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A Short History of Child Protection in America

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The history of child protection in America is divisible into 3 eras. The first era extends from colonial times to 1875 and may be referred to as the era before organized child protection. The second era spans from 1875 to 1962 and witnessed the creation and growth of organized child protection through nongovernmental child protection societies. The third, or modern era—the era of government-sponsored child protective services (CPS)—began in 1962. (For in-depth analysis of the history of child protection in America see Myers, 2004, 2006, 2010.)

Child Protection Prior to 1875

It was not until 1875 that the world's first organization devoted entirely to child protection came into existence—the New York Society for the Prevention of Cruelty to Children (NYSPCC). Prior to 1875, many children went without protection, although there was never a time when children were completely bereft of assistance. Criminal prosecution has long been used to punish egregious abuse. In 1809, for example, a New York shopkeeper was convicted for sadistically assaulting his slave and her 3-year-old daughter (Finkelman, 1988). In 1810, a woman was prosecuted in Schenectady for murdering her newborn child (Finkelman, 1988). Although the woman admitted to several people that she killed the baby, the jury found her not guilty—probably because she was insane. In 1856, the first rape conviction in state history reached the California Supreme Court. The victim was 13 (*People v. Benson*, 1856). From 1856 to 1940, the majority of rape prosecutions in California involved child victims. In 1869, an Illinois father was prosecuted for confining his blind son in a cold cellar in the middle of winter (*Pletcher v. People*, 1869). The father's attorney argued that parents have the right to raise their children as they see fit, but the Illinois Supreme Court disagreed,

writing that parental “authority must be exercised within the bounds of reason and humanity. If the parent commits wanton and needless cruelty upon his child, either by imprisonment of this character or by inhuman beating, the law will punish him” (p. 395).

Prosecution was not the only remedy before 1875. As early as 1642, Massachusetts had a law that gave local magistrates authority to remove children from parents who did not “train up” their children properly. In 1735, an orphan girl in Georgia was rescued from a home where she was sexually abused. In 1866, Massachusetts passed a law authorizing judges to intervene in the family when “by reason of orphanage or of the neglect, crime, drunkenness or other vice of parents,” a child was “growing up without education or salutary control, and in circumstances exposing said child to an idle and dissolute life.” Whether or not a statute authorized intervention, judges had inherent authority to stop abuse. Judge Joseph Story wrote in 1886:

For although in general parents are intrusted with the custody of . . . their children, yet this is done upon the natural presumption that the children will be properly taken care of. . . . But whenever . . . it is found that a father is guilty of gross ill treatment or cruelty towards his infant children, . . . in every such case the Court . . . will interfere and deprive him of the custody of his children. (pp. 675–676)

Before the spread of nongovernmental child protection societies beginning in 1875, intervention to protect children was sporadic, but intervention occurred. Children were not protected on the scale they are today, but adults were aware of maltreatment and tried to help.

Emergence of Social Work as a Profession ---

Child protection today is the domain of social work, assisted by law enforcement, mental health, medicine, nursing, law, and education. Prior to the 20th century, however, social work had yet to emerge as a profession. This is not to say that social work was not practiced before the 20th century. In colonial days and throughout the 18th century, local officials—principally overseers of the poor—made arrangements for orphans, protected abused and neglected children, and provided for the poor. The 19th century saw the proliferation of private charitable organizations like the New York Children’s Aid Society and associations for improving the condition of the poor. Employees and volunteers of these private societies were not called “social workers,” but many of them did wonderful social work.

In 1877, the first Charity Organization Society (COS) was established in Buffalo, New York. Eventually, more than 100 COSs were scattered across the country. The COSs improved the administration of poor relief by coordinating voluntary and public charities and discouraging pauperism. Gradually, COSs hired full-time paid workers and relied less on middle-class volunteers.

Of course, full-time workers need training. At first, training was informal and on-the-job. Eventually, however, more formal training was needed. In 1898, the “New York Charity Organization Society expanded its in-service training program into a more organized effort and established the first school for training social workers in the country. It was called the New York School for Philanthropy, and is now” the School of Social Work at Columbia University (Cohen, 1958, pp. 68–69). COSs and their increasingly full-time staffs contributed substantially to the professionalization of social work.

