

ANALYSIS OF CONSTITUTIONAL LAW ON THE FORMATION OF LAWS THROUGH OMNIBUS LAW

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ABSTRAK

Pembentukan undang-undang melalui metode *omnibus law* merupakan fenomena baru dalam sistem hukum Indonesia. Metode ini memungkinkan penggabungan berbagai ketentuan dari sejumlah undang-undang ke dalam satu regulasi yang bersifat komprehensif. Namun, keberlakuan metode tersebut menimbulkan perdebatan dalam perspektif hukum tata negara, khususnya terkait asas pembentukan peraturan perundang-undangan yang diatur dalam Undang-Undang Nomor 13 Tahun 2022 tentang Perubahan Kedua atas Undang-Undang Nomor 12 Tahun 2011. Tulisan ini bertujuan untuk menganalisis landasan hukum, konsep, serta implikasi metode *omnibus law* dalam pembentukan undang-undang di Indonesia. Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan dan konseptual. Hasil penelitian menunjukkan bahwa metode *omnibus law* telah diakomodasi dalam hukum positif Indonesia melalui Pasal 64A UU No. 13 Tahun 2022, namun implementasinya tetap harus memperhatikan asas keterbukaan, kejelasan rumusan, serta partisipasi publik.

Kata kunci: *Omnibus law*, Hukum Tata Negara, Pembentukan Undang-Undang.

ABSTRACT

The enactment of legislation through the *omnibus law* method constitutes a new phenomenon within the Indonesian legal system. This method enables the consolidation of various provisions from multiple statutes into a single comprehensive regulation. However, its implementation has generated debate from a constitutional law perspective, particularly in relation to the principles governing the formation of legislation as stipulated in Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011. This paper aims to analyze the legal basis, concept, and implications of the *omnibus law* method in law-making in Indonesia. The research employs a normative legal research method with statutory and conceptual approaches. The results indicate that the *omnibus law* method has been accommodated in Indonesian positive law through Article 64A of Law No. 13 of 2022; however, its implementation must still observe the principles of transparency, clarity of formulation, and public participation.

Keywords: *Omnibus law*, Constitutional Law, Law-Making.

I. INTRODUCTION

1.1 Background

In terms of lawmaking, Indonesia has recently used the *Omnibus law approach*. "Omnibus" is a combination of the words "BusOmni," which is a bus that can carry many people and goods. In 1820, this type of bus was first introduced in Paris. However, the term became common in Latin America, so anything that can be

combined with other things is now called an omnibus. Similarly, in law, a law that combines many related laws is called an omnibus law.¹

Omnibus law consists of two words, namely Omnibus, which means all, this term comes from Latin.² The definition of "omnibus" from the Black Law Dictionary is "relating to or dealing with many objects or things at once; covering many things or having various purposes." At the same time, "law" means "law." By combining these two words, we get "omnibus law," which literally means "law for all.

Jimly Asshiddiqie's view is that an Omnibus Law is a type of legislative framework that considers the requirements of various interrelated laws to create a single, all-encompassing law.³ Legal expert Widiati also explained the Omnibus Law: it is a design strategy that combines multiple laws into one to make regulations of equal status more accessible. Given the numerous explanations provided by the experts mentioned above, it is reasonable to assume that the concept of an Omnibus Law refers to a law-making process in which a single law is designed to combine various provisions from other laws related to existing regulations; the law can then update or repeal previous laws. An Omnibus Law, also known as a "broom of the universe," has the power to supersede the standards set by several laws.⁴

An omnibus bill is a type of bill that addresses legislative technical issues; it unifies and simplifies the regulation of various related issues by amending several provisions in various laws at once, allowing the legislature to address multiple topics (themes) in a single decision-making process. In terms of potential difficulties during its implementation in Indonesia, the omnibus bill faces several obstacles, including recentralization, the use of legislative regulatory principles, and legislative methods.⁵

The concept of an *omnibus* bill (*omnibus bill*) is something new that is being tried to be implemented in the legal system in Indonesia, especially in the formation of laws. For this reason, there needs to be agreement and understanding between the legislators, both regarding the format and the discussion mechanism. If it does not comply with the Law on the Formation of Legislation, then the Law must first be adjusted to comply with the regulations in force in Indonesia.⁶

