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AAUP's 1915 *Declaration of Principles*: Conservative and Radical, Visionary and Myopic

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Abstract

The AAUP's 1915 Declaration of Principles on Academic Freedom and Tenure is one of the most important documents defining the meaning of academic freedom. But today the 1915 Declaration is little understood, either ignored as mere history by the AAUP as an organization or cited with approval by conservatives who lament the AAUP's abandonment of its early ideals. By establishing extramural utterances as a key part of academic freedom, the 1915 Declaration made a radical advancement and provided the guideposts for the primary work of the AAUP over the century that followed. However, the 1915 Declaration also narrowed the future of the AAUP by failing to consider discrimination as a violation of academic freedom. Understanding the 1915 Declaration helps illuminate some of the current debates about academic freedom (such as the question of whether statements related to academic work are protected as extramural utterances).

The AAUP's 1915 Declaration of Principles on Academic Freedom and Tenure has been one of the most influential definitions of academic freedom in America. The 1915 Declaration would form the ideological foundation of the AAUP's doctrines. A century later, the 1915 Declaration is largely forgotten within the AAUP, but it still resonates with many conservatives, who harken back to its most antiquated elements. However, the 1915 Declaration is much more complex than conservatives admit. By today's standards, many of the doctrines in the 1915 Declaration can seem backward and inadequate after a century of advances in the

idea of academic freedom. Yet the 1915 *Declaration* was also a radical advance in academic freedom that protected extramural utterances.

The 1915 *Declaration* was one of the earliest and most influential expressions of the three core purposes of the university:

- A. to promote inquiry and advance the sum of human knowledge;
- B. to provide general instruction to the students; and
- C. to develop experts for various branches of the public service.

This rendition of research, teaching, and service has become the standard measure of scholarly achievement in academia; however, the third component has changed considerably over the years, since today "service" typically refers to serving on committees within the college rather than the original purpose of "the public service." Ironically, the protection for extramural utterances has dramatically increased even while the AAUP's original justification for those utterances (to serve the public with expert opinion) is rarely mentioned by the organization anymore.

Corresponding to these three functions of the university, the AAUP identified three kinds of academic freedom: "Academic freedom in this sense comprises three elements: freedom of inquiry and research; freedom of teaching within the university or college; and freedom of extra-mural utterance and action."

Setting aside research (which had rarely been seriously threatened), the AAUP focused on teaching and especially extramural utterances: "The second and third phases of academic freedom are closely related, and are often distinguished. The third, however, has an importance of its own, since of late it has perhaps more frequently been the occasion of difficulties."

However, one key flaw of the 1915 *Declaration*—one that would haunt the AAUP for more than a half century until it resolved the issue in the 1960s—was the failure to confront the question of what extramural utterances are. The 1915 *Declaration* noted, "We shall consider the matter primarily with reference to freedom of teaching within the university, and shall assume that what is said thereon is also applicable to the freedom of speech of university teachers outside their institutions." By refusing to distinguish between freedom of teaching and freedom of extramural utterances, the AAUP neglected a key threat to academic freedom.

The primary focus of the AAUP in the 1915 *Declaration* was not academic freedom itself but the elevation of the profession: "If education is the cornerstone of the structure of society and if progress in scientific knowledge is essential to civilization, few things can be more important than to enhance the dignity of the scholar's profession, with a view to attracting into its ranks men of the highest ability, of sound learning, and of strong and independent character." Academic freedom was needed to draw the best "men" into academia. The AAUP also began its push for tenure, where it would be even more successful in the 1940 *Statement of Principles on Academic Freedom and Tenure* than in its quest for academic freedom. Tenure, according to the 1940

Statement, was needed for the profession because "men of high gifts and character should be drawn into it by the assurance of an honorable and secure position." The AAUP called for permanent tenure after ten years of service.

Noting that "the modern university is becoming more and more the home of scientific research," the 1915 *Declaration* argued for the necessity of academic freedom in the service of expanding scientific knowledge: "The first condition of progress is complete and unlimited freedom to pursue inquiry and publish its results. Such freedom is the breath in the nostrils of all scientific activity." The 1915 *Declaration* specifically included "social science" and even "philosophy and religion" as part of this scientific model. As concerns teaching, the AAUP worried about students' "confidence in his [the professor's] intellectual integrity" and the fear that "this confidence will be impaired if there is suspicion on the part of the student that the teacher is not expressing himself fully or frankly, or that college and university teachers in general are a repressed and intimidated class who dare not speak with that candor and courage which youth always demands in those whom it is to esteem."

