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## THE DOUBLE BIND OF PARENTAL CONSCIENCE

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Two philosophers of education, Sarah Stitzlein and Lauren Bialystok, have recently expressed criticisms of so-called “Parental Conscience Acts,” which allow parents to opt their children out of aspects of the public school curriculum that they find objectionable. (These laws and policies should be distinguished from those which allow parents to enroll their children in non-public schools or to homeschool them, which are far less controversial.)<sup>1</sup> Both Stitzlein and Bialystok acknowledge that dissenting consciences are important and worth protecting in a liberal democracy; Stitzlein has even argued at length that children have a positive *right* to be taught how to dissent well.<sup>2</sup> Yet Stitzlein and Bialystok argue that dissent can be taken too far, when it serves to undermine crucial goals of public education. For this reason, they do not believe parents should be allowed to simply opt their children out of parts of the curriculum, though they differ on the exact reasons why opt-out is objectionable.

In this article, I argue that both Stitzlein and Bialystok place conscientious parents in a situation in which they have no room to appropriately exercise their consciences. I first summarize their respective arguments against so-called “Parental Conscience Acts,” and then explain the double bind for conscientious parents that results from each of their arguments. Finally, I offer my recommendations for maintaining the integrity of the public school curriculum without forcing conscientious parents into such double binds.

Before I begin, I want to briefly offer two points of clarification, first regarding the role of students in this matter and second regarding my methodology. Many may rightly wonder what role students have, either in policy debates about opting out or in philosophical discussions such as this one.<sup>3</sup> The

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<sup>1</sup> It is perhaps significant in this regard that Stitzlein and Bialystok have differing attitudes toward nonpublic schooling options. Stitzlein recognizes a legitimate role for nonpublic educational choices, even as she consistently affirms public schooling’s essential role in a liberal democracy. Bialystok, on the other hand, argues that mandatory comprehensive sex education “deserves to be expressed in a compulsory curriculum that applies to *public and nonpublic schools alike*.” See Sarah Stitzlein, “Conscience in the Curriculum, not Opted Out of It,” *Philosophical Studies in Education* 45 (2014): 81, and Lauren Bialystok, “‘My Child, My Choice?’ Mandatory Curriculum, Sex, and the Conscience of Parents,” *Educational Theory* 68, no. 1 (2018): 27, emphasis mine.

<sup>2</sup> Sarah Stitzlein, *Teaching for Dissent: Citizenship Education and Political Activism* (Boulder, CO: Paradigm Publishers, 2012).

<sup>3</sup> My thanks to Nicholas C. Burbules, Lauren Bialystok, and Gabriel Keehn for raising this question.

too-easy answer is that most policies simply leave students and their consciences out entirely. Stitzlein and Bialystok seem to have largely followed this precedent in their philosophical treatments of the question, and I in turn have followed them. But even aside from these precedents, the fact is that educational decisions are routinely made on behalf of children by their parents, the state, or some combination of the two.<sup>4</sup> These debates are largely about rebalancing decision-making power between these two, rather than giving it to children instead—though I hope my recommendations in the final section will, among other benefits, point the way toward more inclusion of student voices and perspectives.

As for methodology, both Stitzlein and Bialystok root their philosophical considerations of parental conscience in particular issues “on the ground”: in the case of Stitzlein, a New Hampshire law permitting parental opt outs; in the case of Bialystok, a comprehensive sex education curriculum in Ontario. In contrast, I focus in this article on the general principles at work, looking for ways those principles might lack internal consistency or be liable to misapplication. Both approaches to educational philosophy are legitimate and important, and I hope this article will demonstrate how they can engage in fruitful conversation with one another.