Another important contributor to the emergence of social work was the settlement movement. The first settlement was established January 10, 1884, in London’s East End slums. The settlement was christened Toynbee Hall to honor historian Arnold Toynbee, an advocate for the poor who chose to live in humble surroundings. Toynbee Hall was created by Oxford and Cambridge students working under the guidance of Samuel Barnett, a young clergyman of the Church of England.

Americans visited Toynbee Hall and sailed home to spread the word. Stanton Coit visited Toynbee Hall and returned to New York intent on starting a settlement. Along with Charles Stover, Coit founded the Neighborhood Guild of New York City in 1886, America’s first settlement. America’s most famous settlement, Hull House in Chicago, was started in 1889 by Ellen Starr and Jane Addams following Addams’s visits to Toynbee Hall.

Jane Addams had a tremendous impact on child welfare policy and became the first American woman to receive the Nobel Peace Prize. In 1911, the National Federation of Settlements was founded, with Addams as president, and by 1920 there were 440 settlements in the United States.

Unlike COS workers, who were inclined to blame the poor for their poverty, settlement workers, most of whom were women, saw the roots of poverty in the economic conditions created by industrialization and in the horrible living conditions of the urban poor. Robert Reinders (1982) observed:

One of the practical implications of a women-dominated staff in [American settlements] was the formation of kindergartens, child-welfare clinics, homemaking programs, handicrafts, play groups, and the involvement of workers in preschool education, juvenile courts, and child and labor legislation. . . . American settlers were at the forefront of the demands for labor legislation, especially for women and children, and they were as much responsible for its passage as any group in the Progressive Period. (pp. 45–46, 49)

Although settlement workers and their colleagues in the COSs did not always see eye to eye, they had similar goals and their mutual need for training contributed to the professionalization of social work. Ralph and Muriel Pumphrey (1961) wrote,

The COS and the settlement movements were the primary places where an interest in method and education moved workers and the emerging

field of social work toward professionalization. . . . In the forty years between the [economic] panic of the [1890s] and the depression of the [1930s], social work became a recognized profession. (pp. 202, 255)

Murray and Adeline Levine (1992) describe the rise of professional social work:

At first casework was largely handled by untrained volunteers, but little by little the philanthropic agencies began to organize training programs for both the volunteers and the increasing number of full-time, paid workers. Experiments with summer institutes led to full-time social work schools; by 1919 there were seventeen such schools in the country. (p. 155)

By 1930, the number exceeded 30.

In the 1920s and 1930s, social work came under the influence of psychology and psychoanalysis, increasing the focus on individual pathology as opposed to sociopolitical origins of social problems. The Levines wrote,

The need of social work for a methodology, the development of a professional method of casework, the increasing popularity of psychoanalytic thinking—to which psychiatric social workers were exposed from the beginning—work with World War I veterans, and the ultraconservative political climate of the early 1920s all led social work to focus on the individual. (p. 155)

Child Protection From 1875 to 1962

Organized child protection emerged from the rescue in 1874 of 9-year-old Mary Ellen Wilson, who lived with her guardians in one of New York City's worst tenements, Hell's Kitchen. Mary Ellen was routinely beaten and neglected. A religious missionary to the poor named Etta Wheeler learned of the child's plight and determined to rescue her. Wheeler consulted the police, but they declined to investigate. Wheeler sought assistance from child-helping charities, but they lacked authority to intervene in the family. At that time, of course, there was no such thing as CPS, and the juvenile court did not come into existence for another quarter century. Eventually, Wheeler sought advice from Henry Bergh, the influential founder of the American Society for the Prevention of Cruelty to Animals (ASPCA). Bergh asked his lawyer, Elbridge Gerry, to find a legal mechanism to rescue the child. Gerry drew up the necessary papers, and a judge ordered Mary Ellen removed from her guardians.

Following the rescue of Mary Ellen, animal protection advocate Henry Bergh and attorney Elbridge Gerry lamented the fact that no government agency or nongovernmental organization was responsible for child protection. Bergh and Gerry decided to create a nongovernmental charitable society

devoted to child protection, and thus was born in 1875 the NYSPCC, the world's first entity devoted entirely to child protection. Gerry became the president of NYSPCC and served in that capacity into the 20th century.

