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CONSENSUS BUILDING AND ITS INCIDENCE ON POLICY: THE “NATIONAL AGREEMENT” IN PERU

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Abstract

This article aims to present the composition and characteristics of the operation and show evidence of the impact of consensually agreed “State Policies” by the National Agreement Forum on government policy in Peru over the past decade. After opening questions about the effectiveness of democratic institutions to change society, we present in the second section the composition and characteristics of the Forum of the National Agreement in Peru and the type of agreements reached. In the third section we pick theoretical elements of Sen’s connection between values and political activity in support of the potential impact on State Policies that the National Agreement (NA) approved by consensus could have. In the fourth section we present the results of a "survey" to very high rulers of the last governments and other officials and professionals who respond to a question about the incidence of NA in their decisions. Thus, the type of incidence of consensually approved policy orientations is established and also a first look at its scope.

Keywords: Consensus, public deliberation, public policies, National Agreement Forum, Peru
Clasificación JEL: H11

Resumen

Tras la presentación de algunos interrogantes sobre la efectividad de las instituciones democráticas para cambiar la sociedad, en la segunda sección presentamos la composición y características del Foro del Acuerdo Nacional y el tipo de acuerdos a los que se ha llegado en los doce años desde su fundación. En la tercera sección, recogemos sintéticos elementos teóricos en Sen sobre la conexión entre valores y actividad política que respaldan la existencia de un potencial impacto de los acuerdos consensuales en políticas estatales y prácticas gremiales. En la cuarta sección presentamos los resultados de las respuestas de tomadores de decisiones públicas y gremiales y diversos líderes de opinión a la pregunta sobre la incidencia de las Políticas de Estado en sus decisiones. De esta manera, se obtiene una primera visión de la incidencia de las orientaciones y valores presentes en las 34 Políticas de Estado.

Palabras claves: Consenso, deliberación pública, políticas públicas, Foro del Acuerdo Nacional, Perú
Clasificación JEL: H11

CONSENSUS BUILDING AND ITS INCIDENCE ON POLICY: THE “NATIONAL AGREEMENT” IN PERU

Javier M. Iguíñiz Echeverría¹
To Francisco Verdera

I. PRESENTATION

In the “capabilities approach”, designed and promoted by Sen (1980, 1992, 1999) and Nussbaum (2012), much importance is given to public deliberation² and democratic institutional³, certainly valuable in themselves, but also as important aspects of human development and also as tools to achieve such development and, more specifically, to fight the multiple expressions of poverty. In a recent study concerning India, Drèze and Sen (2013) have shown that deliberation and institutional³, despite prolonged and substantial economic growth, has had a limited effect in the resolution of basic, too often tragic privations faced by most of the Indian population.⁴ Hence, the opening of a field of study concerning the efficacy of democratic institutions and the practice of public deliberation on public policies and the importance of such deliberations and policies for people’s human development. This article deals with some aspects of that research field, for it has as an objective to present the composition and characteristics of the workings and to evidence the incidence of the National Agreement Forum in Peruvian public policies during the last decade.⁵

¹ With the collaboration of María Luisa Valdez and Paula Arriaga.

² It can be said that there is a consensus about it within the community of researchers who are dedicated to deepening the capabilities approach. In the analysis of one of the debate points with Amartya Sen concerning the convenience of drafting defined lists of capabilities, Martha Nussbaum considers that her vision of the capabilities approach: “... also recognizes that in a working democracy, deliberation takes place at several levels and in many concrete contexts”. (2011: 74) within those levels she distinguishes those that correspond to discussion on “fundamental political principles”, the strengthening of certain concrete rights, constitutional amendment and legislation.

³ Sen 1999: chapter 6.

⁴ An aspect which is given much importance is the bias in the media that disdains those that are poorest. Dreze and Sen 2013, 243-275.

⁵ Even though we are not able to evaluate the incidence in human development proper, it is true that “[h]uman development anticipates the likely impacts of policy choices on poor and marginalized communities and future generations”. (Alkire 2010: 24)

The generalized recognition of the forum's usefulness in establishing personal bonds and mutual respect among representatives of institutions that compete among themselves in the political and social arena has always come with a lack of knowledge about its modus operandi and a more or less permanent question concerning the efficacy of its contribution when it comes to putting in the agenda substantial matters and influencing public policy, and, with greater reason, to significantly face the important problems affecting Peruvian society. This paper will attempt to cover to some extent these two shortcomings.

