

FROM HYPER-MATERNITY TO HYPO-MATERNITY IN WOMEN'S PRISONS IN BRAZIL

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- *This study analyses the risks of the abrupt severance of ties between a mother and her baby after an intensive period together in prison*

ABSTRACT

There is a paradox to being a mother in prison in Brazil: there is an excess of maternity in the months where the infant stays with its mother and then the abrupt rupture of this relationship at the time of separation. The authors call these phenomena “hyper-maternity” and “hypo-maternity”, respectively. This is the main conclusion of the study that this article is based upon, which the authors conducted in six Brazilian states over a nine-month period. The main objective was to map out the perceptions of female inmates who were pregnant or had just given birth on being a mother in spaces where they were deprived of their freedom. Interviews were conducted with detainees, prison directors and workers, and on-site visits were made to prisons and mother-child units of the Brazilian prison system. In this article the authors reflect upon the excess of discipline with regard to maternity in prison and the vulnerability of mothers in prison.

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KEYWORDS

Women's prison | Maternity | Hyper-maternity | Hypo-maternity | Gender

I will never forget the day my son left. I looked out the window. I looked under the door. About 80 metres away, I could only see my mother's feet and hers [a daughter who is now 15 years old]. Then I thought to myself, "my mother's here. Now what?" I went down with my son's things, put them in my mother's arms and didn't even look back. I was already dead inside when I came back in. I still remember the clothes she was wearing. That was 11 years ago, but I remember as if it were yesterday - me handing my son over to my mother. When the guard said "go back in, Desirée", I didn't look back and I went. I just went.¹

The statement by Desirée Pinto² – twice arrested for offences related to drug use and the mother of four children, two of which were born in the São Paulo Penitentiary System – describes the moment of separation from her son, born in prison, at the end of the period established by the prison administration for the child's stay with the mother. This is but one of many accounts from incarcerated women on their separation from their children that we heard during the nine-month period (August 2013 to April 2014) in which the DLNS study³ was conducted.

Carried out as part of the *Pensando o Direito* (Thinking about Rights) project of the Secretariat of Legal Affairs of Brazil's Ministry of Justice in partnership with the Institute for Applied Economic Research, the DLNS study aimed to identify needs, detect obstacles and elaborate strategies to guarantee the exercise of maternal-reproductive rights in the Brazilian prison system. Through the use of empirical research methods such as on-site visits to prison establishments, focus groups with female prisoners, interviews with specialists, as well as research on legislation and review of literature, we were able to gain knowledge and information on prison maternity wards and contrast discourse and legislation with the reality in prison.

We covered six Brazilian states, made one international visit, conducted almost 50 interviews and had informal conversations with over 80 detainees. We also visited ten female prisons, two mother-child units, two prison nurseries and another two linked to civil society. This experience allowed us to identify what we consider to be one of the most perverse aspects of the way motherhood is dealt with in Brazilian prisons: the uninterrupted coexistence of mothers with their babies while they are still in prison and the sudden separation from them when the official period for the children's stay comes to an end.⁴

In this brief article, we address the issue above by examining the categories of "hyper-maternity" and "hypo-maternity" developed on the basis of the research results. To do so we present accounts and perceptions indicating that maternity in prison is permeated by ambiguities, such as excessive coexistence versus the absence of coexistence; isolation versus participation in daily prison life; improvements to the physical environment in the child's presence versus more rigorous discipline; and women in prison versus mothers. Prior to this, however, we will present a brief overview of the imprisonment of women in Brazil in order to give context for the reader.

1 • Brief overview of the Brazilian prison system for women

The imprisonment of women has increasingly become the object of research and discussion in Brazil. Whereas work on this topic was rare at the beginning of the 2000s, one can say today that the issue is in vogue. Academic research, journalistic materials, television reports and official studies have presented data and the dilemmas and status of women's prisons in the country.⁵ As for official data, in November 2015 the National Penitentiary Department released the National Survey of Information on Women's Prisons (known by its acronym *Infopen Mulheres*). This was the first *Infopen* report to focus exclusively on the female prison system.⁶ While there are still many gaps, especially in relation to quantitative data, we know more now than we did fifteen years ago.