Although the omnibus law method has been introduced as a legislative solution to regulatory overlap and economic inefficiency, its implementation in Indonesia raises serious constitutional concerns, particularly regarding the principles of clarity of formulation, openness, and meaningful public participation in the law-making process⁷. Several constitutional review cases submitted to the Constitutional Court demonstrate that the formation of laws through the omnibus approach has generated normative conflicts between legislative efficiency and constitutional guarantees of

¹Firman Freddy Busroh, " *Conceptualization of Solving Omnibus Law Problems in Land Regulation* " Vol.10, No. 2 August 2017, p. 227

² *Ibid.* p. 230

³ Mirza Satria Buana, " *Assessing Omnibus Law and Consolidation Law for Harmonization of Indonesian Legislation: A Comparative Approach to Constitutional Law,*" in *Regulatory Arrangement in Indonesia* (presented at the 4th National Conference on Constitutional Law, Jember: UPT Penerbitan Universitas Jember, 2017)

⁴ *Ibid*

⁵ *Ibid*

⁶ *Ibid*

⁷ Rajagukguk, K. J., Santiago, F., & Redi, A. (2025). *Omnibus Law in Legislative Drafting: Realising High-Quality Legislation in Indonesia*. *Jurnal Greenation Sosial dan Politik*, 3(4), 1055–1068

democratic law-making⁸. Consequently, a doctrinal constitutional analysis is urgently required to examine whether the omnibus law mechanism is compatible with the Indonesian constitutional framework and the hierarchy of laws and regulations. This research therefore becomes important to clarify the constitutional limits of legislative simplification and to provide a theoretical foundation for future law-making policies in Indonesia.

1.2. Problem Formulation

1. How is the formation of laws using *the Omnibus law method* in Indonesia according to Law Number 13 of 2022 concerning the second amendment to Law Number 12 of 2011 concerning the formation of laws and regulations?
2. *the Omnibus law method* in the formation of laws in Indonesia?

1.3 Purpose of Writing

This study aims to analyze the constitutionality of the formation of laws through the omnibus law method within the Indonesian legal system. Specifically, the research seeks to examine the compatibility of the omnibus legislative technique with constitutional principles governing law-making, particularly the principles of legal certainty, clarity of formulation, openness, and meaningful public participation. Furthermore, this study intends to identify the constitutional limits of legislative simplification and to formulate a doctrinal framework for the proper application of the omnibus law method in accordance with the hierarchy of laws and regulations in Indonesia.

2. RESEARCH METHOD

This research employs a normative legal approach. This approach is characterized by a focus on written legal norms, such as statutes and legal principles. Drawing on Indonesian constitutional law, this paper examines the Omnibus Law method in lawmaking.

3. RESULTS AND DISCUSSION

3.1 The Formation of Laws Using the Omnibus Law Method in Indonesia According to Law Number 13 of 2022 Concerning the Second Amendment to Law Number 12 of 2011 Concerning the Formation of Legislation

Law No. 13 of 2022 defines the omnibus method as a way to draft laws that add new content, change content regulated by different laws and regulations, or repeal laws and regulations regulated by the same law and regulations, combining them into "one law and regulation" to achieve certain objectives.

When competing standards and laws overlap, the idea of omnibus legislation provides a way out. The reason is, it gets the job done faster and better than handling each one separately. Omnibus laws aim to provide benefits, public order, and legal clarity by adopting a single rule that covers a wider variety of materials. In addition, omnibus legislation has the authority to revoke or amend rules as circumstances require.⁹ The idea of omnibus legislation is uncommon in legal products in Indonesia because of the

⁸ Amaliah, R., & Muthahir, A. (2025). *Penerapan Metode Omnibus dalam Sistem Peraturan Perundang-Undangan di Indonesia*. Keadilan, Universitas Terbuka.

