



THE PROBLEM OF CHILD LABOUR IN INDIA: ISSUES, MAGNITUDE AND POSSIBLE REMEDIES

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Abstract--Child labor is one of the evils of the society both of poverty and illiteracy. It has been in existence for many decades and has thus taken firm root in India. However with the era of industrialization, the use of child labor in hazardous places has increased. India has the dubious distinction of employing the largest number of children in the world. According to UNICEF, 14% of the children between the ages of 5-14 in India are engaged in child labor. The use of child labor in chemical factories and hazardous places has become a matter of great concern. This not only prevents the child from taking formal education, but affects the mental and physical health. The major factors responsible for child labor are poverty, low literacy rate, unemployment, unequal distribution of wealth, lack of awareness among people regarding education etc. The provision for the prohibition of child labor has been provided in the Indian Constitution and in the other legislations. Apart from this various commissions and committees have been constituted for the protection and upliftment of children. Despite all the steps the practice of child labor is still going on. So the need of the hour is not only to make new laws but effective implementation of the existing laws.

Key Words: Child, Unemployment, Child labor, poverty, child protection laws

INTRODUCTION

In this era of social change, social activities and reforms are directing their attention towards mankind in the context of development and progress. Many social evils that plague society are being questioned and reformations are being soughtⁱ. Child labour in India is a matter of deep concern. It is a social problem of serious dimension. It is essential for every creature on earth to work and to do labour. If a creature does not work, he has no moral right to use and consume the facilities provided by nature. But such labour and work should be according to the physical and mental development especially in the case of children, because during childhood they require special attention, care and nurture. In a civilized society child welfare needs to be given prominenceⁱⁱ. The welfare of entire society as well as the nation depends on health and well being of the children because children are a national asset. Absolute rights of parents over the destinies and the lives of their children has in the modern changed social conditions, yielded to the considerations of their welfare as human beings so that they may grow up in a normal balanced manner to be useful members of the societyⁱⁱⁱ. Every child in the country has a legitimate claim and is entitled to its share in the finance of the republic for harmonious and comprehensive development of its personality. As a plant needs protection, nourishment and proper environment to grow into a big fruit-bearing tree, a child also needs protection, promotion, nourishment and proper environment to grow into a useful and responsible citizen to serve the nation.” But the socio-economic environments of our country have adversely affected the life as well as growth of some children and forced them to work since their childhood.

Child labour is one of the major problems the world is facing today. The prevalence of child labour has been more or less in all periods of time, but varied in its nature and dimension, depending on the existing socio-economic and political structure of society^{iv}. In earlier times, children used to work in their family circle and this kind of work was practically free from harmful effects. The children grew without ill-treatment and without being exploited. But later on, a practice was developed to employ child labour in hazardous occupations. In its harmful forms, it affects the physical and mental development of child. Millions of children at the global level are engaged in labour which is hindering their educational development and future perspective. Many of them are involved in the worst forms of child labour that cause irreversible physical and psychological damages that even threaten their lives.^v

The existence of child labour is not a recent phenomenon in India. References to domestic slavery are found in Kautilya's Arthshastra, where children below eight worked in the households of many nobles. In medieval times, children were engaged as trainees under artisans and craftsmen. In the pre-industrial revolution period, the phenomenon of child labour was prevalent all over the world. This problem was not as visible as it is today because of low dispersion of child labour. During the post industrial revolution period, child labour became a growing phenomenon not only in industrialized countries but also in developing countries^{vi}. Because of a rapid growth in



urbanization, child labour in cities has also greatly increased. The Department of Labour in United States of America, in its report has claimed that India has the largest number of children working as labourers i.e. both paid and unpaid, throwing their precious childhood to toil almost for 12 hours every day on an average^{vii}. Child Labour involves two words i.e. 'Child' and 'Labour'. 'Child' may be defined as a person below a certain age determined by law or custom. Child defined by the Constitution of India is anyone below the age of 14 years (Article 24).⁷ According to Article 1 of United Nations Convention on the Rights of Child, "a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier." And 'Labour' may be defined as work either manual or mental undertaken for monetary consideration.^{viii} Hence in the Indian context child labour usually means work that is done by children under the age of 14 that is exploitative and restricts or damages a child's physical, emotional, social and spiritual growth. This also includes blocking access to education.

