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The imprint of prison on the everyday life of the Palestinians has been strong since the occupation of the West Bank and the Gaza strip in 1967. Every family has undergone this experience, particularly since the massive waves of arrests that marked the years of the First Intifada (1987-1993), which were renewed during the Second Intifada (2000-2004). Since 1967, different sources estimate that approximately 40% of the male population has been jailed, while the percentage of women was far lower¹.

They are usually called prisoners of war (*asra*) (or political prisoners) by the Palestinians and depicted as "security detainees" by the penitentiary administration, the Israeli Prison Service (*Shabas*). This qualification has no legal reality: defining prisoners as "security prisoners" has no basis in law but is a decision taken either by the army at the time of arrest, or by the General Security Services (*Shin Beth* or *Shabak*) during interrogation or lately by the prison administration². This category cannot be applied to Jewish Israelis but is used for Palestinians -irrespective of whether or not they are Israeli citizens- and more generally for Arabs. Its application is therefore *de facto* an ethnic one. This security category greatly weakens the status of prisoners: the conditions of their interrogations, their access to lawyers

¹ There have never been more than about one hundred women in Israeli prisons at any given time. A total of a few thousand women have been imprisoned compared with an approximate total of seven hundred and fifty thousand Palestinian men.

² Interview with Lila M., Legal specialist, Association for Civil Rights in Israel, April 27th 2009.

and their conditions of detention are much tougher than those of other prisoners. Nor is there any possibility of sentence adjustment or remission³. Furthermore, the conditions of imprisonment are not clearly defined but are continuously being re-evaluated according to changes in the political and security context in both the Occupied Territories (OT) and Israel (inside its 1948 borders).

Confinement is therefore not a marginal experience. It is a main control tool that has pervaded many aspects of daily life in the Occupied Territories (Cook, Hanieh, Kay, 2004). A policy that can be described as one of “mass imprisonment” or “governing through imprisonment”, using the terminology used by Loïc Wacquant (1999, 2009) in the context of American prisons from the 1980s onwards, was actually implemented with the mass arrests of the first Intifada: in November 1989, the prison population reached the maximum number of about 13,000 inmates (Amnesty International, 1990, B’Tselem, 1999). At that time, the incarceration rate in the Occupied Palestinian Territories (OPT) was the highest worldwide (Hajjar, 2005): it was estimated at 750 for 100 000 persons (Human Rights Watch, 1991).

If incarceration has been for the Israeli state a mode of government of the Palestinian territories, this experience has been re-appropriated by jailed Palestinians and in relation with the PLO as a key national phenomenon, as evidenced by the creation in the 1980’s of a political entity: the movement of Palestinian political prisoners. Political parties and the PLO took charge of the prisoners financially. Prisoners had a political and symbolic role, as an important part of the national movement. They were considered soldiers at the front, and a dedicated department took care of families of martyrs and prisoners (Nashif, 2008a).

With the Oslo Accords, the majority of the detainees were released. Under the Cairo agreement, 5,000 people are first released from prison, followed by another ten thousand. In 1997, not a single woman was imprisoned, and there were 350 men left behind bars. Former inmates resumed or acquired positions in the PLO and the Palestinian National Authority (PNA) administration, which was formed in 1994. Many of them have become high ranking civil servants of the new institutions.

³ The legal system sanctions security-related offences according to a doctrine inspired by the so-called “Justice Model” developed in the United States in the 1970s and based on a penal philosophy known as *Just desert* which in general prevents remissions and condemns to morally codified sentences. This results, for example, in sentencing those found guilty to several life sentences depending on the number of Israeli deaths the offence caused directly or indirectly. Nevertheless, for heavy sentences, a remission of a third of the sentence can be asked for. It is rarely granted, except when the sentence is *considered a posteriori* as excessive.

But arrests did not come to a complete halt during the years of the peace process⁴ and during the Second Intifada they once more became massive. The prison population rose steeply to reach more than 8,000 people in 2006-2008. According to B'Tselem (2014)⁵, there were 4999 “security prisoners” the 31st of March 2014 and 5265 the 1st of April according to Addameer (2014)⁶. In such a context, the Palestinian national responsibility towards detainees and dedicated budgets were increased. In 1998, a Ministry of prisoners of war and ex-detainees was created to deal with this issue, which, quite unexpectedly, did not disappear with the Oslo peace process.

Since 1967, the practices of political imprisonment wove what I called a “*Prison Web*” in the Occupied Territories, which is a reality and virtual, i.e. the possibility to detain a large number of people, men and women from the age of 12. The prison system has indeed developed not only to punish proven offenses defined by law. Linked to the military justice system, it participates in the suspension of international law of war and occupation (the Fourth Geneva Convention) that the State of Israel does not consider globally applicable in the Occupied Territories. Thus, “security detainees” are not considered by the Israeli authorities as prisoners of war nor as civilians detained in a context of occupation.

The way Israeli authorities have been dealing with Palestinian political prisoners has changed greatly in forty years. I will not give a detailed historical analysis of these changes between 1967 and 1993 but will rather concentrate on the major transformations in prison management since the Oslo Accords. I am therefore interested in understanding the implications and reasons for choosing to renew with mass imprisonment policies and with the “government by the prison” during this period. Furthermore, I consider the practices of incarceration in a broader perspective. Such practices contribute to the redeployment arrangements of Israeli occupation throughout the OT: Israeli authorities have indeed gradually installed a population management based on the control of its movements and on various forms of confinement, including incarceration.

⁴ Mainly administrative detentions of people suspected of being opposed to the peace process (Bertrand, 2006).

⁵ B'Tselem takes into account all Palestinian detainees from the Occupied Territories (irrespective of whether they have been convicted or are detained the time of examination or trial or whether they are administrative detainees or, since 2002, prisoners classified as “Unlawful Combatants”). Since August 2008, these statistics also include residents of East Jerusalem. These figures, however, do not include Palestinian citizens of Israel in 1948, and common law prisoners. B'Tselem statistics are those provided by the Israeli Prison Service.

⁶ The difference between these two figures is mainly due to the inclusion of the Palestinian citizens of Israel classified as “security detainees”.

Some works have discussed the increasing carceralisation of the West Bank and the Gaza Strip spaces through three main devices: prisons, checkpoints and walls (Bornstein, 2008). The OPT have thus been described as a “carceral society” (Bornstein, 2008) or a “carceral archipelago” (Gregory, 2004; Parsons, 2010). Though, none of them have focused on imprisonment policies in such a context or analysed the in-depth spatial, political and social implications of this double confinement.

