In late 2016, Canadian journalist Justin Brake was charged with civil and criminal offences following his coverage of the activist group Labrador Land Protectors (LLP) and their controversial occupation of the Muskrat Falls hydroelectric mega-dam project job site in the province of Newfoundland and Labrador. The Labrador Land Protectors are an informal group comprised of both Indigenous and non-Indigenous Labradorians. Muskrat Falls is a capital project, the purpose of which is to provide residents with hydroelectric power. However, the project is controversial because Muskrat Falls is in traditional Indigenous territory that sustains several Inuit, Inuit-Metis, and Southern Inuit populations. Community members impacted by the project marched into the construction site in late October 2016 and occupied the area for four days in an attempt to stop the impending flooding of the dam (Brake). Justin Brake followed the activists and continued reporting on the occupation from within the job site. The unlawful occupation was a last-ditch effort for residents to communicate their health, safety, and cultural concerns about the Muskrat Falls project to the provincial government and to the court system. Previous, lawful, attempts at communication with project and government officials did not result in changes to the direction or scope of the project (Brake).

The legal troubles that Justin Brake faces stemming from his actions at Muskrat Falls reveals a strain on the relationship between journalism and political obligation. Journalists are not above the law, but they should not be unfairly constrained by it when reporting on matters of injustice. Further constraints exist when principles of traditional journalism, such as impartiality, conflict with the matter being reported on. Journalists occupy privileged, powerful spots in democratic societies and are well-situated to highlight widespread injustices and pursue meaningful change (Delmas 155). Philosopher Candice Delmas, in her book *A Duty to Resist: When Disobedience Should Be Uncivil*, proposes a theory on political obligation. She argues that the duty to obey the law in just societies validates a duty to resist laws that perpetuate conditions of injustice on citizens. Delmas posits principled disobedience as a way to fulfill duties to resist unjust states and to restore dignity to all.

Using a case study on Justin Brake, I argue that the role of journalists and their duty is not to remain neutral in the face of injustice. Journalists must take an active part in resisting and remedying injustice by utilizing their unique position of power and prestige. Brake's actions of trespassing with the activists into the project site to pursue the Muskrat Falls occupation story show that alternative methods of reporting may be well-suited to satisfy requirements of resistance as defined by Candice Delmas. Principled disobedience is defined by Delmas as illegal acts of resistance that are motivated by moral or political inclinations (16). The definition encompasses civil and uncivil disobedience, where civil disobedience is nonviolent forms of resistance against the law, and uncivil disobedience is violent, lawbreaking actions meant to resist deep and pervasive injustices. Alternative journalism is an umbrella term for a number of socially-focused and socially responsible forms of reporting. These forms promote social issues, and include styles such as social justice, advocacy, activist, and peace journalism (Fisher 714). Delmas' argument justifies Brake's actions and resistance to injustice demands a greater commitment from those in the journalism field.

Political Obligation, Political Association, and Dignity

Political association and dignity are two critical points in Delmas' theory which justify Brake's actions. Political association is defined as membership within a political entity such as a state or country. Delmas considers dignity to be a basic human right by which people are free and equal citizens before the law (77). Injustices, such as marginalization, violence, discrimination, and exploitation are ways in which political association can be a threat to a person's dignity (Delmas 175). Delmas states that when faced with injustice, people have a duty to resist and remedy the violation to the best of their ability, or the injustice will encroach upon on a person's dignity. In dignity-threatening political relationships, Delmas argues that there are four goals of resistance:

- 1. *Rectification:* fixing the flawed law, policy, institution, or system through reform or revolution;
- 2. Communication: publicly condemning a law, policy, institution, or system;
- 3. Assertion: affirming one's dignity; and
- 4. Solidarity: acting in and expressing solidarity with or among the oppressed (176).

These are not binding goals, rather they form a blend of methods and actions that can be used to affirm one's dignity. The communication pillar is key, considering Brake's role as a journalist. Communication is viewed as the first step toward rectification of an injustice (Delmas 177).