The reason for the increase in the number of studies and publications in the area is undoubtedly related to the most striking piece of data in the report: the exponential growth of the female prison population, which jumped 567.4% from 2000 to 2014, whereas the male prison population grew 220.2% in the same period.⁷ This explosion is not only a national phenomenon, but rather a reality also found in other countries that have like Brazil invested in prisons as the preferred response to the war on drugs policy, such as the United States, Russia and Mexico. According to data from the International Centre for Prison Studies, between 2000 and 2013, the number of women in prison increased approximately 40% around the world, reaching a total of around 660,000.⁸

According to *Infopen Mulheres*, there are nearly 40,000 women in prison today – that is, they make up 7% of the country's total prison population.⁹ These women are held primarily in either one of the 103 women-only, state-level prison establishments, one of the 228 mixed units (prisons with male and female wards), police stations or temporary detention centres. Of this total number of women, 68% are in prison for crimes related to drug trafficking and 16% for property crimes, such as robbery or theft.¹⁰

It is important to highlight the large contingent of women held in pre-trial detention, which represents 30% of all women in prison. It is also worth mentioning that 67% of all female prisoners are black, young (50% are between 18 and 29 years of age) and from low-income backgrounds.¹¹ This supports the hypothesis that the criminal justice system targets socially vulnerable women.

Despite the increase in the amount of materials published on the issue, little is known about the number of women who are pregnant or have recently given birth and about infants in the system. No studies have been done to obtain quantitative data specifically on this. A recent count by the São Paulo Public Defender's Office¹² shows that one out of every five women imprisoned in the state has children (in or outside the prison) or is pregnant. Maternity is therefore an important issue to be taken into consideration when discussing the imprisonment of women, since, as we argue here, all pregnancy and maternity in prison is vulnerable when we look carefully at this fundamental issue. This rapid overview of

women's imprisonment will now be followed by some specific elements of the treatment of maternity in prison, especially in the places set aside specifically for this purpose.

2 • Mother-child units: an excess of “pink” discipline

The selection of prison units for the field visits¹³ was based on the existence of some kind of “special treatment” providing maternity care in prison, such as the existence of mother-child units, areas reserved for mothers and babies and daycare for the children of women prisoners.¹⁴ In Brazil a mother-child unit (or ward) is an area designated to house new mothers together with their infants during the breastfeeding phase. Each unit has its own specific characteristics, which will be highlighted below.

In the state of Minas Gerais, there is the *Centro de Referência à Gestante Privada de Liberdade* (CPRGL, or the Detention Centre for Pregnant Detainees) – a unit dedicated exclusively to pregnant women and new mothers (with infants of up to one year of age). In São Paulo the *Casa Mãe* (Mother's House) is a special ward of the Butantã prison and is for mothers and infants of up to six months of age. In Rio de Janeiro, there is the *Unidade Materno Infantil* (Mother-child Unit), which is autonomous from the women's unit and has its own budget and management. The state of Ceará uses the day care terminology (*Creche Irmã Marta* or Sister Marta Day Care) to refer to what would be its mother-child ward. We found this terminology in the state of Paraná as well (*Creche Cantinho Feliz* or Happy Corner Day Care), but there it is used to refer to the place where the children live. In this case, however, different from the day care model, the children do not leave at the end of the day; instead, they remain constantly in the centre. It therefore resembles more of a shelter than a daycare as such. Among the places studied, the only one that comes close to the daycare model – in which the children spend the day and return to their families for care in the evening – is the *Jardín Maternal* in Ezeiza in Argentina.

In all of the spaces we visited, under varying levels of supervision and mediation, we were able to speak with inmates, listen to their views on the prison structures designed for mothers and their babies and talk about their expectations in relation to motherhood. We were also able to interview managers and staff and visit the facilities, including the areas reserved specifically for mothers and their children. It was in these areas, in particular, that we obtained accounts of isolation, excessive discipline with regard to mothering and other reflections presented below.

In the majority of the spaces designed to house imprisoned mothers and their infants, we came across statements on the stagnation of life in prison and separation – even physical – from daily prison life once the baby is born. As mentioned repeatedly by the interviewees, “prison stops” when one has a child. In other words, if a prisoner was involved in some work- or school-related, cultural and/or religious activity, her participation is interrupted in order for her to dedicate herself exclusively to caring for the child and to avoid contact with other prisoners.

