



ISSUE BRIEF: SECURE TENURE & LAND

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A GLOBAL ADVOCACY
CAMPAIGN OF

 **Habitat for Humanity**

**SOLID
GROUND**

Executive summary

Habitat for Humanity International has extensive global programs and advocacy initiatives that focus on security of tenure. Security of tenure is vital for the families and communities we work with to be able to enjoy the full spectrum of housing rights and benefits. Undeniably, it is an essential pre-condition for overcoming poverty around the world. Land tenure represents the relationship between people — as individuals or groups — and land. This relationship may be defined legally, customarily, informally or socially. Ultimately, security of tenure is the right to feel safe in one's own home, to control one's own housing environment, and is the right of individuals to not be arbitrarily and forcibly evicted.¹ Lack of secure tenure often lies at the heart of poverty housing, depriving residents of even the most basic physical, economic and psychological security that comes with adequate shelter. Tenure policies and laws define how access to the housing environment is allocated, transferred, controlled and managed, and globally, we see divergent practices around tenure that have systemic and pervasive impacts on the ability of communities to access land for housing. This is why Habitat for Humanity's global network identified secure tenure as one of the Solid Ground campaign's four pillars. In this issue brief, we will be exploring and discussing what security of tenure means and the important role effective secure tenure rights and legal provisions can have on creating strength and stability in communities around the world. Finally, case studies detailing successful advocacy from Habitat's global network will illustrate how policies and systems change can create tangible impacts for the communities we work with.

Solid Ground's principles for secure tenure

Habitat for Humanity's global advocacy campaign, Solid Ground, identified the following as core principles that drive our advocacy and policy work globally in achieving secure tenure for all.

- Policies should be inclusive, pro-poor and fit-for-purpose.
- Governments should not pursue evictions in situations of limited tenure regulation.
- Policies should acknowledge a continuum of land rights.
- Governments should work to recognize land users.
- Laws should prioritize the most vulnerable groups and women.
- Policies should build the capacity of local cadaster systems.

Benefits of secure tenure

Rights to land are not just a source of economic production, but also a basis of social relationships and cultural values and a source of prestige and often power.² Lack of secure

¹ United Nations Human Settlements Programme (UN-Habitat). *Enhancing Urban Safety and Security: Global Report on Human Settlements 2007*, (London: Earthscan, 2007): 115.

² Food and Agriculture Organization of the United Nations. *Land Tenure and Rural Development*, (Rome: FAO, 2002): 2.6.

tenure contributes to inequalities in land, housing and livelihoods, as well as social exclusion, the violation of human rights, food insecurity, forced evictions, corruption and land grabbing.³ A lack of land tenure security also leads to the formation of slum settlements globally,⁴ with up to 60 percent of urban dwellers in Africa living in informal settlements alone. Moreover, land documents underpin the many instruments cities use for management planning; the implementation of spatial planning, delivery of services, infrastructure and revenue are linked to land documentation.

When families perceive their tenure to be secure, they are more likely to invest in home and neighborhood improvements.⁵ These improvements — including improved building materials and basic services — can serve as a springboard to even greater development and asset accumulation through increasing property values within communities. However, existing laws and regulations often relate to more formal forms of tenure, such as ownership and lease holding, and therefore cater to the communities that can access formal means of income, credit and savings. This results in the exclusion of individuals who are considered marginalized or vulnerable, and who are most likely to lack security of tenure. Laws that are not inclusive or considerate of the variety of needs within a population can compound the harm caused by insecure tenure, as it further impedes access to goods and services. Without security of tenure, access to networked infrastructure provided by a municipality, such as clean drinking water or adequate sewage, is not possible in many communities.

Lack of tenure security can be a barrier for families in accessing financing mechanisms and capital. A common purpose for taking out a bank loan is for home improvement, but without secure collateral, it can be challenging for families to access formal financial markets.⁶ Tenure security supports enabling environments, which encourage private and public investment, allowing for governments to build the tax base and advance land-value-capture mechanisms. Tenure regularization and the integration of informal settlements into formal land markets also enable local governments to raise revenue from taxes and fees, which can in turn be used to finance the provision of improved services, improving local governance overall.⁷

³ Du Plessis, Jean & Augustinus, Clarissa & Barry, Michael & Lemmen, Christiaan & Royston, Lauren (UN-Habitat). *The Continuum of Land Rights Approach to Tenure Security: consolidating advances in theory and practice*. (Washington DC: World Bank Land and Poverty Conference, 2016).