#### PARENTAL CONSCIENCE IN STITZLEIN AND BIALYSTOK

Stitzlein bases her argument against opt-out policies on her understanding of the nature of conscience. She rejects the idea that conscience is rightly viewed as “a trait of individuals,” arguing instead that “it is better understood in a collective and relational sense as shared knowledge.”<sup>5</sup> In consequence, conscience does not arise fully formed within the individual, but is rather “something we develop through interactions with others, hold alongside others, and engage in ways that impact others.”<sup>6</sup> Although community membership is fundamental to the shaping of conscience, conscience entails more than “merely conformity to cultural norms or beliefs.”<sup>7</sup> To the contrary, a crucial aspect of training one’s conscience is exposure to and engagement with a multiplicity of visions of the good life.<sup>8</sup> In consequence, using conscience as the basis for refusing to allow such exposure is internally contradictory:

Moreover, it is not enough just to tell children that everyone should be able to freely engage their conscience. . . . This

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<sup>4</sup> For an insightful attempt to put children’s educational interests before those of either parents or the state, see James G. Dwyer and Shawn F. Peters, *Homeschooling: The History and Philosophy of a Controversial Practice* (University of Chicago Press, 2019), 131–132.

<sup>5</sup> Sarah Stitzlein, “Curriculum and the Conscience of Parents,” *Philosophy of Education 2013*, ed. Cris Mayo (Urbana, IL: Philosophy of Education Society, 2013): 252; see also Stitzlein, “Conscience,” 75.

<sup>6</sup> Stitzlein, “Curriculum,” 252 and “Conscience” 76.

<sup>7</sup> Stitzlein, “Conscience,” 76.

<sup>8</sup> Stitzlein, “Curriculum,” 256; Stitzlein, “Conscience,” 80–81.

approach is insufficient because simply stating that conscience is something of equal value for all people will not overcome the influence of parents who teach their children that their way is the only good and right way to live, which presumes that the conscience of others is of less worth.<sup>9</sup>

The necessity of exposing children to pluralism is one reason why parents should not be allowed to withdraw their children from parts of the curriculum they find objectionable. Yet Stitzlein also urges conscientious parents to remain involved in their children's classrooms so that, if the curriculum in question is truly problematic, these parents' convictions can inform the education of *all* children.<sup>10</sup> She argues that public schools need the moral sensibilities of multiple voices, including and especially those most tempted to withdraw from the discussion entirely.<sup>11</sup> (She gives an example of parents critiquing new history standards that some saw as racist.)<sup>12</sup> For this reason, "Conscience claims should be calls to negotiation and exchange, rather than personal withdrawal."<sup>13</sup> In this way, parents can model for their children the kind of dissent and dialogue that are appropriate for citizens in a liberal democracy, and parents', children's, and educators' consciences can all be shaped for the better.

Bialystok further takes up Stitzlein's work on parental conscience, first in her response to Stitzlein's "Curriculum and the Conscience of Parents," and later in her article, "'My Child, My Choice'? Mandatory Curriculum, Sex, and the Conscience of Parents." First, in "Clearing Conscience," she argues that "the so-called 'Parental Conscience Act'" is not "fundamentally a matter of conscience" at all.<sup>14</sup> In her account of conscience, it is "more than a particular set of values: it is a response to a particular type of affront to one's values."<sup>15</sup> In other words, for conscience to come into play, it is not enough for parents and students to merely "encounter an opinion that is different from or incompatible with their own values;" they must also be "placed in a dilemma of having to choose between actively endorsing values that are repugnant to them or following their 'conscience'—sometimes at a great cost."<sup>16</sup> (She points to conscientious objectors in wartime and to whistleblowers as paradigmatic examples of this.)<sup>17</sup> According to Bialystok, students and parents do *not* face such a choice in public schools today.

<sup>9</sup> Stitzlein, "Curriculum," 256–257; see also Stitzlein, "Conscience," 81.

<sup>10</sup> Stitzlein, "Conscience," 77, 80.

<sup>11</sup> Stitzlein, 79, 80.

<sup>12</sup> Stitzlein, 77.

<sup>13</sup> Stitzlein, "Curriculum," 252; Stitzlein, "Conscience," 77.

<sup>14</sup> Lauren Bialystok, "Clearing Conscience," *Philosophy of Education 2013*, ed. Cris Mayo (Urbana, IL: Philosophy of Education Society, 2013): 259.

<sup>15</sup> Bialystok, "Clearing Conscience," 260.