At the CRGPL in Minas Gerais, the prisoners praised the material support and the possibility of remaining with their children for up to one year, but they criticised the idleness and isolation during their stay in the unit, where they are subjected to strict control by staff and management. As for the unit in Butantã, the interviewees also highlighted that their children received good treatment, with access to hygiene products and quality meals. They also revealed, however, that the inmates call the mother-child area the “child lockup”, as although they are in a semi-open regime, they are not allowed to have contact with other areas of the prison. They are denied access to religious activities and courses and spend more time locked up than prisoners in the closed regime. On this subject, Marina,¹⁵ a prisoner at the Butantã unit, stated, “we stay here with no contact with anyone – like an animal!”

Complaints of isolation also appeared in the state of Bahia, where even though the prison has a special area for pregnant women to go to during the day, detainees refuse to use this area as a nursery. When we asked the women prisoners about their preference for the yard over the nursery, one of them told us that “the women feel very isolated and it is awful to have to choose between one or the other... in the unit, there are courses, prayers.” The complaint that the nursery space is limited and isolates them from prison life was unanimous in the interviewees’ statements.

In the *Creche Irmã Marta*, in the state of Ceará, the idle and prolonged coexistence of the infants and their mothers, who generally spend 24 hours a day in the mother-child space, generates tensions. According to the unit’s psychologist, the inactive time spent in the daycare, together with the low number of prisoners, generally leads to conflict between the mothers there. No activities are held in the daycare and it is rare that mothers are able to leave their child with others while they go to an event in the prison. The space is different from inside the prison, where there is greater freedom to circulate, because it is separated from prison life.

Loneliness and the obligation to spend 24 hours non-stop with their babies without any possibility of interacting with other people, except other mothers, were also elements that came out clearly in the interviews. On this issue Butantã inmate Marina said, “in this environment, we are isolated – I’m depriving my baby of lots of things – thank goodness there is this nice tree in the window.” As for Lucinéia, another Butantã prisoner, she highlighted the confinement while claiming that in the *Casa Mãe*, they stay with their children in a “24-48 [hour] regime”, with one hour a day to go outside. The comparison with life outside, where there is the possibility of engaging in other activities, also appeared in some narratives, such as this one from Marina: “when we’re on the outside, we have things to do – clothes to wash, food to cook. There’s nothing here. It’s 24 hours a day of taking care of the baby or watching something useless on TV.”

Taking care of infants is a lot of work and they need special attention, as is clear from this statement by Marina, “I take care of him all the time! (...) once you’re a mother, you don’t eat, you gulp your food down... you don’t sleep, you nap... you don’t take a shower, you wet your body...” The desire to have time to themselves, be with

other prisoners and continue with the activities they were doing before they gave birth appears in the statements of the majority of the interviewees.

In addition to their isolation, the ambiguity in relation to the mother-child areas can also be seen in relation to discipline. Even though they are spaces with less bars and therefore, “look less like a prison”, as one of the interviewees from Rio de Janeiro pointed out, they are areas with very strict discipline, especially in regard to childcare.

At the CRGPL maternal care is disciplined by a series of regulations that, if not followed, can lead to a notice being issued, which is followed by a judgment from the establishment’s disciplinary committee. An account from one interviewee exemplifies the ambiguity between the desire to stay with her child and the strict discipline in the ward: “I am happy to be with my baby, but here, everything is motive for a notice. Being in prison alone is easier.” To which she added, “any little thing that happens, they say that you’re going to have to give up your child. We live under constant pressure.” Things that generate notices in the unit include, for example, working for other prisoners, sleeping with the baby on the same bed instead of using the crib and feeding the child differently than the protocol established by the unit.

In Ceará we perceived resistance among the prisoners to the daycare due to the strict discipline imposed in the mother-child unit. According to the inmates, there are limits on the use of cigarettes, time schedules and measures to control interaction between detainees. The local prison administration justifies this rigour by referring to the care children and newborns need, as well as the particular characteristics inherent to small children. The use of cigarettes is also strictly prohibited in the mother-child unit in Rio de Janeiro, which, according to the director, makes many of the prisoners “desperate to leave their baby and go back to prison.”