II. NATIONAL AGREEMENT FORUM

The National Agreement (NA) is a forum that, since 2002, discusses various matters of national importance and approves by consensus so-called "State Policies", which are around two pages long. Valuable objectives are presented together with the adequate guidelines and criteria to achieve them; that should remain as such in the long run, that is, at least for a number of future governments⁶. The NA has as its horizon the year 2021, the year of Peru's independence bicentennial, point in time in which all State Policies and achievements are meant to be reevaluated.

The forum is composed by three types of members: first, representatives of the executive at the three levels of government (national, regional and local); secondly, representatives of the political parties which are present in Congress; and third, from a wide range of institutions of civil society that have national presence. The president of the Republic presides over the NA and usually delegates the presidency of the forum's plenary sessions, which so far have been 111, to the president of the Council of Ministers, who attends with some ministers depending on the matters to be addressed⁷. In the case of regional and local governments, present regularly are the President of the National Assembly of Regional Governments (ANGR) and the President

⁶ The web page www.acuerdonacional.pe shows the approved policies in Spanish, Quechua, Aymara, Ashanika and English.

⁷ For example, in special circumstances such as the commemoration of the NA's tenth anniversary and the approval of Policy 33, on water resources, the session was directly presided by the President of the Republic.

of the Peruvian Association of Municipalities (AMPE). As of now, there are 15 political parties which change after every electoral process.⁸ As far as Civil Society is concerned, 10 organizations are part of the forum. They include most of the more important ones existing at the national level.⁹

During the last twelve years, since its creation, the forum has approved 34 “State Policies”, as well as other medium —and long-term commitments. These policies are framed in four grand objectives: I. Democracy and Rule of Law, II. Equality and Social Justice, III. Country Competitiveness and IV. Efficient, Transparent and Decentralized State.

Why such policies have been chosen is still a matter that deserves some study.¹⁰ To a large extent, the explanation can be found in the moment of its foundation, when a transition towards democracy was taking place after the successive governments of Alberto Fujimori towards the end of the 1990’s. In the case of the latest State Policies, State Policy 33 “on water resources” and State Policy 34 “on territorial ordering and management”, were included at President Humala’s request.

⁸ The names, in alphabetical order are: Acción Popular (AP), Alianza Para el Progreso (APP), Partido Aprista Peruano (APRA), Fuerza Popular, Gana Perú, Partido Humanista Peruano, Partido Popular Cristiano (PPC), Perú Patria Segura (PPS), Perú Posible (PP), Restauración Nacional, Siempre Unidos, Solidaridad Nacional (PSN), Somos Perú, Todos por el Perú, Unión Por el Perú (UPP). Fuerza Popular and Gana Perú were incorporated in 2011.

⁹ They are: Asamblea Nacional de Rectores (ANR), Concilio Nacional Evangélico del Perú (CONEP), Confederación General de Trabajadores del Perú (CGTP), Confederación Nacional de Instituciones Empresariales Privadas (CONFIEP), Conferencia Episcopal Peruana (CEP), Consejo Nacional de Decanos de los Colegios Profesionales del Perú (CNDCPP), Coordinadora Nacional de Frentes Regionales (CONAFREP), Mesa de Concertación para la Lucha Contra la Pobreza (MCLCP), Plataforma Agraria de Consenso para el Relanzamiento del Agro Peruano: representada por la Convención Nacional del Agro Peruano (CONVEAGRO) y la Junta Nacional de Usuarios de los Distritos de Riego del Perú (JNUDRP) y la Sociedad Nacional de Industrias (SNI).

¹⁰ Besides short articles from Rafael Roncagliolo and Juan de la Puente, a mandatory reference is: Hernández, Max (2014) *Doce años del acuerdo nacional*. To be published by the NA and UNDP.

III. CONSENSUS, MORAL BASIS AND IMPACT ON PUBLIC POLICY

As Drèze and Sen point out, the consensus can be seen as a democratic method. “Various democratic methods, such as decisions by consensus have been used in limited settings around the globe over the centuries.”(2013: 243). In the case presented here, the stage is limited to one of the ways, among many, of deliberation, and to a particular political context and a specific institutionality. We consider that the broad participation of the members of the National Agreement (NA) and the consensual character of what is approved contribute in giving “moral” force to the agreements.