<sup>16</sup> Bialystok, 260.

<sup>17</sup> Bialystok, 260.

She once again connects the discussion to exposure to pluralism:

Exposure to different views about the good life should be fundamental to any education, especially public education. It is a category mistake, I think, to assume that exposure to such pluralism in itself entails some kind of assault on parental or student conscience, which must then be weighed against the value of public education and liberalism in general. . . . I think ‘offending conscience’ has to mean more than disagreeing, even disagreeing about matters of great importance. It must include the threat of being forcibly implicated in something morally repugnant, such as being required to carry out military actions that one feels are unjust. On this reading, the protests of parents in New Hampshire and elsewhere were never about conscience at all.<sup>18</sup>

Bialystok further considers parental opt out in a more recent article arguing in favor of a new mandatory comprehensive sex education curriculum in Ontario, Canada. By “comprehensive,” she means “an evidence-based, secular curriculum that covers sexual and physical development, contraception, sexually transmitted infections, gender and sexual diversity, sexual decision making, and healthy relationships, at a minimum;”<sup>19</sup> she contrasts this with least-common-denominator curricula that focus solely on “plumbing and prevention.”<sup>20</sup> In the case of this comprehensive curriculum, she argues “[i]f sex education is as important as researchers and activists have come to believe, it deserves to be expressed in a compulsory curriculum that applies to public and nonpublic schools alike.”<sup>21</sup> Bialystok explicitly invokes a no-harm conception of liberalism: “Liberalism protects freedom of conscience and expression only to the point at which they begin to interfere with the liberties of others. The protection of sexual minorities is manifestly compromised by the protection of homophobic speech and practices.”<sup>22</sup> Furthermore, she explains, “initiatives such as Ontario’s new health curriculum are designed in part to protect children *from* the limited conscience of their parents. They are motivated by what Brighouse calls the ‘discontinuous ethos’: the idea that schools have an obligation to expose children to something further, or other, than what they see at home or in their communities.”<sup>23</sup>

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<sup>18</sup> Bialystok, “Clearing Conscience,” 261.

<sup>19</sup> Bialystok, “My Child, My Choice,” 17.

<sup>20</sup> Bialystok, 19.

<sup>21</sup> Bialystok, 27.

<sup>22</sup> Bialystok, 22.

<sup>23</sup> Bialystok, 23, emphasis original.

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Combining Bialystok's arguments in "My Child, My Choice" regarding mandatory comprehensive sex education with her response to Stitzlein in "Clearing Conscience," there are only two possible results when parents challenge the public school curriculum on grounds of conscience: either the curriculum seeks merely to *expose* children to various views regarding sexual morality (and morality in general), in which case it does *not* trigger their or their parents' consciences; or it seeks not only exposure but active subscription to a particular viewpoint (e.g., that sexual minorities should be accepted and celebrated), in which case it is "too important" to allow parents to opt their children out. In "Clearing Conscience," Bialystok sets a high bar for claiming that one's conscience has been breached: "I think 'offending conscience' has to mean more than disagreeing, even disagreeing about matters of great importance. It must include the threat of being forcibly implicated in something morally repugnant."<sup>24</sup> Yet this is precisely the situation in which some parents find themselves when confronted with a mandatory comprehensive sex education curriculum whose goals Bialystok summarizes as "pride, power, and diversity."

In "Clearing Conscience," parents are not allowed to claim conscience protections because they and their children are not forced to *participate in* something they consider morally repugnant, only to *learn about* views with which they disagree. In "My Child, My Choice," on the other hand, conscience protections are denied on the grounds that granting them would undermine the intended goals of the curriculum. As Bialystok explains, "Often, however, the 'conscience' of protesting parents, usually expressed in terms of religious belief, contains precisely the illiberal and harmful attitudes that the curriculum seeks to stem in the first place."<sup>25</sup> If conscience claims only apply when the matter is *sufficiently important* that parents and children find themselves implicated in that which they perceive as morally repugnant, but also *not so important* that the curriculum must be made mandatory regardless of parental objections, then what ground is left for conscience?

