Reconstruction of Pretrial Institution Function in Supervising Investigator Authorization Based on Justice Value with Moderating Role of Supply Chain Management

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***Abstract*-The weaknesses of the pretrial concept are revealed in many academic discussions and directly felt by practitioners and pretrial applicants. Many things are hampered to cause pretrial as a complaint mechanism to be unfair and very ineffective. This research uses a normative juridical approach, namely by studying or analyzing secondary data in the form of secondary legal materials by understanding the law as a set of rules or positive norms in the legislation system that regulates human life. The results of the study resulted that pre-trial weaknesses in the criminal justice system that are just include Pre-Judicial Authority Only Post Factum, Detention Testing: Limited Only Administrative Review and Objectives of Detention Objectives, Passive Judges' Attitudes in Pre-Trial, Pre-Trial Death Eliminating Suspect Rights, Pre-Judicial Procedure Issues: Between Civil, Criminal and Minus Rules, Pre-Judicial Case Management and Pre-Trial Timeliness, Pre-Trial Depends Very Dependent on the Existence of Attorney. It further concludes that supply chain Information management system positively moderates the relation between pretrial function, investigator function and justice value.**

Keywords; *Entrepreneurship, Form interests, Supply chain management, Patterns of development*

1. Background

Pretrial as a mechanism of control, and that is one of the special features of criminal law, namely policing the police or regulating the authorities in an effort to enforce the law. One of the crucial problems faced by Indonesia in the current transition period is reforming its criminal law and justice system in a better and democratic direction. In the past, criminal law and criminal justice were used more as a means of mounting authoritarian powers, in addition to being used also for the benefit of social engineering [1]. Now is the time for the orientation and instrumentation of criminal law as an instrument of power to be changed to support the operation of a democratic political system that respects human rights. This is a challenge faced in the framework of the rearrangement of criminal law and criminal justice in the current transition period.

Pretrial as part of the criminal justice system in force in Indonesia is an effort to overcome crimes that are of a penal nature by using criminal law as the main means of material criminal law and formal criminal law [2]. Regulations regarding the procedures and procedures for the Criminal Procedure Code are formulated in the Criminal Procedure Code in a very limited manner, giving rise to many interpretations in its implementation. As a result, the presence of the complaint mechanism is less optimal for justice seekers. In general, the purpose of the pretrial institution is intended to uphold and provide human rights protection to suspects / defendants in investigations and prosecutions. This mechanism is seen as a form of horizontal supervision of the rights of suspects / defendants in the preliminary examination process (pre-trial). One of the urgent reasons for immediate reform is the issue of oversight and control mechanisms for forced efforts made by law enforcement officials [3].

As is known, the Criminal Procedure Code only provides pretrial institutions as a mechanism for horizontal oversight of the public over the process of law enforcement. The Criminal Procedure Code is designed to simply provide internal supervision and control, not vertical and tiered supervision to oversee law enforcement actions. The problem is that the authority of the pretrial institutions in the Criminal Procedure Code is very little, passive, and has the character of post factum.

All around the glob there are a number of hurdles faced by the common man to have the justice. Justice. Many of times it takes years to years but still trails not completed. Trial whether its pre or post has is very important in justice system [4]. Many of the times issue in the pretrial results in wrong decision. Pretrial is the need of the case. The construction of pretrial institution is necessary in order to have proper view from all the related parties. In constitution of pretrial functioning and supervisor authority the supply chain Information management system plays an important role.

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Once the pretrial functions are operative the second step how it will helpful in justice value. The supply chain Information management system will help to do the basics for justice value. The proper information and feedback about the system will make the pretrial more strong and better in order to reach a good decision [5]. The supply chain Information management system will help out to sort the flaws exist in the system of pretrial [6]. On the other hand the feedback section of supply chain Information management system will also help to boost the system accuracy and speed [7]. The supply chain Information management system is settled patterns for pretrial in order reduce the justice value time. Many of the times the pretrial are ignored as it leads to more work burden. The supply chain Information management system on a continuation basis will keep the internal and external stakeholder connected with the system [8].