⁹Jimmy Asshiddiqie, *Omnibus Law and Its Implementation in Indonesia*, Jakarta; Publisher: Konstitusi Press, 2020, p. 3

country's civil law system. Looking back over the past few years, Indonesia has also passed laws that are essentially omnibus decrees. For example, there is Government Regulation in Lieu of Law No. 1 of 2017 concerning Access to Financial Information for Tax Purposes, which is in line with Law No. 9 of 2017 and Law No. 23 of 2014 concerning Regional Government. Furthermore, there are omnibus decrees at the People's Consultative Assembly (MPR) level, specifically MPR Decree No. I/MPR/2003 concerning the Review of the Material and Legal Status of MPR Decrees, as well as MPR Decrees from 1960 to 2002.¹⁰

Some states are finally putting into practice the old idea of omnibus legislation. Common law systems in countries such as the US and the UK typically use the idea of omnibus legislation when creating laws, although civil law systems in countries such as France and Spain may also use it. The term "omnibus bill" is used to describe a type of legislation in American legal studies that grants the legislature the power to adopt new rules¹¹. The freedom to establish rules includes the option to use any means necessary to achieve a goal. The practice of omnibus legislation, which originates from the common law system, can be applied in Indonesia to ensure integration across the legislative agenda. Maria Sriwulani Sumardjono outlined the five requirements for the implementation of an omnibus bill:¹²

1. Political and security stability;
2. Market efficiency (policies, legal aspects, taxes, access to natural resources);
3. Large domestic market;
4. Macroeconomic conditions and stability;
5. Infrastructure, workforce, and financial markets

The government has announced plans to ask the DPR (Regional People's Representative Council) to pass two important laws, according to President Joko Widodo's inaugural speech on Sunday, October 20, 2019. Let's start with the Job Creation Law. Next, we have the MSME Empowerment Law. Each of these laws will be an omnibus law, meaning that it amends or repeals many related articles or regulations at once. There will be a simultaneous revision or simplification of dozens of regulations deemed to be obstacles to the development of micro, small, and medium enterprises (MSMEs) and job creation.¹³ Furthermore, on Thursday evening, September 28, 2019, at the Bank Indonesia Annual Meeting, President Joko Widodo made the following statement: "It takes 50 years to revise laws one by one. Through the Omnibus Law, regulatory simplification can be accelerated." This means that the law will streamline regulations, simplify processes, streamline operations, eliminate sectoral egos, and accelerate economic transformation by eliminating unnecessary articles. This time, the government was able to achieve victory with the Omnibus Law because:¹⁴

¹⁰ *Ibid*

¹¹ Widayati, W., Winanto, W., Laksana, A. W., Huda, M. N., & Fareha, N. (2025). *The Challenges of Using the Omnibus Law Method in Indonesia's Legal System*. *Volkgeist: Jurnal Ilmu Hukum dan Konstitusi*, 8(2), 459–477.

¹² Dhaniswara K. Harjono, "The Concept of Omnibus Law Reviewed from Law Number 12 of 2011 Concerning the Formation of Legislation", *Journal of Law: Law to Regulate and Protect Society* Vol 6 No 2, 2020, p. 103

¹³ Hukumonline. *PSHK: Jokowi's second term in office is merely a lubricating law for investment*. Accessed August 10, 2025

¹⁴ Ministry of Education and Culture of the Republic of Indonesia. (2025). *Job Creation Law Booklet*. Accessed August 10, 2025

1. the world's ease of doing business ranking rose from 73rd to 53rd in 2020;
2. Policy conflicts between horizontal and vertical levels;
3. The regulatory index in Indonesia is still low;
4. There is a lot of regulation, or hyperregulation;
5. Ineffective policy;
6. Sectoral regulations are often out of sync and do not provide adequate legal certainty.

3.2 Legal Implications of the Application of the Omnibus Law Method in the Formation of Laws in Indonesia

The term "implication" refers to the effects or outcomes that an action may have in the future. However, in legal dictionaries, "juridical" means "from a legal perspective." Therefore, viewing an activity through a legal lens will reveal its juridical implications, that is, its future effects. Anything that gives rise to or occurs in legal implications is an intrinsic part of the application of law¹⁵. The Big Indonesian Dictionary (KBBI) states that "implementation" is the Balinese definition of "law." Applying a theory, method, or other concept to achieve a predetermined goal for the benefit of the intended purpose, according to some experts, is the essence of implementation. Furthermore, according to Austin, the rule of law is a system of rules established by more rational individuals in positions of power to direct and control other rational beings.¹⁶

Regarding "law enforcement," it is the process by which a law is put into effect; this process is responsible for carrying out the purposes for which it was enacted. If a law is never put into practice, it ceases to be law. Human beings and their actions are an integral part of the law enforcement process. The police are responsible for handling violations of the law, while the prosecutor's office is established to prepare cases for trial¹⁷.

