TRAJECTORY AND DYNAMICS OF COLLECTIVE BARGAINING AND LABOUR UNIONS IN NIGERIAN PUBLIC SECTOR

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ABSTRACT

One of the most important functions of organized labour in Nigeria is collective bargaining, a mechanism by which representatives of labour unions negotiate with management of concerned organisations (public or private) over the terms and conditions of service affecting their members. Job performance cannot be enhanced in a work environment characterised by absence of harmonious co-existence among the employers and the employees. It is therefore recognized that one of the official methods of communication is collective bargaining based on voluntarism, participative management and mutual respect. The aim of this paper is to critically examine collective bargaining and the functions of labour unions in the actualization of a successful collective bargaining in the Nigerian Public Sector. The paper discussed labour management negotiations in the Nigeria public sector and recommends that labour and trade unions should strengthen collective bargaining mechanism above salaries and wages negotiation as a means of enhancing the capacity of publicworkers for effective and efficient service delivery.

Keywords: Collective Bargaining, Labour and Trade unions, Public Service.

INTRODUCTION:

According to Kennedy cited in Onusanya (2005:290), we must not fear to negotiate and our negotiation must not be in fear. Inherently, bargaining and human existence are inseparable to an extent that where more than two persons are gathered, the next possible party is or should be bargaining. According to Fashoyin (1992:154), the concept of the public sector as used in Nigeria, is an all-embracing entity covering as it were, all agencies and institutions or organizations whose principal benefactor is the government, whether at the federal, state or local government. To this end, all persons and group of persons who works for the government are referred to as the civil or public servants in Nigeria. Basically, the distinction between civil servant and public servant shows that the former refers to a government worker who works in the core ministry while the latter is government worker who is a professional and works in government agency or parastatal

(http://wiki.answers.com/Q/What_is_difference_between_civil_and_public_servant_in_Nigeria).

Collective bargaining in Nigeria has become a distinct field of study in industrial relations due to the fact that as Fashoyin (1992:155) acknowledges, the Nigerian public sector accounts for the larger proportion of the wage-earning population in what is generally referred to as 'modern sector employment'. The resultant effect of this is the prominence that collective bargaining matter has assumed in the environment of organizations, dictating and influencing the tone of both public and private sector industrial relations. Though paid employment is popular in Nigeria within the environment of the government, the development came with the private sector initiative. Therefore, Onusanya (2005:690) considers collective bargaining as a product or originalinitiative of the private sector environment.

Efforts to organize public workers are not new and early attempts at organizing dates back to 18th and early 19th Centuries. Public employees have good reasons to form unions (Henry, 2004:259) as a means of advancing their interests. It is not usual for employers to negotiate with each prospective worker on conditions that govern the working life of such an employee in the workplace or environment. Okpanachi (2003) asserts that, the practice of collective bargaining starts with the registration of employee's union after which the executive or management of such union will then bargain collectively on matters pertaining to wage, hours of work and other conditions of employment. Agreement arrived between the two parties will govern all the present and future employees. The Centralized Personnel Agency as Lemay (2000:193) put it is formally charged with the responsibility of representing management in the collective bargaining process involving the public employee unions but where this effort fails, ad hoc commission is always being set up. It is along this background that this paper will discuss the concept of collective bargaining, the roles of labour and trade unions as it affects its members in Nigeria, the prerequisite for a successful collective bargaining, how the subject matter works in relationship with labour and the government in Nigeria.

THE CONCEPT OF COLLECTIVE BARGAINING:

According to Flippo (1984), collective bargaining is a process in which the representatives of two parties-labour organisation and business (or public) organisation meet and attempt to negotiate a contract or agreement, which specifies the nature of employee-employer-union relationship. In another perception, Henry (2002) sees the concept as an approach that permits decisions on salaries, hours and working conditions to be made jointly between employee and employer representatives. According to Yoder, "collective bargaining is the term used to describe a situation in which the essential conditions of employment are determined by bargaining process undertaken by representatives of a group of workers on the one hand and of one or more employers on the other." It is obvious from the above definitions that collective bargaining deals with negotiation aimed at striking an agreement between employees and employers through their various representatives. It is a means through which industrial democracy can be accomplish in a work environment provided the parties are willing to understand and cooperate with the terms and conditions of the agreement.

