THE RIGHTS TO HEALTH OF WORKER FROM THE PERSPECTIVE OF INDOOR AIR QUALITY

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Abstract

Indoor air quality really effects persons’ health, including workers whose time mostly spent at work. Persons’ conduct may create pollutant which effect indoor air quality. Unhealthy indoor air has caused more than four million people dead from pneumonia, stroke, systemic heart decease, obstructive lung decease and cancer. Persons’ conduct must be regulated by law to ensure one’s rights and obligation do not violate others. This research was focused on how the rights to health of the workers from the perspective of indoor air quality was protected by law and what obligations were generated from the rights towards workers, employers and the state. This research was an analytical descriptive doctrinal one using library research to gain secondary data from related legislation and regulation as well as expert commentaries in textbooks and scientific journal articles. To ensure indoor air quality for workers, the workers themselves and the employers must be equipped with the knowledge and comprehension of the rights they possess and the obligation attached with the rights to implement the law on how they have to conduct to ensure the participation in the availability of healthy indoor air quality. Workers and employers shall not act nor omit which might resulted in unhealthy indoor air at work room through ensuring fresh air circulation, avoiding smoke and other polluting substances use in indoor rooms.

Keywords

Indoor Air Quality, Workers, Rights, Obligation

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INTRODUCTION

There are four million five hundred people who die from pneumonia (12%), stroke (34%), systemic heart disease (26%), chronic obstructive pulmonary disease (22%), and lung cancer (6%) due to air pollution (Mortimer et al., 2012) indoors and 90% of people spend time indoors 5 times more than time spent outdoors (Bulfone, Malekinejad, Rutherford, & Razani, 2021). Then 400 to 500 million people, especially in developing countries, face indoor air pollution in offices, schools, transportation facilities, shopping centers, hospitals and residential homes (Agarwal et al., 2021). A healthy and prosperous condition as mandated by Article 28 H paragraph (1) of the 1945 Constitution which guarantees the right of everyone to live in physical and spiritual prosperity, and to have a good and healthy living environment can be hampered when the air quality in the room is problematic (Suryawati, 2020). The problem of indoor air pollution affects the health of humans who spend most of their time indoors.

Sources of indoor air pollutants according to the National Institute of Occupational Safety and Health come from within the space itself and from outside the room, namely: cigarette smoke, pesticides, interior design materials, and room cleaning materials, microbes such as fungi, bacteria and other types of microbes. commonly found in air ducts and cooling systems, vehicle emissions, motor and industrial emissions and dust are also workplace air pollutants (Ciccioli et al., 2021). The existence of these pollutants comes from human attitudes and actions (Wang et al., 2019). To regulate human actions to prevent harm to humans themselves, a law is needed that contains the rights and obligations of individuals and groups (Chapron, Epstein, & López-Bao, 2019).

One of the main needs for life is air as a provider of oxygen needed by living things in the body's metabolism (Hirota, 2020). Air can be grouped into: outdoor air and indoor air. Indoor air quality greatly affects the health of humans who spend most of their time indoors, including workers who spend most of their time in the workplace.

This panel departs from the following two main issues: First, how is the legal protection of workers' health rights in Indonesia related to indoor air quality; Second, what are the obligations that arise on workers' health rights.

RESEARCH METHOD

This research is a descriptive analytical normative research that uses secondary data in the form of laws and regulations related to Employment, Health, Air Pollution, and Buildings as well as descriptions of experts in textbooks and scientific journal articles (Sovacool, Axsen, & Sorrell, 2018). Data obtained through library research, then sorted to be processed qualitatively with deductive and inductive thinking methods (Fade & Swift, 2011).

RESULT AND DISCUSSION

1. Rights and Law

In general, the meaning of rights is an acceptance given by law to a person or group of people to do something in a certain way (Heller, 2020). According to legal experts such as Holland, Austin, and Pollock, rights are conditions or actions that are protected by law and the state (Kurki, 2019). According to Gray, rights in the legal context are called legal rights, namely: "that power which the man has, to make a person or persons to do or restrains from doing a certain act or acts so far as the power arises from society imposing a legal duty upon the person or persons. right is not the interest itself, it is the means to
enjoy the interest secured” (Geiger, 2017). In essence, Gray states that legal rights are a power that is owned by someone who is guaranteed by law, so that right is a tool for the owner to enjoy what is entitled to him to be enjoyed as a result of the guarantee given by law.