⁴ Parby, Jonas Ingemann; Lozano Gracia, Nancy; Mason, David; Lall, Somik V.; Dasgupta, Basab; Young, Cheryl (World Bank). *Stocktaking of the housing sector in Sub-Saharan Africa : challenges and opportunities* (Vol. 2): (Washington DC: World Bank, 2015).

⁵ Payne, Geoffrey, Alain Durand Lasserre and Carole Rakodi. *Social and economic impacts of land titling programmes in urban and peri-urban areas: International experience and case studies of Senegal and South Africa*. (Final publication to Norway, Sida, GLTN and UN-Habitat, 2008).

⁶ Payne, Geoffrey, Alain Durand Lasserre and Carole Rakodi. *Social and economic impacts of land titling programmes in urban and peri-urban areas: International experience and case studies of Senegal and South Africa*.

⁷ Payne, Geoffrey, Alain Durand Lasserre and Carole Rakodi. *Social and economic impacts of land titling programmes in urban and peri-urban areas: International experience and case studies of Senegal and South Africa*.

Land tenure is frequently understood in binary terms: formal or informal, legal or extra-legal, secure or insecure, de facto or de jure; however, in practice, a wide and complex spectrum of appropriate, legitimate tenure arrangements exists between these extremities. It is estimated that customary tenure is adhered to by over 2 billion indigenous people throughout the world.⁸ These can be documented as well as undocumented, formal as well as informal, for individuals as well as for groups, including pastoralists and residents of slums and other settlements, which may be legal or extra-legal. The extent of the actual security of such arrangements depends on local regulatory, institutional and governance contexts, in addition to social norms and customs.

The continuum of land rights is a concept for understanding and administering this rich complexity of land rights on the ground. It offers a powerful alternative approach to simply focusing on the titling of individually held private property. Tenure types should be attuned to the social, cultural and economic needs of local communities and responsible land administration authorities.

The continuum promotes recognition and can help increase security by focusing attention on intermediate steps to achieve goals of equitable, secure tenure rights. This offers land actors and governments an innovative approach to the realization of tenure security, through recognizing, recording and administering a variety of appropriate and legitimate forms of land tenure. A range of land actors around the world are increasingly following this approach aimed at achieving tenure security for all. Importantly, tenure can take a variety of forms and ensures that formal forms of tenure are not seen as the only goal in developing secure tenure policies. It is acknowledged that registered freehold — where the owner of the land has no time limit to their period of ownership — “should not be seen as the preferred or ultimate form of land rights, but as one of a number of appropriate and legitimate forms... The most appropriate form depends on the particular situation: customary rights, for example, may be superior to registered freehold in certain situations.”⁹

From an operational perspective, a continuum of land rights exists when the whole spectrum of formal, informal and customary rights is catered to within a land governance system. Additionally, a continuum of land rights exist when a range of rights in a country constitutes legally enforceable claims which can be asserted and defended in a forum such as a court.¹⁰ The means of achieving different forms of tenure can vary greatly. Achieving security of tenure, in reality, can come from a politician with the will to issue a proclamation against eviction, a city or government extending basic infrastructure and services to informal settlements or the issuing of state-backed titles to every individual homeowner in an informal settlement. Legal literacy training and writing wills can also be an effective

⁸ Mark Freudenberger, (USAID). *The Future of Customary Tenure: Options for Policymakers*. (via Landlinks, 2013).

⁹ United Nations Human Settlements Programme (UN-Habitat) and Global Land Tool Network (GLTN). *“Handling Land: Innovative tools for land governance and secure tenure.”* (Nairobi, Kenya: UN-Habitat and GLTN, 2012): 12.