Also, Lemay (2000) defined the concept as the bargaining mechanism of union on behalf of employees as opposed to an individual worker representing him or herself. This definition emphasizes collectivism as against individualism between employers and employees. This can be supported by the assertion made by Onah (2008) that, collective bargaining is a vehicle by which management (employers) and the representatives (union) of the workers attempt to reach collective agreement on solving and avoiding problems related to compensation, requirement, fringe benefits, discipline, lay-offs, promotions, working scheduling and other conditions of employment. In addition, Onah (2008) states that the principle established inter alia, by the International Labour Organization Conference at its 24th Session held in Geneva in 1959 with regard to collective bargaining was accepted to mean: negotiation about working conditions and terms of employment between an employer, a

group of employers or one or more employers' organization on one hand, and one or more representatives of workers organization duly elected and authorized by them in accordance with national laws and regulations may be parties to collective negotiation.

The Encyclopedia of Social Sciences cited in Singh (2008:108) sees the subject of collective bargaining as a process of discussion and negotiation between two parties, one or both of whom is a group of persons acting in concert. The resulting bargain is an understanding as to the terms or conditions under which a continuing service is to be performed. More specifically, collective bargaining is the procedure by which an employer or employers and a group of employees agree upon the conditions of work.

For workers' organization to be acceptable as a party to a collective bargaining in Nigeria, it must have been registered as a trade union for the category of workers who's working conditions and among others are being considered. Collective bargaining was developed over a period of time as a method of utilizing democratic procedures in employer-employee relationship. The individual worker in the labour union exercises his voice in the bargaining process through his union representatives (Okpanachi, 2003). Thus, collective bargaining is a strategy for industrial democracy and a means for sustaining it for the mutual benefits of the two parties involved- the employees and employer.

Collective bargaining is both the process of negotiating between unions and employers on issues directly affecting conditions of employment and a means of limiting unilateral decisions and actions by employers and governments (*This Day*, September 17, 2012).

LABOUR UNIONS AND COLLECTIVE BARGAINING IN NIGERIA:

Collective bargaining and the practice describe a relationship of negotiation between the employer and employee. In Nigeriaemployee-employer relationship before the colonial epoch was based on the then economy which was predominantly agricultural. Culture and traditions were the basis for systems of work and reward (Ubeku cited in George, Owoyemi and Onokala, 2012). In most cases during the above era the employer was the family head (and chief executive of this rather rural agricultural company) while the workers were members of his immediate family and the extended family (Yesufu, 1982). Team and cooperative spirit motivated people insome cases to organize farming on a cooperative basis andpeople of the same age agree on clear terms and conditions to work for themselves in turns (Iwuji, 1968 cited in George, Owoyemi, and Onokala, 2012). In some rural areas of present day Nigeria, rural farming still takes the pattern of age grade cooperating to cultivate and weed the farms of colleagues. On such occasions as described by Iwuji (1968 cited in George, Owoyemi and Onokala, 2012), remuneration was mainly through exchange of food and drinks as the economy was rural with no acceptable monetary currency or probably to reciprocate good gestures by working on another person sfarm when required, or at the extreme end by providing security in terms of invasion of the friend sfarm or household by an enemy and in some cases as part of the dowry for a very beautiful fiancée.

The origin of modern employment dates back to the engagement of Nigerians by Europeans. Therefore, the genealogy of collective bargaining in Nigeria cannot be divorced from the formation of labour and trade unions. Labour and trade unions have been a part of Nigerian industry since 1912, when government workers formally formed a civil service union. In 1914 this organization became the Nigerian Union of Civil Servants (NUCS) after the almalgamation Northern and Southern Protectorates of Nigeria by Lord Lugard. In 1931 two other major unions were formed--the Nigerian Railway Workers Union (NRWU) and the Nigerian Union of Teachers (NUT) (which included teachers in private schools). Legalization of unions in 1938 was followed by rapid labour organization during World War II as a result of passage by the British government of the Colonial Development and Welfare Act of 1940, which encouraged the establishment of unions in the colonies of which Nigeria was one (http://wiki.answers.com/Q/History_of_trade_unionism_in_Nigeria).

