

HUMAN RIGHTS NEWS UPDATE

By Civil Society Forum on Human Rights (CSFHR), Odisha

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A Statement by the Asian Human Rights Commission

INDIA: The national dishonour is judicial hypocrisy

Some in India would consider the country's honour preserved, and finally respected, once the marines from Italy return to stand trial in India. The marines' return is an issue, in which the Supreme Court of India sailed through uncharted waters, at the risk of a complete breakdown of bilateral relationships between India and Italy. The steps taken by the Supreme Court are unheard of in customary international law. But, there are even more uncharted legal territories in the case.

For the government to concede to Italy the quantum of punishment for the crime, before the marines are tried is unacceptable in law. It is for the court to decide. Furthermore it is intolerable in law, for the accused to pay "blood money" to the victims, against the charge of a non-compoundable offense.

Many in India have opined that the Government of Italy paying money to the victims' family and offering their children to be educated free in Italy is a goodwill gesture. There is however, substance in the argument, that, to say the least, such offers are interference with the course of justice and an insult upon the conscience of a nation.

The marines are privileged that their case will be tried in a special court, with their fundamental rights protected, including their right to have the trial completed within a reasonable period, a luxury millions of Indians are denied by their government. The average period for a litigation to culminate in India is 10 to 15 years. Detention centres in India are so overcrowded with under-trial detainees that the police do not have adequate infrastructure to produce each detainee in court, every 14 days, i.e. the maximum period prescribed in the Criminal Procedure Code, 1973, for pre-trial remand. Remand extensions being one of the most sought after opportunities by under-trial detainees, so they may catch glimpses of their relatives on these days, police and prison officers extort money from the detainees, for allowing detainees the privilege of travelling to the court on these designated days.

Under-trials, who cannot afford to meet this extortion, remain in the pre-trial detention centres and the courts *illegally* extend their remand in their absence. In many states, the remand extensions are written by police officers in the court itself, and judges, often magistrates, extend the remands by merely signing these orders without seeing the accused.

Illegal? Yes. But, every lawyer who attends trial courts in India knows that this occurs in routine. For these 'rights' unabashedly denied each and every day, none in India has ever expressed concern. The Supreme Court is yet to utter a word about this since its constitution, though every judge in the apex court knows this is occurring in India on a daily basis. The esteemed judges would much rather spend their time lamenting about a 'lack of resources.'

Anomalies like this are omnipresent in India's jurisprudential landscape, between theory and practice. For instance, the practice of torture is widespread and consistent in India. In 1981, the Supreme Court said "...othing is more cowardly and unconscionable than a person in police custody being beaten up and nothing inflicts deeper wound on our constitutional culture than a state official running berserk regardless of human rights" Kishore Singh (petitioner) against State of Rajasthan (respondents) [AIR

1981 SC 625]. Torture is a crime committed by the state against its subject. So far, no government has been *criminally* held liable by the court, though the Court has repeated its observations over the years.

The D.K. Basu (petitioner) against State of West Bengal (respondent), [1997 (1) SCC 416] was a watershed decision concerning custodial violence. In the judgment, the Apex Court categorically spelled out the procedures to be followed by the police at the time of arrest, detention, and questioning of a person.

Civil society organisations, since then, have brought hundreds of cases before the Indian courts illustrating violation of the so-called 'D.K. Basu guidelines'. The Asian Human Rights Commission (AHRC), for example, has brought at least 432 cases before the Indian courts of custodial violence during the past eight years. In not a single case, have the country's courts felt the same vigour and sense of honour, which they have now found in the case of the Italian marines, to pull up state governments for torturing its own citizens and make them answerable for contempt.

Neither have the courts India bothered, ever, about the number of 'influential' criminals, walking free all over the country, even though charges have been framed, but trials adjourned without end. At the last count, India has more than half of its elected representatives accused of the most serious criminal charges. Absence of conviction is the technical ground that has allowed suspected criminals to continue contesting elections under the Representation of the People Act, 1951.

The exercise of constitutional writ must not be selective. It is unfortunate, however, that the hurt that the Court has felt, for the right reasons, to intervene in the Italians' case, is missing in cases that affect millions upon millions of Indians.

