

The Urgency of Changing the Status of Indonesian Seamen from Migrant Workers to Seafarer With Permanent Legal Enforcement Through the Influence of Good Corporate Governance Policies on the Welfare of Seafarer

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Abstract

Despite the status of Sailors or Seamen Working as Members of Ships (Seafarers) as a group it seems to have been placed vaguely among the legal terms used in the recent discourse on international labor migration and circulation which is in stark contrast to the conceptual location of Seafarers especially for those working in denationalized international maritime space. The framework in this study outlines material regarding the flow of writing in describing, analyzing, elaborating, and finding answers to legal issues regarding the urgency of changing the status of Indonesian seamen from Migrant Workers to Seafarers with permanent legal force which in other words can be interpreted as the influence of good corporate governance on the welfare of the Seafarer. The purpose of the study was to determine the direct and indirect influence of the urgency of changing the status of Indonesian Seamen from Migrant Workers to Seafarer with permanent legal force through the influence of Good Corporate Governance Policies on the Welfare of the Seafarer. The design used in this research is associative with survey method. The population in this study was the Seafarer. The sampling technique used in this study was purposive sampling with a total sample of 66 respondents. The data collection technique uses a questionnaire that has been tested for validity and reliability. This research uses path analysis method with Smart Partial Least Square software ver. 3. The results of this study indicate that the *faieness* has a direct positive effect on the Seafarer Welfare, the *transparancy* has a direct positive effect on the Seafarer Welfare, the *Accountability* has a direct positive effect on Seafarer Welfare and the *Responsibility* has a direct positive effect on the Seafarer Welfare.

Introduction

The reform era is expected to bring real changes in the prosperity of the nation and state. However, it turns out that up to now we have not been able to show real changes in building a legal, social, political, economic and cultural condition that is more transparent and democratic, especially regarding workers or laborers (Androniceanu, 2021). The biggest obstacle is the weakness in the employment law system which is more structural, cultural and substantial.

Shipping is a unified system consisting of transportation in waters, ports, safety and security, as well as maritime environmental protection (Mohebbi et al., 2020). Therefore, shipping guidance in the form of regulation, control and supervision is controlled by the state and guidance is carried out by the Central Government. This is so that the development of the national and international strategic environment is in line with developments in science and technology that encourage private participation and a climate of business competition (World Health Organization, 2020). Also encouraging, regional autonomy, accountability of state

administrators, and Job Creation which cannot be separated from the influence of the current world, where there are millions of different Seafarers, competing to capture some of the market share for Seafarers to work as Ship Crew and not as Migrant Workers or Migrant Workers (Hargreaves et al., 2019).

The maritime paradigm, as has been referred to as maritime insight or archipelagic insight, is very important in Indonesia's national development as a maritime nation. This re-interpretation of the maritime paradigm is important to do in the current context (Ferdiles & Addar, 2023). This re-interpretation must not be harmed by different interpretations of a word or terminology, because work as a Seafarer should have specificities that include very specific things, namely that a Seafarer is required to have an international standard certificate according to International Maritime Organization (IMO) Standards (Turčinović et al., 2019). through the Standard of Training Certification and Watchkeeping for Seafarers (STCW) Manila Amendments 2010 including competency and supporting certificates used to operate sea transportation modes, which more than 80% influence the flow of goods both domestically and abroad.

"Every citizen has the right to work and a living worthy of humanity," reads Article 27 paragraph (2) of the 1945 Constitution of the Republic of Indonesia (Harisman, 2021). "The economy is structured as a joint effort based on the principle of kinship," reads Article 33 paragraph (1), and "legal protection for workers or laborers" is the aim and realization of basic rights. It is a breach of human rights to violate fundamental rights that are guaranteed by the constitution. So, it's a true breach of humanity to ignore the rights of workers and laborers (Donnelly, 2019). Rights such as the right to exist, the right to religious practice, the right to be free from torture, the right to equal treatment under the law, etc., are included in these legislative protections.

A worker or laborer and an entrepreneur or employer enter into an agreement that specifies the terms of employment and the rights and responsibilities of both parties, as stated in Law Number 13 of 2003 concerning Employment. Nevertheless, according to the Commercial Code (KUHD), a Maritime Work Agreement is defined as follows (Lahibu et al., 2022): "What is called a maritime work agreement is an agreement entered into between a ship entrepreneur on one side and a worker on the other side, where the latter party binds himself to carry out work under the orders of the ship's founder as captain or ship's crew with wages."

The making of a Maritime Work Agreement must be made in writing under the threat of being null and void or can be cancelled (Butler, 2022) . This differentiates between the Maritime Work Agreement between the ship entrepreneur and the ship's captain and officers, which can only be done in ordinary writing, while the Sea Work Agreement between the ship entrepreneur and the ship's crew must be done in writing and held in front of an authorized employee. appointed by the government, namely the Harbor Master.

In reality, the welfare of Ship Crews has not received a profitable portion in every agreement contained in the Sea Work Agreement, there are still many Ship Crews who are paid less or have not received a profitable portion in every agreement contained in the Sea Work Agreement than most workers on land. In the process, signing an agreement requires a seafarer to make peace with the ship's captain, trader or merchant agent. This negotiation process is in stark contrast to the difficulties experienced by Seafarers. Regardless of the difficulties experienced, it turns out that it all starts with differences in terminology and legal umbrella between migrant workers and ship crew (Kadfak & Widengård, 2023).