News of the NYSPCC spread, and by 1922 some 300 nongovernmental child protection societies were scattered across America. Although 300 is an impressive number, for much of the 20th century, many cities and nearly all rural areas had little or no access to formal CPS. For most abused and neglected children help came—if it came—from family and neighbors willing to get involved, police, and courts.

As nongovernmental child protection societies sprang up across the country, another important innovation appeared: the juvenile court. The world's first juvenile court was established in Chicago in 1899. Juvenile courts spread quickly, and by 1919, all states but three had juvenile courts. Before long the remaining states fell in line. Although the reformers who created the juvenile court were concerned primarily with delinquent children, juvenile courts from the outset had authority to intervene in cases of abuse and neglect.

As noted previously, in the 19th and early 20th centuries, child protection agencies were nongovernmental. The first few decades of the 20th century witnessed increasing calls to shift child protection from nongovernmental societies for the prevention of cruelty to children (SPCCs) to government agencies. Douglas Falconer wrote in 1935:

For many years responsibility for child protection was left almost entirely to private agencies. . . . Great sections of child population were untouched by them and in many other places the service rendered was perfunctory and of poor standard. . . . The belief has become increasingly accepted that if children are to be protected from neglect the service must be performed by public agencies. (p. 65)

The call for government child protection coincided with the increasing role of state and federal governments in social services. Prior to the 20th century, there were relatively few state-level departments of social services. The government services that were there were the provinces of local government. During the early 20th century, however, states created or strengthened state departments of welfare, social services, health, and labor.

As for the federal government, prior to 1935, Washington, D.C., played an insignificant role in child welfare policy and funding. Creation of the federal Children's Bureau in 1912 broke the ice, followed by the Sheppard-Towner Act, which provided federal money from 1921 to 1929 for health services for mothers and babies. It was the Great Depression of the 1930s, however, that stimulated the sea change in the federal government's role in social welfare. In 1935, as part of President Roosevelt's economic New Deal to save the nation from ruin, Congress passed the Social Security Act. In addition to old-age pensions, unemployment insurance, and vocational services, the Social Security Act created Aid to Dependent Children, which provided millions of dollars to states to support poor families. Tucked away

in the Social Security Act was an obscure provision that authorized the Children's Bureau "to cooperate with State public-welfare agencies in establishing, extending, and strengthening, especially in predominantly rural areas, [child welfare services] for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent." This provision was an important shot in the arm for the nascent social work specialty of child welfare and a modest step toward what in the 1970s became a central role for the federal government in efforts to protect children from abuse and neglect.

The Great Depression of the 1930s hastened the demise of nongovernmental SPCCs. The charitable contributions that were the lifeblood of SPCCs withered with the economy, and only the heartiest SPCCs weathered the economic drought. In the 1930s and 1940s, many SPCCs merged with other organizations or closed. In some communities child protection was assumed by the juvenile court or the police while in other communities organized protective work ceased.

In 1956, Vincent De Francis, director of the Children's Division of the American Humane Association, and a pioneer in child protection, conducted a national inventory of CPS. De Francis found 84 nongovernmental SPCCs, down from the high of 300 early in the century. Thirty-two states had no nongovernmental CPS. In these states, and in states with SPCCs, government agencies were slowly assuming responsibility. At mid-century, many communities had no agency in charge of this vital service.

A decade after his 1956 survey, De Francis again took the pulse of child protection (De Francis, 1967). By 1967, the number of nongovernmental SPCCs was down to 10. De Francis wrote, "Responsibility for provision of Child Protective Services under voluntary auspices, like the old soldier it is, is slowly fading away" (p. 11). By 1967, nearly all states had laws placing responsibility for child protection in government hands. Yet, De Francis complained, "No state and no community has developed a Child Protective Service program adequate in size to meet the service needs of all reported cases of child neglect, abuse and exploitation" (1967, p. 11). In 1964, Elizabeth Glover and Joseph Reid wrote in a similar vein, "In hundreds of counties in the United States, there is no protective service for children, other than police services" (p. 14). In most states protective services were not available statewide. Most communities lacked 24-hour coverage. Thus, for the first 6 decades of the 20th century, protective services in most communities were inadequate and in some places nonexistent.

The Modern Era of Child Protection: 1962 to the Present

This section describes the birth of the modern era of child protection.