The AAUP sought for faculty the independence enjoyed by other professionals, such as doctors and lawyers, even though college teachers were hired by institutions rather than commonly working independently. According to the 1915 *Declaration*, "Once appointed, the scholar has professional functions to perform in which the appointing authorities have neither competency nor moral right to intervene." To justify this independent status despite being an employee, the AAUP appealed to the public service function of a professor: "The responsibility of the university teacher is primarily to the public itself, and to the judgment of his own profession; and while, with respect to certain external conditions of his vocation, he accepts a responsibility to the authorities of the institution in which he serves, in the essentials of his professional activity his duty is to the wider public to which the institution itself is morally amenable." Following this model of serving the public, the AAUP proclaimed the need for freedom to inform the public: "It is obvious that here again the scholar must be absolutely free not only to pursue his investigations but to declare the results of his researches, no matter where they may lead him or to what extent they may come into conflict with accepted opinion. To be of use to the legislator or the administrator, he must enjoy their complete confidence in the disinterestedness of his conclusions."

Without academic freedom, the AAUP feared control of professors by "inexpert and possibly not wholly disinterested persons outside of their ranks," which would undermine their credibility. However, this justification carried with it the argument for restricting extramural utterances that might threaten the perceived expertise and disinterestedness of academics. If powerful people believed that the critiques offered by faculty were not "disinterested" and "expert" opinion, could they revoke academic freedom?

The AAUP saw the danger of class conflict of interest: "In the political, social, and economic field almost every question, no matter how large and general it at first appears, is more or less affected by private or class interests; and, as the governing body of a university is naturally made up of men who through their standing and ability are personally interested in great private enterprises, the points of possible conflict are numberless." However, the AAUP was careful to try to position itself as politically neutral by claiming that "in our state universities the danger may be the reverse" and "the menace to academic freedom may consist in the repression of opinions that in the particular political situation are deemed ultra-conservative rather than ultra-radical."

It is noteworthy that the most dubious factual claim of the 1915 AAUP *Declaration* was this latter assertion. The 1915 *Declaration* pointed to the "most serious difficulty of the problem; namely, the dangers connected with the existence in a democracy of an overwhelming and concentrated public opinion." There was never any factual basis to the 1915 *Declaration*'s "danger of despotism" claim that conservatives were more endangered than liberals at public universities.

If the primary threat was perceived to be public opinion, then an elitist model aimed at insulating academics from the people was embraced as the strongest protection. The 1915 *Declaration* stated that a university is "likely always to exercise a certain form of conservative influence" because one of its roles was "to check the more hasty and unconsidered impulses of popular feeling." The AAUP was making a direct appeal to conservative trustees, arguing that academic freedom would protect the integrity of a university that was essential in order to persuade the ignorant and dangerous public.

The suspicion toward the general public was reflected in the desire for secrecy in academia. The 1915 *Declaration* even asserted, "Discussions in the classroom ought not to be supposed to be utterances for the public at large. They are often designed to provoke opposition or arouse debate. It has, unfortunately, sometimes happened in this country that sensational newspapers have quoted and garbled such remarks. As a matter of common law, it is clear that the utterances of an academic instructor are privileged, and may not be published, in whole or part, without his authorization." The AAUP hoped to declare classroom speech off limits to public discussion and thereby protect faculty, using the highly dubious theory that professors owned every word they spoke in the classroom, and that these words could not be repeated by students.

A similar gentlemanly restraint was put upon teaching:

The university teacher, in giving instruction upon controversial matters, while he is under no obligation to hide his own opinion under a mountain of equivocal verbiage, should, if he is fit for his position, . . . set forth justly, without suppression or innuendo, the divergent opinions of other investigators; he should cause his students to become familiar with the best published expressions of the great historic types of doctrine upon the questions at issue;

and he should, above all, remember that his business is not to provide his students with ready-made conclusions, but to train them to think for themselves, and to provide them access to those materials which they need if they are to think intelligently.