NATURE AND MAGNITUDE OF CHILD LABOUR IN INDIA

India has the dubious distinction of employing largest number of children in the world. In 1981, the country had total of about 22.3 crore work force in which the number of working children were 1.36 crore which constituted about 6 per cent of the total work force. But in 1991, the country had a total work force of 31.4 crore that included 1.13 crore working children which constituted about 3.51 per cent of the total working population. Whereas in 2001, the country had a total work force 40.22 crore which included 1.26 crore working children which constituted about 3.13 per cent of the total working population. It is clear from the above analysis that the percentage of working children has decreased over the preceding two decades. The State-wise distribution of working children shows that Uttar Pradesh has the highest number of working children followed by Andhra Pradesh, Bihar and Madhya Pradesh. This analysis shows that States having a large population below poverty line have a higher incidence of child labour and this is accompanied by higher dropout rates at school level^{ix}.

Census enumerates only those workers who are engaged in economically productive work and working children are counted as part of the labour force. The Census figures are contradicted by several Non-Governmental Organizations (NGOs) and also do not reflect the actual picture of working children, as the census ignores the "No where children" which is a residual category of child labour who are neither at school or reported to be economically active as full time or marginal workers. They are either doing nothing or performing household work not classified as economic activity and has not been recorded in either of the categories of full employment or marginal child labour. Some NGOs believe that the figure of child labour is near to 40 million. More than 90% of working children are in the rural areas and most of them are employed in agricultural and allied activities^x. Maximum numbers of working children are in disguised form. A universal difficulty in obtaining accurate data may be that individuals fail to report child labour participation during surveys, for fear of prosecution. Most of these children are engaged in home based occupations, where it is difficult to identify or document their labour^{xi}. Even when the children are working in factories the information is not forthcoming because it is generally known that employing child labour is illegal. Although the figure for the number of child labourers varies, they are all significantly high.

According to UNICEF (2006) an estimated 14 per cent of children aged 5-14 in India are engaged in child labour activities, including the production of goods, often inexpensive, for direct export by large multinational companies. Most of these children work in the informal economic sector, largely beyond the reach of institutional oversight and often in private homes doing subcontracted work.^{xii}

CONTRIBUTING FACTORS FOR THE PREVALENCE OF CHILD LABOUR

There is no single determining factor for the prevalence of child labour. Some of them are poverty, unemployment, underemployment, indebtedness, unequal distribution of income and wealth as well as productive assets, low rate of literacy, shortage of schools, higher dropout rates, seasonality of parents' occupation, superstitious beliefs, socio-cultural factors like pressure to continue family occupation as well as lack of knowledge and awareness about child rights and related acts. The causes of child labour are complex, but key problems are that too many people can't afford school fees, or they send their kids to work in the streets, fields and factories because they find it difficult to survive without extra income. Child labour earnings are a source of income for poor families. Children's work was considered essential to maintaining the economic level of households, either in the form of work for wages, of help in household enterprises or of household chores in order to free adult household members for economic activity elsewhere.^{xiii}



Poverty is widely considered the top reason why children work in inappropriate jobs for their ages. The parents of child labourers are often unemployed or underemployed, desperate for secure employment and income. Yet it is their children - more powerless and paid less – who are offered the jobs. Children are often employed and exploited because, as compared to adults, they are more vulnerable, cheaper to hire, easy to fire and are less likely to demand higher wages or better working conditions as well as unable to form labour organizations and mazdoor unions. Some employers falsely argue that children are particularly suited to certain types of occupation because of their small size and “Nimble Figure”. Being a result of poverty, child labour also perpetuates poverty. Many working children do not have the opportunity to go to school and often grow up to be unskilled adults trapped in poorly paid jobs and in turn will look to their own children to supplement the family’s income. A cycle of poverty is formed and the need for child labour is reborn after every generation.