By implication, there cannot be collective bargaining in an absence of an umbrella body or group with which employers and employees union can negotiate. This idea has been buttressed by Ananaba (1969:10), who wrote succinctly thus: trade unions generally emerge from the efforts of workers to seek an improvement of existing conditions through collective action. These conditions may relate to wages, hours of work, and other conditions of employment. This was the reason for the establishment of the first trade union in Nigeria, the Southern Nigerian Civil Service Union (SNCSU), which was inaugurated on August 19, 1912. The Union later changed its name to the Nigerian Civil Service Union (NCSU) which became a platform demands and interests aggregation and from which amelioration of grievances or for the improvement of specific conditions of employment was presented and fought for.

It is against the above backdrop that The British Trade Union Act of 1953 cited by Singh (2008:46) described trade union as an organisation with the main objective of regulating the relationship between workmen and

masters or between masters and masters for imposition of restrictive conditions on the conduct of any trade or business and also provision of benefits to members. This demonstrates and supports the inseparability of labour unions and collective bargaining.

Unionism and collective bargaining are two sides of the same coin. Therefore, the roles that Labour Unions play in collective bargaining cannot be overemphasized. For instance in Nigeria, between June and July of 1945, 43,000 workers, most of whom were rendering services vital to the country's economic and administrative life, went on a national strike that lasted more than forty days. In large part following the effectiveness of the bargaining process and as a result of the success recorded by the strike, the labour movement grew steadily and 1950 there were 144 unions in Nigeria with more than 144,000 (http://wiki.answers.com/O/History of trade unionism in Nigeria). Thus, labour unions are usually perceived as catalyst for driving home workers' demand(s) and they constitute effective major mechanism for the delivering of public demands and expectations in the contemporary world of today. In tracing the origin of trade unions, Freeman and Medoff (1994:629) revealed that, for over 200 years, since the days of Adam Smith, economists and other social scientists, labour unionists, and businessmen and women have debated on the social effects of unionism. In the a short term, Fashoyin (1992:30) highlighted that, in traditional African communities, social institutions, such as guilds and craft societies, existed before colonial times but that the pattern of their transition if any, to modern trade unions is unclear. In Nigeria, labour unions emanated in 1912 in order to curb the ugly challenges being faced by civil servants which includes poor salaries and wages, bad condition of service, racial discrimination in public service, and the demand for Africanization of certain positions in the civil service. Ananaba (1969:11) posited that Nigeria civil servants were fined for lateness and unauthorized absence from work and the fine was deducted from the meager salary which varied on amount, but half a day's pay was common place.

In Nigeria, the role of unions has developed important implications for the analysis of collective bargaining. As Freeman and Medoff (1994:630) noted;

The average unionized worker will see that union generally 'deliver goods' by providing higher wages and benefits as well as a voice at the bargaining table and on the shop floor, but that some of 'the goods' have social costs. Many nonunionized worker will recognize that because of the threat of unionization, their wages and working conditions are better than they might have been, although generally not as good as they would be under collective bargaining...

From the foregoing therefore, it is pertinent to identify the fundamental roles that labour unions play in the development of any nation's economy which are not far-fetched. They help in;

- enhancing the wages and salaries of workers in both private and public organisations,
- uniting and strengthening the accord of workers to speak with one voice and as a community of men and women with common interests,
- influencing and serving as control agents over the making and implementation of anti- peoples' policies by the government and large organizations,
- serving as agents for economic and socio political mobilization. To this end, Freeman and Medoff (1994: 629) asserted that in addition to increasing wages, labour unions provide workers both with protection against arbitrary management decisions and with a voice at the workplace and political arena, and
- the development of human capital of the country for efficient and effective productivity. Thus labour unions are gents of development

PREREOUISITES FOR A SUCCESSFUL COLLECTIVE BARGAINING IN NIGERIA:

As Hornby (2006) puts, prerequisites are factors that must exist or happen before something else can happen or be done. Put differently, this aspect of the paper is targeted at bringing to bear the various points that will be considered before employer (management) and employee (union) bargaining will bring about industrial peace and harmony. Okpanachi (2003:13) outlined a long list of the factors unions must put into consideration. These are factors shows that unions must;

- Be stronger and united if industrial harmony can be enhanced,
- Know the workers needs and problems not only wages. This will help built support and acceptance of unions by the employees,
- Have trained officers with high degree of integrity,
- Take initiative in formulating proposals that will scale through when presented,
- Draft straight forward proposals,

- Make sure that whatever that is agreed upon shall be binding on both parties,
- Not seem to begging or threatening but arguments advanced by the union should be based on facts which are incontrovertible.
- Embark on wider consultations and interactions,
- Appoint a spokesman, who is vibrant and possess the charisma,
- Sign and counter-sign agreements immediately with amendments,
- Choose priorities so that the bargaining team does not waste time on items of less importance,
- Set up strategies (minimum to be accepted), and
- Anticipate the arguments and strategies that management may likely use against the union.