In practice, such agreements are not binding and therefore there is no compulsory application. The convenience of agreements not being binding is a matter of continuous discussion. For some, it is a defect that they are not, while for others, it is adequate. As a president of the Council of Ministers, Carlos Ferrero Costa, pointed out: “The problem of the mentioned proposals is that, given the guidelines within which it was created, it is established that the NA has a “binding” character, which is unreal for in practice they are not fulfilled, and although it was done in good faith as an aspiration, in our political system it cannot operate. The moral weight of the NA should be enough for its opinions to be taken into account by the relevant entities, discharging the passive that means an obligation only in writing.” (NA 2014: 30)

We consider that part of that force comes from the intensive and broad participation of the Forum’s members, be it in working groups that discuss successive drafts of medium and long term commitments projects or in the plenary sessions where each member has the same status to the extent in which a rejection by any of the member forces dismissing the possibility of agreement on that specific matter. The consensus has to be understood as one in which the intensity of the support is diverse but clear, given the existing power of veto, and some simply consent to the discussed text being approved because they have succeeded in making it as compatible as possible with their values and interests.¹¹ That intensity depends in part on the matter being discussed and the

¹¹ Obviously, consensus does not imply total agreement on the meaning of principles and values that are expressed in the State Policy. As Alkire points out: “Policy makers do not

specific interests of the different representatives. What could be considered as a mere consensus should not be dismissed, for it reveals that at the center of the NA there exists a will of not “torpedoing” the agreements, although in other political scenarios the political or trade union rivalry can be, and is, very aggressive. In any case, the analysis of what is at the bottom of the consensus process is still to be done and it will surely lead to diverse studies and interpretations.

Our hypothesis is that an important factor, though not the only one, of the incidence of State Policies is the moral force that come with the procedure of consensus, but also from the values that are expressed in the agreements. They are, as Sen points out, “values relevant in the making of public policy” (1999: 274). The reasons presented by this author for those that elaborate policy to take into account the values of social justice are two. The first fits well with the work of the NA, for “... justice is a central concept in identifying the aims and objectives of public policy and also in deciding on the instruments that are appropriate in pursuing the chosen ends.” (*ibid*). Both, aspirations and instruments, are related to an eminent political end which Sen highlights, and which is the capability of politics of persuading citizens and widening its drawing power. This capability also depends on the capacity to “understand the values of the public at large, including their sense of justice.” (*ibid*) Our interest in pointing this out is that we also believe that the deliberative exercise of politics has, among others, these two complementary objectives, expressing aspirations and constituting instruments, which give functionality to values in the political exercise. To the extent that the State Policies, once collectively approved, must be made public, the image that is sought to be given by governments, parties and civil society organizations that are members of the NA is, naturally, that they embrace and base themselves on a criteria of justice that is respected and desired by the citizenry.

We shall not dwell any further in the effect of the moral force of the procedures and ideas in society, but we are interested in highlighting that the incidence of which we speak of is one that, in our judgment, comes from, at least in part, that moral force. In

need to agree precisely what justice is; they need only to rule out clearly undesirable options” (2011: 24).

any case, and on firmer ground, the incidence that we shall present does not come from the mandatory character of the agreed policies. We repeat, these policies, as a matter of fact, are not binding.

IV. METHODOLOGY

With the ten year anniversary of the National Agreement (NA), it was considered appropriate to address the anxieties on the incidence of its policies by consulting 177 public and private personalities that have had some direct relation and/or have assumed public responsibilities in the fields in which the policies are directed towards. A combined question, which we present here in part, was sent to them, asking them to write

“two paragraphs with your testimony that add to a maximum of 250 words, and which point out with the greatest precision how State Policies were a sustenance in taking decisions in the executive branch, designing laws, drafting government plans, issuing trade union pronouncements, among other. Likewise, what consensuses were achieved at the forum that facilitated the promotion and support of specific initiatives”.