The combination of poverty and the lack of a social security network form the basis of the even harsher type of child labour—bonded child labour. For the poor, there are few sources of bank loans, governmental loans or other credit sources, and even if there are sources available, few Indians living in poverty qualify. Here enters the local moneylender. Children are pledged by their parents/guardians to employers in lieu of debts or payment. The rates of interest on loans are so high that the amount to be repaid accumulates every year, making repayment almost impossible^{xiv}. Other factors for perpetuation of child labour include parental illiteracy, absence of universal compulsory primary education, social apathy and tolerance of child labour, ignorance of the parents about the adverse consequences of child labour, lack of other services, such as health care, public opinion that downplays the risk of early work for children and ineffective enforcement of the legal provisions pertaining to child labour^{xv}.

In order to assess the ground situation, the labour ministry appointed a 16-member committee under the chairmanship of M.S. Gurupadaswamy. In its report the committee has observed, “Extreme poverty, lack of opportunity for gainful employment and intermittence of income and few standard of livings are the main factors for the wide prevalence of child labour. Though it is possible to identify the child labour in the organized sector, which forms a minuscule of the total child labour, the problem relates mainly to the unorganized sector where utmost attention needs to be paid. The problem is universal but in our case it is more crucial.” The committee has revealed that the child labour problem is a result of poverty and elimination of poverty in itself is a great problem. In socially and economically disadvantaged families, children are regarded as living assets who can lend their helping hands for improving the family’s economic conditions. Poverty is regarded as a significant cause, but not the sole cause of child labour. There are other factors also which play a role in the genesis of this phenomenon^{xvi}. For instance, death of adult breadwinners in the family during their childhood propels children to join the labour force. Based on the recommendations of Gurupadaswamy Committee, the Child Labour (Prohibition and Regulation) Act was enacted in 1986.

CONSTITUTIONAL PROVISIONS FOR THE ERADICATION OF CHILD LABOUR

The framers of Constitution have recognized the need for granting special protection to children. Therefore, special provisions ensuring child labour welfare have been incorporated in our National Charter in a view of dictum “*children are the wealth of nation*”. Such provisions are directly as well as indirectly related to the protection of childhood and elimination of child labour in India^{xvii}. Special provisions ensuring justice to children have been incorporated in the Constitution of India. There are some Fundamental Rights, which expressly provide for safety and welfare of children. Article 15(3) states that nothing in this Article shall prevent the State from making any special provision for women and children”. This Article empowers the State to make special laws for giving favorable treatment to children. The objective of this Article is to avoid any controversy and demonstrate the concern of the framers of the Constitution that the States shall strive to promote the welfare of the children. Similarly Article 24 provides prohibition of employment of children in factories. The Article states that, “No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment”. This provision directly prohibits the employment over and above the labour laws on the subject while interpreting the nature and extent of hazardous employment. The Supreme Court in the Labour Working on Salal Project vs. State of J&K has held that construction work is a hazardous employment and no child below the age of 14 years can, therefore, be allowed to be employed in construction work and this constitutional prohibition must be enforced by the Central Government^{xviii}.

Apart from the Fundamental Rights, the Constitution of India provides Directive Principles of State Policy under Part IV which gives policies and principles pertaining a special security to all including children. Under Article 39(e) the State is put under an obligation to direct its policy towards securing that the tender age of children is not

abused and that they are not forced by economic necessity to enter avocations unsuited to their age and strength. Under Article 39(f), it is also assured that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. While deciding the Public Interest Litigation in *M C Mehta vs. State of Tamil Nadu*^{xix}, the apex court was of the view that the employment of children in the match factories directly connected with the manufacturing process up to final production of match sticks or fireworks should not at all be permitted. The Constitution (Eighty-sixth Amendment) Act, 2002 has inserted a new Article 21-A in the existing Article 21. The new Article 21-A deals with Right to Education -it provides that "The State shall provide free and compulsory education to all children of the age of six to fourteen years in such a manner as the State may, by law, determine." Further Article 45 states that "The State shall endeavor to provide free and compulsory education for all children until they complete the age of fourteen years." Moreover Article 51A of the Constitution was amended and a new clause (k) was added. It states that "who is a parent or guardian to provide opportunities for education to his child or as the case may be ward between the age of six and fourteen years."^{xx}