Bialystok does acknowledge a significant tension or even contradiction between her argument for mandatory curriculum and her commitment to liberalism, and she deserves significant credit for doing so. In her words, "The implication is that parental rights can be overridden whenever they are deemed insufficiently 'liberal,' which is a form of liberal imperialism. Some may view any compulsory curriculum as itself illiberal, and this may be so. I hope to have shown that the vision of a liberal curriculum from which illiberal parents can simply withdraw their children is no better."<sup>26</sup> Yet owning the existence of the tension does not make that tension any less tense.

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<sup>24</sup> Bialystok, "Clearing Conscience," 261.

<sup>25</sup> Bialystok, "My Child, My Choice," 19.

<sup>26</sup> Bialystok, 28–29.

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In the final section of this article, I will explore alternative solutions to dealing with this tension between liberalism's commitment to educating for equal treatment and its commitment to respecting parents' and students' right to dissent. But first, I want to point out that my goal here is *not* to argue that parents who protest mandatory comprehensive sex education are always and entirely in the right. Bialystok presents compelling evidence, beyond the mere fact of disagreement with the proposed curriculum, that some of these parents are truly homophobic and sexist. My concern is not so much with the grounds of the protests as with the criteria we are developing, as philosophers of education, for evaluating conscience claims. Liberal educators and parents should also be concerned, for there have been times in the past, and there may come again a time, when a significantly different curriculum is presented as "too important" to permit opting out.

In contrast to Bialystok, Stitzlein displays a remarkable level of respect for parents' consciences, since she grants the possibility that they may have correctly identified something inappropriate or unjust in the curriculum. For this reason, she urges conscientious parents to remain involved in their children's schooling in order to *correct* the problematic curriculum, not simply opt out of it. Because Stitzlein acknowledges that the curriculum may be wrong and parents may be right, it might seem that she avoids the double bind evidenced by Bialystok.

Yet there is a double bind here too, in this case regarding what greater involvement of conscientious parents in shaping the school curriculum could look like. In particular, Stitzlein claims that "simply stating that conscience is something of equal value for all people will not overcome the influence of parents who teach their children that their way is the only good and right way to live, which presumes that the conscience of others is of less worth."<sup>27</sup> In "Conscience in the Curriculum, not Opted Out of It," she softens this to say merely that such parents are not "*likely* to appreciate that the consciences of others are of equal value to their own."<sup>28</sup> But the presumption remains that commitment to a singular conception of the good life is incompatible with commitment to respecting others' freedom of conscience. If this presumption shapes the way parents are expected to participate in dialogue about the school curriculum, then parents who *are* committed to a particular conception of the good life may find that their contributions to such dialogues are unwelcome, educators' rhetoric about "multiple voices coming together" notwithstanding.<sup>29</sup>

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<sup>27</sup> Stitzlein, "Curriculum," 256–257.

<sup>28</sup> Stitzlein, "Conscience," 81, emphasis mine.

<sup>29</sup> Stitzlein, 79. For further discussion of the general point, see Kristen Deede Johnson's extended examination of the ways various accounts of tolerance fall short when confronted with those they have determined to be intolerant, in *Theology, Political Theory, and Pluralism: Beyond Tolerance and Difference* (Cambridge University Press, 2007), 28–139.

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As I noted in my introductory explanation of this article’s methodology, my interest here is in general philosophical principles regarding parents’ consciences, not in specific cases “on the ground.” I firmly believe many educators, Stitzlein included, genuinely want to welcome the contributions of all parents (and children), including both those who are committed to a particular conception of the good life and those who might feel excluded by the commitments of others. In fact, Stitzlein bases her argument for parental *involvement*, rather than opt out, in part on the need for parents to advocate a more just curriculum for all students, not merely their own children. Yet surely such advocacy (including the anti-racist activism Stitzlein mentions as a laudable example of parents choosing continued involvement) will often come from the strength of parents’ commitment to bringing others into their way of life. We need to articulate more nuanced and self-consistent principles that make room for the involvement of committed, conscientious parents such as these.