Solidarity is another important goal, as Delmas states that citizens have a duty to act in solidarity with those whose dignity is threatened by injustice. Dignity in this sense requires two things—authenticity, and self-respect—and encompasses the idea that humans should inherently

be able to control their own lives, and that control should be respected by institutions (Delmas 173). The relationship between citizens is a reciprocal relationship of communal decision making—only if everyone respects these decisions does this not devolve into a kind of tyranny. Delmas cites an argument from Ronald Dworkin that examines dignity in conjunction with political obligations. Political obligation in Dworkin's view is justified by state legitimacy—the expectation to adhere to the law in legitimate societies.¹ Delmas states that dignity allows us to share responsibility for our lives with other members of our political realms; this relationship is reciprocal and must be carefully navigated so as to "not compromise [the] dignity" of other parties (174). There is a prima facie case for the inherent duty to obey the law, especially with respect to protecting the dignity of others and their rights as political citizens.

A Duty to Resist

To Delmas, political obligations exist in both just and unjust states. While she agrees that there is a duty to obey the law in just states, there is also an obligation to disobey the law in states that are unjust. This can be fulfilled through principled disobedience or done lawfully by powerful parties. Delmas states that journalists are in ideal positions to achieve this requirement, as they have access to the "political arena" and are able to pursue systemic change through public avenues (155). Brake's role as a journalist provides a considerable voice within a democratic society and obliges him to identify and remedy unjust laws. In the case of Muskrat Falls, his actions are consistent with Delmas' theory on the duty to resist and challenge injustice.

Candice Delmas presents principled disobedience—acts of civil and uncivil disobedience—as a legitimate method for citizens to fulfill political duties to society when lawful tactics fail. As defined by John Rawls, civil disobedience is "public, nonviolent, conscientious [and] political acts" that aim to correct unjust laws in a society (104).² In contrast, uncivil disobedience, by Delmas' definition, "are covert, evasive, anonymous, [and] violent" acts, which include guerilla acts, riots, and terrorist actions (17). Justin Brake's actions during the Muskrat Falls job site occupation would be classified as civil disobedience, while the actions of the LLP appear to blur the lines between civil and uncivil. Delmas notes that these are cluster concepts and one does not necessarily need to meet all criteria to classify as a certain type of disobedience (17). To understand why Brake's actions are justified acts of resistance and civil disobedience, it is key to note the injustices faced by the Indigenous populations in Newfoundland and Labrador.

The Failings of Muskrat Falls

The Muskrat Falls mega-dam was intended to produce clean energy for Newfoundland and Labrador. It was projected to reduce the province's dependence on oil and gas from Quebec by creating clean, renewable electricity ("Dodgy Dam"). However, expectations were not met. Competing energy interests in the Atlantic combined with irritable spot market prices transformed the shortcomings of the Muskrat Falls dam into a "perfect storm"-as economist David Vardy says-that threatens to endanger the fiscal security of the province (Beswick). By early 2016, Muskrat Falls was billions of dollars over budget, first power was delayed by two years, and electricity rates were projected to nearly double in the province (Bailey). Perhaps most troubling of all, the project risked contaminating vital Indigenous territory with the neurotoxin methylmercury ("Battle"). The project has experienced so many growing pains that the CEO of Nalcor Energy, Stan Marshall, dubbed Muskrat Falls a "boondoggle," and claimed that the project was the wrong choice for the province (Roberts). It is evident the nearly-finished project is not the same project conceived in 2012.³ These realities necessitated an official public inquiry into the Muskrat Falls project (Gov. of Newfoundland and Labrador). A commissioner was tasked with investigating the alleged mismanagement of the project's construction, its cost discrepancies, and to what extent the provincial government was informed of the associated problems. The commission is set to report its findings by the end of 2019.

Tensions have built up between Indigenous groups and officials in Labrador, as the Nunatsiavut Government, the NunatuKavut Community Council, and Innu Nation residents say project officials did not properly address the risk of methylmercury contamination in the Churchill River.⁴ Since many Inuit and Innu groups rely on the land for subsistence and country food,⁵ contamination of their waterways would poison their food supply and put their children at an increased health risk.⁶ Subsequently, the Innu Nation demanded Nalcor completely clear the land surrounding the reservoir area before flooding it, as this would significantly mitigate the risk of methylmercury contamination.