164 responses were received from i) national, regional and local, rulers and former rulers, Ministers and public functionaries, ii) political and trade union and social leaders; iii) public opinion leaders and other professionals.¹²

This “survey” cannot and does not have any pretension of being statistically representative and the brief answers are not an expression of a complete evaluation of the NA by those that responded. It has been carried out with people that: i) know enough about the experience and the nature of the NA so as to emit a valid opinion, and ii) have participated in the government decision making process in all of its levels or have been active in a political or trade union world during the past decade.

¹² The full set of complete answers is published in: NA (2014).

V. RESULTS

The answers to the “survey” were of course diverse, and also diverse was the degree of explicitness on the incidence of specific State Policies which there were asked about. What follows is a selection of extracts that more directly aimed towards the objective of this paper.

As one will be able to see, the meaning that we have given to the term “incidence” in this work is quite lax. Many terms can be taken as synonyms and others as approximations that would have to be evaluated, based on more detailed information according to the strength and character of the incidence and that manage in the extreme to express the mere existence of co-incidences that make more difficult the matter of direct or indirect causality but that also express a trait present in the agreements: to reflect a common social sense that is coincidentally expressed by multiple politicians, public opinion leaders and institutions. However, in this first approach to the question of the incidence of the NA we shall not classify it according to this type of criteria that requires a detailed analysis but rather by aspects of public policy that have been influenced by the State Policies.

A) Country Institutionalization

The NA has contributed in diverse ways to the country’s institutionalization. As a former president of the planning agency (CEPLAN) recalls, State Policy 5 has “two achievements” that “were the creation by law of the National System of Strategic Planning and the National Centre of Strategic Planning” (CEPLAN).¹³ The first president of the council of ministers of the current government has expressed the attempt of “promoting various State Policies, among them, the State Policy 10 on Poverty Reduction, through the creation of the Ministry of Development and Social Inclusion – MIDIS”.¹⁴ A president of the council of ministers of a former government points out that “we created the Ministry of the Environment and CEPLAN inspired in the State

¹³ Mariano Paz Soldán Franco. President of CEPLAN’s Directive Council, 2012-2013.

¹⁴ Salomón Lerner Ghitis, President of the Council of Ministers, 2011.

Policies of the NA”.¹⁵ The President of the Congress of the Republic requested to the NA, among other institutions, to elaborate a list of priorities to be included in the legislative agenda. Collaborating to the multiparty dialogue translated, according to his words, into “the presiding boards becoming plural and surprise laws finished with the creation of a concerted legislative agenda that made legislative work foreseeable”.¹⁶ State Policy 32 on Risk Disaster Management “has allowed elevating the matter to the highest level of decision making, and at the same time, to have an articulating framework of existing initiatives”.¹⁷

B) State Plans and Strategies

Many voices affirm an incidence of diverse kinds in State Plans. For example: “For the Anti-Corruption High Level Commission, the State Policy 26 has constituted the starting point for the work defining the National Plan for the Fight Against Corruption 2012-2016”.¹⁸ In the field of education: “During my time as Education Minister, the 2021 National Education Project (PEN) was recognized...”.¹⁹ A former Regional President pointed out that: “one example of the adequate application of the NA in relation to policy number 10, Poverty Reduction, is the case of the Ayacucho region”.²⁰ For the family: “it is important to highlight the actions that, motivated by that State Policy, have been put into effect: the National Plan for Support for the Family 2004-2011...; the Action Plan for Infancy and Adolescence 2012-2021; and the National Plan for Support for the Families 2012-2017, which will be approved soon”.²¹ In the field of the Armed Forces, a prominent member of them has pointed out that “State Policy 9 corresponding to national security was very much on my mind...during the formulation of the White Book of National Defense in 2005”.²² Concerning agricultural development, State Policy 23 “has allowed the generation, during the last decade, of important

¹⁵ Jorge del Castillo Gálvez, President of the Council of Ministers, 2006-2008.

¹⁶ Víctor Isla Rojas, President of the Congress of the Republic, 2012-2013.

¹⁷ Gabriel Quijandría Acosta, Viceminister of Strategic Development of Natural Resources of the MINAM.

¹⁸ Susana Silva Hasembank, General Coordinator of the Anti-Corruption High-level Commission.

¹⁹ José Antonio Chang, President of the Council of Ministers 2010-2011.

²⁰ Ernesto Molina Chávez, President of the Regional Government of Ayacucho 2007-2010.

