the relevant laws and regulations. Regent's Regulation later published in the legal documentation and information network. In statutory theory there are several very principles important to pay attention to in the formation of laws and regulations for example: the *lex specialis derogat legi generali* principle, the *lex superior derogat legi inferiori*, which is essentially a special rule and an extra position higher takes precedence over the general rule and of lower rank. In certain cases the principle of *lex posterior derogat legi priori* which means rule the new is won more than the old rule (Disantara 2020; Praghlapati 2020).

In statutory theory there are several very principles important to pay attention to in the formation of laws and regulations for example: the *lex specialis derogat legi generali* principle, the *lex superior derogat legi inferiori*, which is essentially a special rule and an extra position higher takes precedence over the general rule and of lower rank. In certain cases the principle of *lex posterior derogat legi priori* which means rule the new is won more than the old rule. An important consequence of the above principles is that they must be held mechanisms that safeguard and ensure that these principles are not distorted or be violated. The mechanism is that there is a judicial testing system for each laws and regulations, policies, and other government actions against laws and regulations of a higher level or level the highest is the Constitution. Without these consequences, order would be meaningless. Thing this can lead to a lower level of legislation can continue to apply even though it is contrary to statutory regulations a higher level. The position of Regional Head Regulations as statutory regulations presumably non-debatable. Regarding the position of this Regional Head Regulation apparently Regional Head Regulations as Policy Regulations (Chrismondari et al. 2021; Gandasari and Dwidienawati 2020).

This policy regulation has 4 elements; first is the rules general (binding internally and externally); second, with regard to implementation governmental authority over citizens; third, determined by a government agency authorized to take the action referred to; fourth, policy regulations must be implemented in accordance with general principles good governance. Seeing



the position of policy regulations that are "without benchmark" regulations higher legislation, the question that arises then is in the context of how policy regulations can be issued, because they exist a growing viral epidemic requires swift action, people need solutions to their problems immediately without waiting There are legal rules. In order to overcome the Covid-19 pandemic, Ermessen's freies are given who inherited with government authority as an emergency exit. Freies Ermessen is used when; first, an emergency condition that does not allow to apply written provisions; second, there are no or no regulations set it up; third, there are regulations but the norms create (Hudaifah 2020).

## Conclusion

The philosophical basis for the issuance of the Regulation of the Regent of Indragiri Hilir Number 50 of 2020 concerning the Application of Discipline and Enforcement of Protocol Law Health as an Effort to Prevent and Control Corona Virus Disease 2019 (Covid-19 is for the public to comply with the protocol health of Covid-19 in order to prevent transmission and to cut off the chain of the spread of Covid-19.

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