Thus, I consider this prison government as part of the Israeli policy of “separation” which in fact blurred borders and boundaries and enabled the occupation to be recomposed and maintained. This policy is based on the one hand, on a variety of other limitations and separations which do not follow the contours of national borders. On the other hand, it is anchored on a state of uncertainty created by the perpetuation of an emergency state where law and fact merge, and everything becomes possible (Agamben, 1997).

Researchers Ben Naftali, Gross and Michaeli have rightly pointed out that the lack of clearly defined territorial boundaries had as a corollary -if not as a goal- of erasing a whole set of distinctions, especially between occupation and non-occupation, annexation and non-annexation, temporary and indefinite, and thus between the rule and the exception, which created a space temporarily and legally undetermined beyond the Green Line. This uncertainty has deprived the Palestinians in the territories, on the one hand of the protection of international law of occupation and on the other, of the rights of Israeli or Palestinian citizens to the benefit of a government by a series of regulations, military orders and procedures. This state of emergency has *de facto* enabled to sustain an unlawful occupation.

This paper intends to analyse the various detention practices and regulations which turned imprisonment into a population management technique creating and expanding a *Prison Web* over the Occupied Territories (OT). Being both real and virtual, this *Prison Web* participated in the creation of a space which is kept suspended and therefore indeterminate.

While the *Prison Web* and the blurring of distinctions have been gradually established since the beginning of the occupation, after the Oslo accords, two major changes occurred. Firstly, political prisons located in the OT which were military facilities were relocated in Israel (in its 1948 borders) and institutionally incorporated in the Israeli civil prison system. I will show how this integration enacted the absence of borders between Israeli and Palestinian areas. Secondly, with this integration process, a new management of political prisoners was introduced aimed at separating and fragmenting the prisoners’ community, and by extension Palestinian society as a whole. The new management has relied on both a liberal approach

seeking profitability and on humanitarian arguments (improvement of prison conditions, modernisation of prison buildings).

These same dynamics are found in other security areas (see Havkin in this volume). The new arrangements of the occupation were indeed intended to standardize and normalize its procedures in order to sustainably manage the conflict (Weizman, 2009). Thus, the occupation has been perpetuated while transforming its main devices: its operating tools have become less visible, less openly violent, less costly and therefore more politically acceptable.

Beyond documentation and ethnographic observation, this article is based on oral sources: 125 interviews were conducted between 2008 and 2012 with lawyers, people working in various NGOs working on imprisonment in Palestine and Israel and 73 ex-prisoners, men and women (35 women). The names of most of my respondents have been changed except representatives of NGOs or individuals holding a public role.

1. The *Prison Web*: Suspended and Limitless

Since 1967 the terms of political imprisonment for “security⁷” reasons have deployed a web over the Occupied Territories. The prison system was not only set up to sanction proven security offences. It is linked to the military justice system, which applies along racial or ethnic lines in the Occupied Territories only to Palestinians⁸, and more widely to so-called security offences committed by Palestinians with Israeli citizenship (Palestinians of 1948) or by other Arab nationals from Lebanon, Jordan, Syrians from the Golan Heights, Saudi Arabia⁹...etc.¹⁰

An Evidence Based System which Increases the Number of Indictments and is a Major Source of Intelligence

This judicial system operates out of the intelligence services (*Shabak*). Together with the army (Israeli Defence Forces) or police, the intelligence services arrest suspects and they

⁷ Opposed to detention for common law offenses.

⁸ Not anymore though in the Gaza strip since the unilateral Israeli disengagement of 2005. The Palestinians living in Gaza are since then subject to specific regulations.

⁹ In April 2009, among the Arabs imprisoned for security reasons, there were 13 Syrians from the Golan Heights, 19 Jordanians and one Saudi. All the Lebanese were freed after the last exchange deal of prisoners with Hezbollah in summer 2008.

¹⁰ It is worth stressing that nationals of non-Arabic countries who are of Arabic origin are categorised in the same way, e.g. the French national Salah Hammouri. In some cases, foreigners may also be categorised “security prisoners”, e.g. the Ukrainian woman Irina Polishchuk Sarahneh who is married to a Palestinian who is himself imprisoned.

are responsible for conducting the interrogations (*takhqiq* [Arabic]) before imprisonment and judgement.

The predominant role of intelligence services involves, firstly, that in some cases the charges may be kept secret and not divulged to the defendants' lawyers (*incommunicado detention*) and, secondly, that a special evidence system is used. This system is not based on any investigation or evidence discussed at trial but on confessions of the defendants or on statements and denunciations of third parties on their alleged activities – known in Hebrew as the *Tamir* practice. Interrogators therefore have to obtain such confessions at any price. Hence, since the beginning of the occupation and until 1999, physical and psychological violence - similar to torture - was regularly used during interrogations. The 1987 Landau report¹¹ even recommended such practices. Since the 1999 Supreme Court decision, heavy psychological pressures have replaced, in most cases, physical and sexual abuse (Latte Abdallah, 2010).

This system of confession-based proof appears particularly significant once pointed out that 95% of cases never come to trial but are settled through a system of plea bargaining – *safqa* (Arabic) – between lawyers and judges. This procedure requires a confession of guilt from the defendant (Hajjar, 2005). Plea-bargaining is advantageous for the military legal authorities who settle cases faster by reducing the number of trials. Defendants are particularly encouraged to plea-bargain as negotiation usually results in shorter sentences. In contrast, those who take the risk of going to trial receive heavier sentences and the proceedings, often adjourned, are endless. Lawyers and families of detainees usually opt for plea-bargaining because at the individual defendant level, the results are better. Some detainees state they prefer plea-bargaining to trial for political reasons: choosing plea-bargaining rather than trial is then presented as non-recognition of Military justice (Hajjar, 2005).

Whatever the reasons for this choice, this procedure significantly extends the grip of the "Prison Web". It increases, at a low cost, the number of imprisonments and convictions. Almost all defendants were declared guilty of all or part of the charges led against them while less than 1% is acquitted (Machsom Watch, 2008, p. 11). More broadly, this proof system based on confessions or denunciations greatly strengthens the grip of the intelligence services over the Palestinian population. Hence, they benefit from a significant source of information and constitute files on the defendants, and members of their social and political networks.