Odisha exploring possibility of mining lease grant to L&T

Vedanta's ailing alumina refining unit at Lanjigarh (Odisha) shut since December 5 last year on bauxite unavailability can hope for a long-term succor on raw material supplies. After denying mining lease (ML) to L&T for Sijimali and Kutrumali bauxite mines way back in 1994 for want of an end-use plant, the Odisha government has softened its stand. The government has consulted its advocate general over the possibility of grant of ML to L&T which was granted prospecting license for the two deposits in 1992. The two mines spread over Raygada and Kalahandi districts have total deposits of around 300 million tonnes. "We have sought the views of the advocate general-Odisha on the possibility of granting ML to L&T. Our consideration stems from the recent shutdown of Vedanta's Lanjigarh refinery that has triggered job losses, impacting livelihoods of hundreds of families. Vedanta which has partnered L&T for the latter's alumina refinery project has requested us to expedite grant of ML for Sijimali and Kutrumali bauxite mines. Grant of ML for these two mines can enable Vedanta to run its refinery as it can act as end-use project for the mines", said a senior government official. Advocate General Ashok Mohanty denied comments, citing sensitivity of the matter. L&T getting ML for the two bauxite leases promises to rescue Vedanta Aluminium Ltd (VAL's) alumina refinery. In 2005, L&T through a joint venture with Dubai Aluminium (Dubal) had proposed Rs 5000 crore alumina refinery of three million tonne per annum (mtpa) capacity at Raygada. Though a special purpose vehicle (SPV) called Raykal Aluminium was formed for the purpose, the project remained a non-starter. Seven years later in 2012 when Dubal walked out of the SPV, VAL bought 24% stake in the project for Rs 200.70 crore. VAL also

has an option to buy out the entire 100% stake in the SPV valued at Rs 1811 crore. VAL officials did not respond to phone calls on the issue. Since the start of its operations, VAL has been running its Lanjigarh refinery on externally sourced bauxite, sustaining losses of around Rs 3000 crore. VAL had a joint venture arrangement with state controlled miner- Odisha Mining Corporation (OMC) for supply of 150 million tonnes of bauxite from the ecologically sensitive Niyamgiri hills with proven bauxite deposits. But, OMC could not open the mine as the Union environment ministry scrapped Stage-II forest clearance for the mine on August 24, 2010. VAL was forced to go for temporary shutdown of the one million tonne refinery on December 5 last year on bauxite unavailability. Since then, the company has been struggling to obtain the raw material from alternative sources. To operate at full capacity, VAL needed 300,000 tonnes of bauxite every month. Recently, it had urged the state government to expedite processing of pending applications of OMC, especially those bauxite leases falling under non-forest areas. The company had also urged the state government to explore possibility of excavating bauxite from iron ore leases of Steel Authority of India Ltd (SAIL) and Rungta Mines where deposits have exhausted and these leases are with proven availability of bauxite. The company had also filed 26 applications for alternative bauxite mining leases of which 14 are at PL stage and the balance 12 at ML stage. These included Karlapat (south), Sasbahumali, Gandhamardhan and Ghusramali to name a few.

(Source-http://www.business-standard.com/article/companies/odisha-exploring-possibility-of-mining-lease-grant-to-l-t-113032000497_1.html)

Visa Steel seeks more land for capacity expansion

Visa Steel has sought allotment of additional 675 acres of land adjoining its existing steel plant at Kalinganagar in Jajpur district for expanding capacity of the project. The company currently has 475 acres of land at the site where it operates 0.55 million tonne per annum (mtpa) steel plant. It needs additional land to ramp up capacity to 2.5 mtpa. "The capacity expansion will cost us Rs 9000-10,000 crore. We have sought additional 675 acres of land for the purpose. Our memorandum of understanding (MoU) signed with the state government also needs to be renewed. The MoU lapsed in 2010 and is awaiting renewal", said a company source. On allotment of captive iron ore leases, the official said, "We had applied for iron ore leases. But with the state government intending to reserve all balance mineral bearing areas for its own mine PSU- Odisha Mining Corporation (OMC) through a resolution, it is unlikely that any other applicant will be granted a lease that is not in either PL (prospecting license) or ML (mining lease) stage." Operating without any captive lease, Visa Steel has urged the state government to supply adequate quantity of iron ore and chrome ore at reasonable rates under long-term agreement from OMC. "Both availability and pricing of ores is a major bottleneck. Standalone miners in the state are making abnormal profits from sale of ore. This is hurting us at a time when we are forced to operate at half of our installed capacity for want of raw material", he said. Government records show Visa Steel has already invested Rs 3088.55 crore on its steel project and a 75 Mw captive power plant at Kalinganagar.