The above ideas represent what unions do to guide their bargaining process. In another development, Flippo (1984) says, because of the considerable importance of the agreement, it is essential for management to plan its strategy and tactics carefully in preparation for the bargaining sessions. Below are the operational principles which should direct the organization's collective bargaining procedure. This is what Flippo cited in Omale (2006:19) refers to as strategy of bargaining which:

- 1. Avoid mutual agreement clauses that would prevent management action,
- 2. Keep one's eyes on the entire package,
- 3. Keep the company personnel informed of the progress of the bargaining sessions,
- 4. Develop agreements where the union leaders can always maintain that they "won". Union leaders have to run for re-election on their record, and management can more frequently afford the appearance of having "lost",
- 5. Determine the point at which the company is willing for the union to go on strike. The union is fully aware of the fact that the strike is its most potent bargaining weapon and as such it is frequently used in its "threat" form. Management must adopt a basic attitude of not being afraid of strike.

According to Omale (2006), before management enters the conference room for bargaining, its negotiators must agree on the maximum concession that can be granted to the anticipated demands of the union(s).

HOW COLLECTIVE BARGAINING WORKS IN NIGERIA:

In Nigeria, the enactment of the Trade Union Ordinance and the experience of the Railway Workers Union encouraged workers in other Government departments and in industry to form unions and seek registration so as to secure legal authority to participate in collective bargaining with their employers or to seek amelioration of grievances relating to wages or other conditions of employment (Ananaba, 1969:26). As noted earlier in the definition of collective bargaining given by ILO in (Onah, 2008), a union becomes a bargaining agent for a group of workers when it is duly elected and authorized by, in accordance with national laws and regulations. Raising the importance and legality of collective bargaining Flippo(1984) cited in Omale(2006:194) notes that The National Labour Relations Act of the United States of America states that it is an unfair labour practice for the employer to refuse to bargain collectively with chosen representatives of certified labour union.

It is after this development that representatives of the union and of management then meet together at the bargaining table in order to reach agreement or a contract. The two sides rarely agree when they begin their negotiation, and hardly is the final product of their meeting precisely what each side organically wanted in Nigeria (Okpanachi, 2003). In Nigeria, this situation has been salient through the establishment of wage commissions. This approach in the words of (Fashoyin, 1992) is one under which government periodically appoints tribunals to review and recommend appropriate wages or salaries and other conditions of employment which shall apply to public sector employees. From the foregoing development, once an agreement has been satisfied by labour and management, it becomes the guiding principle of labour management relationship for the duration of the agreement.

DISCUSSION OF NEGOTIATIONS IN THE PUBLIC SERVICE:

In Nigeria, labour and trade unions are formed to advance the interests of their members and industrial harmony and peaceful co-existence among the employers and employees in particular. Labour unions and management of organisations have alternatives in the bargaining process for changes. Venkata Ratnam (1996:33) subscribed to the fact that, it is appropriate for unions to participate in the designing and implementation of policies and bargain for the interest of all the constituents and stakeholders, particularly the workers and the community. In the description of the event that followed the restructuring of the labour movement in 1978, Fashoyin

(1992:161) pointed out that, the number of unions have been considerably reduced, and that in the civil service, the number of unions reduced from 91 to 8. Of the 8 unions, 3 - the Civil Service Technical Workers Union of Nigeria (CSTWUN), Nigerian Civil Service Union (NCSU) and the Association of Senior Civil Servants of Nigeria (ASCSN), represented 67 percent of the total membership in 1987. See the table below:

Unions in Nigerian Public Sector

Year	1976	1986
Public Sector		
Parastatals	102	11
Civil Service	91	08
Local Government	10	01
Total	203	20

Source: Fashoyin, (1992:161)

Incidentally, the Nigerian Labour Congress (NLC) and Trade Union Congress (TUC) respectively dominate Nigerian labour relations in Public and Private Organizations. Bargaining between them and the management usually becomes a turning point for subordinate unions to adopt (Fashovin, 1992).