¹⁰ United Nations Human Settlements Programme (UN-Habitat) and Global Land Tool Network (GLTN). *“Handling Land: Innovative tools for land governance and secure tenure.”*

means of improving tenure security. There are examples of a spectrum of rights that do not constitute freehold title and would rather be described as social tenures that are local, informal and unofficially determined. In the case of Kenya, sales letters and allotment letters are not registered documents of title and yet constitute documentary evidence of tenure security. In many parts of South Africa, customary property rights are constituted in a matrix of social relationships that regulate access to, and control of, land and other resources. These rights are centered in extended family relationships that ensure succession of property over generations, and they spread outwards to include various levels of community land uses, authority and leverage. Many of these “layered” relationships persist even after the formal title deeds have been issued.¹¹

The process of ensuring secure tenure around the world will take time. An incremental strategy focusing first on increasing the perception of tenure security, or *de facto* tenure security, and moving slowly toward formal, legally protected tenure security, or *de jure* tenure security, is most effective. This gradual process will channel initial benefits to current residents while giving the market time to fully mature so current low-income residents who decide to sell their rights might receive greater compensation. The Solid Ground Campaign is already making strides to address tenure insecurity in communities around the world.

Impediments to secure tenure for people living in poor conditions

A person’s source of tenure security varies from context to context and is often affected by what property rights they hold, for how long and whether those rights are acknowledged, respected and protected. The failure to adopt appropriate and pro-poor land policies and land management practices remains a primary cause of inequity and poverty, and sometimes conflict. Land issues have played a major role in 27 conflicts in Africa since 1990.¹² It is also the cause of increased living costs, the occupation of hazard-prone land, environmental degradation and the increased vulnerability of urban and rural habitats, affecting all people, especially disadvantaged and vulnerable groups, people living in poverty and low-income people. In a recent perception survey Prindex across 15 countries in Africa, Latin America and Asia, one in four people felt their property rights were insecure. People felt more secure when they had formal documentation.¹³ The world over, many governments have recognized the need to increase secure tenure through declarations and have put in place reforms aimed at addressing access to and control of land and housing rights. Despite these notable initiatives, however, challenges remain in putting such laws and regulations into practice. The realization of tenure security is hindered by deep-rooted attitudinal barriers, customary practices and systematic hurdles, including income inequity, socio-economic disparities and power imbalances.

¹¹ Kingwill, Rosalie. “*Land and Property Rights: ‘title deeds as usual’ won’t work.*” (Cape Town, South Africa: Institute for Poverty, Land and Agrarian Studies, 2017).

¹² Land Links via USAID. “*Land Rights Matter.*” (USAID, 2018).

¹³ Prindex via Overseas Development Institute (ODI) and Global Land Tool Network (GLTN). *PRINDEX: Comparative Report.* (London: Prindex, GLTN, and ODI, 2018): 6-7.

Lack of political will

Lack of political will at the international, national and sub-national levels is perhaps one of the most difficult issues facing security of tenure for the world's poorest places and is the largest roadblock for those working to bring awareness to the issue and correct it. The unequal distribution of land is a particularly challenging political issue in developing nations because as it is often tied to broader inequalities, such as those based on ethnicity or gender, and are potentially explosive issues that politicians may be unwilling to tackle.¹⁴ Laws and regulations often discriminate against women and vulnerable populations, making any group that has been traditionally marginalized or disadvantaged at greater risk of tenure insecurity.

Inadequate, faulty administrative systems

Sound land administration is essential to any effort to ensure secure tenure best serves the interests of the poor. Effective property and housing registration systems are crucial to secure tenure, as they facilitate legal transfers of security of tenure, public and transparent record of ownership and tenant rights and the protection of rights related to housing.¹⁵ In many countries, however, a lack of resources makes it impossible for local authorities to keep pace with developments on the ground. In many developing countries, high costs, illiteracy and bureaucratic barriers keep low-income populations from asserting their legal rights to get or transfer titles or access to land. Households living in informal settlements on private property often have no way to formalize their land and housing rights, even if they have possessed the land for long periods of time and have invested scarce resources in building their own house on it. In countries where all residents are fortunate enough to have protection under the law, disenfranchised populations often do not have the knowledge or access to legal aid to exercise their rights.