In addition to weak authority, the pretrial institution is also regulated briefly without adequate procedural procedures or procedures. As a result, pretrial procedures which, despite being in the realm of criminal procedural law, in practice use the principles and principles of civil procedural law. As a result, it can be said if pretrial practices have so far failed to guarantee the minimum fulfillment of the rights of people who are in conflict with the law, especially the poor and persecuted and do not have access to law. The influence of the use of civil procedural law is undeniably further weakening the pretrial institution which is already weak in design.

The weaknesses of the pretrial concept are revealed in many academic discussions and directly felt by practitioners and pretrial applicants. Many things are hampered to cause pretrial as a complaint mechanism to be unfair and very ineffective in examining the legitimacy of forced efforts (especially related to arrest and detention) by law enforcement officials [9]. The presence of pretrial institutions actually emerged from the spirit to include the concept of habeas corpus in the criminal procedure system in Indonesia.

Many times it is witnessed that due to less awareness with the laws the real value of justice not delivered. The supply chain Information management system has nexus with the justice value. If the pretrial required information does not have any proper channel it will lead to create more complication in further inquiry of the case. The supply chain Information management system will provide the proper channel for information float.

But in the end, the concept of habeas corpus was adopted in the Indonesian Criminal Procedure Code in the form of a pretrial legal mechanism, which had less authority than the original concept of Habeas Corpus. The amount of detention authority that is absolutely in the hands of law enforcement officers has resulted in the supervision of forced detention efforts in the form of pretrial being helpless. In pretrial hearings, the courts often do not check the requirements in accordance with the Criminal Procedure Code in making arrests, detention, or other coercive measures, including the element of investigator concern, which leads to the refusal of the judge to examine the element of concern. As a result the Judge merely examined administrative procedures, such as the completeness of the letter. Such a model has implications for the emergence of the notion that pretrial is a mechanism that no longer matters [10].

From the explanation above regarding pretrial, it is obtained that the pretrial existence is one of the powers granted by the law to the district court to examine and decide on the legality of arrest, detention, cessation of investigation or prosecution as well as compensation and rehabilitation for a person whose case is terminated in level of investigation and prosecution [11]. In addition, pretrial is based on a form as a means of controlling the actions of law enforcement officers in carrying out their duties so that they do not act arbitrarily. With the existence of pretrial, law enforcers in making efforts to force a suspect remain based on the law and not contrary to the law [12].

2. Hypotheses development

Regulations regarding the procedures for Pretrial are formulated in the Criminal Procedure Code in a very limited manner, giving rise to many interpretations in its implementation. As a result, the presence of the complaint mechanism is less than optimal for justice seekers. Pretrial is a new item in the life of law enforcement in Indonesia. Every new thing has a certain mission and motivation. There must be something to aim for and want to achieve. Nothing is created without being driven by purpose [13]. Likewise, with the institutionalization of pretrial, there are purposes and objectives to be upheld and protected, namely to enforce the law, and protection of the human rights of suspects at the level of investigation of the prosecution and determination of the status of the suspect.

Pretrial Authority Only Characterized as Post Factum.

The position and function of judges from the beginning in the pretrial phase is very central in carrying out forced efforts. Because in considering sufficient preliminary evidence by the investigator who will be forwarded to the pretrial the prosecutor is very likely to have an objective bias so that in such circumstances strong supervision is needed. In the Criminal Procedure Code, if a person is subject to forced efforts, in the investigation and pretrial phases, the suspect can submit an examination to the pretrial judge. And if there has been this examination, then there is authority of the judge to examine the forced effort [14].

One crucial aspect is the discovery and determination of an adequate initial evidence clause by the investigator. This sufficient preliminary evidence clause is crucial because based on sufficient initial evidence, the investigator can determine the status of a person suspected of committing a

criminal offense as a suspect. And as a suspect, the investigator if he has considered the reasons for the need and fulfills the requirements may be subject to detention, this is referred to in the literature as reasonableness or probable cause, a suspect may be subject to detention [14]. The problem is that the existence of reasonableness or probable causes in the Criminal Procedure Code is entirely carried out and at the discretion of the investigator himself. The determination of the investigator cannot be questioned as long as the notification has been made to the suspect and or his family.