¹¹ This report institutionalised the use of physical and psychological pressure.

The confession system has individual and collective psychological effects on defendants (Dacca, 2009/2011) and, on a larger scale, on Palestinian society in which such confessions are silenced. The possibility that individual people have confessed or denounced others' actions instils doubt and mistrust.

The courts are constantly trying to increase the use of *safqa* not only to save time and money but also to justify the involvement of the intelligence services in military courts and to give such military justice national and international legitimacy. “When I attended hearings”, a member of Court Watch¹² told me, “I understood that they were aiming at a 99% statistic¹³.” This confession-based proof system and the practice of plea bargaining provide some kind of justification to mass arrests and to the objectionable functioning of military justice to Israeli and international public opinion, through convictions for crimes that are recognized by their supposed authors or by third parties but remain unproven¹⁴.

A vague, timeless, virtual definition of offences

These military legal practices make offences virtual and increase the deployment of the *Prison Web* through a lack of clear distinctions.

In 2007 offences related to security and assigned by the army to the category of “Hostile Terrorist Activities” – *fakhai* [Hebrew] – accounted for 47% of indictments. But most of the people were not accused of “terrorist acts” resulting in or attempting to bring about death, but of simply belonging to or having activities inside an “illegal organisation” (Machsom Watch, 2008).

Membership of an illegal organisation is defined in vague, general terms and includes an entire spectrum of relations summed up in the expression “having links” to an illegal organisation irrespective of their nature. Moreover, publicly expressing political views can be enough for an indictment as is mere presence at a demonstration. Merely expressing political opinions or the Israeli authorities learning about such opinions can thus be enough to justify a

¹² Court Watch was established in 2005 by activists from the NGO Machsom Watch (formed in 2000 by a group of women to monitor soldiers' practices at checkpoints). More engaged yet, members of Court Watch attend military court hearings and report on court practices.

¹³ Interview, Roni H., Jerusalem, 8 April 2010.

¹⁴ The young Franco-Palestinian Salah Hammouri was convicted for aiming at murdering the Shass leader Ovadia Yousef and convicted by plea bargain to 7 years in prison in 2008, after spending three years in prison waiting to be trialed. He only confessed his activism in the youth of the Popular Front for the Liberation of Palestine (PFLP), a party considered illegal as all Palestinian parties. Once the judgment obtained, the French authorities have hardly mobilized as they were bounded by the respect of a court's decision.

suspended prison sentence¹⁵. Incidentally, these detainees are known as “ideological criminals” (Machsom Watch, 2008).

The sense of time is blurred. Such “links” may indeed have been forged in the past, at a time when the said organisations had not yet been classified as illegal (Machsom Watch, 2008).

The list of illegal organisations has gradually expanded to include more and more social and civil organisations such as non-profit and NGOs...etc. During trials, blurring the distinction between civilian organizations (parties, associations...etc.) and military (armed groups) has become increasingly common. Since the beginning of the occupation of the West Bank and the Gaza Strip, none of these “classified as illegal” organisations have been removed from the list. Hence, all Palestinian parties are on the list. Fatah, which was declared a “terrorist organisation” in 1986 is still on the list despite its role in the Oslo Accords and the fact that it constitutes the basis of the Palestinian Authority (PA) (Machsom Watch, 2008).

Clearly a distinction is made between memberships of these different organisations. Although few people nowadays are arrested merely for belonging to Fatah, the option is still there. The virtual nature of this classification has created a diffuse web capable of affecting every Palestinian. This *Prison Web*, which may be defined as the possibility of imprisoning, i.e. a prison reality and virtuality, can be activated according to the situation and the needs of the intelligence services. The arrests of members of Fatah were so massive during the Second Intifada (2000-2006) that Fatah members still form the large majority of detainees. Today, activists engaged in the peaceful protests of the Popular Resistance Committees (in Na’lin, Bil’in, Nabi Saleh, etc.) are frequently imprisoned.

The establishment of a *Prison Web* creates a diffuse system of control and in-depth knowledge of the Palestinian population and political, social and daily life in the Palestinian enclaves. Through massive arrests, the intelligence services gather information, recruit informers and infiltrate the entire society.

At the beginning of the First Intifada, an average of 25 000 people per year were arrested. Between December 1987 and September 1991, of the 79 000 arrests, approximately 3000 were women. In more than half the cases the sole aim of the arrest was to gather the maximum amount of information before release (Thornhill, 1992). This was and is particularly true for women. They were arrested on account of their activities or their social or political relations, or simply because their family or friends were wanted – *matloubeen*

¹⁵ Suspended prison sentences result in a series of restrictions on movement that significantly affect people's lives. These may include prohibitions on entering Israel (including east Jerusalem), holding a work permit, etc.

(Arabic). By arresting wives, sisters or mothers, the intelligence services put pressure on people they want to imprison or about whose whereabouts they seek information. These women, relatives or friends were sometimes held under administrative detention for varying periods of time.

Genealogies, individual and family histories are indeed used to put pressure on people under interrogation or negotiate specific services. The use of emotional bonds and family ties by intelligence officers to exercise psychological blackmail is a constant in my interviewees' accounts of interrogations or in the ones found in prisoners' memoirs and written sources (Latte Abdallah, 2010; 2013; 2014). Such ties have been severely exploited to make defendants, men and women, talk. For example, Theresa Thornhill (1992) reported that in 1987, according to her lawyer, the interrogators of Na'ila A. threatened to fetch her husband, mother and brothers to the Moscobiya interrogation centre and rape both she and her mother in front of them.

The *Prison Web* is both a reality and a virtuality, i.e. the possibility of imprisoning a large number of people, men and women, from the age of 12 onwards, unlike the Israeli civilian legal provisions which do not allow arrests of juveniles below the age of fourteen. Until autumn 2011, military justice was treating juveniles in prison from the age of 16 onwards as adults in contrast with Israeli civil law and international law for which the age of majority is 18¹⁶. On December 1st April 2014, 202 juveniles were in prison, of which 24 were under 16 years old (Addameer, 2014).

Not even members of parliament are immune; in 2006, shortly after the kidnapping of Gilad Shalit, the Israeli authorities arrested several Palestinian members of parliament and ministers from different parties: On the 1st of April 2014, there were still 11 MPs behind bars (Addameer, 2014).