²¹ Víctor Arroyo Cuyubamba, National Evangelic Council of Peru.

²² Roberto Chiabra León, Minister of Defense 2003-2005.

normative instruments, such as the National Strategy for Rural Development, the National Strategy for Food Safety, the National Plan for Overcoming Poverty and the Green Map or National Agrarian Agreement”.²³ As for drugs, State Policy 27 “facilitates the consensus between the involved entities that will later translate into the National Strategy for the Fight against Drugs that is approved by the Council of Ministers”.²⁴

C) Law Making

State Policy 2 has had some impact in the law making process. For example, “the State Policy 2 ... was the starting point for the making of the Law of Political Parties...”.²⁵ In the field of health, “...one of the main developments achieved taking as a basis the State Policy 13 has been the passing and implementation of the Framework Law of Universal Health Insurance...”.²⁶ As far as science and technology are concerned, a congressman declares: “I have found in the purposes of the State Policy 20 of the National Agreement, the fundamental framework for directing my legislative efforts towards improving access to the benefits of science and its technological applications”.²⁷ Referring to State Policy 25 (Care of the Institutionality of the Armed Forces and their Service to Democracy), it is expressed that “it promoted the granting of the right to vote to its members”.²⁸ The NA also empowers those who demand the implementation of State Policies. For example it expressed that “as far as the trade union movement is concerned, these policies have been useful in permanently demanding its application and basing on them our demands”.²⁹

D) Government policies

Some declarations on the impact of State Policies point towards measures we may consider as government policies. In the case of State Policy 24 on the efficiency of the State it has been expressed that, in the framework of such policy, the coming together

²³ Juan Rheineck Piccardo, Viceminister of Agriculture 2011-2013.

²⁴ Carmen Masías Claux, Executive President of the National Commission for Development and Life Without Drugs.

²⁵ Fernando Andrade Carmona, President of Somos Perú.

²⁶ Midori de Habich Rospigliosi, Minister of Health.

²⁷ Mesías Guevara Amasifuén, Congressman.

²⁸ Daniel Mora Zevallos, Minister of Defense 2011.

²⁹ Juan José Gorriti, Vicepresident of the General Confederation of Peruvian Workers (CGTP).

of the State and the citizen has been promoted. Among other measures, “we managed to improve or simplify more than 54,000 processes at the national level, we established the Single Text of Administrative procedures in the municipalities”.³⁰ In the fiscal field, on the other hand, “the National Agreement has inspired important changes in fiscal policy”.³¹ The State Policy 29 on Access to Information, Freedom of Expression and Freedom of the Press “has served as support for many of the reforms in the field of the modernization of public administration, through the implementation of diverse mechanisms that assure citizens’ access to information”.³² A couple of specific examples mentioned in that statement have been the creation of transparency portals and complaint books. Present is the aspiration to contribute to the articulation of policies. For example, referring above all to State Policy 20 on Science and Technology, “The NA is also a privileged space for policies on economics, education, competitiveness, labor market, tax regime, etc., to be aligned with the policies for development of the Research, Development and Innovation”.³³ In the field of State Policy 21 (Infrastructure and Housing) “the government, fulfilling what this policy states, has retransferred to the private sector the responsibility of designing, building and promoting infrastructure and housing in the country, reserving for itself the role of facilitator and regulator of these activities”.³⁴

E) Contribution to a plural dialogue

State Policy 14 on Access to Full, Dignified and Productive Employment “served as a reference point for the participants” in the National Labor Council.³⁵ The Round Table for the Fight against Poverty (MCLCP) “has counted on the forum in an unconditional manner, for putting issues on the national agenda and involving diverse segments of society.”³⁶ More generally, the contribution of the NA itself is recognized when pointing

³⁰ Javier Velásquez Quesquén, President of the Council of Ministers 2009-2010.

³¹ Luis Alberto Arias Minaya, National Superintendent of Tax Administration 2000-2001.

³² Jaime Delgado Zegarra, Congressman.

³³ Fabiola León-Velarde Servetto, Rector of Universidad Peruana Cayetano Heredia.

³⁴ Leopoldo Scheelje Martin, representative of the CONFIEP in the NA.