In practice, which is tested in the Pretrial is only limited to the terms of detention which later will only be formally administrative in practice so far in the Pretrial hearing, the judge is more concerned about whether the formal requirements are met solely from an arrest or detention, such as the presence or absence of an arrest warrant, or the presence or absence of a detention warrant, and forget to test and assess the material requirements. In fact, it is this material requirement that determines that a person may be subject to forced measures in the form of arrest or detention by an investigator or public prosecutor [15].

The Criminal Procedure Code's detention rules provide an opportunity for law enforcement officials to interpret the permissibility of detaining someone suspected of being a criminal offender subjectively, meaning that the authority to detain or not entirely depends on investigators on a very subjective juridical basis as well, in this case, both the law enforcement situation and legal instruments mutually support the potential for abuse of authority for personal gain. According to the results of the KHN and ICJR research, even investigators and prosecutors in using the authority of "detention" or "continued detention" are based on the feelings of an investigator or prosecutor regarding the state of a suspect.

Because there is no forum authorized to examine the consequences, up to now, there are still many cases of abuse of power and abuse in the case of arrest and detention of a suspect/defendant by investigators / public prosecutors [16]. Whereas in the habeas corpus system, this becomes a milestone in the test of whether a person is arrested or not. For this reason, it is not appropriate if the judge, through the Pretrial, only checks formal evidence and ignores the facts that occur (material). The role of judges as such deviates from the objectives of the criminal justice process, which seeks material truth. It is very difficult to expect material truth if in the pretrial stage, the judge only examines formal evidence as practiced in the Pretrial Court (as part of the pretrial stage or process).

In using its authority, judges in the Pretrial are passive, that is the authority held by the Pretrial judge is only used if there is a request, and the authority cannot be used if there is no request [17, 18]. Pretrial Judges await requests from petitioners who feel their rights have been violated or harmed by legal actions taken by investigators or public prosecutors and requests for compensation [19].

Pretrial Judges may not act actively or on their own initiative to test the alleged violation in carrying out legal actions carried out by investigators or public prosecutors against suspects or defendants. If there are allegations of violations committed by investigators or prosecutors, the judge in the court does not have the legal authority to make corrections or supervision, but for judges who are aware of violations of the law at the preliminary stage by investigators or prosecutors, the judge can use his authority at the time of examination of the subject matter to consider the use of authority in investigations or prosecutions that are not under the provisions of the procedural law or that are against the law in the examination of hearings and the decision-making process. For example, it is known in court hearings about irregularities in the collection of evidence used [20].

Such detention can only be imposed on a suspect or defendant who commits a criminal act and / or trial or assisting in the crime in the event that: a. the crime is threatened with imprisonment of five years or more; b. criminal offenses, as referred to in article 282 paragraph (3) and so on, "the basis for assessing the strength of the evidence in the proof, detention that is not in accordance with the procedure, is considered to impose a lighter sentence. Because Pretrial is not authorized to test and assess the validity of an arrest or detention, without any request from the suspect or his family or other parties for the power of the suspect. So that if the request does not exist, even if the act of arrest or detention clearly deviates from the applicable provisions, then the Pretrial hearing cannot be nullified.

A pretrial hearing is canceled if the case has been examined by a District Court or when the case is being examined by a District Court, while the Pretrial hearing has not yet been completed. This is intended to avoid different verdicts. Therefore, it is more appropriate for the Pretrial hearing to be terminated by aborting the request, and at the same time, all matters relating to the case are drawn into the authority of the District Court to assess and decide upon it [21].

According to many theorists, this provision does not reflect justice, because thus the actions taken by the officials concerned cannot be known to be lawful or not. Even though the judge has the authority to make detention, it cannot be submitted by the Pretrial. Therefore, if there is a request for a Pretrial hearing of a Judge, it must be rejected with an ordinary letter outside the hearing.

This provision limits Pretrial authority because the Pretrial hearing process is "stopped," and the case is dropped when the main criminal case begins to be examined by the District Court. If the pretrial process that has not been completed is stopped and the case being examined is deemed to be disqualified due to technical

reasons because the main criminal case has begun to be tried, which is not a principle reason, then the purpose of the pretrial will be dysfunctional, vague and lost [22].

The purpose of the Pretrial Court is to provide a legal assessment of the preliminary examination of the suspect, as referred to in Article 77 of the Criminal Procedure Code, whose decision is the basis for releasing the suspect from illegal arrest and / or detention and compensation claims. Therefore, the Pretrial system should guarantee a complete legal decision, not the knockout system. The legal system that is under the principle of "due process of law" must guarantee the Pretrial process to completion until there is a decision that cannot be contested again.