A Prison Web that Denies Temporality, Boundaries and Limits

The *Prison Web* breaks temporality. People can be arrested and detained according to their present, and even past and future, family, social and political networks. Such ties are used to control and are objectivised as potential threats. As a preventive measure for acts not yet committed or for future and virtual acts, the Israeli authorities have resorted to numerous arrests.

¹⁶ Since then, some changes have been made concerning juvenile detention.

The provisions of administrative detention¹⁷, which allow holding a person in detention for renewable six month periods without charge¹⁸, greatly expand *the Prison Web* and the temporal boundaries of the prison system. The purpose of such detention is indeed presented as a way to avoid "future activity" that would threaten security (Cavanaugh, 2007).

To the administrative detention's provisions, the Israeli authorities have added the category of "Unlawful Enemy Combatants ". As for administrative detention, it intends to apply to potential future actions of detainees, but has been applied to foreign nationals. The category of "Unlawful Combatants" was indeed created in Israel in 2002 in the international context of redefinition of terrorism by the Bush administration after September 11, 2001. It was originally intended to detain Lebanese Hezbollah fighters to keep them as bargaining chips¹⁹. Then, with the Israeli withdrawal from Gaza in 2005, it was applied to the Gaza residents. According to the lawyer of the Association for Civil Rights in Israel, it was a "type of administrative detention for "foreigners", especially for the Gazans"²⁰. This implies that administrative detention concerns "non - aliens" that are Arab citizens of Israel (1948 Palestinians), Palestinians in Jerusalem, and the inhabitants of the West Bank. The inclusion of the inhabitants of Jerusalem within the national borders of Israel is hardly surprising, but the inclusion of the residents of the West Bank is much more so, given the displayed separation between Israel and the OT.

This blurring of distinctions in terms of citizenship is also at work in the way Palestinians with Israeli citizenships, the Syrian prisoners from the (Israeli annexed) Golan and Palestinian residents of Jerusalem²¹ arrested for political reasons are treated by the prison system. The provisions applied to these prisoners are indeed becoming increasingly similar, thus confirming Israel's annexation policy of Jerusalem as a whole.

Lastly, Palestinians from Israel and Jerusalemites are held under conditions similar to those applied to the Palestinians from the OT and to Arab foreign nationals. Unlike Jewish prisoners detained for political offences²², they are treated as security prisoners. Therefore, they have little prospect of reduced sentence or remission. In addition, they are more heavily punished as enemies from within. For the State of Israel, as citizens or residents (regarding

¹⁹ As of the 1st April 2014, 186 people were under administrative detention, including 9 MPs (Addameer, 2014).

¹⁸ They are usually kept secret and at the discretion of the *Shabak*.

¹⁹ Since the 2008 exchange between Hezbollah and the Israeli authorities, no more Lebanese national is imprisoned in Israel.

²⁰ Interview with Lila M, Jerusalem, 27th April 2009.

²¹ The 1st April 2014, 279 Palestinians from Jerusalem and 234 - 1948 Palestinians were behind bars (Addameer, 2014).

²² Igal Amir who assassinated Itzak Rabin for example.

Jerusalemites), they are in general excluded from political negotiations for their release and from prisoner exchange deals. This is why the release of 48 Jerusalemites and 7 - 1948 Palestinians at the end of 2011 was considered a success of Hamas in the Shalit deal²³. The legal boundaries of their citizenship, and even of their nationality, are blurred since such limits are flexible and subject to change: they are Israelis when out of prison or in a state of virtual liberty, but Palestinians in jails. This dual status greatly increases the time they spend in prison and the harshness of their treatment: they indeed constitute the majority of the longest-serving prisoners.

2. The Integration of Prisons: the End of Borders

Since the Oslo Accords, Israeli prisons have been relocated from the OT to inside the Green Line (inside Israel's 48 borders), the only exception being the Ofer prison which is located in Zone C²⁴. These transfers involved mainly male prisons, women having been imprisoned for a longer period inside Israel.

Since 2003 this gradual relocation of prisons within Israel has been accompanied by the integration of all such facilities -previously managed by the military authorities- in the Israeli civil prison system, therefore under the sole authority of the Prison Service (under the supervision of the Ministry of Internal Security). This national integration of the prisons and security prisoners from the OPT was completed in 2007²⁵. It contributes to blurring the borders between Israel and the OPT. The management of "security prisoners" by the national Prison Service denies their inherent rights as detainees in the context of an occupation, in breach of the Fourth Geneva Convention which stipulates that occupied populations must be imprisoned on their own territory, thus making the legal status of Palestinian detainees undetermined. This integration of political detention within the Israeli prison service also increased the (strictly Palestinian or Arab) "ethnic" dimension of the category of "security detainees" and beyond, of military justice. At present, the military justice system tends to become the legal system applied to Palestinians in the West Bank regardless of the offenses considered. A major impact of this relocation on the lives of prisoners is the restriction of

²³ In October 2011, this agreement provided for the release of the soldier Gilad Shalit held since June 2006 by Hamas in the Gaza Strip in exchange for the enlargement of 1027 Palestinian prisoners.

²⁴ The Oslo Accords divided the West Bank and the Gaza Strip into three zones: Zone A where the Palestinian Authority runs the police and civil administration, Zone B where it is responsible for civil administration and manages security in coordination with Israel, and Zone C which remain under Israeli sovereignty. The redeployment of the occupation and checkpoints, and the incursions by the Israeli army into virtually every part of the West Bank since 2000 cast considerable doubt on Palestinian sovereignty over these zones.

²⁵ According to B'Tselem's Statistics, starting in 2005 a gradually higher number of prisoners were incarcerated by the Israeli Prison Service rather than the army. In 2009 all prisoners came under the authority of *Shabas*.

family visits which now require a permit to enter Israeli territory, often denied for "security reasons" (Latte Abdallah, 2014).

The integration of military prisons under the authority of the Prison Service has been justified on grounds of professionalism, economic viability (the possibility of reducing the cost of detention) and on humanitarian grounds (improvements in the conditions of detention including modernization, renovation and construction of prisons). It has been argued that *Shabas* was the most competent and able to manage such a large number of prisoners. But other considerations were at work: the intelligence services played a key part in this integration process which was decided when the head of the Shin Beth, Avi Ditcher, was Minister of Internal Security. Since, as *officio* members of the Board of *Shabas*, they participate in decisions and greatly inspired the new prison management initiated in 2003.