³⁵ Pablo Checa Ledesma, representative of the General Confederation of Peruvian Workers (CGTP), Viceminister of Labor (2011-2).

³⁶ Gastón Garatea Yori, President of the Round Table for the Fight against Poverty (MCLCP) 2001-2007.

out that its silent labor helps “achieving consensus between the different actors of the national life: academy and civil society, communities and companies, trade unions and business associations, State and political parties.”³⁷ In a similar vein, it is pointed out that the NA “has demonstrated that deliberation and disagreement are vital to democracy, because they are expressions of pluralism, but that do not exclude a consensus.”³⁸

F) Supporting State initiatives

In the framework of the State Policy 6 (Foreign Policy for Peace, Democracy, Development and Integration) “the National Agreement has given important support to the decision of the Peruvian Government of taking its controversy of maritime delimitation (with Chile) to the International Court of Justice”.³⁹ The NA has contributed with a greater plural dialogue. “It was for this reason that the tax reform that we proposed was achieved”.⁴⁰ In the field of Justice, the NA “actively participated through three representatives in the Commission in charge of elaborating the National Plan for Integral Reform of the Administration of Justice CERIAJUS)”⁴¹

As we have pointed out above, the range of allusive terms to incidence freely used by those that responded (they were not closed questions) suggests the possibility of a gradation by the degree of closeness to what we most clearly could consider incidence. The pretension of precision cannot be too high for the matters, the agreed policies and the measures adopted by the decision makers have a diverse relation among themselves.

³⁷ Keiko Fujimori Higushi, President of Fuerza Popular.

³⁸ Lourdes Flores Nano, representative of the Partido Popular Cristiano at the NA.

³⁹ Allan Wagner Tizón, Minister of Foreign Affairs 1985-1988 y 2002-2003.

⁴⁰ Beatriz Merino Lucero, President of the Council of Ministers, 2003.

⁴¹ Fausto Alvarado Doderó, Minister of Justice 2002-2004.

VI. CONCLUSIONS

This article has shown the types of incidence had by the National Agreement in public policies in the past twelve years. The declarations gathered from private and public decision makers indicate that State Policies have been, in diverse ways, taken into account.

In this text, we have suggested the hypothesis that such influence could come from a moral power that results from the representativeness of the members of the NA, from the characteristics of that to which is agreed to, and from the fact that it has been done so by consensus. Such power over political agents is surely less effective than the one that would come from a binding relationship that obligates some part of the State to implement the agreed policies, but what has been shown in the article points towards a certain degree of influence which should not be disdained.

The method used to obtain the relevant information does not pretend to be sufficient to determine the magnitude of the incidence. Besides, the characteristic opacity of the functionaries that design measures in the State assures that a broader study concerning range and methodologically more complete would find impacts which have not been detected here. For example, a question that had greater proportion of answers coming from the same officials and leaders that design policies, laws, etc. would allow adding many sources to those used in this study and also more precision concerning incidence.

Even detecting more cases and other forms of incidence, our pretension is not, in any way, to hold that the NA has been a powerful force of change in the country. The results shown indicate a positive perception in the highest spheres of different governments and some of the effects that the NA has had in the political decision of implementing measures of different sorts. More than opening new roads for the country's politics, the NA seems to express in an explicit manner those courses of public action that for broad sectors of society, represented by the diverse members of the NA, seem desirable. The relationship between values and politics that we have briefly gathered in the text suggest the existence of a connection between those participants, the feelings of the citizenry and the political convenience of taking into account State Policies.

Even so, it should be evident that despite its broad representation, the achieved consensus in the NA does not exactly express or guarantee a similar consensus in society, where more contextual elements, rules of the game and actors come into the picture, or that the implementation of the policies is the best possible one. The freedom of the ruler to choose the specific manner of implementing a public policy is significant, and the programmatic differences between parties can be large when it comes to achieving ends and implementing criteria that are established in the State Policies of the NA.

As we pointed out at the beginning of this paper, from a perspective of the capabilities approach it becomes necessary to complete this query on the incidence of the NA, not only with other methodological approaches but also taking an additional step that establishes the impact of the measures adopted by governments from the State in the reduction of the lack of adequate job opportunities, of preventing and recuperating from sickness, of being educated, and of social participation in general that denies, especially the poor, the ability of more fully taking the reins of their future.

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