The resulting tensions came to a head on October 22, 2016. Dozens of members of the LLP cut through the chain-link fence on the project construction site. The LLP occupied the job site for four subsequent days to protest the government's lack of action on mitigating the methylmercury concerns raised by Nunatsiavut, NunatuKavut, and the Innu Nation. Twenty-eight land protectors were later charged after they were accused of breaking a court-ordered injunction to leave the job

site ("28 People"). Concerns about the dignity of the LLP were amplified by the implications of methylmercury poisoning and consequently the group had a duty to disobey the law by occupying the job site. Their actions are in line with Delmas' proposed duty to resist.

Among those charged from the occupation was journalist Justin Brake, the sole media person to follow the LLP as they broke through Nalcor's gate to cover the occupation from the inside. Brake was subsequently charged with civil and criminal offences—including mischief, disobeying a court order, and civil contempt. The Canadian Committee for World Press Freedom believes Brake to be the first journalist in Canada to face both civil and criminal offences at once (Can. Com. for World Press Freedom). Examined through Delmas' theory, Brake had a duty to disobey the law in order to continue reporting on the injustice.

The Prosecution of Justin Brake

Justin Brake was acting as a journalist, not an activist, therefore he believed the law would be on his side when he entered the Muskrat Falls job site with the LLP (Leeder). Though Brake complied with the court injunction that forced him to leave the site, RCMP informed him that he had violated an earlier court injunction, which subsequently led to Brake being charged. His precedent-setting case drew attention from journalist organizations around the world. *The Independent*, of which Brake was the editor at the time of the LLP occupation, released a statement in March 2017 condemning the charges brought against Brake, asserting they were an attack on press freedom ("Statement").⁷

In late March 2019, Justin Brake scored an extraordinary victory in his civil case, resulting from a landmark decision cementing the rights of journalists covering protests in Canada. Brake had one of three charges against him dropped following a decision from the Newfoundland and Labrador Court of Appeal (*Re Brake*). Brake appealed his civil charge of contempt, in defense of which his lawyer argued that journalists should be granted special rights when covering protest events, but this was rejected by the Newfoundland and Labrador Supreme Court (*Nalcor Energy v. Anderson*). Brake appealed this decision to the Court of Appeal, where Judge Derek Green handed down a decision that set a new precedent for journalists covering Indigenous issues and relieved Brake of his civil charge (Martens).

In the 29-page decision, Green ruled that Brake was fulfilling journalistic functions while he was on the project site, differentiating him from the protestors. In relation to the civil charge, Green affirmed that Brake was not breaking the law when he followed the LLP onto the job site therefore he was not violating the injunction served against him. Judge Green's decision rested largely on the fact that Brake was there to cover the event as a reporter and was not an active protester while at the site. Green writes in the decision "... to make Mr. Brake subject to a general 'no trespass' prohibition would unduly and unnecessarily interfere with his function as a journalist when he was not a participant in the ongoing protests" (Re Brake 24). Green's decision also referred to an affidavit written by acting intervener Karyn Pugliese, the executive news director of the Aboriginal People's Television Network (APTN) and Brake's current employer. In the affidavit, Pugliese writes that it is in the public interest to have intimate coverage of Indigenous protests, especially when they concern resource projects, and this coverage is threatened if journalists are faced with civil or criminal charges because of their actions (*Re Brake* 25). Judge Green stated that he agreed with Pugliese's observation that the media plays an important role in both advancing reconciliation and understanding Indigenous issues (25). "The evidence from APTN, which I accept, is that Aboriginal communities have been historically underrepresented in the Canadian media. That makes freedom of the press to cover stories involving Indigenous land issues even more vital" (25).

Judge Green's decision affirmed journalists' rights to cover protests in Canada. The decision cements the validity of Brake's actions and confirms that Brake was doing the right thing by following the LLP onto the job site. Additionally, Brake's actions are in line with Delmas' philosophy, as they reflected an attempt to address and remedy the injustices of Muskrat Falls through accurate and informed reporting. By acquitting Brake of his civil charge, Green acknowledged that journalists have a right to cover protests without excessive restraint. Brake has emerged victorious, for now, but it is important to note that he still faces two criminal charges as a result of his actions. If press freedoms were to be further protected and reinforced in Canada, it is the hope that Brake's criminal case would see a similar result as his civil case.