Reducing the cost of "Prison Government" and increasing the Financial Coverage of Detention by the Palestinian Authority

The State of Israel reduced the costs of detention by using more sophisticated technology and an increasingly neoliberal prison management: Human Resource Management (interim jobs less trained and paid less), privatization of certain services such as prisons' stores (*canteen*) where prisoners find food, hygiene products, clothing, etc. But the reduction of cost is also the result of the presence of the PA, which, since 2003, has become a *de facto* financial and administrative intermediary in the Israeli prison system. With the resumption of mass incarceration from the second intifada, the role of the Ministry of prisoners of war and ex-detainees and its financial investment increased.

To help families and strengthen its national role, the PA has provided legal assistance and granted a monthly sum to each Palestinian security inmate - whether from the OT, Jerusalem or from Israel - and for every Arab prisoner, irrespective of their political affiliation. The amount depends on the time spent in prison, family status and place of residence²⁶. In addition, The PA pays the fees of any prisoner who aims to study in jail, i.e. at the Open University of Tel Aviv²⁷. In total, the Palestinian Authority transfers approximately

²⁶ In 2011, they were revised upwards. The minimum is 1400 NIS -280 euros- for a single of the Territories incarcerated less than 3 years. And the maximum is 12,000 NIS -2400 euros- for an effective sentence of more than 30 years. Added to these are 300 NIS -60 euros- if the person is married and 50 NIS -10 euros- per child. Prisoners from East Jerusalem receive an additional 300 shekels, and those of 1948, 500 -100 euros-, due to higher costs of living. Interview with Saad Nimr, Chief of Staff of the Minister of Prisoners and ex-detainees Issa Qarake, Ramallah, April 27th 2011.

²⁷ Prisoners serving long sentences have recently been allowed to study, but only at the Open University of Tel Aviv. Paid access to such courses is a privilege that is only granted if security officers certify that an applicant's behaviour

20 to 25 million shekels (\approx 4.5 million Euros) to the Israeli authorities each month for the prisoners²⁸.

Since the 1970s, parties or families started sending money to prisoners on a joint account in the name of one or more leaders of political factions. This amount allowed prisoners to purchase goods or commodities (for *canteen*). Leaders redistributed. A few years ago the PA was compelled to pay such sums individually, thereby breaking some of the collective organisation. In addition, to reduce the cost of the mass imprisonment government policy, *Shabas* took advantage of the failure of the hunger strike organised by prisoners in August 2004 to significantly reduce food allowances (fruit and vegetables) as well as hygiene products and basic necessities provided to inmates. Collective and families' donations were banned. Multiple daily purchases at the prison shop, where privatisation has increased prices, have thus become necessary.

At the same time, *Shabas* introduced a lucrative system of for any breach of the internal prison regulations fines (approximately 400 shekels - 80 euros) in addition to the usual punishment (solitary confinement, prohibition of visits...etc.). These fines are deducted directly from the amount allocated to each prisoner by the PA. In addition, the amounts paid by defendants during their trial as a part of their sentence - which has become routine in recent years- have sharply risen²⁹. To prevent this inflation to continue and to avoid supporting the cost of military justice, the PA has limited its support to 4000 shekels per prisoner to pay court fines.

Since the second Intifada to the resumption of Palestinian-Israeli negotiations in 2012-2013, the PA has not been the interlocutor of Israel in the negotiations for the release of prisoners, to the benefit, since 2006, of Hamas which was holding Gilad Shalit. However, the PA continued to play a national role vis-à-vis prisoners by increasing its financial investment and assistance to all Palestinian and Arab detainees. Hence, the PA (and the European and international contributors to its budget) are paying a large proportion of the cost of detention in Israel.

Furthermore, since the split between Hamas and Fatah in 2007, Hamas militants have been imprisoned in the PA's detention centres in the West Bank for their political or

deserves it. Only certain disciplines are open to prisoners such as literary subjects, political science, sociology, economics, psychology and management. The study of hard sciences and information technology is not allowed, nor is any other subject considered as constituting a security threat. See Military Order No. 04.48.00 dated 8 January 2004.

²⁸ Interview with the president of the Prisoners' Club (*Nadi al-asir*), Ramallah, November 3rd 2010.

²⁹ Data from the legal system of Judea and Samaria (West Bank) shows that 12 million shekels (\approx 2.4 million Euros) were collected in 2006 and 9 million (1.8 million Euros) in 2007 (Machsom Watch, 2008).

suspected armed activities considered as illegal³⁰. This is part of the security coordination with Israel. The development of a Palestinian prison system has *de facto* reduced detention in Israel. In 2009, unofficial data from the International Committee of the Red Cross (ICRC) estimated that approximately 2000 people were being held in Palestinian prisons run by the PA in the West Bank and by Hamas in the Gaza Strip. Since 2007, the number of security prisoners in Israel was concomitantly reduced of approximately two thousand people³¹. The cooperation agreements between the PA and the United States, set up for the training of police and of the security services, responsible for the military prisons in the West Bank where political prisoners are held, have facilitated the detention of Hamas prisoners in PA facilities.³²

Since 2000, the PA has rarely been considered by Israel as a political partner for negotiations on prisoners and has been mainly assuming a financial, management and administrative role. Hence, it has developed other forms of action, including the filing of complaints with the Israeli Supreme Court. This legal activism enshrines the absence of borders between the Israeli and Palestinian spaces and the non-recognition by Israel of the PA as a political interlocutor. The objective of these legal proceedings is to improve individual and collective conditions of imprisonment. The cases are monitored by an Israeli lawyer, Avigdor Feldman, who has long had a commitment to political prisoners. The PA is sometimes associated with collective petitions made by Palestinian and/or Israeli NGOs³³. Recently, the current Minister of prisoners, Issa Qarake, has adopted a more political legal strategy by posing the problem of security detainees, this time in terms of citizenship and in the framework of international law: by asking the International Court of Justice to settle the thorny issue of the legal status of Palestinian prisoners. They are indeed deprived of any clear status since they are not considered either prisoners of war or prisoners under occupation.

The Humanitarian Argument: sustaining the "Prison Government"

The shift from military prisons to the Israeli prison system has also been publicly legitimised by humanitarian considerations. Arguments in favour of this process have included the expertise of the Israeli Prison Service, an improvement in the conditions of detention, modernisation, renovation and construction of new prisons, putting an end to the

³⁰ In Gaza, a number of activists, particularly from Fatah, have also been imprisoned by the Hamas authorities.