Regarding procedural law and the pretrial examination process, some of it is already regulated in the Criminal Procedure Code [23]. As part of the criminal justice system, specifically the Criminal Procedure Code, it is fundamental that Pretrial is then considered as a part of criminal procedure law, which must comply with the principles and principles of criminal procedure law [24]. However, because it is regulated in a separate part of the Chapter of the Court of Justice for Trial, Pretrial is defined as an institution that has a specific procedural law, namely Pretrial procedural law. However, the existing regulation is too short, it cannot cover all aspects and principles in procedural law, so it does not provide clarity about which procedural law will be used.

Because the pretrial procedural law in the Criminal Procedure Code is not explicitly regulated, and because of the nature of the request, the judge refers to the civil procedural law. In civil procedural law, Pretrial is filed at the place of the respondent. Several things that were not regulated in the Criminal Procedure Code: (i) the problem of summons to the respondent, (ii) the procedure for filing a Pretrial by the Petitioner (iii) the lack of a burden of proof, so it was not consistently used [23, 25]. What if the parties are absent, can they be terminated in verstek? There is no legal provision for the event in the Criminal Procedure Code, although legally civil procedure is permitted, so the judge will not dare to do verstek in Pretrial.

There are three different opinions as a guideline in determining the Pretrial period.

First, the opinion stating that the decision was handed down 7 days from the date of the decision of the trial, then starting from that opinion, the judge must impose the decision 7 days from the date of the determination of the hearing day. This means that the determination of the summons and examination of the hearing and the awarding of a decision are within that time period. Not taken into account the date of receipt and date of registration. The period of time, which is between the time of receipt and the time to determine the day of the trial, is excluded from the calculation of the time limit specified in article 82 paragraph (1) letter c. In this opinion, there seems to be a consideration of the meaning of the rapid inspection process even though the provisions of the said article have confirmed that the examination is carried out with a quick event therefore the calculation of the 7 day grace period starts from the date of the determination of the hearing day, such a calculation method reduces the meaning of the speed of examination and the ruling [26].

The obstacles and delays were caused by several factors, especially psychological factors that have not been able to be removed by law enforcement officials. Because in the interim circle, there are still law enforcement officials who feel reluctant to implement the provisions of Article 82 paragraph (1) letter c. For the sake of tolerating the feelings of officials involved in pretrial hearings. Whereas the provisions of Article 82 paragraph (1) letter b, in the Pretrial Examination concerning the validity of the arrest or detention, etc., the judge heard the applicant's statement and the statement of the official concerned. Listening to the information of the applicant, in general, does not cause obstacles. The applicant, as an interested person, usually tries to assist the completion of the hearing by being present on time during the Pretrial hearing. The problem often causes obstacles from the officials (investigators or prosecutors) concerned show reluctance and even objected to being examined in the Pretrial hearing.

The 'Post Factum' nature of the Pretrial Court is a condition where the testing and control of forced efforts can only be done when the forced action has taken place has confirmed the passive nature of the Pretrial Court.

The supply chain Information management system is basically designs the guidelines for information flow and also decided the method for internal and external stakeholders to have a proper look of the system and share their feedback regarding the system [27]. The story not ends here. The supply chain Information management system follow the feedback and carried out the necessary changes in order to improve the system [28].

From the above data, it can be understood that the existence of legal counsel is a very determining factor in the use of this mechanism. Considering the percentage of the number of suspects accompanied by legal counsel, where the availability of legal counsel is very limited in Indonesia, especially in areas outside of Java and especially outside Jakarta. It is important to note that the law in Indonesia does not explicitly require legal counseling, and even places this obligation with the availability of legal counsel in their respective regions. Background of the majority of suspects who do not understand the law, especially the Pretrial process, then the pretrial situation becomes very ineffective in controlling forced action by the authorized officials due to the above factors.

The supply chain Information management system has strong impact on both the pretrial system and investigator authorization [29]. If there are clear SOPs and rules regarding the investigator supervisor authority this will also create some boundary lines around him which will force

him to work accordingly. If institution has no limitations regarding its working this will lead to some wrong way [30]. It's the supply chain Information management system which decides the settled patterns for each element of the system. Once there are clear guidelines this will help in deliverance of justice. Once the decision maker has clear trial outcomes this will help to have sound decision [31].