According to the theory of interest, interest theory, which is said by Ihering-a German legal expert, that the basis of rights is interest, not desire. He bases his argument that law has a purpose, and the purpose of law is protection, and in the context of rights it is a form of protection of an interest. Duguit supports this theory, according to him the legal basis is social solidarity, togetherness, not individual free will.

Elements of rights include: the legal subject; the legal action; the legal object; person who bears the obligation to respect and fulfill these rights. The right gives obligations to other parties to respect it: “legal right is an interest that warrants holding others under an obligation to protect it” modify obligations”, quoted from John Austin that obligations imposed by law must be accompanied by threats to those who do not comply with them: “to have a legal obligation is to be subject to a sovereign command to do or forbear, where a command requires an expression of will together with an attached risk of suffering for non-compliance”

Rights consist of absolute rights and relative rights. Absolute rights are rights that humans have where other humans are obliged to respect these rights. “Legal rights in the strict sense are correlatives of legal duties and legal rights are defined as the interests which the law protects by imposing duties on other persons. But the legal right in the strict sense means right is the immunity from the legal power of another. Immunity is no subjection at all”. Absolute rights are also called absolute rights, rights that are not granted to certain people, but to everyone, this right creates an obligation on other parties not to violate these rights. Meanwhile, relative rights are rights owned by someone if there is a certain legal relationship so that the relative rights owned by someone are the obligations of the other party because of the legal relationship. The word absolute contains the meaning of assertiveness about the rights that are owned so that other people must respect them even though they do not have a close relationship as the relationship between the parties in a contract or as a member of a society. Dijan views as follows: “rights are given by law to legal subjects to use or not to use them” Satjipto Raharjo cites Fitzgerald's view that rights and obligations have a correlative relationship, meaning that a person's rights are the obligations of another party to act or not act in respect of a right that belongs to a person or group of people.

2. Obligations and Rights

According to Keeton, an obligation is an act of a person who is charged by law to do something that arises because of the existence of a right. Meanwhile, according to Salmond, an obligation is an act that must be obeyed and if it is not a violation of the law. Obligations that are normative in nature, meaning they contain tasks, what to do and what not to do. According to Salmond there is no right that is not followed by an obligation; and there is no obligation that is not accompanied by rights: “Every duty must be a duty towards a person or some person, in whom a correlative right is vested and conversely every right must be a right against some persons upon whom, a correlative duty is imposed”.

Obligations are divided into reciprocal obligations, called perfect obligations; and obligations that are not reciprocal in nature, are called imperfect obligations. Obligations can also be agent-relative (or agent-centered) and can be agent-neutral. Obligations centered on certain legal subjects (agent centered) oblige certain people to act as required, while obligatory which are "natural agents" carried out by anyone on the responsibility of
certain people. Underlying the normativity of an obligation is its conformity with morals, and according to Thomas Aquinas is the human obligation to submit to God's law. Meanwhile, according to Kant, obligations come from morals, from within the legal subject, so that compliance with carrying out an obligation comes from within, not from outside. Although positivists claim that legal norms must be separated from morals, according to Scott Hershovitz, positivists argue that legal obligations are moral obligations. As Jules Coleman stated: the substance of the law can be understood as a moral commandment, ie what must be done is based on moral considerations in it.

According to A.J. Simmons, the law that is obeyed must make a profit for those who obey it. People obey the law not only to avoid legal sanctions, but also because they are aware of the benefits that come from complying with the legal obligations imposed on them. Then according to Oliver Wendell Holmes, so that a right that gives rise to an obligation can be obeyed by the legal subject, the relevant legal apparatus must also provide guidance and guidance on what rights and obligations are meant; what form of action is called a violation of the rights and obligations referred to, and why those rights and obligations are carried out. As quoted from Hart, legal rights and obligations must be understood as something important because they have a function in living together, even though there is a possibility that these legal rights and obligations conflict with personal interests. The law acts as a guide for life, teaching its legal subjects what is right and what is wrong. The law regulates the rights and obligations of legal subjects, the law must be obeyed through its coercive power and the law also functions as a guide to live with its legal subjects.