(source-http://www.business-standard.com/article/companies/visa-steel-seeks-more-land-for-capacity-expansion-113032600386_1.html)

Uproar in Odisha Assembly over semi-nude protest on Posco site

Bhubaneswar: Terming semi-nude protest by some women during anti-Posco agitation as 'unfortunate', the Odisha government on Friday expressed concern over support from certain political parties and NGOs to such activities. Health and family welfare minister Damodar Rout told the Assembly that it was unfortunate that some women stripped while protesting against work in the POSCO site on Thursday. He regretted that some political parties and NGOs were supporting such agitation without understanding the ground reality. Rout, who also holds small and medium enterprises portfolio, hails from Posco's proposed plant site in Jagatsinghpur district and has been an MLA for about 20 years. He said outside the Assembly, "Innocent women were instigated by certain vested interest groups to strip during the protest yesterday." Rout held five political parties CPI, CPI-M, Forward Bloc, RJD and Samajwadi Party responsible for the anti-Posco agitation since 2005. "The government is acquiring its own land in illegal possession of certain villagers and not an inch of private land is being acquired," he pointed out. When contacted, Jagatsinghpur Collector S.K. Mallick said that some mischief-mongers were behind the incident, but the women were chased away before they could stage nude protest. Police sources in Jagatsinghpur district said a handful of elderly women while being chased away from the prohibited area tried to disrobe in public. While POSCO heat was felt inside the Assembly, a report from Paradip said there was no activity at the plant site. Neither was there land acquisition, nor protestors staged any demonstration, official sources said.

(Source-<http://www.deccanchronicle.com/130308/news-current-affairs/article/uproar-odisha-assembly-over-semi-nude-protest-posco-site>)

Stop rights violation in Posco area: Dalits

The Milita Dalit Mahamancha, a federation of pro-dalit organisations in the State, on Thursday demanded strict implementation of laws to stop growing atrocities against dalit, tribals and women in the State. The members of Mahamancha took out a rally demanding that violation of human rights in the Posco area should be stopped and police prevented from going there. Criticising the State Government for ignoring the rights of dalits and tribals, a memorandum was submitted to Chief Minister Naveen Patnaik demanding his cognisance of reports by several national organisations on the plight of the weaker section of the society in the State. Their other demands included approval of the Odisha Reservation of Vacancies (ORV) Bill, reservation of scheduled castes and scheduled tribes in contract appointment and promotion; recognition of Saar, Saura, Patar Saura and Jhuria communities as scheduled tribes; and scheduled caste status for Mehentar, Pana, Kandara, Bauri, Dhoba and Gokhas. The rally was attended by Odisha Jana Morcha (OJM) leaders Rajendra Singh, Amiya Pandav and Jayadarshi Nayak, State Chairman of Republican Party of India (RPI) Seikh Abdul Wali and spokesman of the Posco Pratirodh Sangram Samiti (PPSS) Sangram Paikray.

(Source-<http://newindianexpress.com/states/odisha/article1512350.ece>)

Update from POSCO Pratirodh Sangram Samiti as on 24 March 2013

From 22nd March 2013 onwards, more than 200 women of Govindpur village are continuing daily peaceful protest and shouted slogans opposing undemocratic moves of the government and POSCO in the village of Gobindpur in Jagatsinghpur district of Odisha.

We are apprehending a police crackdown after the end of the budget session in the Odisha assembly on 6th of April 2013. Mean while, our villagers re-erected bamboo and wooden barricades at Gobindpur, Patana, Dhinkia and Trilochanpur villages under Jagatsinghpur's Dhinkia gram panchayat to prevent officials and police from entering the proposed Posco plant site. Addressing the villagers, our women leader Ms Manorama Khatua said that now we can go to any extent to ensure stopping of the project on our fertile land. She said that the women would henceforth guard the entry gate to Dhinkia area with their male counterparts to ensure no more demolition of betel vines takes place. She also said that our people are hell bent on opposing any move of the authorities to enter Gobindpur.