LEGISLATIVE MEASURES FOR THE ERADICATION OF CHILD LABOUR

Along with the Constitutional provisions to eradicate child labour problem, various legislations have been enacted by both Central as well as State Governments from time to time laying great emphasis on physical, mental, moral and special development of children. Some legislations had also been enacted by the British Government to control child labour in India like, Indian Factories Act 1881, Indian Mines Act 1923 etc. In 1929 Royal Commission on Labour was established to enquire into various matters relating to labour in India. On the recommendation of this commission, the Children (Pledging of Labour) Act 1933 came into existence. But number of legislations relating to child labour were passed after independence such as the Factories Act 1948, Plantation Labour Act 1951, Mines Act 1952, Merchant Shipping Act 1958, Motor Transport Workers Act 1961, Apprentices Act 1961, Beedi and Cigar Workers (condition of employment) Act 1986 have been enacted in order to improve the working condition as well as to ban the employment of children in hazardous occupations. The Bonded Labour System Act of 1976 fulfils the Indian Constitution's directive of ending forced labour. The Act "frees all bonded labourers, cancels any outstanding debts against them, prohibits the creation of new bondage agreements, and orders the economic rehabilitation of freed bonded labourers by the state". But the regulations and laws made in this regards have not been able to meet the challenges effectively, because there was no procedure laid down in any law for deciding in which employments, occupations or processes, the employment of children should be banned. There was also no law to regulate the working conditions of children in most of employments where they were not prohibited from working and working under exploitative conditions.

So in order to combat such deficiencies in Child Labour Laws, the Child Labour (Prohibition and Regulation) Act 1986 was promulgated to lay down a procedure to add modifications to the schedule of banned occupations or processes, to regulate the conditions of working children in employment where they were not prohibited from working and to lay down the enhanced penalties for employment of children in violation of provision given under this Act. The Act regulates the condition of employment in all occupations and processes not prohibited under the Act (Part III) and fixes working hours, holidays, health and safety of the children etc. Any person who employs any child in contravention of the provisions of section 3 of the Act is liable for punishment with imprisonment for a term which shall not be less than three months but which may extend to one year or with fine which shall not be less than Rs. 10,000 but which may extend to Rs. 20,000 or both (Section 14). The Central and the State Governments enforce the provisions of the Act in their respective spheres^{xxi}. The Act prohibits employment of children in certain specified hazardous occupations and processes and regulates the working conditions in others. The Act prohibits employment of children in 15 occupations and 57 processes contained in Part A & B of the Schedule to the Act (Section 3). The list of hazardous occupations and processes is progressively being expanded on the recommendation of Child Labour Technical Advisory Committee constituted under the Act.

The Central Government on the recommendation of the Child Labour Technical Advisory Committee made amendments in Section 4 of the Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986) on 10th October 2006. In the schedule to the Child Labour (Prohibition and Regulation) Act, 1986 in Part A under the heading "Occupation" was added item (14) "Employment of child as domestic workers or servants" and Item (15) "Employment of children in dhabas (road-side eateries), restaurants, hotels, motels, tea-shops, resorts, spas or other recreational centers." International Labour Organization (ILO) described children used as domestic worker or servant as new form of slavery^{xxii}. A toll free 24 hour telephone helpline 1098 for children in distress can be accessed in 72 cities of the country. This number is available to any child or concerned adult on his or her behalf.



This helpline is easily remembered in Hindi as “*Dus, Nau, Aath*”. The rescued children will be given a -monthly stipend of only Rs. 100/- and escorted to their Home State by the police under a government scheme for rehabilitating child workers. The Labour Ministry has sought necessary support from the State Governments, Non-Governmental Organizations, Civil Society Organizations and other stakeholders in enforcing the ban on employment of children as well as their support in rehabilitating children withdrawn from work due to this ban^{xxiii}.