In his description of the role and impact of law on society, JF Glastra Van Loon discusses topics such as:¹⁸

1. Maintaining peace and controlling interpersonal dynamics in society;
2. Resolving legal disputes;
3. Protect and enforce laws and regulations by identifying and addressing violations;
4. Use of force;
5. Modification of rules and regulations in response to changes and demands of society;
6. Achieving these goals in a manner that ensures justice and legal clarity.

¹⁵ Ismail, T., Nurul Huda, U., & Mulyadi, D. (2025). *Critical Legal Studies: The Omnibus Law Method in the Formulation of Local Regulations on Local Taxes and Levies*. VARIA HUKUM, 7(2), 121-144.

¹⁶ Andika Trisno, Marlien Lapian, and Sofia Pangemanan, *Application of Good Governance Principles in Public Services in Wanea District, Manado City*, Jurnal Eksektufi Vol 1 No 1, 2017, p. 2

¹⁷ Hidayah, S. N. (2025). *Implementasi Omnibus Law dalam Pembaharuan Sistem Pembentukan Perundang-Undangan*. Jurnal Hukum Respublica.

¹⁸ Sajtipto Rahardjo, *The Problem of Law Enforcement: A Sociological Review*, Bandung: Sinar Baru, 2009, p. 15

At the same time, Soerjono Soekanto is of the opinion that the role and application of law in society includes:¹⁹

- a. A tool for public order and tranquility;
- b. Means to realize social justice both physically and mentally; and
- c. Means of driving development.

The application of law has at least 2 (two) forms of application, namely:²⁰

1. As a concept of legal positivism put forward by John Austin, "According to Law/Rule," the rule of law ensures that everyone knows exactly what they can and cannot do by establishing a legally binding system of identification. When all parties involved have reached a consensus, the state will administer justice according to its laws by acting firmly and consistently. The same applies to the implementation of existing laws and regulations; everything must be carried out in accordance with what has been decided.
2. Violating applicable laws and regulations. In this context, Satjipto Rahardjo's progressive legal concept of the application of laws "not in accordance with the law/regulations" emphasizes that laws cannot function independently but require institutional or individual intervention to be enforced²¹.

There are a number of major consequences for Indonesian law resulting from the use of omnibus legal techniques in drafting laws, such as:

1. Implications for the National Legal System

Previously, the Indonesian legal system followed the premise of one law governing one substance; however, this has changed significantly with the advent of omnibus legislation techniques. In the case of omnibus legislation, provisions from multiple laws may be combined, amended, or repealed at once.

The legal implication is that there is a **simplification of regulations**, but it also raises challenges in the form of:

- Potential disharmony of legal norms;

The potential for disharmony in legal norms in *an omnibus law* arises because a single law amends multiple laws simultaneously, risking both vertical and horizontal normative conflicts. These conflicts can arise if implementing regulations are not aligned or if there are inconsistencies with other sectoral laws. Law Number 13 of 2022 emphasizes the importance of harmonization and synchronization in the formation of legislation. Therefore, the implementation of *the omnibus law* must remain guided by Law No. 13 of 2022 to ensure legal certainty. For example, *omnibus The law* establishes a specific definition of "business permit" which differs from the definition in previous laws. These differences in definition can lead to different interpretations by law enforcement and the public, thus potentially giving rise to legal disputes²².

- Risk of overlap between articles;

¹⁹Ibid

²⁰Satjipto Rahardjo, *Dissecting Progressive Law*, Jakarta: PT. Kompas, 2006, p. 6

²¹Ibid. p. 7

²²Malau, P., Simaremare, N., Ambarita, O. D., Marpaung, J. B., Muliandino, E., & Simamora, A. (2025). *Omnibus Law dan Krisis Legal Drafting: Evaluasi Kegagalan UU Cipta Kerja dan Rekomendasi Reformasi Legislasi*. *Journal of Innovation Research and Knowledge*, 5(3).