Child Abuse Becomes a National Issue

The 1960s witnessed an explosion of interest in child abuse, and physicians played a key role in this awakening. Prior to the 1960s, medical schools provided little or no training on child abuse, and medical texts were largely silent on the issue. Even pediatricians were largely uninformed. The spark that eventually ignited medical interest in abuse was an article published in 1946 by pediatric radiologist John Caffey. Caffey described six young children with subdural hematomas and fractures of the legs or arms. Although he did not state that any of the children were abused, Caffey hinted at it. Following Caffey's classic paper, a small but steady stream of physicians drew attention to the abusive origin of some childhood injuries. This trend culminated in the 1962 publication of the blockbuster article "The Battered-Child Syndrome" by pediatrician Henry Kempe and his colleagues. Kempe played a leading role in bringing child abuse to national attention during the 1960s and 1970s.

As the medical profession became interested in child abuse so did the media. Local media had always covered noteworthy cases, as when a child was beaten to death, but coverage by national media was uncommon prior to the 1960s. Following publication of "The Battered-Child Syndrome," national news outlets like *Newsweek*, *Saturday Evening Post*, *Parents* magazine, *Time* magazine, *Good Housekeeping*, and *Life* published emotional stories of abuse, often citing "The Battered-Child Syndrome" and Henry Kempe. A *Newsweek* story from April 1962, for example, was titled "When They're Angry . . ." and quoted Kempe saying,

One day last November, we had four battered children in our pediatric ward. Two died in the hospital and one died at home four weeks later. For every child who enters the hospital this badly beaten, there must be hundreds treated by unsuspecting doctors. The battered child syndrome isn't a reportable disease, but it damn well ought to be.

Prior to 1962, there was little professional research and writing about abuse. In 1963, Elizabeth Elmer noted, "The amount of systematic research on the problem of abuse and neglect is conspicuously scant" (p. 180). Following publication of "The Battered-Child Syndrome," a trickle of writing became a torrent that continues to this day.

News stories and journal articles captured public and professional attention. Behind the scenes, Congress placed new emphasis on child protection with amendments to the Social Security Act in 1962. Vincent De Francis (1967) remarked that the 1962 amendments "for the first time, identified Child Protective Services as part of all public child welfare" (p. 4). In addition to sharpening the focus on child protection, the 1962 amendments required states to pledge that by July 1, 1975, they would make child welfare services available statewide. This requirement fueled expansion of government child welfare services, including protective services.

The publication of “The Battered-Child Syndrome” and amendments to the Social Security Act were momentous in 1962, as were two small meetings convened by the Children’s Bureau in Washington, D.C. The purpose of the meetings was to advise the bureau on how it could more effectively help states respond to child abuse. Henry Kempe and Vincent De Francis attended along with other early leaders. Among other things, the experts recommended the passage of laws requiring doctors to report suspicions of abuse to police or child welfare. These meetings were the genesis of child abuse reporting laws, the first four of which were enacted in 1963. By 1967, all states had reporting laws.

As reporting laws went into effect, the prevalence of child abuse and neglect came into focus. By 1974, some 60,000 cases were reported. In 1980, the number exceeded 1 million. By 1990, reports topped 2 million; in 2000, reports hovered around 3 million. In the early 21st century, reports declined but remained high.

Turning from reporting laws to another critical component of child protection, the foster care system, during the 19th century children who could not live safely at home were placed in orphanages or almshouses. Nineteenth century reformers like Charles Loring Brace of the New York Children’s Aid Society struggled to remove children from institutions and place them in foster homes. Debate over the merits of foster care versus orphanage care raged from the 1850s to the early 20th century. Eventually, proponents of foster care prevailed, and almshouses and orphanages disappeared.

In the early days, foster care was viewed as a major advance and as the best solution for many dependent children. In the last quarter of the 20th century, however, some came to view foster care as a problem rather than a solution. Critics lamented that nearly half a million children are in foster care at any point in time and that too many children get “stuck” in out-of-home care. What’s more, children of color, particularly African American children, are sadly overrepresented among foster children. Yet, despite problems, foster care remains a safe haven for many abused and neglected children. Foster care is further discussed in Chapter 5.