However, the 1915 *Declaration* strictly prohibited outside interference in accusations that faculty violated these standards, declaring it "inadmissible that the power of determining when departures from the requirements of the scientific spirit and method have occurred, should be vested in bodies not composed of members of the academic profession."

The 1915 *Declaration* noted that although this power had rarely been exercised by faculty, it was essential: "If this profession should prove itself unwilling to purge its ranks of the incompetent and the unworthy, or to prevent the freedom which it claims in the name of science from being used as a shelter for inefficiency, for superficiality, or for uncritical and intemperate partisanship, it is certain that the task will be performed by others."

While the AAUP was condemning a system where administrators and trustees dismissed faculty at will, it created an expectation that the profession would itself purge incompetent professors, an expectation that was never realized. While the tenure system's probationary and peer-review elements ensure competence at the time of tenure, the AAUP hasn't developed anything comparable to the processes with which the American Bar Association and American Medical Association can discipline individual professionals.

Even the teaching of scientific truths held one exception. The 1915 *Declaration* identified "one case in which the academic teacher is under an obligation to observe certain special restraints—namely, the instruction of immature students. In many of our American colleges, and especially in the first two years of the course, the student's character is not yet fully formed, his mind is still relatively immature. In these circumstances it may reasonably be expected that the instructor will present scientific truth with discretion."

How Conservatives Learned to Love the 1915 Declaration

The 1915 Declaration has been an extraordinary object of affection for conservatives today.

In 2006, Anne Neal, then president of the American Council of Trustees and Alumni (ACTA), cited the 1915 *Declaration* to support her claims that "the AAUP has drifted rather far from its own founding ideals." Neal recited the part of the 1915 *Declaration* that is most famous among conservatives: "The liberty of the scholar within the university to set forth his conclusions, be they what they may, is conditioned by their being conclusions gained by a scholar's method and held in a scholar's spirit." Peter Wood, president of the National Association of Scholars, quoted the same lines from the 1915 *Declaration*, as well as these that follow

¹ Anne Neal, "Freedom from Accountability?," *Montana Professor* 17, no. 1 (Fall 2006), http://mtprof.msun.edu/Fall2006/neal.html.

it: "That is to say, they must be the fruits of competent and patient and sincere inquiry, and they should be set forth with dignity, courtesy, and temperateness of language." Wood lamented, "The AAUP in subsequent revisions of its principles abandoned these limiting conditions."²

Neal concluded, "Thus, academic freedom is the freedom of higher educational institutions to run themselves according to scholarly standards of integrity." This was one of the great flaws of the 1915 *Declaration*, which many conservatives today mistake for a virtue: by requiring a scholar's "method" and "spirit" along with "dignity" and "temperateness," the 1915 *Declaration* seemed to set a low standard for punishing faculty who deviated from conventional norms.

Neal cited another part of the 1915 Declaration beloved by conservatives:

The university teacher, in giving instruction upon controversial matters, while he is under no obligation to hide his own opinion under a mountain of equivocal verbiage, should, if he is fit for his position . . . set forth justly, without suppression or innuendo, the divergent opinions of other investigators; he should cause his students to become familiar with the best published expressions of the great historic types of doctrine upon the questions at issue; and he should, above all, remember that his business is not to provide his students with ready-made conclusions, but to train them to think for themselves, and to provide them access to those materials which they need if they are to think intelligently.

Neal argued, "In its original formulation, academic freedom applies both to professors' freedom to teach, research, and speak; and to students' freedom to learn about controversial issues." According to Neal, "The AAUP's founding conception of academic freedom is out of favor today. The disinterested search for truth has been supplanted by the belief that there is no truth; the impartial educator has become a politicized 'change agent."

ACTA printed the 1915 *Declaration* in a 2013 report to educate trustees about academic freedom, with former Harvard president Larry Summers expressing his admiration: "The AAUP Statement of 1915 says sensible things about many of the issues—albeit with a commitment to the proposition that only professors can evaluate professors—that might be surprising to outsiders."

David Horowitz declared in 2010, "My Academic Bill of Rights is entirely composed of the academic freedom principles laid down in the 1915 *Declaration*."

² Peter Wood, "The Architecture of Academic Freedom," *National Association of Scholars Blog*, January 26, 2016, https://www.nas.org/articles/the_architecture_of_intellectual_freedom.