In America, the role of judges is not only limited to the supervision of acts of arrest and detention that have taken place, but at a previous time, that is before detention was held, even before the indictment was issued. The judge has the authority to examine and assess whether there is a reason and a strong legal basis for the occurrence of criminal events and sufficient preliminary evidence to indict that the suspect is indeed the culprit, even though the examination of guilt is based on existing evidence and only then to be held later in the trial hearing.

Until now, pretrial is regulated in the Criminal Procedure Code, which is then expanded by Constitutional Court's Decision No. 21 / PUU-XII / 2014. Considering pretrial has expanded its authority including to examine, hear, and decide whether or not the determination of suspects is valid, then it is time for pretrial to be regulated in the 1945 Constitution became a judicial institution at the level of the Supreme Court (MA) and the Constitutional Court (MK). Therefore, the authority that is part of the pretrial hearing is closely related to the basic values of human rights guaranteed by the constitution (the 1945 Constitution).

The supply chain Information management system also makes it easy for all the law related stakeholders to understand the issues related with the information floating in the law institutions [32]. The supply chain literature witnessed that it has positive nexus with organization/departmental performance. If the organization SOPs are clearly defined by the supply chain Information management system this will help the entire system to work in its parameters [33]. Based on these literature, this study developed the following hypotheses.

H1: There is positive association among pretrial institution reconstruction and Justice Value.

H2: There is positive association among investigator authorization and Justice Value.

H3: The supply chain Information management system acts as moderator in the relationship between pretrial institution reconstruction, investigator authorization and Justice Value.

3. Methodology

This research uses a normative juridical approach, namely by studying or analyzing primary data in the form of questionnaires by understanding the law as a set of rules or positive norms in the legislation system that regulates human life with the help of supply chain management. Law is not only seen as rules, but also includes the operation of law in society. For the purpose of data collection, 350 questionnaires were distributed to the respondents of the article but of them only 290 were returned and has been used for the analysis and PLS-SEM has been utilized for analysis purpose. The predictors such as pre-trail institution reconstruction (PTIR) has four items and investigator authorization (IA) has five items. In addition, the moderator of the variable such as supply chain management information (SCMI) has six items and justice value (JV) used as dependent variable and has ten items. These variables are shown in figure 1.

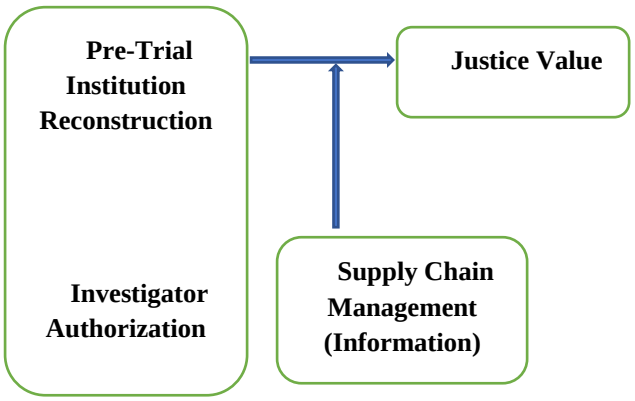

Figure 1. Theoretical framework

4. Results

The findings indicated the validity of the data that consist upon both convergent and discriminant validity. Firstly, this study check the convergent validity and statistics show the valid convergent validity because the values of Alpha and CR are more than 0.70 and the values of loadings and AVE are larger than 0.50. These are shown in Table 1.

Table 1. Convergent validity

Items	Loadings	Alpha	CR	AVE
IA2	0.787	0.840	0.893	0.676
IA3	0.829			
IA4	0.846			
IA5	0.827			
JV1	0.781	0.890	0.912	0.564
JV10	0.701			
JV2	0.789			
JV3	0.811			
JV4	0.769			
JV6	0.712			
JV8	0.726			
JV9	0.712			
PTIR1	0.886	0.767	0.846	0.588
PTIR2	0.799			
PTIR3	0.823			
PTIR4	0.503			
SCMI1	0.902	0.931	0.946	0.745

SCMI2	0.904			
SCMI3	0.819			
SCMI4	0.765			
SCMI5	0.880			
SCMI6	0.900			

Secondly, this study check the discriminant validity and statistics show the valid discriminant validity because the values of Heterotrait Monotrait (HTMT) ratio are less than 0.85. These are shown in Table 2.