Researcher Raquel Santos¹⁶ calls the situation where mothers care for their children in restricted and constantly guarded environments “guard-controlled maternity”. Even though the mother-child areas offer more spacious and better physical conditions to guarantee the infants’ basic rights, they constitute spaces of discipline in which the mother and child usually spend all of their time.

3 • The break: transcending punishment

In addition to the isolation, loneliness and excess of discipline in the mother-child areas, another issue that drew our attention and led us to identify the paradox in the women’s prison system – that is, the excess of maternity versus its complete absence – was the moment when the child is removed from its mother’s care at the end of the authorised period of stay. This issue permeated the most distressful conversations we had in the field. Faced with the real possibility of being separated in the near future, the interviewees were resistant to talking about it.

“I wake up every day with the fear that today will be the day they take my daughter away. When five o’clock comes, I’m relieved. I have one more night with her”, Lucinéia from Butantã told us. The anxiety of being suddenly cut off from her child was visible in this woman, who had already packed her daughter’s belongings in a bag, as the time to say goodbye was drawing near.

In Rio de Janeiro, in a collective conversation with twenty pregnant women in the cell they shared at the time, the talk about separation was full of crying and anguish. One of them mentioned that she had heard of children and mothers who came down with an “emotional fever” after the separation. Others were emphatic when they stated that six months was a very short period of time for imprisoned women to be with their babies and that cutting the relationship off was “very, very painful”, as one of them emphasised.

Hyper-maternity versus hypo-maternity

One of the main conclusions of the DLNS study is that all maternity in prison is vulnerable and at risk, whether it be due to social, physical or psychological factors. Researchers Simone Diniz and Laura Mattar point to the existence of situations where maternity is more vulnerable, with women mothering their children with less rights in comparison to others, which makes their experience and perception vary. Among the maternities identified as the most vulnerable by the authors are those of “women offenders, especially women in prison, as they have gone against ‘the so-called feminine nature’ – that is, a passive person and caregiver, never a lawbreaker.”¹⁷

With regards to psychological aspects, having to live with the expectation that their child will be taken from them, mixed with the uninterrupted living with the child during the first few months after birth and the sudden severance of the mother-child relation at the end of that period, often without psychological support, are clearly factors that increase vulnerability, as we were able to observe. The common complaint of all new mothers who stayed with their children in small spaces and with few options for engaging in other activities, permeated by the expectation of a sudden end to the relationship, led us to formulate what we call the *hyper-maternity versus hypo-maternity* paradox.

During the period in which mothers live with their infants in the prison unit, the women engage in *hyper-maternity*, as they are not allowed to participate in other activities or work, as we mentioned earlier. Their removal from daily prison life generates not only isolation and feelings of solitude, but also the end of work activities, of the possibility of a remission of their sentence and of continuing with schooling. The uninterrupted permanence of the child is the standard during the authorised period of stay. This period is permeated by strict discipline and close supervision of mothering activities.

The repeated accounts of isolation, discipline and severance leads us to the conclusion that motherhood is an additional punishment for women in prison. Even though

they momentarily occupy areas with better physical and structural (mother-child) conditions, they end up being confined even more, under a disciplinary regime that is more rigid than that of the other women.

We draw on the work of Michel Foucault to analyse the excess of discipline in question here. According to Foucault, the power to discipline is that which goes beyond the legal system and the sentence to penetrate bodies, desires and souls. In his analysis, prison must be resituated “...at the point where the codified power to punish turns into a disciplinary power to observe; at the point where the universal punishments of the law are applied selectively to certain individuals (...) at the point where the law is inverted and passes outside itself, and where the counter-law becomes the effective and institutionalised content of the juridical forms.”¹⁸

In our view maternity takes place in more isolated and rigorous spaces in which disciplinary power is manifested via the deprivation of freedom, and where disciplinary techniques are perceptible and serve to generate what we call double punishment. The legal sentence imposed combined with even greater confinement and more rigid supervision of daily prison life is subjecting new mothers to situations of *hyper-maternity*.