#### RESPECTING PARENTAL CONSCIENCE IN PUBLIC SCHOOLS

I said earlier that both Stitzlein and Bialystok express support for protecting the rights of parents and students to dissent from the public school curriculum on grounds of conscience. Yet, as I have shown, both of them—though in different ways—place conscientious parents in a double bind. In the case of Bialystok, the curriculum is either “not important enough” to count as violating conscience, or “too important” to permit conscience exceptions. In the case of Stitzlein, conscientious parents are asked to “remain engaged” in their children’s schooling, yet required to leave behind the very principles that inform their consciences.

How then can we enact genuine respect for dissenting consciences in the context of public schooling? Both Stitzlein and Bialystok point out that allowing parents to opt their children out of whatever part of the curriculum they find objectionable, for any reason whatsoever, effectively undermines the public school system. If we are unwilling to go that route, we must find a way to maintain the integrity of public schools while still respecting those for whom aspects of those schools raise issues of conscience. In the rest of this article, I briefly offer three recommendations for doing so.

First, in response to Stitzlein’s claim that teaching children one particular conception of the good life “presumes that the conscience of others is of less worth,” we need to decouple these two beliefs. In fact, commitment to a particular conception of the good life can actually *produce* commitment to respecting others’ freedom of conscience, rather than undermining it. Of course, this is not guaranteed. It is certainly the case that some people want to impose their own way of life on everyone else, no matter the cost. But others—equally committed to a particular vision of the good life—are content to “live and let live,” or to bring others into their way of life through persuasion and education rather than force.

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If we insist that holding fast to a vision of the good life and seeking to impart that to others necessarily entails devaluing the consciences of others, then we need to think clearly about the implications of the anti-racist activism praised by Stitzlein, and, even more so, curricula such as the mandatory comprehensive sex education that Bialystok describes. After all, the very purpose of this curriculum—and the reason it must be mandatory against any desire to opt out—is to replace the “illiberal and harmful attitudes” students may have received from their parents with liberal attitudes regarding gender and sexual equality.<sup>30</sup> Surely such a curriculum involves a commitment to a particular vision of the good life and the desire to impart that vision to others! If we want to preserve the legitimacy of justice-oriented curricula such as this one, then we need to recognize that it is possible to hold deep commitments without actively forcing those commitments on others. To the contrary, commitment to one’s own vision of the good life may in fact support commitment to others’ freedom. For this reason, there is much good work for philosophers of education to do in helping parents and students see how the commitments they hold dear can help them respect the commitments of others.<sup>31</sup>

This leads to my second point. We need to distinguish, not only between believing that a particular way of life is best and wishing to forcibly impose that way of life on others, but also between respecting or tolerating other ways of life and accepting or even celebrating views we disagree with. This distinction offers the way out of Bialystok’s double bind: we should be able to teach students that bullying others is wrong, and that they should make wise relationship choices and respect one another’s right to consent to sexual activity, without requiring them to celebrate sexual choices and lifestyles they disagree with, much less maligning those who think premarital sex and homosexual behavior are always wrong.<sup>32</sup>

The kernel of this idea is already present in both Bialystok’s and Stitzlein’s arguments: they insist that *educators* should respect *parents’* beliefs and values, without necessarily “giving the content of protesting parents’ views equal standing in the curriculum, or implying that it is in any way a part of the

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<sup>30</sup> Bialystok, “My Child, My Choice,” 19, 23–24.

<sup>31</sup> One helpful place to start this work could be Matthew Kaemingk’s articulation of a principled commitment to religious pluralism based on exclusivist Christian beliefs in *Christian Hospitality and Muslim Immigration in an Age of Fear* (Grand Rapids, MI: Eerdmans, 2018). More generally, John D. Inazu offers a compelling argument for “confident pluralism.” As he explains, “Confident pluralism allows genuine difference to coexist without suppressing or minimizing our firmly held convictions. We can embrace pluralism precisely because we are confident in our own beliefs, and in the groups and institutions that sustain them.” Inazu, *Confident Pluralism: Surviving and Thriving through Deep Difference* (University of Chicago Press, 2016), 7.