As you know that the presence of policemen was a cause of tension for women and girls at Gobindpur village. The state government has resorted to unethical tactics of jailing and lathicharging the protesters regularly. As women and children are at the forefront of the movement, regular lathicharge on women and children by paramilitary has become a norm. Over last 2 months though the administration declared that land acquisition would not happen 'by coercion', this region has just become a site littered with paramilitary camps with more than 12 paramilitary platoons. The constant presence of paramilitary in the area right inside the villages is worrisome and unacceptable in a democratic polity. A large number of people suffering from ailments are unable to visit doctors and nearest markets. Particularly the suffering of women with gynecological problems is deeply disturbing.

Hence we are demanding immediate withdrawal of policemen from Govindpur Village. To restore faith of its citizenry in Dhinkia & Govindpur villages and beyond, the state government must admit its excesses in the area.

We have also decided to launch hunger-strike from April 3, 2013 if it was not done. We call upon all political parties, social activists, intellectuals, and public concerned citizens, leaders to participate in the proposed hunger-strike.

Please find below the statements from different public-concerned citizens to the Chief minister of Odisha. We convey our gratitude for their support.

Gang rape' victim in shock, shifted to MKCG Medical College and Hospital

KORAPUT: The minor girl, who was allegedly gang-raped in Malkangiri, was shifted to MKCG Medical College and Hospital, Berhampur, on Tuesday night after her condition deteriorated. "The girl was in a state of shock and behaving abnormally. As she was not responding to treatment, we referred her to MKCG Medical College," said chief district medical officer (Malkangiri) Sashi Bhusan Panda. The 12-

year-old girl was gang -raped by three youths at MV 33 village within Kalimela police limits in the district, a few days ago. The incident came to light after the victim was admitted to Kalimela hospital by her family on Tuesday from where she was shifted to Malkangiri hospital. According to the medical officer, there was no external indication of rape. "If she has sustained any internal injuries, it will be known in Berhampur," he said. Though the victim's family has not registered any complaint with police, police have registered a case based on medical reports and started investigation. "On suspicion we have detained few youths .We are awaiting a detailed medical report," said SP (Malkangiri) Akhileswar Singh.

(Source-<http://timesofindia.indiatimes.com/city/bhubaneswar/Gang-rape-victim-in-shock-shifted-to-MKCG-Medical-College-and-Hospital/articleshow/19101743.cms>)

Kendrapada boy killed by abductors

BHUBANESWAR/KENDRAPADA: The worst fears have come true. The 12-year-old schoolboy, who was allegedly kidnapped for Rs 5 lakh ransom from Pattamundai on Monday, was found dead on Thursday. Rajkumar Jena's body was recovered while floating in river Hansua at Rajnagar, nearly 30 km from Pattamundai. On Wednesday, his kidnappers arrested in Bhubaneswar had confessed to have killed him. "We started searching the river to verify their claim and sadly found the body in the morning," SP (Kendrapada) Sarthak Sarangi said. Police said Jena was killed within a few hours of being kidnapped on Monday. "They had thrown him into the river. Since the water body was deep and Jena did not know swimming, he might have drowned. There was no injury mark on the body," the SP said. Tension ran high soon after the news of Jena's murder reached Praharajpur village, his native place, in the afternoon. People gheraoed the Pattamundai police station accusing police of not acting swiftly to rescue the Class VII student. They blocked roads and burnt tyres at several places in Pattamundai and even attacked the house of one of the accused, Sibaprasad Rout, who was close acquaintance of the deceased's family. Police said Rout is the mastermind of the kidnap and murder. "He was a frequent visitor to Jena's house and was in urgent need of money," Sarangi said. On the fateful day, he called the boy, who had gone to purchase some grocery. The same evening, Jena's mother received a call and was asked to pay the ransom. She immediately informed Pattamundai police. "His mother's step frightened the accused. Apprehending that they would be caught as the child knew them, they threw him into the river," Sarangi said. The boy's father works as plumber in Dubai.

(Source-<http://timesofindia.indiatimes.com/city/bhubaneswar/Kendrapada-boy-killed-by-abductors/articleshow/18860002.cms>)

Girl, four-year-old raped in Odisha

Angul (Odisha), Mar 31, 2013 pti:

Two more sexual assault incidents came to light at separate places in Odisha with a 21-year-old girl being gang raped and a 4-year-old girl raped in Angul and Keonjhar districts respectively.