Resistance Achieved

Brake is credited with bringing the LLP's methylmercury concerns into the mainstream as a result of his reporting. The group's act of civil disobedience received legitimacy and power because of Brake. His actions are consistent with the communication pillar outlined by Delmas. According to Delmas, people in the professions of journalism, academia, law, social justice, and those operating in NGOs pursue the mission of communication every day (182). Their position of power and prestige in society allows their voices to be amplified and legitimized through professional association. Justin Brake purposefully spent considerable time in remote areas of Labrador in order to cover the human rights and Indigenous narratives on the dam. Brake said, ". . . I knew that my duty, my responsibility as a journalist was to tell this story, particularly in light of the broader context. . ." (Cox). As Delmas' civil disobedience theory posits, support is owed to others when they are experiencing injustice(s) at the hands of the shared state (128). Justin Brake in his position as a journalist was in an ideal position to publicize the actions of the LLP and to highlight the injustices and problems posed by the dam project.

Brake said, "I think as a journalist, if you can't understand how structures of power and dominance operate in our society, then you shouldn't be putting yourself in a position of power as someone who is telling important stories" (Cox). The quote shows how Brake's perceptions of his journalistic obligations align with Delmas' duty to resist. He showed solidarity through his position of power by communicating the viewpoints of those faced with an injustice. By featuring stories and voices of the Inuit and Innu groups, Brake exposed the injustices faced by the Inuit and Innu populations. As his reports from Muskrat Falls made their way into the national media, the LLP drew more attention to their cause and re-affirmed their dignity in relation to the Newfoundland and Labrador government. Delmas states that people in positions of power in society—such as journalists—are obligated to inform the public and denounce lies (235). Brake informed the public by following the LLP to cover their occupation from within the construction site, and worked to ensure all sides were heard about the impact of Muskrat Falls on residents. Brake was acting consistently with the obligations outlined by Delmas.

Changing Journalism to Accomplish a Duty to Resist: The Limits of Objectivity

Brake states in an interview that he has been criticized by other journalists by his choice of language in his reporting, as Brake refers to the LLP as defenders and protectors, not protestors (Cox). However, Brake is explicit in his desire to challenge the "antiquated notions of objectivity" where journalists dub people who resist dominance as "protestors" (Cox). Media ethicist Matthew Kieran says journalistic objectivity assumes the media has a fundamental duty to impartiality in order to create objective news reports and analyses (23).

Brake's actions should not be evaluated through traditional norms of journalistic objectivity because of the constraints journalists may experience when adhering to this form of detachment. Additionally, journalistic objectivity inherently conflicts with Delmas' argument on a duty to resist injustice. Delmas advocates strongly for engaged action to resist and challenge injustice, especially if the person resisting occupies a powerful position in society. Thus, the requirements of impartiality and detachment associated with objective journalism cannot possibly align with or accomplish Delmas' duty to disobey.

Objectivity is often not accomplished in mainstream journalism: the demand for objectivity rests on the false assumption that objectivity is possible. A perfect balance of fact(s) often does not happen. In the case of Muskrat Falls, this is particularly relevant, as the majority of mainstream journalists in Canada are not Indigenous and their reporting often reflects their interpretation of the world—meaning, intentionally or not, colonialism, racism, sexism, discrimination, and marginalization are often not taken into consideration when writing stories (Rollmann). It is to be expected that journalists' internal and unconscious biases may unduly influence who, what, and how they report.

As a result, the obsessive quest for 'objectivity' and 'balance' often winds up privileging the voice of the oppressor, by pretending that every debate has two equally valid sides that every perspective is worth providing equal air-time, and that every voice deserves to be heard. (Rollmann)

The notion that the only sources journalists can and should use are official sources with a set amount of power in society highlights another problem with objectivity—that those who occupy positions of power in states are able have their point of view legitimized through mainstream journalism, while ordinary citizen voices are not included.⁹ Gurleyen and Hackett criticize hegemonic journalism's reliance on official sources and timely events (34). They argue that a larger emphasis should be placed on the contexts, structures, and processes of society that contribute to these events—something that traditional media often ignores, due to a fear of presenting a bias (34). Fear of bias could be the reason other journalists who were covering the Muskrat Falls protest did not follow Brake's actions—they may have been at risk of compromising their perceived objectivity. Their actions are not in line with Delmas' theory due to their choosing to remain outside the gates of the job site.