³¹ Interview with an ICRC member, Tel Aviv, 30th October 2009.

³² These accords were firstly implemented by General Dayton.

³³ Interview with Ashraf el-Ajami, Minister of Prisoners and ex-detainees, Ramallah, April 26th2009.

exception due to a military prison system in favour of a civil one...etc. It created an unexpected connection and an objective convergence of interests between the security-based management of the intelligence services and humanitarian type arguments. The Israeli NGO *Adalah* recently filed a complaint with the Supreme Court contesting the distancing of prisoners from their relatives in breach of the Fourth Geneva Convention and the resulting increased difficulty in visiting. Yet, despite Israel's non-compliance with international law, the Supreme Court accepted the argument made by the Israeli authorities, stressing on the contrary the improved treatment of prisoners in facilities run by *Shabas* and the positive effects of integration regarding respect for human dignity of prisoners³⁴.

The humanitarian arguments accompanying this new prison policy is part of a broader normalisation of Israeli control and occupation in order to make it sustainable by humanising it, at least in appearance (See also Havkin in this volume). This approach, known as “humanitarianism” or “strategic humanitarianism” has developed considerably since 2000 in the military and intelligence services around programmes such as *Another Life*³⁵ (Weizman, 2009). The control and occupation devices have been made “softer”, more invisible; they were routinized and in this way more easily perpetuated. Faced with the legal activism of some Israeli NGOs calling for the minimum rights for Palestinians and contesting occupation practices in the OT, the army and intelligence services have integrated their demands, some of their practices³⁶ and even their discourse. Doing so, they also aimed at integrating the Israeli opposition to the occupation.

3. A New Faceless Management of Prisons: multiplying Separations, fragmenting the Community of Prisoners

The integration of security facilities under the Prison Service was presented as economically advantageous and aimed at improving the conditions of detention, thus presenting advantages in political terms.

However, the relocation of prisons in Israel and the integration of military prisons under the supervision of the Israeli civil prison administration paved the way for a new prisoners’ management policy, and more broadly of the Palestinian society. This new policy

³⁴ Interview with Rachela M., professor of Law at the Hebrew University, Jerusalem, April 7th2010.

³⁵ Launched in 2003 by the army, this programme aimed at limiting the damage caused by the occupation on Palestinian society in order to prevent a humanitarian crisis in the OT that could have compelled Israel to take responsibility for certain services (Weizman, 2009, 562).

³⁶ For example, Eyal Weizman notes that a humanitarian officer was allocated to the check-points in 2000 (Weizman, 2010, 562). This was at the same time as the NGO Machsom Watch had just been set up and started its monitoring of the check-points.

was inspired by the intelligence services. The administration of security prisoners by the Prison Service enabled the intelligence services to participate directly in decision making, management and regulations of security prisons, as members of the Board of *Shabas*³⁷. Since 2003, the new prison management was largely inspired by these intelligence services. It is anchored on the extension of the *Prison Web* and on a series of techniques intended to manage the prisoners' society, and more broadly the Palestinian population, using confinement and fragmentation processes. This new prison policy multiplied separations in prison, modeled on isolation techniques implemented outside jails, between the Palestinian enclaves in the OT, in an increasing parallel between inside and outside.

Spatially Separate, promote Differences and Disagreements between Groups of Prisoners

The effects of this new prison management began to be felt after the failure of the long hunger strike observed by inmates in August 2004. In all prisons, detainees went on hunger strike for around three weeks depending on prisons and inmates. The strike was then broken by the prison administration and ended erratically. The strike had been sparked in part, no doubt intentionally, by a series of arbitrary and coercive measures taken by the *Shabas* starting in 2003 (Dacca, 2009, 2011). The strike was a failure and resulted in a step backwards: major rights previously obtained by the struggles of the Movement of political prisoners were lost. The Movement of Political Prisoners, anchored on political parties, had strongly structured, ideologically, culturally, physically and psychologically the lives of inmates till the Oslo accords.

Following the 2004 hunger strike, the security detainees lost the responsibility of the prison kitchen in favour of common law inmates. The information flow which was spread by kitchen assistants and collective organisation were temporarily disrupted. Israeli common law detainees were brought back into "security" prisons and prisons' sections though the separation between Israeli common law and Palestinian political prisoners had been achieved through struggles in the 1980s. The failure of the strike already reflected the weakening of the Prisoners' Movement and the first effects of the sudden change in prison management. The failure of the hunger strike marked consciences and the new prison management was then more easily and systematically implemented.

³⁷ Interview with Rachela M. and Leslie S., legal specialists at the Hebrew University, Jerusalem, April 7th 2010.

At first, prison authorities aimed to widen Palestinian political divisions, especially the Hamas / Fatah split which occurred in 2007. Even though the disagreements in the national movement and the split between Hamas and Fatah affected the struggles in prison and weakened the Prisoners' Movement, ideological division had less impact inside the prisons than on the outside. Above all, it never involved open conflict or violence between inmates. The imprisoned leaders (representatives of Fatah, Hamas, PFLP, Islamic Jihad, the PLO, and the Democratic Front for the Liberation of Palestine: Marwan Barghouti, Abdul Khaliq al-Natsheh, Ahmad Saadat...etc.) have on the contrary, reacted quickly to the divisions by drafting the 2006 prisoners' document, which called for national unity and put forward a specific unitary prisoner's identity aimed to oppose the splits. Though, the prison administration intended to institutionalize divisions by bringing together in separate sections the PLO secular parties - Fatah, PFLP, DFLP and Communists religious parties- on the one hand and the Hamas and Islamic Jihad on the other. Women were even jailed in separate prisons (Hasharon and Damoun) according to their political affiliations.

These separations between groups of prisoners established by *Shabas* were not limited to partisan differences. The regulations of the prison administration were designed to separate inmates according to their status and their geographical origin, and to individualise daily life behind bars. These divisions have been reflecting the spatial separations and fragmentation implemented in the OT by the construction of the Wall, the proliferation of checkpoints and the creation of enclaves, the isolation of towns, villages...etc. Indeed, detainees were separated according to their citizenship (1948 Palestinians-Israeli citizens, Palestinians of Jerusalem, Palestinians of the West Bank or Gaza Palestinians) and their geographical origin or status (refugees, residents of cities, villages or camps). The separation between the different quarters and sections is all the more felt as kitchen assistants are not anymore Palestinian political prisoners and restriction of movement between the different prison areas has sharpened. Moreover, *Shabas* resorted more frequently to long periods of solitary confinement punitive measures targeting small groups or individuals.