The Federal Government Assumes a Leadership Role in Child Protection

Prior to 1974, the federal government played a useful but minor role in child protection. The Children’s Bureau was founded in 1912, but the bureau paid little attention to maltreatment until the 1960s. The Social Security Act of 1935, as amended in 1962, provided money to expand child welfare services. Yet, as late as 1973, U.S. Senator Walter Mondale wrote, “Nowhere in the Federal Government could we find one official assigned full time to the prevention, identification and treatment of child abuse and neglect” (Mondale, 1974).

Due in substantial measure to Mondale’s efforts, Congress assumed a leadership role with passage of the Child Abuse Prevention and Treatment Act of

1974 (CAPTA). CAPTA authorized federal funds to improve the state response to physical abuse (PA), neglect, and sexual abuse. CAPTA focused attention on improved investigation and reporting. In addition, CAPTA provided funds for training, regional multidisciplinary centers focused on child abuse and neglect, and demonstration projects. Responsibility for administering CAPTA was placed in a new agency, the National Center on Child Abuse and Neglect. The center funded important research on maltreatment. CAPTA played a major role in shaping the nationwide system of governmental CPS in place today. In addition, CAPTA marked the final passing of privately funded, nongovernmental child protection societies. Congress periodically renewed CAPTA, and this important legislation remains in force today.

Prior to 1978, as many as 25% to 35% of Native American children were removed from their parents for alleged neglect or abuse. The majority of these children were placed in non-Indian foster homes, adoptive homes, and institutions. In 1978, Congress enacted the Indian Child Welfare Act (ICWA) to reduce the number of Native American children removed from their homes. ICWA is further discussed in Chapters 4 and 5.

As mentioned previously, children of color, particularly African American children, are overrepresented in foster care, and African American foster children tend to wait longer for adoption than white children. In 1994, Congress passed the Multiethnic Placement Act (MEPA), which prohibited child welfare agencies from delaying or denying adoptive placements on the basis of race (Hawkins-Leon & Bradley, 2002). MEPA is further discussed in Chapter 5.

Child abuse reporting laws, coupled with enhanced awareness of child abuse, produced an increase in intervention. By the late 1970s, the rising number of children in long-term foster care set off alarm bells in Congress, resulting in passage of the Adoption Assistance and Child Welfare Act of 1980. The act required states to make “reasonable efforts” to avoid removing children from maltreating parents. When removal was necessary, reasonable efforts were required to reunite families. Every child in foster care had to have a “permanency plan” to return the child home or move toward termination of parental rights. For children who could not go home, Congress provided financial incentives for adoption. The act also provided financial support for adoptive parents who adopted children with special needs.

The effort to preserve families—family preservation—was a key component of the 1980 act and the dominant paradigm of child protection in the 1980s. In the 1990s, however, critics argued that overreliance on family preservation sometimes led to tragedy. One of the most forceful critics of family preservation was Richard Gelles, who challenged the effectiveness of family preservation in his 1996 book *The Book of David: How Preserving Families Can Cost Children’s Lives*. Gelles wrote,

The essential first step in creating a safe world for children is to abandon the fantasy that child welfare agencies can balance the goals of protecting children and preserving families, adopting instead a child-centered

policy of family services. This is not a new policy, but rather a return to the policy of the early 1960s that established child safety as the overriding goal of the child protection system. It is time to abandon the myth that “the best foster family is not as good as a marginal biological family.” The ability to make a baby does not ensure that a couple have, or ever will have, the ability to be adequate parents. The policy of family reunification and family preservation fails because it assumes that *all* biological parents can become fit and acceptable parents if only appropriate and sufficient support is provided. (pp. 148–149)

Although the 1980 Adoption Assistance and Child Welfare Act, with its emphasis on keeping families together, helped many children and parents, the number of children living in foster care did not decline. Moreover, Richard Gelles and others charged that reasonable efforts and family preservation caused social workers and judges to leave children in dangerous homes. Congress responded in 1997 with the Adoption and Safe Families Act (ASFA). Although it did not abandon family preservation, ASFA made child safety the top priority. When children are placed in foster care, ASFA establishes strict timelines for returning them to their parents or terminating parental rights. In cases of sexual abuse and chronic PA, ASFA authorizes states to dispense with efforts to reunify the family and to move directly to termination of parental rights.