When the period of living together ends and the child is removed from its mother's care (handed over to the family or sent to a shelter), the transition from *hyper-* to *hypo-maternity* occurs, which is the immediate severance of the link, without any transition and/or adaptation period. We call the severance “*hypo*” (lowering) – and not *nullified – maternity* because the marks from the interrupted maternity and the absence generated by the child's earlier presence remain in the imprisoned women's bodies and minds. The numerous accounts of medicines taken to dry up their milk, “emotional fever” or “desperation” when they hear other children crying, prove that maternity remains in the body. The expectations and fear of being separated definitively from their children present in the statements of women who had not yet experienced this moment, but feared it even during their pregnancy, together with Desirée Mendes' experience, recounted at the beginning of this article, are striking examples of the brutality of this severance. The sudden severance in the relationship does not erase their previous experience; instead, it becomes yet another mark in the production of precarious lives¹⁹ in which the Brazilian prison system has been strongly investing.

We were able to observe an even more serious hypothesis than *hyper-maternity*, which is indeed coming closer to what could be called *nullified maternity*: cases where the mother or the birth family has renounced its family rights and the child has been sent to a shelter and, in some cases, put up for adoption. In these cases imprisonment definitively eliminates all possibility of female prisoners resuming motherhood or of rebuilding family ties. Law n° 12.962/2014 guarantees the visiting rights of children and adolescents whose parents are in prison and explicitly prevents the criminal conviction of the father or the mother from resulting in the loss of family rights. It also establishes that the child or adolescent should remain in its birth family. Even so, during our field visits, we heard various accounts of mothers in distress who had no knowledge of where their child had been sent and feared losing them to an adoptive family.

4 • Conclusion: vulnerable maternity, discipline and punishment

This experience in the field allowed us to analyse prison policies for imprisoned women while reflecting on the role of these policies and their imprisoning traps, which reinforce gender roles. The simple argument of adapting prison spaces and building structures to accommodate mothers and their children can end up strengthening the discourse on and disciplinary practices for this group. Using an empirical approach to examine how the legal provisions have been implemented proved to be fundamental for rethinking public and legislative policies in terms of their impacts, based on the perspective of those subjected to these policies, in addition to the normative level.

Based on the accounts of the imprisoned women and our field research, we briefly presented in this article the analytical categories of *hyper-maternity* and *hypo-maternity* as tools to help understand the ambiguities permeating the issue of maternity in prison. This is especially true for analysing the discourse on the access to rights, which is shrouded in strict disciplinary practices.

Foucault has pointed out that the most dangerous use of power is positive, which does not annul, but rather shapes subjectivities.²⁰ In this sense part of the Brazilian prison system may have advanced in terms of protecting the life and health of women thanks to investments and improvements in the physical conditions for mothers in prison. However, it continues to dangerously exert its positivity by limiting the freedom, autonomy and possibility for a healthy relationship between women in prison and their children.

NOTES

1 • Excerpt of the interview recorded by the research team in March 2014 in São Paulo.

2 • Even though the identity of the imprisoned women (or former prisoners) interviewed for the study is not usually revealed, Desirée Mendes Pinto's name was because she became referenced in press interviews and debates on the imprisonment of women and maternity. In the study, we refer to her as a specialist, since she is, in practice, a specialist on the issue. She explicitly authorised us to identify her in publications on the study.

3 • DLNS stands for "Dar à Luz na Sombra" (Giving Birth in the Dark), which is the study's title in Portuguese.

4 • According to article 83, § 2 of the Brazilian *Lei de Execução Penal* (Criminal Enforcement Law), the minimum period imprisoned mothers are allowed

to live with their children is six months. However we observed a distortion of this legal provision. In the majority of the units visited, six months is the maximum amount of time women are allowed to live with their children.

5 • This is the case, for example, of the DLNS study presented here; the book by Debora Diniz (Debora Diniz, *Cadeia – Relatos sobre mulheres*, Rio de Janeiro: Civilização Brasileira, 2015), the master's thesis of Sintia Helpes (Sintia S. Helpes, "Vidas em jogo: um estudo sobre mulheres envolvidas com o tráfico de drogas", Dissertação de mestrado, Instituto Brasileiro de Ciências Criminais, 2014), among others.

6 • This data does not include up-to-date information on the prison population in São Paulo, as the

government of the state of São Paulo did not provide the data required to conclude the study. Therefore, for this state, data that was not specifically collected for the *Infopen* was used, which may result in alterations to the results (Brasil, Ministério da Justiça, Departamento Penitenciário Nacional, *Levantamento nacional de informações penitenciárias – Infopen Mulheres – junho 2014*, Brasília: Ministério da Justiça, Depen, 2014), accessed November 17, 2015, <http://www.justica.gov.br/noticias/estudo-traca-perfil-da-populacao-penitenciaria-feminina-no-brasil/relatorio-infopen-mulheres.pdf>).