<sup>32</sup> Helpful here is John Inazu’s exploration of the value of good old-fashioned tolerance, in which (among other important points) he argues for a more careful distinction between “the inevitability of offending through judgments about beliefs or actions, and a stigmatizing of other people” (*Confident Pluralism* 87–88; see also 100–101).

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curriculum.”<sup>33</sup> We simply need to turn the lens around the other way, and grant that parents and students can also respect views they disagree with, without requiring them to actively celebrate those views.<sup>34</sup> Once again, there is much room here for exploring the internal resources for respect and kindness that parents’ belief systems may possess.

Finally, we need to consider the possibility that these issues would be eased—though hardly resolved—by moving toward local control of public schooling. There are of course many problems with local control of education: individual teachers may choose to entirely skip material others would deem vital; small but vocal groups of parents may skew the curriculum in directions that leave others—especially those with less power—out in the cold; and so on. Despite these drawbacks, I still think it is important to consider the potential benefit of creating more opportunities for educational decision-making at the local level. In my desire to move away from top-down, inflexible policies that cannot take into account local histories, power dynamics, and needs, I suspect I make common cause with Stitzlein, as she argues against high-level laws and policies that grant parents *carte blanche* to opt their children out of any part of the curriculum whatsoever, without even discussing the matter with the local teachers and administrators directly responsible for educating the parents’ children. Although Bialystok’s position in favor of making comprehensive sex education mandatory across all contexts might seem to indicate her preference for a top-down approach to educational decision-making, her consistent concern with protecting and giving voice to the most marginalized students could also open space for seeing the benefit of local control.

What, then, is that potential benefit? Stitzlein has argued for conscientious parents not to withdraw entirely but to actively engage in dialogue, and I have argued for educators to emphasize teaching respect. Both dialogue and respect are easier to put into practice, and easier to learn in the first place, close to home—when we are confronted with actual human beings, not beliefs and values abstracted from those who hold them. In consequence, decisions about what subjects are mandatory, whose voices are included, and even who is allowed to withdraw from the conversation should be made as locally as possible. Moreover, by making local decisions on a case-by-case basis, rather than adhering to a single, inflexible policy (either allowing or forbidding opt-outs), we create more opportunities to include students themselves in the decision-

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<sup>33</sup> Bialystok, “My Child, My Choice,” 25.

<sup>34</sup> To demonstrate this point, it may help to imagine a scenario that is less directly tied to contemporary culture wars, as many of the examples regarding gender and sexuality necessarily are. Suppose one student is committed to veganism on ethical grounds, while another views the eating of meat and dairy as a normal, healthy, enjoyable part of human existence. Both students could reasonably be expected to come to respect one another as fellow human beings, and even to understand the other’s reasons for holding their viewpoint, without having to change their positions or celebrate the other’s dietary practices.

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making process. By forcing individual parents, teachers, and students to talk to one another, rather than hiding behind impersonal bureaucracies and policies, local control creates the possibility that actual dialogue will occur, and that when it does, it will be characterized by respect and mutual understanding, rather than by hate.

To conclude, in this article I demonstrated that current positions put forward by philosophers of education regarding parents' rights to opt their children out of particular aspects of the public school curriculum place conscientious parents in a double bind, in two ways. In the case of Bialystok, the curriculum is either "not important enough" to count as violating conscience, or "too important" to permit conscience exceptions. In the case of Stitzlein, conscientious parents are asked to "remain engaged" in their children's schooling, yet required to leave behind the very principles that inform their consciences. I suggested instead that a better way to handle parental dissent from the curriculum involves recognizing that commitment to a particular conception of the good life can support, rather than undermine, commitment to others' freedom of conscience; teaching students to respect each other's differences, without requiring them to celebrate what they find abhorrent; and moving toward local control of schools wherever possible. In a society as diverse as ours, such steps will not resolve all conflicts between parents and educators, but they will go a long way toward helping us engage in such conflicts in a healthier way.<sup>35</sup>

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