According to the testimony of Walid Dacca (2009), imprisoned in Israel for over twenty years, in some prisons, *Shabas* multiplied separations and procedures aimed at isolating groups (in separate cells, sections or quarters) according to geographical or statutory distinctions existing in the OT: city residents have been separated from camp dwellers, those from a particular town separated from those from another town, etc. It increases the separation between cities (Ramallah, Nablus, Jenin, Hebron...etc.) which are already isolated from each other by the Israeli system of movement control.

This distinction between groups of inmates reactivates the primacy of local or primary networks and solidarity between refugees, inhabitants of camps, city dwellers or villagers as well as family ties against which the national movement was built. This new spatial organization is rooted in a series of techniques, which are applied differently depending on the prison. They intend to break collective organisation and the Palestinian party and national leadership in favour of social and political representations modelled on geographical, status or family solidarity. In some cases, the prison administration tried to replace the unique prison representative of all the inmates – *moumathel al-mou'taqaleen* (Arabic) – by a spokesperson for each region or city. He was supposed to be selected among some proposed by the detainees and would only be able to channel the personal demands and concerns of the inmates of their quarters. This mode of selection and attributions contrasts greatly with the prisoners' representative who has long been elected by the political factions according to their respective influence and is the only interlocutor of the Prison Service. In most prisons, transfers of prisoners are regularly orchestrated to influence the results of internal prison elections and reinforce geographical, statutory or family solidarity (Dacca, 2009/2011).

Recently, Palestinians of Israel and Jerusalemites were treated in the same way and were removed from others. In male prisons, they were often physically separated from other inmates. Until now, women who are far fewer in number have managed to oppose such separation³⁸. The specific provisions applied to these inmates are part of the Israeli objective of total annexation of Jerusalem. Since 2007, Palestinian Israeli citizens or residents of Jerusalem can no longer receive direct payments by the Palestinian Authority. The amount is sent to their families who forward it, sometimes late, sometimes not fully, thus widening the gap between the living conditions in prison. In addition, as “enemies from within”, they receive heavier sentences than other convicts and they are subjected, once released, to repressive measures that also affect their families, such as being prohibited from working or experiencing difficulties in finding employment.

As these distinctions became more pronounced, some inmates made differentiated demands according to their geographical origin and status to the administrative body that “governs” them, i.e. not to *Shabas* but to the PA (which provides them with a monthly allowance and assistance in a number of areas related to their incarceration). Thus, Jerusalemite prisoners or 1948 Palestinians inmates have requested - and obtained – from the PA, larger allowances and assistance when in prison and once released, due to the cost of

³⁸ They were 20 the 1st of April 2014 (Addameer, 2014).

living which is much higher in Jerusalem or in Israel than in the OT and because these former prisoners experience greater problems of reintegration. Each city or region was long represented by its own committee of prisoners. Today, these committees tend to empower and make independent claims.

These requests of prisoners or former prisoners have become in some cases more aggressive vis-à-vis the PA. A group of former women prisoners founded in 2010³⁹ has recently threatened to use the form of protestation inherited from prison experience, i.e. hunger strikes, to demand that their studies be fully financed and that they then be recruited into the administration⁴⁰ or receive financial aid until they find a job. These emerging claims show a form of professionalization of the status of prisoner and increased expectations vis-à-vis the Palestinian “state” authority.

Individualising Prison Life, isolating Prisoners

The redeployment of prisons within the Green Line has limited family visits (restricted since 1996 to first degree relatives: parents, children, siblings) because an entry permit to Israel has to be obtained. In some cases kinship is contested by the Israeli Authorities and has to be proved by families. Such permits are rarely granted to politically active people or former prisoners who are frequently refused entry for “security reasons”. Men between 16 and 45 can only receive security permits (valid once for 45 days) which take long to be renewed, and are frequently refused. Thus, it is mainly women who visit the inmates and, increasingly, unaccompanied children because the other members of the family are refused entry. Due to long administrative procedures, distance and transportation regulations (organised by the ICRC), going to the parlour became quite an ordeal for families (Latte Abdallah, 2014). The increasing grip of the prison system on the Palestinian population, and consequently the rising number of families of prisoners (Latte Abdallah, 2010), contributes to separate prisoners from their families.

Since the 2004 hunger strike physical distance has become the rule in the parlour: visits take place through a windowpane and via telephone. Only children under eight may approach prisoners and touch, kiss or hug their mothers or fathers. Moreover, families from Gaza have been collectively banned from visiting their relatives between 2007 (takeover by

³⁹ *Lajneh al-asirat al muhakebareen.*

⁴⁰ As is often the case for men.

Hamas) and July 2012⁴¹. Then, they could gradually resume visiting following the agreement that was reached by the Movement of prisoners after the hunger strike in spring 2012⁴². For Gazans, the Israeli government had previously proposed virtual parlours using video conferencing. Prisoners rejected this proposal.

Policies aimed at isolating and separating prisoners have used both a humanitarian discourse and approach and a more managerial logic of promoting the material comfort of inmates.

Ensuring material comfort was initially directed at imprisoned political leaders such as deputies, leaders like Marwan Bargouti (Fatah) and the Hamas leadership. Rapid improvements took place in certain prison facilities (where over ten security prisoners used to be crammed into a room sleeping on mattresses on the floor) as a result of their integration into the Shabas administrative system. This was particularly the case of Ofer and Ksiot prisons, of the new American style wing in Hadarim prison, and of the Rimonin building recently constructed in Telmond for juveniles who were previously held in deplorable conditions above the women's prison in Asharon⁴³. The buildings of the American style wing of Hadarim prison, where leaders are held, are new, light, divided into reasonably large rooms and provided with every comfort (TV, DVD and CD players, electric fans, hot and cold running water). Certain quarters include a kitchen and even a washing machine. These places are designed to enable inmates to organise their daily lives⁴⁴. Leaders first, then other security detainees, have benefited here of a higher level of comfort than common law prisoners, except for the lack of food and basic commodities that they need to buy at the prison shop (*canteen*). Doing so, the authorities have aimed to influence the imprisoned leadership, reform or bring out a new one who would be more in line with the objectives of the intelligence services. A leadership who could, in turn, influence Palestinian society.