Changing Journalism to Accomplish a Duty to Resist: An Alternative Approach

Reinforcing what Gurleyen and Hackett write, journalism should not solely focus on news making events in the world; rather it should take into consideration the structures in society and critically analyze how they perpetuate inequality and injustice amongst populations. "Complete objectivity is a philosophical impossibility," according to Paul Nesbitt-Larking, and the likely import of bias through the heterogeneity of journalism further suggests that objectivity is a journalistic impossibility (351). Media must go beyond this ideal and interpret and disseminate their biases to determine what is good or bad for society. For Brake, this is evident in his motivations to cover an untold side of the Muskrat Falls story. To Kieran, Brake may not necessarily fulfill requirements of objectivity, but he does not need to.

Instead, Brake's activities are analyzed through the more inclusive lens of alternative journalism. Susan Forde explains that alternative journalism has roots in social responsibility and journalists seek to include alternative practices to dominant journalism models (10). Alternative journalism is a viable and preferable option to fulfill political obligations described by Delmas, as opposed to traditional models of journalism and traditional tenets of journalistic objectivity. For example, *The Tyee* could be seen as engaging in forms of alternative journalism, as it is an independent, online media outlet that aims to "inform and enliven the democratic conversation necessary to improve environmental, economic and social conditions" through in-depth and comprehensive reporting methods (The Tyee). The editors of the organization do not claim they are alternative journalists, however, they are explicit in their goal to publish news "not typically covered by . . . mainstream media", and pointing to their name as a salmon species, strive to "swim against the current" (The Tyee).

Alternative journalism aligns with the requirements of political obligation and duty as outlined by Delmas. Alternative models of journalism question the value of objectivity against the goal of citizen engagement and criticize the tendency of traditional journalism to provide information in a detached form, which alienates the public from participatory action (Forde 12). Rather than mainstream journalism's interpretation of objectivity, alternative media conceive of objectivity as the creation of a forum that allows participation and engagement from everyone, not just political elites or those in power.¹⁰ Alternative journalism in its forms operates with the goal of challenging the status quo and providing a platform for social movements that aim to remedy the wrongs in society. This type of media, noted by Shane Gunster, offers and demands engaged

political activity ". . . in which outrage with existing institutions [are] cause for action and not despair; a potent fuel with which to energize multiple forms of popular, democratic mobilization" (Gurleyen and Hackett 48). Additionally, Forde argues that forms of alternative journalism provide evidence that "institutional structures of the mainstream commercial media repel journalism which fosters a more (politically) active public" (12). Journalism plays a powerful role in the state and has the potential to create means of resistance so that injustice is identified and corrected, and dignity is restored to the oppressed. This encompasses a core message of Delmas—if a state downloads injustice onto its citizens, it is everyone's responsibility to remedy and resist it (130).

Conclusion

Justin Brake's actions, I argue, should be regarded as a break away from traditional norms of journalism. Whether it is coined as alternative journalism or something else, the sentiment remains the same: addressing a social or political cause that is overlooked by traditional media and attempting to make change.¹¹ This form of media helps journalists fulfill political obligations assigned by Delmas. The actions of the Labrador Land Protectors and Justin Brake are consistent with this duty to resist injustice.

Delmas' argument for a duty to resist applies to most everyone in unjust states, but it is ultimately up to the individual to determine how best to fulfill their own political obligations of resistance (198). Justin Brake was not obliged to follow the LLP and report on their occupation, but he did so out of a sense of duty and understanding that an injustice was being committed against a group that had nearly exhausted all avenues of resistance. Applying Delmas' theory to Brake's actions shows that resistance is, ultimately, a collective achievement and requires action from both marginalized and powerful groups. Brake and the LLP exemplify the previous statement. Brake's position as a journalist means he has a powerful voice that can be used to amplify efforts of resistance. By recognizing the injustice(s) enacted on the residents of Labrador through the Muskrat Falls project, Brake sought to address the problem through his abilities as a journalist. Since Brake was an outlier in his actions, alternative forms of journalism are proposed as more appropriate models by which to contextualize Brake's activities and are in line with Delmas' theory on duties of political obligation and resistance.

This showcases the effects alternative journalism can have when used in mainstream society. To accept Delmas' theory on political obligation and moral duty, it becomes imperative

that journalism change its methods to satisfy the duty to resist and remedy unjust states. Further research is thus needed to analyze critically how traditional forms of media may adapt or adopt alternative models of journalism in an attempt to fulfill Delmas' theory; and to assess the effectiveness of alternative forms of journalism in correcting injustice in society.