³ Lawrence Summers, "Commentary," in *Free to Teach, Free to Learn: Understanding and Maintaining Academic Freedom in Higher Education,* American Council of Trustees and Alumni, April 2013, 11, https://www.goacta.org/images/download/free_to_teach_free_to_learn.pdf.

⁴ John K Wilson, "Interview with David Horowitz," College Freedom (blog), November 28, 2010,

Why do these conservatives love the 1915 *Declaration* so much? Perhaps its greatest virtue is its oldness. Back in 1915, there were no civil liberties organizations, and the Supreme Court had never ruled a law restricting free speech to be unconstitutional. Academic freedom was a distant ideal.

Much like Woodrow Wilson was a progressive figure as president in 1915 and today is denounced by radicals as a backward racist, the 1915 *Declaration* is both a radical advance in academic freedom (for its time) and a backward document full of archaic ideas (viewed from the perspective of our time). We should admire its progress and still remain aware of its flaws.

The 1915 Declaration and the Meaning of Extramural Utterances

Because the 1915 *Declaration* was remarkable for its defense of extramural utterances, it can provide some insights about controversies over the meaning of the term. In the 2015 volume of the *Journal of Academic Freedom*, Cary Nelson and Don Eron wrote separate articles about the Steven Salaita dismissal by the University of Illinois, claiming that the AAUP's strong protections for extramural utterances only apply to content unrelated to a scholar's work.

Eron argued that "extramural utterance has always been what occurs outside the confines of faculty performance." Nelson wrote that if Salaita "were tweeting about global warming, given his areas of research, the tweets would be extramural, effectively just public opinion." But Salaita's tweets about Israel, said Nelson, are not extramural utterances because his academic work is about Israel. "The AAUP," Nelson argued, "has also long made an exception where public statements are clearly related to a faculty member's areas of teaching, research, and disciplinary expertise." He added, "In jettisoning the long tradition of recognizing public statements based on academic expertise as part of a faculty member's profile, AAUP's current leaders are breaking with AAUP precedent." But Nelson did not cite any examples of "AAUP precedent" or how it has "long made an exception" for extramural utterances related to academic work. In reality, the opposite is true: the AAUP since its founding has recognized extramural utterances related to one's academic work as the core meaning of the term.

Historically, Eron and Nelson are wrong. The 1915 *Declaration* rejected the idea that for extramural utterances, "their freedom of speech, outside the university, should be limited to questions falling within their own specialties." The AAUP's leadership took it for granted that ideas related to one's academic work were protected under extramural utterances; the 1915 *Declaration* is an argument to expand this idea to include all

http://collegefreedom.blogspot.com/2010/11/interview-with-david-horowitz.html.

⁵ Don Eron, "Professor Salaita's Intramural Speech," *Journal of Academic Freedom* 6 (2015), https://www.aaup.org/JAF6/professor-salaitas-intramural-speech.

⁶ Cary Nelson, "Steven Salaita's Scholarly Record and the Problem of His Appointment," *Journal of Academic Freedom* 6 (2015), https://www.aaup.org/JAF6/steven-salaita's-scholarly-record-and-problem-his-appointment.

extramural utterances, even without academic expertise. Most of the leading early academic freedom cases dealt with extramural utterances, and virtually all of them involved speech directly related to a professor's academic expertise. Economist Edward Ross was fired by Stanford because of his extramural views about economics, and the same happened to Edward Bemis at the University of Chicago. But perhaps the most important case guiding the 1915 *Declaration* was that of Scott Nearing, who was fired by the University of Pennsylvania's business school because of his extramural utterances about railroad interests, which were directly related to his academic field of economics. The Nearing case was prominent in the headlines during the creation of the 1915 *Declaration*, and the 1916 AAUP report on the Nearing case declared, "The committee is accordingly compelled to conclude that at least a contributory cause of Dr. Nearing's removal was the opposition of certain persons outside the University to the views, upon questions within his own field of study, expressed by him in his extra-mural addresses."

This helps prove that the original intent of the AAUP in protecting extramural utterances was to include utterances within the professor's area of expertise. *Extramural* for the AAUP referred to utterances outside of one's teaching and research work, not whether the content of those utterances was related to one's professional work.