A right that is protected by law is something that can provide benefits or enjoyment for the holder of that right, then it is accompanied by the obligation of other parties to respect it(Grönwall & Danert, 2020). The law protects rights because of its normative nature which contains orders and sanctions(Hartanto, 2020). The law is obeyed when generating profits for those who obey it, the relevant legal apparatus must participate in providing education, guidance and guidance on what rights are meant by law, what are their functions, who has the rights, who has the obligations, and what are the legal consequences, and What is the role of law in living together.

3. Right to Health
The right to health is a right that includes the factors that build a healthy life. According to the Committee on Economic, Social and Cultural Rights, which monitors the International Covenant on Economic, Social and Cultural Rights, the elements that support the right to health are: safe and adequate drinking water and sanitation; safe and adequate food and shelter; healthy working conditions and environment; health information and education; gender equality. These factors are accompanied by other rights, namely: the right to a health system that supports the protection of equal opportunities to obtain the best accessible level of health; the right to the prevention, treatment and control of disease.

The right to health can also be seen in the 1946 WHO (World Health Organization) constitution which states the phrase "highest attainable standard of health". This right to health is a basic human right. The right to health is related to human dignity. Article 12 of the Covenant on Economics, Social and Cultural Rights (called the "Economic Covenant") states the right of a person to be able to enjoy a standard of physical and psychological health. In Article 25 of the Universal Declaration of Human Rights 1948 it is written: “Everyone has the right to a standard of living adequate for the health and well-being of himself and his family......” The WHO constitution in its preamble states that enjoying the highest standards of health is a basic human right.
Article XI of the American Declaration on Human Rights and Duties states that everyone has the right to the preservation of health through the availability of sanitary and social equipment such as food, clothing, housing, and health care in accordance with available resources. National legal instruments related to the national goal of creating the Health of its citizens provide information to the public that the state protects the community in terms of the right to health.

The concept of the right to health as a basic right contains the following elements: first, as a public goal; second, containing the relation to human dignity, “The concept of rights grows out of a perception of the inherent dignity of every human being”; third, equality; four individual participation and groups, as stated in the Declaration of Alma-Ata on Primary Health Care that “The people have the right and duty to participate individually and collectively in the planning and implementation of their health care.”; the fifth deserves human acceptance; not absolute when related to the wider public interest, “the dignity of each person must be central in all aspects of health, including health care, medical experimentation, and limitations on freedom in the name of health”.

4. Indoor Air Quality

Air quality or air quality is a measure of air condition at a certain time and place which is measured and/or tested based on certain parameters and certain methods based on the provisions of statutory regulations. Air Quality Protection and Management is a systematic and integrated action so that air quality is maintained and protected from air pollutants in the form of human activities that release substances, energy, and/or other components so that substances, energy, and/or other components into Ambient Air by human activities thereby exceeding the established Ambient Air Quality Standards.

Indoor air quality is influenced by indoor pollutants and outdoor ambient air quality considering the indoor air circulation associated with outdoor air. Ambient air is free air on the earth's surface in the troposphere which is needed and affects the health of humans, living things and other elements of the environment. Ambient air quality is the level of substances, energy, and/or other components present in the free air. Air must meet ambient air quality standards, namely the size limits or levels of substances, energy, and/or components that exist or should exist and/or pollutant elements whose presence is tolerable in ambient air. Air quality is protected through efforts made so that ambient air can fulfill its proper function.

In Article 2 of Parmenkes No. 48 of 2016 concerning Office Occupational Safety and Health Standards it is written that: "The setting of Office K3 Standards is intended as a reference for Office Leaders and/or Building Managers in implementing K3 implementation in Offices to create a healthy, safe, and comfortable office. and healthy, safe, fit, performing and productive employees." Article 7 stipulates: “(4) In implementing the Office K3 plan as referred to in paragraph (1), the Head of the Office and/or Building Management must make efforts to work safety, occupational health, office work environment health, and Office Ergonomics in accordance with Office K3 standards.” Article 11 (1) Office K3 Standards include: a. work safety; b. occupational health; c. office work environment health; and D. Office Ergonomics. (2) Office K3 standards as referred to in paragraph (1) are intended to prevent and reduce occupational diseases and other diseases, as well as work accidents to employees, and to create safe, comfortable and efficient offices to encourage work productivity.