The most vulnerable and exploited children of all - as well as the most difficult to protect - may well be those in domestic service. They are often poorly paid or not paid at all; their terms and conditions are entirely at the whim of their employers and take no account of their legal rights; and they are deprived of schooling, play and social activity, not to mention emotional support from friends and family. What is more, they are vulnerable to physical and sexual abuse. Government initiatives for the betterment of child labour, To cope up with the problem of child labour, Central and State Governments have constituted various Committees and Commissions from time to time viz., Labour investigation Committee, Labour Bureau and National Commission on Labour. The Government of India formulated the National Child Labour Policy in 1987, which focused on project-based action plans and general development programmes for benefiting children. Similarly, the government’s approach towards the child problem has been described in National Common Minimum Program (May 2004). The steps to be taken for elimination of child labour in the country include rehabilitation, implementation of the child labour projects, grants-in-aid to the voluntary agencies and International Program for the Elimination of Child Labour etc. For the rehabilitation of working children, special schools and canters have been established where there is provision of informal education, vocational training, nutrition etc. for the children relieved from work^{xxiv}. The National Resource Centre on Child Labour has been providing institutional support to various child labour eradication programmes^{xxv}.

NATIONAL POLICY ON CHILD LABOUR

The Policy seeks to adopt a gradual and sequential approach with a focus on rehabilitation of children working in hazardous occupations and processes in the first instance. In pursuance of National Child Labour Policy, the NCLP (National Child Labour Projects) Scheme was started in 1988 to rehabilitate child labour. This is the major scheme for the rehabilitation of child labour^{xxvi}. Under the scheme, Project Societies at the district level are fully funded for opening up of special school/Rehabilitation Centers for the rehabilitation of child labour. The special schools/Rehabilitation Centers provide non- formal education, vocational training, supplementary nutrition, stipend etc. to children withdrawn from employment. The Scheme seeks to adopt a sequential approach with focus on rehabilitation of children working in hazardous occupations and processes in the first instance. Under the Scheme, after a survey of child labour engaged in hazardous occupations and processes has been conducted, children are to be withdrawn from these occupations and processes and then put into special schools in order to enable them to be mainstreamed into formal schooling system. Convergence with the ongoing development programmes and schemes of the Department of Education, Rural Development, Health and Women and Child Development would be critical for the ultimate attainment of the objective of elimination of child labour in a time bound manner. These programmes if properly utilized for the benefit of the child and his family will diminish the compulsions to send the children to work. There are several other schemes and programmes being implemented by different ministries and departments to improve the overall status of children in the country. These are Integrated Child Development Services (ICDS) Scheme, Sarva Shiksha Abhiyan, National Rural Health Mission, Pulse Polio Immunization Programme, National Programme for Education of Girls at Elementary Level, Kasturba Gandhi Balika Vidyalaya, Mid-Day Meal Scheme, Integrated Programme for Street Children,- Integrated Programme for Juvenile Justice, Shishu Grih Scheme etc.

A number of National Institutions such as the V.V. Giri National Labour institute (VVG NLI) and the National Institute of Rural Development (NIRD) and some State Level Institutions are playing an important role In the areas of training and capacity building of government functionaries, factory inspectors, and officials of Panchayati Raj Institutions, NCLP Projects directors and the heads of Non-Governmental Organisations (NGOs). These institutions have also made a significant contribution in the areas of research and surveys, awareness raising and sensitization and bringing the discussions on this issue to the forefront^{xxvii}.

CONCLUDING REMARKS

The problem of child labour is global in nature. The welfare of any society as well as a nation depends upon the health and well being of children because they are national assets. Obviously, children need special attention and protection because of their tender age and physique and mental immaturity as well as incapacity to look after themselves. Poverty and illiteracy are the main causes that propagate child labour but there are also other factors



such as large size of family with one or none working parent or adult, traditional family occupations, ineffective law enforcements, casteism, lack of gainful employment opportunities, lack of awareness of child welfare programmes, inaccessibility to schools, rapid growth of population, lack of proper implementation of poverty eradication and employment generation schemes etc. in socially and economically disadvantaged families, children are regarded as living assets who can lend their helping hands for the betterment of family's economic conditions. There are special Constitutional provisions and legislative measures enacted by both Central as well as State Government. Moreover various provisions have been made at the international level to eradicate the children's problems from time to time laying special emphasis on physical, mental, moral and special development of children. But due to the poor implementation of existing laws, rampant corruption among the authorities, some practical and ethical problems and lack of awareness about these acts and programmes, the problem of the child labour could not yet be eradicated to the desired extent. The Government has established various committees and commissions for eradicating this evil as well as for regulating the working conditions and improving the socio-economic condition of these children. It is necessary to point out that child labour exists in our country primarily due to the reason that human beings are willing to exploit children for their own advantages and other economic benefits. However, it is felt that the problem of child labour can be tackled only when the attitude and morality of parents, employers, exploiters as well as society at large undergoes a paradigm shift. No doubt, child labour is an intense socio-economic problem not only at the national level but also at the global level that requires a long-term multi-pronged strategy to be carried out on a continuous basis. The following measures can be suggested for eradication of child labour as well as for the betterment of these children:

- The age for the definition of children should be increased from 14 to 18 years because up to this age, the physical and mental growth of children requires special attention. The UN Convention on Child Rights also defines a child as a person below the age of 18 years.
- This is clear from the above discussion that the poverty is the main cause of child labour. Therefore, the socio-economic conditions of the parents of these children should be improved through various poverty alleviation and employment generation programmes.
- Illiteracy is another main cause of child labour. Therefore, the Government should give top priority to education, mainly technical and professional education to these children so that they may be able to take up gainful employment in well paid jobs in the modern sector of the economy. For this purpose, Government should provide free and compulsory education to all children up to certain levels (i.e. may be up to +2 level), make ample provision for scholarships and provide finances at low rate of interest for vocational and higher education.
- There should be proper evaluation and monitoring of all programmes initiated by the Government pertaining to the welfare of children. The Government and Judicial system should ensure the enforceability and implementation of various laws, rules and regulations pertaining to child labour. Awareness campaigns are very important in this regard.
- Due to the lack of awareness about the basic right of child and rights of child labour as provided under various acts and laws and especially under Child Labour (Prohibition and Regulation) Act 1986, these children are exploited by employers. Therefore, the study of these rights should be included in the elementary education like, fundamental rights.
- The need of the hour is to attract public attention and involve every person in this fight against child labour use because without community participation hundred per cent eradication of child labour is not possible. Ordinary people can help reduce the incidence of child labour by learning about the issue, supporting organizations that are raising awareness, and providing direct help to the child concerned.
- Special programmes like poster writing, essay writing, debates, and painting competitions; sports and cultural programmes; street plays, radio and TV shows, photo exhibitions, press conferences, public rallies and panel discussions on child labour may be organised.
- Media, both print and electronic, should play an important role for eradicating this problem as well as to create awareness in the society so that no child falls in this.
- The problem of child labour is more complex in rural areas because near about 90 per cent of working children are engaged in unorganized sector especially agricultural and allied activities in the rural areas. But there is no agency to look after and regulate the working conditions of these children. Therefore, the Government should establish agencies at grassroot level so that these agencies can provide the actual figure of working children and to keep a check on their exploitation. The Panchayati Raj Institutions have a very vital role to play in this movement



against child labour. Special child labour welfare cell should be established at village, panchayat, block, district level to hear the problem of child labour.

- The Government has banned the employment of children as domestic servants as well as in dhabas, hotels, motels, tea shops, spas and other recreational centres. No doubt this is very good step for removing child labour because the children employed in road side eateries and highway dhabas are most vulnerable and are easy prey to sex and drug abuse. The ban on employment of children in these occupations is not a complete solution but the Government should make proper rehabilitation policies otherwise poverty and hunger may drag them into these occupations.
- The role of voluntary organizations or Non-Governmental Organization and self help groups should be encouraged for the rehabilitation of child labour. No doubt these organizations are playing very important role for eliminating this evil. But the government should provide more financial assistance to these NGOs for rehabilitation of children who are relieved from the work due to the ban on employment in domestic activities, dhabas, hotels, tea-shops etc.

In nutshell, we can conclude that poverty eradication and employment generation schemes, combined with educational reforms to provide free or affordable access to quality education (i.e. technical and vocational) with an interesting, innovative and job oriented curriculum for all, as well as proper rehabilitation schemes can effectively eliminate child labour problem forever. Finally it is felt that the problem of child labour can only be eliminated if the government provides basic minimum human requirements i.e. food, cloth and shelter (Roti, Kapra aur Makaan) to needy people without any discrimination. Enforcement is the key aspect that is lacking in the government's efforts. If poverty is addressed, the need for child labour will automatically diminish. As children are greatest human assets and the future of our nation therefore sustained efforts have to be made to eradicate this menace of child labour for once and forever.

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