One aim of the AAUP was to make professors more influential in public policy debates by protecting them from punishment for expressing their views on legislation and social issues. Although the AAUP wanted to protect all extramural utterances by professors, its primary concern was to defend the right of faculty to speak publicly on matters related to their academic expertise.

Matthew Finkin and Robert Post (in a paragraph cited by Nelson at the start of his essay) see no logical basis for extramural utterances to be protected:

The most theoretically problematic aspect of academic freedom is extramural expression. This dimension of academic freedom does not concern communications that are connected to faculty expertise, for such expression is encompassed within freedom of research, a principle that includes both the freedom to inquire and the freedom to disseminate the results of inquiry. Nor does extramural expression concern communications made by faculty in their role as officers of institutions of higher education. Freedom of extramural expression refers instead to speech made by faculty in their capacity as citizens, speech that is typically about matters of public concern and that is unrelated to either scholarly expertise or institutional affiliation.⁷

⁷ Matthew Finkin and Robert Post, *For the Common Good: Principles of Academic Freedom* (New Haven, CT: Yale University Press, 2009), 127.

Finkin and Post argue that the 1915 *Declaration* "differs fundamentally from the individual First Amendment rights that present themselves so vividly to the contemporary mind." That is certainly true. But Finkin and Post also claimed that the 1915 *Declaration* was "genuinely diffident" on the freedom of extramural utterances.⁸ That assertion is not true. Far from being diffident, the 1915 *Declaration* was genuinely radical in declaring that extramural utterances were a fundamental part of academic freedom, equal in status to teaching and research. Yet, Finkin and Post are correct in noting that the 1915 *Declaration* (like their own approach) failed to provide a clear theoretical justification for protecting extramural utterances.

Finkin and Post's theory hews closely to that of the founders of the AAUP, albeit not the more expansive later AAUP statements, such as the 1970 Interpretive Comments and the 1964 *Committee A Statement on Extramural Utterances* which was incorporated into the 1970 Interpretive Comments.

But this admission actually reveals how radical the 1915 *Declaration* truly was. The 1915 *Declaration* strongly defended extramural utterances. It did so not because extramural utterances fit into the AAUP's theories of academic freedom, but in spite of it. The AAUP recognized the importance of protecting extramural utterances as a practical necessity, even though this didn't fit in with the AAUP's theory of academic freedom founded on elitist notions of scientific expertise. If the AAUP had failed to protect academic freedom in cases of extramural utterances, this would have had a devastating impact on the fate of the AAUP and the protections for academic freedom for the next century. The AAUP would have had a much narrower focus, protecting faculty only in the rare cases where research or teaching was directly threatened. And because a professor with controversial research or teaching is unlikely to stay silent publicly, extramural utterances would have been used to get rid of controversial teachers.

Protecting extramural utterances became the largest part of the AAUP's work over the next century. And that was the radical course of action that the AAUP embraced in the 1915 *Declaration*. It took many decades for the AAUP's theories of academic freedom to evolve in order to explain its protections of extramural utterances. But the key fact is that the AAUP did vigorously protect extramural utterances from the very start.

The Missing Element in Academic Freedom: Discrimination

There is one major item is missing from the 1915 *Declaration*: the principle of equality. No one involved in the AAUP ever imagined that the 1915 *Declaration* (or the AAUP itself) could stand in opposition to the rampant discrimination in academia, then or since. Even though individual members might have opposed some kinds of discrimination, this was never deemed to be part of the AAUP's commitment to academic freedom. The 1915 *Declaration* was already a radical statement of academic freedom for white men. To make it a defense of

⁸ Ibid., 7, 129.

all professors might have alienated many potential supporters and doomed the AAUP to oblivion at its beginnings.

Even today, the AAUP's foundational documents say nothing about equality, and the AAUP essentially never censures institutions for discrimination and bigotry, unless issues of extramural utterances or due process are also involved. This great absence in the 1915 *Declaration*, this blind spot in the AAUP's commitment to liberty and fair treatment of faculty, has shaped the AAUP and the idea of academic freedom in America.