Walid Dacca (2009/2011) analyses these transformations as a normalisation by material comfort implemented in some prisons to model the conscience of inmates and mould a new generation of Palestinians. He examines the psychological discomfort caused by the new style of management, particularly the use of material comforts that renders the violence of imprisonment and domination invisible. This discomfort is caused on the one hand by the difference between the unchanged committed image of political prisoners and the current

⁴¹ In October 2008, 900 Gaza prisoners were cut off from their immediate family. The 1st April 2014, there were 377 prisoners from Gaza in Israeli jails (Addameer, 2008; 2014).

⁴² The strike of Dignity which lasted from 17th April to 14th May 2012.

⁴³ Interview, Rachela M., legal specialist at the Hebrew University, Jerusalem, 7th April 2010.

⁴⁴ Idem.

reality of their daily lives in certain prisons. On the other hand, it is the result of the difficult adjustment to a new faceless management of prisons.

Indeed, the modernisation of some prisons has been based on new prison technologies which render control and deprivation of freedom less visible by confronting detainees to faceless space and prisons systems rather than to guards. Inmates close their own doors before the guard on duty activates the central locking system of a hundred cells. Others live in an “independent” area without seeing any warders, washing their clothes and going about “freely” in their daily lives. This modernisation and new technologies have offered the advantage of reducing the costs of detention in a neoliberal economic logic. These measures considerably reduced prison staff, while enabling to employ less educated and less skilled people on fix-termed contracts. A younger and more feminine staff has hence been contracted which contributes in return to euphemise violence and domination and disorient political prisoners.

Walid Dacca observed that some inmates withdraw into themselves and focus on activities that are far from national concerns: sports, numerous hours spent in front of TV shows that have partly replaced political and cultural training activities and reading which had hitherto been the central axis of political prisoners’ socialisation⁴⁵. According to him, the most widely read books are those on astrology, personal development or novels. He noted that more and more inmates follow university courses in prison and interprets their motivation as mainly personal or professional. Lastly he commented on the powerlessness created by the new management describing the terrible episode of the Gaza war in 2009 that the inmates watched on the *Al-Jazira* TV channel, which was exceptionally authorised for the occasion, and did not arouse any large-scale mobilisation. The Israeli authorities symbolically ended this war by raising the Israeli flag in the courtyard of his prison, which had never previously occurred (Dacca, 2009/2011).

Testimonies of prisoners as well as interpretations do not converge, and the recent collective mobilisations of detainees require nuancing this analysis. Moreover, these modernisation and comfort policies are currently far from being applied uniformly to all and to all prisons. Unequal treatment has been another active factor of dissent which creates

⁴⁵ Ismail Nashif (2008a, chapter 4) has shown how in the 1970s a “Palestinian revolutionary education” was created and organised in men’s prisons, turning culture, reading and writing into a way of overcoming the effects of imprisonment and of existing as Palestinians and as a political group. For women too, prison was used as a school, a Palestinian university (*academich falestinyeh*) where, for a time, feminist ideas were developed (Latte Abdallah, 2010; 2013).

suspicious among inmates, or vis-à-vis some leaders who are consciously distinguished by the prison administration...etc.

4. Conclusion

Inside/outside: parallels and effects of the prison processes

To the old political techniques of playing on partisan divisions and creating statutory inequalities are superimposed geographical and citizenship divisions modelled on the territorial fragmentation in force in the Occupied Territories. In addition, managerial and neoliberal practices of isolation, material gain and comfort have been introduced to encourage more individualistic, powerless and passive subjectivities in sharp contrast with political prisoners' culture. Indeed, political prisoners have long constituted and represented a strongly committed and nationalist collective body.

In this paper, I focused on the changes in modes of incarceration in the perspective of a discussion on borders and boundaries between groups rather than on the experiences and actions of prisoners. Hence, I cannot come to conclusions about the effects of such a prison management, nor on its intentions, those suggested by Walid Dacca (2009/2011): to use the prison to model the consciences of a new Palestinian generation according to Israeli national interests. Nevertheless, the growing similarities and parallels between the spatial organisation and the management of prisons on the one hand and territorial fragmentation and control policies in the OT on the other is a main effective process.

The Movement of Political Prisoners and the Palestinian collective body have been weakened in the post-Oslo period, especially after the second Intifada and the imprisonment of a whole new generation, as a result of several factors: the changes in prison population management since 2003, the wider territorial and institutional reformulation of the occupation, and political developments in the Territories, with the split between Fatah and Hamas (2007).

However, reconstructions are at work. The "hunger strike of Dignity", which was widely done by inmates for nearly a month in the spring of 2012, resulted in an agreement which was favourable to most of prisoners' requests. The strike was widely publicized and relayed around the world, especially through social networks and contributed to revive the fight against the occupation inside and outside prisons, as well as Palestinian unity. Most of the social and political forces, the Popular Resistance Committees, Stop the Wall and BDS (Boycott , Divestment , Sanctions) groups and the population largely supported the peaceful protest movement of the prisoners contesting the terms and conditions of detention. Making

reference to the Arab Spring, the communiqués of the leading strike committee (where all the parties were represented) stated that the struggle was exceeding the conditions of detention and was more broadly directed against Israeli occupation.

In addition, the banality of the prison experience, the number of comings and goings between inside and outside by many Palestinians, have over time created an increasing porosity between prison life and life out. Inmates intend to live beyond and despite the prison, to continue their individual itinerary: witness the five-fold increase followed by university studies in prison in the post-Oslo period and encouragement to marry during the prison period (Latte Abdallah, 2013). Social networks that are powered by associations of ex-prisoners and NGOs, the web and numerous radio broadcasts (establishing communication between families and inmates beyond bars) participate to forge a real and virtual community of prisoners. A web of links is being rebuilt with the support of technologies that can also serve the maintaining of ties in a spatially fragmented context. These technologies, notably new ICT, are re-creating a web of links against the fragmentation induced by the *Prison Web*: from 2002-2003, mobile phones came into some male prisons and facilitated dialogue with the outside world, while introducing a large black market contrary to previous values of political prisoners and a suitable tool for monitoring by the prison authorities. The digital presence of inmates through the net and Facebook profiles supplied by relatives or NGOs enables to exist virtually outside and gives new collective resonances to the mobilisations of inmates.

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