Child Sexual Abuse Takes Center Stage

Prior to the late 1970s, many sexually abused children were protected. Yet, recognition of sexual abuse lagged behind recognition of PA. In 1969, Vincent De Francis wrote that social work “literature seems devoid of reference to or content on this subject” (p. 5). In 1975, David Walters wrote, “Virtually no literature exists on the sexual abuse of children.” Also in 1975, Suzanne Sgroi wrote, “Although the pioneering efforts of many distinguished professionals and dedicated lay people over the past decade have made child abuse a national issue, the problem of sexual molestation of children remains a taboo topic in many areas” (p. 18). In 1977, Henry Kempe gave a lecture in which he described “sexual abuse of children and adolescents as another hidden pediatric problem and a neglected area” (1978, p. 382).

In the early 1970s, sexual abuse was still largely invisible, but that was about to change. Two related factors launched sexual abuse onto the national stage. First, the child protection system—including reporting laws—expanded significantly in the 1970s. Second, new research shed light on the prevalence and harmful effects of sexual abuse.

By the end of the 1970s, the United States enjoyed for the first time a nationwide system of government-sponsored child protection. The influential CAPTA of 1974 included sexual abuse in its definition of maltreatment. By 1976, all states had reporting laws requiring professionals to report

sexual abuse. The expanded child protection system, particularly the reporting laws, wrenched sexual abuse from obscurity.

Prior to the 1970s there was a paucity of research on the prevalence and effects of sexual abuse. Vincent De Francis was one of the first to break new ground. In 1969, De Francis published the results of his study of 250 sexual abuse cases from Brooklyn. De Francis wrote, “The problem of sexual abuse of children is of unknown national dimensions, but the findings strongly point to the probability of an enormous national incidence many times larger than the reported incidence of physical abuse of children” (p. vii). Two thirds of the children in De Francis’s study were emotionally damaged by the abuse. De Francis concluded,

Child victims of adult sex offenders are a community’s least protected children. Frequent victims of parental neglect, they are, almost always, also neglected by the community which has consistently failed to recognize the existence of this as a substantial problem. (p. 1)

A decade after De Francis’s groundbreaking research, David Finkelhor (1979) published *Sexually Victimized Children*. Much had changed since 1969, when De Francis complained that society ignored sexual abuse. In 1979, Finkelhor wrote,

Child protection workers from all over the country say they are inundated with cases of sexual abuse. . . . Public outrage, which has for several years focused on stories of bruised and tortured children, is shifting to a concern with sexual exploitation. Between 1977 and 1978 almost every national magazine had run a story highlighting the horrors of children’s sexual abuse. (p. 1)

Finkelhor surveyed 796 college students and found that “19.2 percent of the women and 8.6 percent of the men had been sexually victimized as children” (p. 53). Most of the sexual abuse was committed by someone the child knew, and most was not reported.

As Finkelhor was finishing his research, Diana Russell (1983) was working toward similar findings. Russell studied 930 women and found that 16% were sexually abused during childhood by a family member. Thirty-one percent of the women reported sexual abuse by a nonrelative. The pathfinding research of Vincent De Francis, David Finkelhor, Diana Russell, and others exploded any idea that sexual abuse was rare or benign.

Summary of Post-1962 Developments

The period after 1962 witnessed remarkable progress. For the first time, CPS was available across the country—in small towns, rural areas, and cities. The growth of child protection was a boon to thousands of children.

Ironically, however, the expansion of the child protection system, particularly the rapid deployment of laws requiring professionals to report suspected abuse and neglect, carried the seeds of crisis. The reporting laws unleashed a flood of cases that overwhelmed the child protection system. By the 1980s, the system was struggling to keep its head above water.

Conclusion

More than 40 years ago, child protection pioneer Vincent De Francis lamented, “No state and no community has developed a Child Protective Service program adequate in size to meet the service needs of all reported cases of child neglect, abuse and exploitation” (1967, p. 11). What would De Francis say today? I believe he would say that although today’s child protection system has many problems today’s system is a vast improvement over the incomplete patchwork that existed in the 1960s. Today, CPS is available across America, billions of dollars are devoted to child welfare, and thousands of professionals do their best to help struggling parents and vulnerable children.

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