The AAUP's declaration of academic freedom as a fundamental right preceded the Supreme Court's recognition of academic freedom as a legal right in *Keyishian v. Board of Regents* by more than half a century. By contrast, the AAUP's formal declaration against discrimination did not come until 1976, long after courts and legislatures had banned such discrimination: "The Association is committed to use its procedures and to take measures, including censure, against colleges and universities practicing illegal or unconstitutional discrimination, or discrimination on a basis not demonstrably related to the job function involved, including, but not limited to, age, sex, disability, race, religion, national origin, marital status, or sexual orientation." Despite this statement, it does not appear that the AAUP has ever censured an institution solely for identity-based discrimination. And the AAUP today does not even speak out against religious colleges that routinely discriminate based on religion and sexual orientation, despite this broad antidiscrimination statement and the 1970 Interpretive Comments that removed the special exemption from AAUP rules for religious colleges.

Although religious minorities, people of color, women, and those who are LGBTQ have endured the overwhelming majority of injustices in academic hiring and firing, especially in the past but even today, virtually all cases of academic freedom historically (and most of those in the present day) involve straight white males. In this sense, academic freedom is a segregated concept born out of very intentional tunnel vision to protect only mildly unpopular political speech, not oppressed minorities.

The extent of racism, sexism, and bigotry within academia (and the rest of American society) was so overwhelming that no one in the AAUP even considered the possibility that discrimination violated academic freedom or that the organization should fight it. It's not as if the AAUP's leaders considered the possibility of making antidiscrimination part of academic freedom and the AAUP's own policies but were forced to give up the idea for practical reasons; the very concept was unthinkable in 1915.

The white men who established and ran the AAUP took the path of self-interested compromise. They embraced extramural utterances because attacks on such speech threatened their own academic freedom; even if they were not radicals, they could imagine their views being distorted or misinterpreted to place their own jobs at risk. By contrast, they ignored discrimination because they suffered no personal harm from the

⁹ AAUP, Statement on Discrimination (1976), http://www.aaup.org/issues/discrimination.

prejudices within academia (and in fact benefited from the absence of competition). The racism, sexism, homophobia, and religious bigotry that was built into the structure of higher education (and society at large) was also mirrored in the membership and leadership of the AAUP, and it influenced the concept of academic freedom as well.

It is notable that the AAUP's focus was on job protection against unfair dismissal, and it paid almost no attention to the problem of discriminatory hiring practices. Discrimination based on political viewpoint was deemed a violation of academic freedom. Discrimination based on race or gender or other characteristics was not a violation of academic freedom. Although the AAUP eventually (and belatedly) denounced discrimination, it has never defined this as an issue of academic freedom that brings the full weight of the AAUP investigative apparatus to bear on an institution.

The exclusion of discrimination from academic freedom had a pragmatic component, too. Although faculty could violate academic freedom, the greatest threat came from administrators seeking to overrule faculty decisions based on merit. Discrimination, in contrast, was an institutionalized practice that faculty were deeply involved with. The AAUP sought to unify the faculty against administrative abuses, but it could not unify the faculty against discrimination that was often committed by faculty. The AAUP has always been a white male group with a white male vision of the limits of academic freedom.

It is possible to imagine a much more conservative 1915 *Declaration* that ignored extramural utterances, and a much more radical 1915 *Declaration* that demanded fair hiring rules and condemned discrimination. The actual 1915 *Declaration* was an ideological compromise, one aimed at advancing the rights and privileges of the professoriate by ignoring those groups who were often excluded from academia.

The 1915 *Declaration* was simultaneously radical and conservative. It contained multitudes, and it was the product of numerous voices who did not always sing together in good harmony. But the point is that they were singing the same song. As Hans-Joerg Tiede documents in his book about the early years of the AAUP, the approval of the 1915 *Declaration* on January 1, 1916, was met with discord and contentious debate.¹⁰ Ultimately, the AAUP's membership concluded that the AAUP needed to stand together in defense of academic freedom.

By understanding the complexities of the 1915 *Declaration*, its virtues and its flaws can be better illuminated. The AAUP cannot be limited to the ideas of academic freedom written a century ago; ideas, like organizations, must evolve to meet new challenges. But the 1915 *Declaration* needs to be better understood and debated to help comprehend how the AAUP became what it is today.

¹⁰ Hans-Joerg Tiede, *University Reform: The Founding of the American Association of University Professors* (Baltimore: Johns Hopkins University Press, 2015).

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