Attachment to the Regulation of the Minister of Health of the Republic of Indonesia Number 48 of 2016 concerning Office Occupational Safety and Health Standards Office Occupational Safety and Health Standards include in detail the hazards caused by biology and chemicals related to indoor air. Prevention of indoor air health is the obligation of
workplace managers and employers through efforts to prevent, improve, treat and restore workers’ health. Meanwhile, the workers themselves are required to create and maintain health in the workplace by complying with applicable regulations in the workplace.

Indoor air quality (IAQ) is the quality of the air in and around the space that has a relationship to the health and comfort of its occupants. According to the EPA IAQ are: the air quality within and around buildings and structures, especially as it relates to the health and comfort of building occupants. To minimize the risk posed by the air quality of a dirty room, it is necessary to take measures to deal with pollutants. One form of pollutant is particle droplets, organic compounds, metals, soil, dust, smoke. When humans inhale pollutants, the effects can be in the form of health problems in the lungs and heart at the same time or within a certain period of time. One form of handling room air quality is the presence of adequate air ventilation. Adequate ventilation will neutralize indoor air to the outside by bringing in clean air from outside. Anisa et.al's quote from the Occupational Safety and Health Administration (OSHA) describes the same thing, that: “Air quality in the room is disturbed due to inadequate ventilation (52%), there is a source of contamination in the room. (16%) and outdoors (10%), the presence of microbes (5%), contaminated materials from building materials (4%), and others (13%) (OSHA, 2011). This situation can be exacerbated if the building uses an Air Conditioner (AC) that is not maintained.” Being in an air-conditioned room for a long time can cause dry eyes, dehydration, respiratory problems, infectious diseases, headaches, fatigue.

5. Worker Health

All efforts are made to maintain and improve the highest level of public health carried out based on non-discriminatory, participatory, and sustainable principles in the context of the formation of Indonesian human resources, as well as increasing the nation's resilience and competitiveness for national development.

The participatory principle according to Davis and Newstrom (1989: 232) is the involvement of group thoughts and feelings or emotions that encourage them to contribute to achieving a group goal that involves shared responsibility. According to Cohen and Uphoff (1997) the concept of participation is divided into four types, namely: participation in decision-making; participation in the implementation of a program and policy; participation in obtaining benefits; and participation in evaluations. Participation in an implementation includes resources and financing, administration and coordination, policy explanation, and public access.

The right to health is accompanied by the responsibilities of all parties, both the government and the community, as stated in the considering section of Law Number 36 of 2009 concerning Health. Article 2 of the Health Law also states that: "Health development is carried out on the basis of humanity, balance, benefit, protection, respect for rights and obligations, justice, gender and non-discrimination and religious norms."

As described in the section considering Law Number 36 of 2009 concerning Health, "that every activity in an effort to maintain and improve the highest degree of public health is carried out based on participatory and sustainable principles towards the creation of Indonesian human resources to increase resilience and competitiveness. Public health is the responsibility of all parties, both the government and the community. Article 2 stipulates that health development is carried out with the principles of humanity, balance, benefits, protection, respect for rights and obligations, justice, and religious norms. Article 3 stipulates that everyone's awareness, willingness and ability to live healthy must be increased in an effort to increase productive human resources.

According to John Stuart Mill, human dignity is the ability to think and reason to
act based on observation, reasoning, and determining predictions as the basis for acting, in order to avoid loss or suffering. Meanwhile, Article 6 of the Declaration of the Rights of Man and of the Citizen 1789 implies that the meaning of human dignity is equality before the law: Law is the expression of the general will. It must be the same to all whether it protects or punishes. All citizens, being equal in the eyes of the law, are equally eligible to all dignities and for all public positions and occupations, according to their capacities, and without other distinctions than that of their virtues and talents. Diktip from Carozza, the meaning of human dignity in the understanding in France is more on brotherhood, equality, and communalism, so it does not prioritize the understanding of individual freedom as interpreted in America and England.

Human dignity is characterized by the ability to think and determine actions that in his opinion avoid harm or suffering for himself and others (John Stuart Mill), create happiness for himself and others in his community with a sense of brotherhood and equality in a shared communality (Declaration of the Rights) of Man and of the Citizen 1789 and Carozza in Ruth Horn and Angeliki Krasidou 2016).