The risk of overlapping articles occurs when two or more articles in a law regulate the same object, authority, or legal substance but with different or unclear formulations. For example, in one *omnibus* law, Article A stipulates that business licensing authority rests with the central government, while Article B still grants certain authority to regional governments without clearly defining the boundaries. As a result, there is overlapping authority between the central and regional governments which can give rise to administrative conflicts and legal uncertainty for business actors²³.

- Difficulties in legal tracing .

Difficulties in legal tracing *occur* when the origins, changes, and validity of a legal norm are difficult to trace due to numerous regulatory changes occurring simultaneously. For example, an omnibus law amends several articles in the Employment Law, removes some others, and adds new provisions from a different law. Consequently, to determine the applicable rules, a judge or legal practitioner must trace the old law, the *omnibus law*, and the implementing regulations that follow. This condition makes it difficult to determine the correct legal basis and has the potential to give rise to differences in interpretation.

2. Implications for the Principles of Establishing Legislation

The omnibus law must still comply with the principles of establishing statutory regulations as stipulated in **Law No. 13 of 2022**,²⁴ among others:

- clarity of purpose;
The failure to fulfill the principle of clarity of objectives causes the direction and intent of legislation, especially *omnibus laws*, to be difficult to understand, thus potentially giving rise to different interpretations in their implementation.
- conformity between type, hierarchy, and content material;
If this principle is not fulfilled, then there may be material arrangements that are not in accordance with the regulatory level, which will result in formal defects and have the potential to be tested constitutionally.
- can be implemented;
Neglecting the principle of enforceability makes it difficult to implement norms because they are not supported by the readiness of implementing institutions, resources, or adequate implementing regulations.
- clarity of formulation;
The unclear formulation of norms results in multiple interpretations, legal uncertainty, and has the potential to give rise to disputes in the application of law in society.
- openness.
Lack of transparency in the regulatory process can reduce public participation and legal legitimacy, and increase the risk of judicial review in the Constitutional Court.

However, in practice, *omnibus laws* are often criticized for **undermining the principle of transparency**, particularly during rapid and complex deliberations,

²³ Gunawan, H., & Syahbudin, S. (2025). *Legal Reconstruction of the Omnibus Law on Job Creation for Justice in Enhancing Investment and Indonesia's Competitiveness*. Jurnal Hukum, Universitas Islam Sultan Agung

²⁴Law Number 13 of 2022

thus limiting public participation. This could lead to legal implications in the form of **formal review** at the Constitutional Court²⁵.

3. Implications for Legal Certainty

One of the goals of *the omnibus law* is to create legal certainty through regulatory simplification. However, the legal implications could be the opposite if:

- there was a massive change in norms;
The massive changes in norms in the omnibus law have direct implications for legal certainty because many previously applicable provisions are amended, revoked, or replaced in a relatively short period of time²⁶.
- society and law enforcement officials are not yet ready to understand these changes;
The public and law enforcement officials' lack of preparedness to understand the changes to norms stipulated in the omnibus law has implications for legal certainty. Differences in understanding can lead to inconsistent application of the law and differing interpretations among officials. Consequently, the law no longer provides equal certainty and justice for everyone.
- there are articles that are open to multiple interpretations.
The existence of articles open to multiple interpretations in *the omnibus law* has direct implications for legal certainty, as legal norms can be interpreted differently by the public and law enforcement officials. These differing interpretations lead to inconsistent application of the law and the potential for disputes. As a result, the law fails to provide clear certainty regarding the rights and obligations of the parties.
As a result, legal certainty may be disrupted in the short term, although it is expected to improve in the long term.

4. Implications for Citizens' Constitutional Rights

The implementation of *the omnibus law* has the potential to impact the fulfillment of citizens' constitutional rights, such as the right to work, a good living environment, and legal protection. If the drafting of the omnibus law does not involve meaningful public participation, it can be considered **a violation of the principles of democracy and the rule of law**, which will have implications for increasing constitutional lawsuits. Evidence that *the omnibus law* has the potential to impact citizens' constitutional rights can be seen in the employment and environmental regulations, which directly impact the rights to work and a healthy environment as guaranteed by the 1945 Constitution. Furthermore, the lack of public participation in the law-making process contradicts the principles of democracy and the rule of law. This situation has been proven to encourage increased judicial review of laws at the Constitutional Court as a form of protection for citizens' constitutional rights. Evidence of the improving judicial review of laws includes:

- **The number of judicial reviews of laws has been high and increasing** throughout its history. By 2025, the Constitutional Court had handled **thousands**

²⁵ Harilama, C. P. (2024). *Analisis Yuridis Pembentukan Undang-Undang dalam Bentuk Omnibus Law dilihat dari Sistem Hukum di Indonesia*. *Lex Privatum*, 14(1).