The girl, who belonged to Balikhamana village under Handapa police station of Angul district, had gone

to nearby Bainsina village with a relative to witness a yatra on Wednesday night, police said on Saturday. When she went to a nearby eatery to drink water, three youths forcibly took her to a secluded place and raped her, officer-in-charge of Handapa Ramesh Chandra Das said. As the girl attempted to raise an alarm, they even hit her with boulders and fled. She was spotted by people next morning and admitted to a local hospital, he said. Following an FIR lodged by the girl's father on Friday, a case was registered and a man identified as Bijay Dehury of Bainsina was arrested, Das said. He added efforts were on to nab the other two.

Child sexually abused

A four-year-old girl was raped by a juvenile at Kasipal village under Barigaon police station of Keonjhar district on Friday, police said. The 17-year-old accused of the same village had lured the child to a lonely place and sexually assaulted her, IIC of Barigaon B N Sahu said. The victim and accused were sent for a medical test and the doctor confirmed rape. The boy was arrested on rape charge under section 376 (2F) and (4) of IPC and sent to the juvenile court here, they said. A spate of rape cases rocked the state recently with a seven-year-old girl being raped by her uncle two days ago in Jagatsinghpur district.

(Source-<http://www.deccanherald.com/content/322819/girl-four-year-old-raped.html>)

Minor gangraped in child development programme office in Odisha

Bhadrak (Odisha): A minor girl was allegedly gangraped in the office of the Child Development Programme Officer (CDPO) at Bhandaripokhari in Bhadrak district, police said on Monday. Two persons, identified as Satyaban Jena, watchman in CDPO office and his friend Prashant Behera, were arrested for raping the 15-year-old girl yesterday. The girl, daughter of a government employee, stays in her father's official quarter located near the CDPO's office.

The incident took place when the girl had gone to the office with a bottle of water after being requested for it by Satyaban, who was in the office with his friend. Soon after the incident, the girl and her parents lodged an FIR with the Bhandaripokhari police station and the accused were arrested, police said.

(Source-<http://daily.bhaskar.com/article/NAT-TOP-minor-gangraped-in-child-development-programme-office-in-odisha-4217841-NOR.html>)

Dalit girl raped

In shocking incident, a minor dalit girl was raped by a youth as an act of revenge after the former refused to celebrate Holi with the latter at Taradapada village under Jagatsinghpur police station on Thursday. Sources said while the seven-year-old girl was playing Holi with her friends, the accused, Siba Sankar Das (25), wanted to apply colour to her. But she refused. Siba also tried to attract her by offering some chocolates. But she against turned him down and went to nearby pond to take bath.

While the girl was returning from the pond, Siba, who was hiding on the way, dragged her to an isolated place and raped her by gagging her mouth. Later, the girl went home and told her mother about the incident. Hearing the news, irate villagers caught hold of Siba, tonsured him and blackened his head. Meanwhile, the victim's father has lodged an FIR at Jagatsinghpur police station and a case has been registered in this connection. IIC of the police station Sanjib Mohanty said Siba has been arrested and both the accused and the victim have been sent for medical examination

(Source-<http://newindianexpress.com/states/odisha/article1522819.ece>)

2 minor girls gang-raped, killed

BARIPADA (ODISHA): Two minor girls, sisters by relation, were allegedly gang-raped and killed in Odisha's Mayurbhanj district, police said today. Bodies of the tribal girls aged four and six years were retrieved today from beneath the ground near a pond at Raupada village under Badampahar police station area, about 105 km from here. The two victims had been missing for the past two days. Police suspected the minor girls were gang-raped before being killed. Their bodies were sent for postmortem. The police have registered a case under section 376 (g) (gang rape) and 302 (murder) and 34 (common intention) of the IPC. It was suspected that several people of the same village were involved but only one of them was named in the FIR. That person is absconding, the sources said.