Omale (2006:189) submitted that, when there is negotiation as the case of the Nigerian Railway Workers'strike of 1945, the method the government used then was negotiation through 'Whitely Councils'. In describing what is meant by the concept, Emiola (1985) in Omale (2006:189) attributed the Whitleyism to an inheritance from the colonial system of industrial relations. Stahl (1962) identified Whitely Councils to be immortalized after J.H. Whitley the founder in 1919. They are councils made up of equal representation of management and workers and providing the machinery through which in the view of Stahl (1962), settles and ameliorates all contending interests of workers and employers.

According to Stahl (1962), the Whitely Council made a number of significant achievements including adoption of a plan for reclassifying the whole service, acceptance of a cost-of-living bonus system, the promotion boards in the department, and the facilitation of transfers. This strategy of resolving labour disputes recorded a huge success in its state of origin (Britain) and America but witnessed a major set backs in Nigeria. As Emiola (1985), in Omale (2006:190) sated, the system of negotiating wages and conditions of service through the Whitley Councils turned out to be a "lame duck" in Nigerian. In explaining further, Adeogun cited by Emiola (1985) as cited in Omale(2006:190-191), maintain that:

It is clear that collective bargaining between the government and their employees through the Whitley Councils has hardly been effective... It seems very odd that despite the establishment of Whitley Councils since 1948 for negotiations between government and its employees, practically every major demand by workers for wage increase or review since the second world war has been settled, not through this collective industrial machinery but by special committees, commissions or arbitrations.

Adebayo (2000:212) perceived that, with increase awareness of political developments leading to demand for self-rule, Nigerian workers through various labour movements started to agitate for better working conditions particularly pertaining to remuneration which the government responded by the institution of various committees and commissions. The table below shows the various commissions and panels instituted to resolve labour and wages issues in Nigeria from 1934 to 2009).

Commission	Year Instituted
Hunt Commission	1934
Bridges Commission	1941
Tudor Davis Commission	1945
Harragin Commission	1946
Miller Commission	1947
Whitey Commission	1948
Gorsuch Commission	1955
Mbanefo Commission	1959/1960
Morgan Commission	1964
Adebo Commission	1971

Udoji Commission	1974
Onosoda Commission (for Parastatals)	1981
Cookey Commission (for Universities)	1981
Adamolekun Commission (for Polytechnics, TTC &TC)	1981
Ukandi Damachi Commission	1990
Ayida Panel	1994
Minimum Wage Commission	1999
Ufot Ekaette Presidential Committee on Monetization of Fringe Benefits in the Public Service	2002
Pension Reform Commission	2004
Onosode Commission (for universities)	2009

Source: Francis, A.C.; Tunde, E.& Gbajumo-Sheriff, M.A. (2011). Collective Bargaining Dynamics in the Nigerian Public and Private Sectors. *Australian Journal of Business and Management Research* 1(5):63-70.

All these commissions and committees were set up as a result of the poor performance and inability of the Whitley Councils to settle labour dispute in Nigeria. Apart from these commissions and panels there are other bargaining apparatus visible in the work environment such like:

- Boycotts which is refusal to take part as in a way of protesting (Hornby, 2006:128). This can be done by employees in the organization in question.
- Strikes: According to Flippo (1984), strike is a concerted and temporary withholding of employees' services from the employer for the aim of exacting greater concessions in the employment relationship than the employer is willing to grant at the bargaining-table. This is the most and effective popular strategy that unions adopt at settling labour dispute in Nigeria. There is virtually no organization that has not gone on strike in Nigeria, including the Nigeria Police Force. Currently (2013), Academic Staff Union of Universities (ASUU) in Nigeria is on strike to press their demand for the implementation of the 2009 Agreement the union entered with the Federal Government of Nigeria. It will also be recalled that the Academic Staff Union of Polytechnics in Nigeria (ASUP) only suspended it more than three months strike of 2013 after a consensus was reached the Federal Government and the Union concerning their demands.
- Picketing- Omale (2006:199) viewed this tool of bargaining strategy as the patrolling of the strikers in the front of the entrance of the organization's premises in order to ensure total work stoppage. The disadvantage of this mechanism is that it can easily lead to violence and break down of law and order. Thus, steps must be taken by the management and the union leaders to prevent the occurrence of violence.