6. Workers’ Health Rights in the Perspective of Indoor Air Quality and Accompanying Obligations

Law exists to create balance through restrictions. Humans often prioritize their own rights and neglect the rights of others. Humans can neglect their obligations but expect others to carry out their obligations. Law exists to balance the interests of individual legal subjects and the interests of legal subjects collectively in society. Individual health is in the interest of the individual, for example being productive for his economic survival and his family, but it is also a collective interest in the group in their work that has a productivity relationship with one another and the interests of the company where they work. The right to health that is protected by law is obligation to the individual concerned and other individuals to implement the achievement of the right to Health.

Workers and employers are legal subjects of workers’ health rights. the legal object is that workers’ health is a health effort, namely activities to maintain and improve health carried out by the government and or the community, as written in Law Number 36 of 2009 concerning Health. In the context of this research, health efforts, health care and disease prevention, include what are the rights of workers as legal subjects for health and the mutual obligations of workers and employers in fulfilling workers’ health. The right to workers' health is in the interests of workers because health is one of the supports to be productive so that it has economic value for the worker, in addition to having an interest for the employer because worker productivity supports the productivity of the company. Employers are required to comply with legal provisions to ensure the realization of the worker's right to health, but the worker himself/herself also has an obligation to fulfill his/her health as stipulated by law. In provisions related to workers’ health, sanctions for violations of Article 87 concerning Occupational Safety and Health are in the form of administrative sanctions against employers or employers ranging from the lightest in the form of written warnings to the heaviest in the form of revocation of business licenses. Sanctions for violations against individual workers must be regulated in work agreements (PK) and collective labor agreements (PKB).

Workers’ health rights are absolute rights where other people have the obligation to respect them even though they have no legal relationship with one another, but health rights can also be relative within the framework of the working relationship between workers and employers. Employers are required to ensure, as a specific example in this study, is that the air quality in the workspace is healthy, as a form of protection of workers’
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health rights as stipulated by law. The form of preventive efforts to prevent disease and maintain the health of workers.

In terms of the obligations on workers' health, apart from being a normative obligation as regulated in the provisions of the labor law and the provisions of the Health law as well as the provisions for buildings and buildings and the prevention of air pollution, it also contains a moral obligation that must come from within the individual, for example in order to maintain the air in the room. free from pollutants by not smoking, ensuring the circulation of clean indoor and outdoor air, avoiding the use of substances that cause indoor air pollution, and so on. Maintaining room air quality both by workers and employers is a legal obligation as well as a moral obligation. Humans obeying legal obligations are not only afraid of or avoid legal sanctions, but also because their minds are able to understand the benefits that they gain as individuals and as a group by being obedient to legal obligations. Complying with the obligation to strive for healthy air in the workspace is not only avoiding legal sanctions, but also awareness and reasoning that knows the benefits of being healthy is productive for itself as an employee and employer as well as a group of companies where he works. Indoor air quality is maintained when workers and employers understand the benefits to both parties, namely the interest in obtaining health as the basis for productivity.

Provisions on Health efforts in the Government Regulation of the Republic of Indonesia Number 88 of 2019 concerning Occupational Health, Article 2 paragraph (2) regulates the responsibility of the central and regional governments as well as the community towards the implementation of health which includes efforts to prevent disease. Articles 3 and 4 state that the implementation in question aimed at everyone who is in the workplace, carried out by the workplace manager which includes the fulfillment of the requirements for the health of the work environment.