With only 30 percent of land in the developing world recorded in any form of land registration system, it is now widely recognized that current solutions to delivering land administration services will never be able to deliver security of tenure to the majority of people in the developing world. Conventional land administration systems are simply too slow and too costly to be effective, hence the need to build appropriate land administration systems within a relatively short time and at a relatively affordable cost. This calls for innovation and the need to adopt fit-for-purpose land administration approaches rather than focusing on technical solutions and high accuracy surveys. The means that such approaches should be flexible and focused on serving citizens' needs, particularly in developing countries such as providing security of tenure and control of and land use and land-based resources.

Customary Tenure and Land Rights

¹⁴ Department for International Development (DFID). *Land: Better Access and Secure Rights for Poor People*. (London: DFID, 2002).

¹⁵ World Bank. *Land Policies for Growth and Poverty Reduction: A World Bank Policy Research Report*. (Oxford, World Bank and Oxford University Press, 2003): 70.

Customary land tenure exists in many parts of the world. In situations where customary or traditional land systems are functioning, they often provide important protections for residents especially when neighbors recognize and enforce a person's rights. However, as pressure on land continues to increase, it erodes the social cohesion from which customary tenure derives its legitimacy. This can result in discrimination, leading to conflicting claims, forced eviction or disinheritance, especially of women, particularly if they are not specifically protected by legislation. Communities that experience land shortages or rapidly increasing land values may be unable or reluctant to prevent male relatives from claiming land over which women, particularly widowed or single women, have rights.¹⁶ In such patriarchal societies, and despite various laws that forbid discrimination, women who are abandoned, divorced or widowed are often denied property rights. These practices violate the basic human rights of women, especially women living in poor conditions. Moreover, a common global challenge is the gap between legal provisions, the intention of the laws and social norms and practices. In many places where women and other groups may have their rights enshrined in law, their rights are still denied by social norms and traditional practices.

Global and regional commitments to action

The importance of tenure security's impact on the safety, wellbeing and development of individuals globally has been gaining recognition by global actors in recent decades. Global and regional agreements have begun to explicitly point to tenure security as a priority in achieving positive development outcomes and realizing gains in equity, rights and wellbeing.

In 1991, the United Nations Committee on Economic, Social and Cultural Rights commented on the Right to Adequate Housing, recognizing the importance of security of tenure in Article 11 of the Covenant on Economic, Social and Cultural Rights. It stated that, "tenure takes a variety of forms... notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats."¹⁷

At the regional level, several initiatives have aimed at securing tenure for all with an emphasis on land for housing. In 2009, African Heads of State and Government endorsed the Framework & Guidelines (F&G) on Land Policy following the adoption of the "Declaration on Land Issues and Challenges in Africa."¹⁸ The F&G calls for the systematic planning, provision of housing — or shelter — and service delivery in order to provide planned communities affordable and legally secure land and housing rights and access to

¹⁶ FAO's Land Tenure Service of Rural Development Division. "Land Tenure and Rural Development." (Rome, Italy: FAO, 2002).

¹⁷ United Nations Committee on Economic, Social and Cultural Rights (CESCR). "General Comment No. 4: The Right to Adequate Housing" (Art. 11 (1) of the Covenant). (New York: UN, 1991): 23.

¹⁸ African Union. "Declaration of Land issues and challenges in Africa." (Sirte, Libyan Arab Jamahiriya: African Union Thirteenth Ordinary Session, 2009)

basic services irrespective of tenure and structure status.¹⁹ Additionally, the African Union Agenda 2063 strategic framework for the socio-economic transformation of Africa calls for speeding up actions related to creating affordable and decent housing, including supporting housing finance and the provision of basic services, like water, sanitation and energy.²⁰

In 2011, the Committee on World Food Security endorsed a set of far-reaching global guidelines aimed at helping governments safeguard the rights of people to own, manage and access land, fisheries and forests to secure their nutritional needs. The result was the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGTs). The Guidelines promote secure tenure rights and equitable access to land, fisheries and forests as a means of eradicating hunger and poverty, supporting sustainable development and enhancing the environment, focusing on access to these resources as a key condition for sustainable livelihoods.²¹

More recently, the historic adoption of two global commitments — the Sustainable Development Goals, known as the SDGs, and the New Urban Agenda — have reiterated the central importance of tenure security for achieving broader development goals.