Notes

1. It should be noted that just because a state is legitimate, it does not necessarily mean that it is just (Delmas 174). Delmas characterizes unjust states with stains and lapses in legitimacy. Stains on legitimacy are momentary slips of concern with the dignity of citizens in law making—for example, making laws that discriminate against a group of citizens unjustly. But they can turn into lapses, which are deep and perverse. Stains justify civil disobedience, whereas lapses may justify uncivil disobedience, such as revolutions (174). Slavery, genocide, totalitarian rule, colonialism, and imperialism are examples of lapses in legitimacy that in turn dissolve political obligations to the state (174).

2. Unjust laws exist when they wholly or partially violate norms of political morality such as equal respect for all citizens and due process (Delmas 12). Examples of resistance include protests, rallies, and demonstrations.

3. As of June 2019.

4. Methylmercury is a neurotoxin that is, according to Mary Sheehan et al. at the World Health Organization, particularly harmful to developing fetal brains. Sheehan et al.'s research suggests there is an association with methylmercury exposure in-utero and developmental toxicity among populations who consume seafood regularly (255).

5. Country food is a term for traditional Inuit food that includes fish, game meat, birds, and foraged food. This is a vital part of Inuit culture and identity as it connects them to the land and ensures remote and rural communities remain self-sustaining (Robinson).

6. A study conducted by Nunatsiavut and Harvard University scientists concluded that methylmercury levels could rise as much as 380% in surrounding waterways if the land were not properly cleared prior to the building of the dam (Durkalec et al. 60). Methylmercury forms when vegetation begins to rot under water, creating a dangerous mix of mercury and bacteria. The level of health risk posed to residents depends on the amount of contaminated seafood they consume. High blood concentrations of methylmercury in pregnant women may cause irreversible or fatal brain damage to their growing fetus and could put them at risk of forming developmental disorders (Hong et al. 359). Given that the Inuit populations surrounding the reservoir area rely heavily on fresh seafood and game for sustenance, it is inferred that they will be most impacted by the threat of methylmercury poisoning (Bailey). With this, the dignity of the Inuit groups becomes jeopardized, threatening physical health and safety as well as cultural participation and role obligations to their society.

7. It is important to acknowledge the punishment Brake received from the courts threatens press freedom in Canada. The World Press Freedom Index from Reporters Without Borders saw Canada drop out of the top 20 in 2017 (down four spots to 22), compared to a high of 8 in 2015. In 2018 Canada moved back to 18th place, but the report notes there is room for improvement—citing Brake's case specifically as a factor (Reporters Without Borders).

8. Matthew Kieran endorses this view, arguing there are objective facts and features of news that are independent of the journalist (32). Kieran argues that impartiality, discipline, and honesty are required of "good journalists", and the fundamental pursuit of the truth requires impartiality and objectivity (35). To him, good journalism is done when proper attribution is given to all sources, evidence, and reasoning so the reader can decide for themselves if the story is valid or not (31).

9. Another problem that stems from traditional notions of objectivity is the media's strong focus on current events, leaving large-scale issues untouched and/or criticized. Susan Forde cites a study by Theodore Patterson in 1992 that claimed strict adherence to objectivity and professionalism in journalism has created "greater homogeneity" in news content—leading to the news being driven by events, and not influenced by issues (qtd in "Journalism for Social Justice" 136).

10. There is a foundation of social justice present in alternative journalism as journalists in this field aim to provide deeper contexts to mainstream news, usually through the inclusion of typically marginalized voices ("Journalism" 137). But this is not an inherently biased stance to take, rather it is an inclusive method that allows journalists to be more than replicators of the status quo—through alternative journalism, they can challenge and potentially change unjust states. Following the inherent fact that marginalized voices exist in many legitimate (and unjust) societies, their exclusion from powerful structures in the state serves as a form of base injustice. Further injustices become present when society continues to prioritize the interests of the powerful over the interests of the marginalized. From here structural inequality flourishes and injustices begin to negatively affect portions of the population, typically marginalized groups most.

11. Martin Bell dubs this "journalism of attachment"—journalism that seeks to address its place in the world and aims to consciously understand how it influences people's perception of right and wrong (16).

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