(Source-http://articles.timesofindia.indiatimes.com/2013-03-01/bhubaneswar/37372419_1_minor-girls-tribal-girls-gang)

Odisha registers 115 child rape cases within 59 days

Bhubaneswar: At least 115 child rape cases have been registered in 59 days, the month of January and February this year, in Odisha, the state assembly was informed on Thursday. These child rape cases were reported in 30 of the 36 police districts in the state, Women and Child Development Minister Usha Devi said while replying to a written question in the Assembly. The highest number of 11 child rape cases were registered in Balasore district followed by eight cases in Cuttack and Rourkela police districts each and seven in Nabarangpur district.

Quoting information from home department on the child rape cases, the minister said as many as 2071 girl children were allegedly raped in the state between 2010 and 2012. While the number of child rape cases was 580 in 2010, it increased to 638 in 2011 and further rose to 853 in 2012, she said. Though Keonjhar district registered the maximum 126 child rape cases in that period, no such case has so far been registered there during the first two months of 2013. On steps to check the increasing child rape cases, the minister said, "The state government has been implementing provisions under The Protection of Children from Sexual Offences Act, 2012." "The state government has directed the police to complete investigations of child rape cases as early as possible and submit chargesheets," she said. This apart, the minister said, the government has made provisions

of police patrolling in crowded places, fairs, festivals, parks, schools and colleges, markets, sea beaches and cinema halls.

(Source-http://zeenews.india.com/news/odisha/odisha-registers-115-child-rape-cases-within-59-days_835394.html)

Rape cases on the rise

Rape incidents are on the rise in Ganjam district. Last year, 79 rape cases were registered in the district including 19 in Berhampur. The figure was 63 in the previous year and 59 in 2010. In 2009, the number of rape cases in the district stood at 52. Ganjam SP Asish Singh said of the total number of rape cases registered in the district last year, 35 were charge-sheeted while the other cases are under investigation. Moreover, the district registered the highest number of molestation cases in the State at 358 cases followed by 299 in Angul, 227 in Mayurbhanj and 217 in Balasore district last year. Berhampur-based social activist Pramila Tripathy said these figures are just tip of the iceberg as many more cases go unreported. "Apprehending social stigma, many victims do not lodge complaints and in some cases, police do not register the complaints," she said. Berhampur SP Prateek Mohanty, however, refuted the allegation. "If a victim is not prepared to register a case, we cannot force her to do so," he said.

(Source-<http://newindianexpress.com/states/odisha/article1496995.ece>)

OHRC awards 1 lakh for medical negligence

BHUBANESWAR: The Odisha Human Rights Commission (OHRC) here on Tuesday asked the health department to pay Rs 1 lakh compensation to a man, whose pregnant wife died due to alleged medical negligence in Koraput district last year.

Karna Pangi of Semiliguda had moved the commission in June, 2012, accusing a local community health centre of neglecting his wife Mamata Pangi on June 9, 2012. Mamata had died soon after giving birth to a girl. "During inquiry, we found that she was attended to very late by the CHC authorities. Her life could have been saved," said an OHRC officer. The rights panel also awarded Rs 50,000 compensation to a man, who was illegally detained and tortured at Kendrapada's Aul police station on January 6, 2012. The home department would pay the compensation to complainant Bijay Ketan Chhatoi, who was 'illegally' detained by police after his wife levelled dowry torture charges against him. The commission also asked the home department to initiate departmental proceedings against Ajay Kumar Malla, an assistant sub-inspector, for allegedly torturing Chhatoi.

(Source-http://articles.timesofindia.indiatimes.com/2013-03-20/bhubaneswar/37871635_1_ohrc-medical-negligence-lakh-compensation)

Sodomy: NHRC seeks report

The National Human Rights Commission (NHRC) has sought additional reports from the Superintendent of Police of Bhadrak district in Odisha and a rejoinder from the petitioner, Radhakanta

Tripathy, over the sodomy of a six-year-old boy by a gang of criminals. In his complaint on January 7, Radhakanta, a rights activist, had alleged that Kaustubh, a six-year-old boy from Panchapada village in Bhadrak district was brutally sodomised and dumped by a gang of criminals on January 1. The complainant further informed that the child had suffered immensely and was struggling for his life, but has not yet been provided proper medical care. The complainant requested a team of officials to visit the place, where the incident occurred, and give necessary help to save the victim's life. The District Magistrate said that a sum of `10,000 has been paid to the family members of the victim.

(Source-<http://newindianexpress.com/nation/article1517340.ece>)

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