²⁶ Febriana, L. R., Setiadi, W., & Thohari, A. A. (2025). *The Legal Politics of the Formation of Job Creation Law within the Framework of Responsive Laws*. *Multidisciplinary Indonesian Center Journal (MICJO)*.

of applications, most of which were *judicial reviews of laws*. In 2025 alone, there was a significant surge: the Constitutional Court received approximately 284 applications for *judicial review*, which are an increase of around 50% compared to the previous year.

- **Judicial Review Application as an indicator of the quality of the Law** The increase in the number of judicial review lawsuits shows that more and more citizens or groups feel **their constitutional rights are violated by certain laws**, so they seek **protection through judicial review at the Constitutional Court**. This is often seen by observers as a signal that **the legislative process needs to be improved**, as many laws are considered to have the potential to conflict with the constitution or reduce citizens' rights.

5. Implications for the Role of the Constitutional Court

The Omnibus law opens up wider space for *judicial review of laws. review*), both formally and materially. The Constitutional Court has an important role in:

- *the omnibus law* formation process with the 1945 Constitution;
- ensure that *the omnibus law* does not conflict with the principles of the rule of law and democracy.

The Constitutional Court's decision could be a correction to the implementation of *the omnibus law method* in Indonesia.

6. Implications for Future Legislative Practice

The implementation of *the omnibus law* sets a new *precedent* in national legislative practice. Its legal implications are:

- opening up opportunities for the use of *omnibus law* for other legal fields; The implementation of the omnibus law sets a *precedent that allows this method to be applied* to other legal fields with numerous overlapping regulations. This has the potential to increase legislative efficiency, but also requires caution to avoid ignoring the specific characteristics of each legal field²⁷.
- the need for clear technical guidelines so that this method is not misused; Without clear technical guidelines, *the omnibus law* risks being overused or used for specific interests. Therefore, strict rules are needed regarding the limitations of the content material, formulation techniques, and harmonization mechanisms so that its formation remains in accordance with the principles of the rule of law.
- increasing demands for transparent and participatory legislative quality. *scope of the omnibus law* encourages the public to demand a more open legislative process and meaningful public participation. Transparency and participation are crucial for maintaining legal legitimacy and preventing escalating conflicts and judicial review.

4. CONCLUSION

The above findings indicate that the omnibus legal approach to legislation in Indonesia has legal weight. This strategy must be thoroughly reviewed before implementation to ensure it does not violate the rules of lawmaking, the rule of law, or

²⁷ Dwiono, S., Ja'far, A. K., & Haryadi, S. (2024). *An Analysis on the Omnibus Law and Its Challenges in Indonesia: Perspectives of Constitutional and Islamic Law*. Samarah: Jurnal Hukum Keluarga dan Hukum Islam, 8(2), 706-725.

the protection of people's rights guaranteed by the constitution. The following are the findings of this investigation:

As long as the rules for establishing legislation are followed, laws in Indonesia based on Law Number 13 of 2022 and created using an omnibus law approach are in principle permitted. However, the need to adhere to the principles of legislative development remains when using an omnibus law approach as a drafting methodology to simplify and harmonize several overlapping regulations. To provide legal clarity and uphold democratic values and the rule of law, implementation of the omnibus bill must be methodical, transparent, and participatory.

The application of *the omnibus law method* in the formation of laws in Indonesia has various legal implications, both positive and negative. On the one hand, omnibus laws can increase legislative efficiency and simplify overlapping regulations. However, on the other hand, this method has the potential to create legal uncertainty, conflicting norms, difficulties in legal tracing, and impact the fulfillment of citizens' constitutional rights if not carefully drafted. Therefore, the implementation of *omnibus laws* must adhere to the principles of legislative formation, ensure public participation, and maintain the quality of legislation to align with the principles of the rule of law and democracy.

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