The SDGs incorporate the importance of smart housing and land policies as a catalyst for achieving positive and sustainable development outcomes. Goal 11 has a specific target on housing: By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade of slums. The specific indicator, 11.1.1, seeks to measure the “proportion of urban populations living in slums, informal settlements or inadequate housing.” Additionally, under Goal 1, Indicator 1.4.2 highlights the importance of the security of tenure in achieving poverty reduction by prioritizing the measurement of the “proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure.”

The New Urban Agenda, signed by more than 170 countries at the Habitat III meeting in Quito, Ecuador in 2016, has specific provisions to “foster the progressive realization of the right to adequate housing as a component of the right to an adequate standard of living.” This is in addition to promoting “increased security of tenure for all, recognizing the plurality of tenure types,” and “to developing fit-for-purpose and age, gender and environment-responsive solutions within the continuum of land and property rights...

¹⁹ African Union (AUC), African Development Bank (AfDB), and Economic Commission for Africa (ECA) Consortium. *“Framework and Guidelines on Land Policy in Africa.”* (Addis Ababa, Ethiopia: AUC-ECA-AfDB Consortium, 2009).

²⁰ African Union Commission. *“Agenda 2063: The Africa we want.”* (Addis Ababa, Ethiopia: African Union Commission, 2015): 2.

²¹ An important recognition within the Guidelines, is that that the process of establishing policies and laws around land and tenure should be “participatory, gender sensitive and strive to make provision for technical and legal support to affected communities and individuals” and that states should acknowledge “the emergence of informal tenure” as a result of “large-scale migration.”

strong, inclusive management frameworks and accountable institutions that deal with land registration and governance.”²²

Solid Ground: Country examples from a global advocacy campaign

Habitat for Humanity has been working to affect systems and policy change globally that encourage governments to address the issue of security of tenure as a development imperative. Security of tenure has been at the foundation of achieving Habitat for Humanity’s vision of a world where everyone has a decent place to live. Through the Solid Ground advocacy efforts in Honduras, Cambodia, and Poland, Habitat for Humanity is connecting policy with practice and engaging citizens to understand their land rights. Policy change is having a systemic impact on tenure security, and thousands of people are benefitting with improved tenure conditions.

Honduras: Accessing secure tenure one municipality at a time

A decade ago, the housing crisis in Honduras looked insurmountable. Although the country’s constitution establishes housing as a human right, it’s not uncommon for a significant gap to remain between such a high-level statement and a tangible transformation of the housing and living conditions of its citizens. Many families in Honduras, even with a constitutional provision, lived in shacks made from whatever scraps of wood or metal they could cobble together. In this case, single mothers faced laws and a culture that placed land ownership — and therefore homes where their children could grow and thrive — out of reach. And in some areas, access to affordable land was so hard to come by that even when families scrimped and saved to buy property, they couldn’t afford to build a house on it.

Now, a decade later, new policies and partnerships are changing lives and making safe, stable and affordable homes a reality for more and more Hondurans each day. Habitat for Humanity Honduras has long been working on shaping policies that impact housing for Hondurans. Since working specifically on access to land for shelter as a central barrier that prevents families from decent and safe shelter, Habitat for Humanity Honduras has seen significant strides in securing tenure by engaging civil society organizations and local government in municipalities across the country, forming diverse commissions to develop policy recommendations around housing and land, negotiating approval of the recommendations and then monitoring their implementation.

Since working to change policies at the municipal level, more than half out of the 298 municipalities in Honduras have passed housing policies, and over 1 million people have the potential to benefit from these policy changes. Working at the municipal level has proven to be crucial in implementing the policies and the overall sustainability, as it requires buy-in from each local municipal government. Housing policies are to be defined and approved by each municipal governance, through which the local governments define

²² United Nations via Habitat III Conference. “*New Urban Agenda*.” (Quito, Ecuador: United Nations, 2016).

frameworks for action and commit to civil society to focus on social housing issues. Habitat for Humanity Honduras has been intentional in addressing when engaging at the municipal level and with civil society leaders, has been the increased intentionality of including women in meetings and encouraging their participation in the reform process. Women are engaged in every level of the project implementation, including policy design, project approval and various committees, which ensures recognition and incorporation of the needs of women and vulnerable groups.