As matter of fact, it should be noted that strike action is not always suitable for a growing economy like Nigeria. However, it is a common phenomenon which has devastating effect as tendered by Ananaba (1969:44) that the general strike of 1945 is one of the most important strikes in Nigeria labour history. With exception of the Iva Valley shooting incident of 1949, and the General Strike of 1964, no industrial dispute has so thoroughly shaken the foundations of the Nigerian nation as the tremendous event which began throughout the country at midnight on June 21, 1945. In Lagos, the strike lasted for 44 days, but in the provinces (now States), it dragged on for as long as 52 days. Estimates of the total number of workers involved in the strike vary. Coleman puts it at 30,000; Padmore quotes the figure as 150,000. With exception of the essential services like electricity and hospitals, the strike hit practically all the technical and industrial establishments of the government. Even office workers joined in the struggle. Railway and port services were paralyzed; telegraph keys and telephones were dead. Never had Nigerian workers demonstrated such impregnable solidarity aimed at advancing their demands.

Most civil and military administrations in Nigeria have had to face the challenge of strikes and their attendant consequences. It would be recalled that the general strike by the organized labour in Nigeria to protest the removal of fuel subsidy by the Federal Government from the effect of 1st January 2012 resulted in a one strike occupied with protests across the country. Writing on the effects of this strike Aderigbigbe (2012: 1 from internet version) notes that:

During that week long strikes, according to the World Bank statistics, over N500 billion was lost as revenue accruable to the Federal Government. When the subsidy removal was announced on the 1st January, 2012, the organized labour said they would embark on an indefinite strike until the subsidy is removed. To the dismay of many Nigerians, the labour leaders called off the strike while many Nigerians were willing and ready to fight on until the total removal of the subsidy; although, it was alleged that the labour leaders agreed to soft pedal due to its harsh effects on the economy.

Consequently, Henry (2004:261) posits that should labour and management reach an impasse, mediation or the voluntary use of an impartial third party to resolve differences and suggest compromise can be introduced. Henry further states that conciliation is an option and it differs from mediation in that the third party may not suggest solutions to problems. Federal and State governments usually provide mediators and conciliators so as to settle and ameliorate disputes between labour and management. In a conclusive analysis, when all these fail as they occasionally do, arbitration may be brought into the situation following the involvement of fundamental service(s). Arbitration is a formal process of hearing and fact finding, and it may be voluntary, in which both sides agree beforehand to accept the arbitrator's decision, or compulsory (also known as binding), in which both sides must, under law, accept as final the arbitrator's decision (Henry, 2004:262).

CONCLUSION AND RECOMMENDATIONS:

As stated earlier and worth reiterating here, collective bargaining in the Nigerian public service through the use Whitley Councils was essentially ineffective, hence, successive governments at federal and state levels have had to rely on the use of panels, committees and commissions set up on ad hoc basis to review salaries and wages and handle other labour related issues in the federal and state public sectors. This paper pointed out the example of the adoption of panels and commissions like Morgan Commission in 1963, Adebo Commission in 1970, Udoji Commission in 1974, and the recently Gamaliel Onosode Team in 2009 (for Academic Staff Union of Universities -ASUU/Federal government face-off). Despite the use of commissions and panels to handle salary and other labour issues, the government has continued to grant special salary structure to workers in different unions depending on their bargaining strength and capacity. This possibly accounts for the wage and salary differentials in the Nigerian public sector.

In summary, redefining the focus of collective bargaining in Nigeria is imminent and this paper recommends that:

- collective bargaining as a mechanism should be recognized and strengthened as an instrument of realizing the public programmes of the government and labour unions.
- The government and labour unions should not always be at war but should bear in mind that 'compromise' is a necessary tool for the delivering of their own demands and 'public goods'.
- Stereotyping of unions as opposition group to the government should be stopped. Both the union and the government should see one another as partners in progress for the development of its members and the nation.
- The cost of living index should be used to initiate adjustment in salaries and wages in the public sector.

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