7 • Brasil, Infopen Mulheres 2014, 5.

8 • Available at: <http://www.prisonstudies.org/news/female-imprisonment>, accessed November 17, 2015.

9 • Brasil, Infopen Mulheres 2014, 9.

10 • Ibid., 5.

11 • Ibid., 24, 22.

12 • Defensoria Pública do Estado de São Paulo. *Mães em Cárcere. Dados Estatísticos 2014* (São Paulo: 2014), accessed november 17, 2015, http://www.defensoria.sp.gov.br/dpesp/repositorio/0/dados%20estat%C3%ADsticos%202014_geral.pdf.

13 • We visited: I) the *Centro de Referência à Gestante Privada de Liberdade* (CRGPL, Detention Centre for Pregnant Detainees) in Vespasiano, Minas Gerais; II) *Penitenciária Feminina do Paraná* (the State of Paraná's Women's Prison) and the *Cantinho Feliz* daycare, located in the *Complexo Penal de Piraquara* (Piraquara Prison Complex in the state of Paraná); III) *Penitenciária Feminina do Complexo da Mata Escura* (the Women's Prison in the Mata Escura complex) in Salvador, Bahia; IV) Instituto Penal Feminino Desembargadora Auri Moura Costa (Judge Auri Moura Criminal Institute for Women) and the *Creche Irmã Marta* (Sister Marta Day care) in the Aquiraz prison complex in the state of Ceará; V) *Penitenciária Talavera Bruce* (Talavera Bruce Prison), *Unidade Materno-Infantil* (UMI, or Mother-Child Unit), *Presídio Nelson Hungria* (Nelson Hungria Prison) and the *Penitenciária Joaquim Ferreira de Souza* (Joaquim Ferreira de Souza Prison) in the *Complexo Gericinó* (Gericinó Facility) in Rio de Janeiro; VI) *Penitenciária*

Feminina "Dra. Marina Marigo Cardoso de Oliveira" (the Dr. Marina Marigo Cardoso de Oliveira Women's Prison), known as "Butantã", in São Paulo; and VII) *Centro Federal de Detención de Mujeres Unidad n° 31* (Federal Women's Detention Centre, Unit no. 31) and *Jardín Maternal* day care in Ezeiza, the Province of Buenos Aires, Argentina. We will not discuss the Argentinian case in this article, since the maternity-prison relationship differs from practices in Brazil.

14 • Due to technical and time restrictions, we visited six of the 26 Brazilian states. The work of Rosângela Peixoto Santa Rita (Rosângela P. Santa Rita, "Mães e crianças atrás das grades: em questão o princípio da dignidade da pessoa humana" (Mestrado em Política Social, Universidade de Brasília, 2006)) and official reports and documents were also used to select units for the visits. The reflections presented here are not exhaustive, nor do they fully reflect Brazil's regional diversity and the differences between existing models in the country. Instead, they are conclusions we have drawn from our experiences in the units we visited.

15 • The names of the prisoners interviewed were modified to ensure they remain anonymous.

16 • Raquel C.S. Santos, "Maternidade no cárcere: reflexões sobre o sistema penitenciário feminino" (Mestrado em Política Social, Universidade Federal Fluminense, 2011), 60.

17 • Laura D. Mattar e Carmen S.G. Diniz, "Hierarquias reprodutivas: maternidade e desigualdades no exercício de direitos humanos pelas mulheres," *Revista Interface: comunicação, saúde, educação*, 16, no. 40 (2012): 113.

18 • Michel Foucault, *z*(Petrópolis: Vozes, 2004), 184.

19 • Term coined by philosopher Judith Butler, (Judith Butler, "Vida Precária," *Contemporânea - Revista de Sociologia da UFScar* 1, no. 1 (jan./jun. 2011): 13-33, accessed March 20, 2015, <http://www.contemporanea.ufscar.br/index.php/contemporanea/article/view/18/3>).

20 • Michel Foucault, *História da loucura: Na idade clássica* (São Paulo: Perspectiva, 2007), 118.

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