Habitat for Humanity Honduras provides support to the process in three primary ways: analyzing and researching impediments to land access for social housing and policy recommendations that support increased access; advocating in the formulation of housing policy in each municipality that will eliminate barriers to access land tenure and adequate housing; and monitoring and evaluating the implementation of municipal policies that are approved to ensure increased secure tenure for communities.

The catalyst? Many hands — and many hands working together. Citizens, churches, community groups, government agencies, nonprofits including Habitat for Humanity, for-profits and financial institutions — all have joined forces to advocate for a national housing policy that directs financial and human resources to the most vulnerable families and communities. Habitat for Humanity Honduras organizes, and trains multi-stakeholder commissions comprised of civil society and local government institutions, engages in housing policy planning meetings, hosts informational presentations for local governments and hosts public educational events on land and housing issues.

Cambodia: Implementation of national housing policy leads to secure tenure

For nearly ten years, Habitat for Humanity Cambodia, funded through the World Bank, has been working to increase secure tenure for low-income communities through a social land concession project in the Battambang Province, "[Strengthening Civil Society-Government Partnership through the Delivery of Secure Land Tenure](#)." This experience set a strong foundation for Habitat Cambodia's credibility and intent in deepening government partnership to demonstrate local mechanisms that increase access to secure land.

In 2014, the Government of Cambodia enacted the National Housing Policy which primarily focuses on families with low and medium incomes. The policy contains important provisions for increasing tenure security in informal settlements and improving access to adequate housing for low-income and vulnerable groups. A crucial element of the policy is that it provides for guarantee of temporary security of tenure for 3-5 years for temporary settlements as a vehicle for a more permanent solution. Due to limited systems for implementation, Habitat for Humanity Cambodia leveraged local advocacy experience and the Solid Ground Challenge Grant to build capacity for influencing national policy change and implementation. As a result, Habitat for Humanity Cambodia signed a Memorandum of Understanding, or MOU, with the General Department of Housing. The MOU provides Habitat Cambodia the opportunity to support the implementation and adaptation of the National Housing Policy. Habitat for Humanity Cambodia is advocating for the effective

implementation of the National Housing Policy to facilitate access to improved housing for the growing number of urban residents, particularly for communities that are often overlooked by the system.

As a key contributor to monitoring the National Housing Policy, Habitat for Humanity Cambodia is uniquely positioned to influence policy and ultimately increase the people impacted. Habitat for Humanity Cambodia has provided technical expertise and research towards the National Housing Policy on the issues of housing affordability and access to land for housing, ensuring all communities benefit from the policies. Additional opportunities opened following the MOU: Habitat for Humanity Cambodia has increased overall engagement with the General Department of Housing, the private sector and multi-stakeholder coalitions; the issue of secure tenure has been elevated among broader audiences; and Habitat for Humanity Cambodia has increased their profile as a housing expert.

Poland: Secure tenure for low-income renters through systematic housing policy reform

To address substandard housing in Poland, Habitat for Humanity Poland sought to achieve systematic housing reform by actively participating in the development of the National Revitalization Program, a government program to implement architectural and social revitalization including renovation of municipal and privately-owned buildings.

Realizing that renovation through Poland's National Revitalization Program had the potential to exacerbate the effects of gentrification, such as evictions of old communal tenants, Habitat for Humanity Poland worked in coalition to secure the tenants' rights to return to the renovated homes. Habitat for Humanity Poland worked directly with the government to amend current housing laws in three important ways: eliminating the threat of eviction for low-income residents following renovation projects; extending the window for community members to comment from 7 days to 30 days bolstering a people-centered development approach; and providing accountability that landlords inform tenants of their rights. Further, in response to the demands of civil society organizations, the Revitalization Act requires community participation in all stages — from planning, through implementation, to evaluation.

As a result, the National Revitalization Act that passed in October 2015 ensures continuation of the lease for current residents and requires that residents be informed of their tenancy rights. Now the renters can anticipate and plan for the revitalization process while being assured of the security of their homes. The inclusion of these provisions into the new program is expected to improve security of tenure for up to 240,000 tenants living in low-income social housing.

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For more information, visit our website, <http://solidgroundcampaign.org/>

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