Table 2. Heterotrait Monotrait ratio

	IA	JV	PTIR	SCMI
IA				
JV	0.857			
PTIR	0.674	0.747		
SCMI	0.436	0.621	0.546	

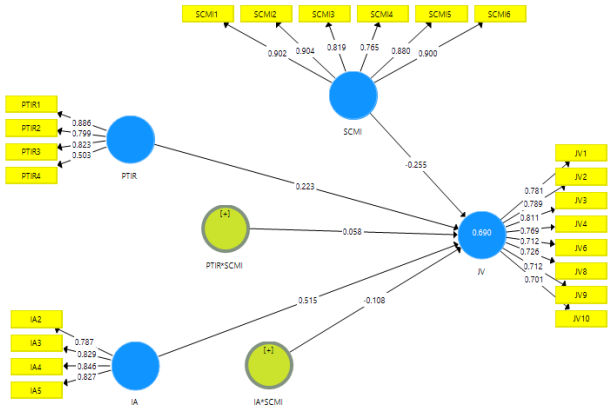

Figure 2. Measurement model assessment

The path analysis exposed that positive association among the pre-trail institution reconstruction, investigator authorization and justice values and accept H1 and H2. In addition, supply chain management information has positive moderation among the institution reconstruction and justice value while supply chain has moderation among the investigator authorization and justice value and accept H3. These links are shown in Table 3.

Table 3. Path analysis

Relationship	Beta	S.D.	t-statistics	p-values
IA -> JV	0.515	0.029	17.753	0.000
IA*SCMI -> JV	-0.108	0.032	3.402	0.001
PTIR -> JV	0.223	0.025	8.948	0.000
PTIR*SCMI -> JV	0.058	0.021	2.739	0.006

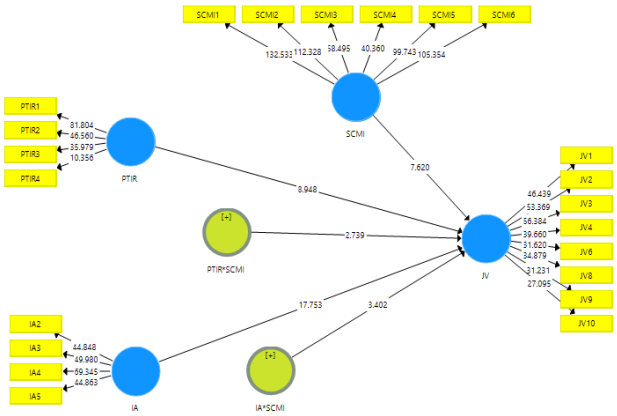

Figure 3. Structural model assessment

5. Discussion and conclusion

The pretrial authority, which turned out to be passive because the Pretrial cannot exercise its authority as long as there is no request from the suspect or his family or other parties for the power of the suspect to be tested. So that if the request does not exist, even if the act of arrest or detention deviates or violates the applicable provisions, then the pretrial hearing cannot be held. Literature witnessed that supply chain Information management system plays a vital role on legal forum to enhance the legal matters solutions lead time [34]. The supply chain Information management system provides the proper way out for smoothly transfer of information not only internally but also externally. The supply chain Information management system positively moderates the relation [35].

The weaknesses that are often applied, so that pretrial is often referred to as unfair including Pretrial Authority Only Post Factum, Detention Testing: Limited Only Administrative Review and Objectives of Detention, Passive Judicial Attitudes in Pretrial, The Elimination of Pretrial Causing The Suspect' Rights Lost, Pretrial Procedure Law Issues: Between Civil, Criminal and No Rules, Pretrial Case Management Issues and Pretrial Timeliness, Pretrial is Very Dependent on the Existence of Attorney. Another weakness in the provisions of the Criminal Procedure Code is that the Criminal Procedure Code only determines the deadline for determining the day of the trial and the length of the hearing. It is also concluded that supply chain Information management system is an important element for better understanding [5].

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