Furthermore, Article 5 stipulates that efforts to improve Health must include: a. improvement of health knowledge; b. cultivating clean and healthy living behavior; c. Cultivation of Occupational Safety and Health at Work. Article five is intended so that Workers, Employers, Managers or Workplace Managers have knowledge and apply a clean and healthy lifestyle and play an active role in realizing a healthy and safe Workplace as written in the explanation of Articles 5 and 6 of this PP. Community participation in the implementation of Occupational Health as written in Article 16 of this PP includes, among others, in the form of supervision, guidance and counseling, as well as information dissemination. Healthy work environment in International is the scope of monitoring of the Committee on Economic, Social and Cultural Rights against the International Covenant on Economic, Social and Cultural Rights. Indoor air quality is related to occupational health. “Occupational Health is an effort to improve and maintain the highest degree of health for employees in all positions, prevention of health deviations caused by employee conditions, protection of employees from risks due to factors detrimental to health, placement and maintenance of employees in a work environment that adapts between employees and employees, with humans and humans”

The right to health is interdependent with other rights, for example the right to work, the right to an adequate standard of living, the right to education, the right to information and participation, the right to use the results of scientific progress. The state guarantees the right to health through the relevant laws and regulations. Meanwhile, the participation of non-state parties such as individuals, companies, non-governmental organizations (NGOs), non-governmental organizations (NGOs), and health workers, each has a role as regulated in the relevant laws and regulations.

WHO and UNICEF Alma Ata Declaration at the International Conference on Primary Health Care 1978, stated that health is a good physical and psychological state, not
only free from disease but also socially good, then this right to health is a global social goal whose achievement must include the participation of the social and economic sectors, not only the participation of the health sector.

Employers' participation in the implementation of laws made on the responsibility of the state includes regulations on employment, health, environment, buildings and buildings. Meanwhile, local financing at the workplace for the availability of air quality in a healthy space is the responsibility of the employer which is also a form of participation in the implementation of the law in an effort to achieve worker health. Besides the participation of workers themselves to maintain air in a pollution-free space through the actions of individual workers as a form of compliance with the implementation of applicable laws in Indonesia and in line with international instruments in Article 4 of the 1978 Declaration of Alma-Ata on Primary Health Care, that: "people have the right and duty to participate individually and collectively in the planning and implementation of their health care."

The Vienna Declaration states that individual and group participation is indispensable in terms of rights that are directly related to physical and spiritual well-being, so participation is not only of a voting nature, but requires provisions regarding participation in providing information and being informed. Participation requires adequate knowledge of what is to be conveyed to the community, as well as individual participation, for example related to health, also requires adequate knowledge both from formal education, seminars, scientific discussions.

The basis of the state in establishing and implementing laws as stipulated in the law on Occupational Health and Safety (K3) are the juridical, philosophical, and sociological aspects. Philosophically, humans have certain rights, both naturally as humans and rights that are obtained and protected legally. Obligations are individually and collectively. Humans as workers have rights and obligations that are imposed by applicable law, the law is formed by considering the philosophical aspects of human health with dignity and dignity as a human being who has reason to create happiness for himself as an individual and live together communally or socially. Health is sociologically the basis for humans to be able to meet their needs, including economic needs. Regarding workers' health rights, Article 1 point 1 of the Health Law: "Health is a healthy state, both physically, mentally, spiritually and socially that allows everyone to live socially and economically productive lives".

The obligation of the individual in his role is not only to maintain his own health, but also to maintain his behavior so as not to violate the health rights of others, as described in Article 10 and Article 11 of the Health Law as follows: "Everyone is obliged to respect the rights of others in an effort to obtain a healthy environment, physical, biological, and social. Everyone is obliged to behave in a healthy life to realize, maintain, and promote the highest possible health. Everyone is obliged to maintain and improve the health status of others who are their responsibility."
Lieber views that rights and obligations are two things that support each other, he calls it reciprocal.

CONCLUSION

Protection of the health rights of workers in Indonesia from the perspective of indoor air quality is available with the existence of instruments in the form of laws and regulations related to employment; health; environment; as well as buildings and buildings in which all show interrelatedness and harmony to achieve worker health. As is known, healthy indoor air is one of the elements that workers need as humans to breathe air that meets health standards in order to avoid illness caused by unhealthy air. The state guarantees it with the availability of laws and regulations that are sourced from the mandate in the constitution of the 1945 Constitution, in harmony with international instruments and the opinions of experts.

Workers as well as employers as people have the right to health and air quality in a healthy space, this right is accompanied by an obligation to participate in fulfilling the health rights of others from the perspective of indoor air quality. The application of rights and obligations is carried out by employers as well as workers, in line with the principles of participatory and reciprocal, mutually beneficial for the employer and the workers themselves, considering that the health of workers is one of the elements of productivity for both parties. togetherness in a harmonious working relationship.

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