Those who travel from one nation to another in search of employment are known as migrant workers or ship crew, as defined in article 11 of the International Labor Organization's (ILO) Convention on Migrant Workers of 1949 (no. 97). To put it simply, Indonesian migrant workers

are those who leave the nation for the purpose of finding gainful employment, whether it be legally or illegally. In addition, the definition of Indonesian Workers (TKI) is every Indonesian citizen who satisfies the requirements to work abroad in an employment relationship for a certain period of time and receive wages, as stated in Article 1 paragraph (1) of Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Workers Abroad.

Over time, changes (reforms) need to be made that can guarantee the welfare of migrant workers who work on merchant ships, commercial ships and cruise ships. This is so that they are no longer only within the scope of migrant workers, but must also be able to be changed and treated as full crew members in accordance with the maritime paradigm or nautical outlook. However, with the promulgation of Law Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers, which in this case revokes and declares as not applicable Law Number 39 of 2004 concerning the Placement and Protection of Indonesian Migrant Workers, instead considering Ship Crews as Indonesian Migrant Workers.

Webber's theory (2018) in fact supports the Legal Positivism Theory and its entire hierarchy that reform of statutory regulations is an effort to realize the protection of human rights, so that it is in line with the hierarchy of the mandate of the Constitution of the Republic of Indonesia. Re-interpretation of the maritime paradigm is important in the current context, as part of the development and realization of Good Corporate Governance policies so that there is no discredit to the welfare of ship crews and workers on land.

The root of the problem of not reaching an agreement for the welfare of ship crews, especially those working on merchant ships, commercial ships and cruise ships, is the bad state civil service system in Indonesia, which in principle consists of two important things (Friston, 2019), namely (1) internal problems of the state civil service system itself, and (2) external issues that affect the function and professionalism of the state civil service. Apart from that, problematic situations related to internal issues in the civil service system can actually be analyzed by paying attention to the subsystems that make up the state civil service.

The government's failure to carry out reforms related to these subsystems has given rise to bureaucrats who are characterized by moral hazard and also gaps in the ability to carry out their duties and responsibilities (lack of competencies). The struggle for aspects of authority and power in state administration between Ministries has never reached the point of a coherent collective agreement and has always been an open issue, especially for the Ministry that is specifically in charge of it. On the one hand, ship crew are required to have seaman documents and must go through a strict recruitment process according to their position on the ship (Miyoshi, et al., 2022). Thus, in essence, a ship crew member is someone who works professionally and has a special position which definitely differentiates him from ordinary migrant workers, because the ship crew members who work must also carry the good name of the nation and represent the Indonesian state accordingly and are at stake in their position.

Sudikno Mertokusumo, a law professor at Gajah Mada University, explains that the process of legal discovery involves judges and other legal officers who are tasked with applying the law to specific cases. In essence, legal discovery is the process of remembering general regulations, or *Das Sollen*, and applying them to specific cases, or *Das Sain* (Aulia & Muksin, 2020). The gap between *Das Sollen* and *Das Sain* in improving the welfare of ship crews has had a significant impact on reducing ship care and maintenance processes which risk threatening the safety of passengers and goods carried by ships. Apart from that, it also has an impact on low commitment, motivation and loyalty of ship crew towards the company and a decrease in work productivity levels, as well as causing an escalation of industrial relations disputes which can lead to work strikes and demonstrations. In fact, to create harmonious working relationships,

all forms of symptoms that lead to disputes must be avoided. This research aims to determine the effect of Fairness on the welfare of Ship Crew.

Methods

This type of research according to the level of explanation is oriented to the position or standing of the research variables. This research is included in the type of Explanatory Research, which according to Sugiyono (2018) Explanatory Research is research that has the aim of testing a previously formulated hypothesis and the results of the research will explain the cause-and-effect relationship between variables. Next, the author describes the operational variables above in the form of a questionnaire (attached), which then becomes a research instrument in the field. After the questionnaire is filled in, it will be tabulated and processed using SPSS ver. 26 for instrument testing. Calibration was carried out by conducting trials on several respondents, namely 30 respondents. The trial of the instrument items is intended to test the validity and reliability of the instrument items used in the research. From the questionnaire data consisting of 19 statement items, data on Fairness, Transparency, Accountability, Responsibility and Ship Crew welfare were obtained. This is done so that data collection can be representative and accurate and supports quantitative analysis regarding the impact on the welfare of the Ship Crew. Based on the results of the trial answers using 30 test data before being distributed to 65 respondents, you can see the weight of the assessment criteria using validity and reliability tests.

Results and Discussion

In order to examine the hypothesis, this study makes use of the Partial Least Squares (PLS) statistical approach. One approach to Structural Equation Modeling (SEM) analysis is PLS, which is based on variance. The benefit of this approach is that it may be calculated with small samples and does not need assumptions.

Structural equation modeling creates two kinds of models: measurement models, which are exterior, and structural models, which are internal. Each dimensional real variable that has an explanatory power in the latent variable is described by the measurement model's variance ratio. To determine which dimensions mostly contribute to the formation of latent variables, we may use the measurement model. Each latent variable's measurement model will be described before moving on to a structural model that will examine the impact of each external latent variable on the internal latent variable. In this research, we used a 4-statement measure of transparency (X2), a 3-question assessment of fairness (X1), a 5-statement measure of accountability (X3), and a 3-statement measure of responsibility (X4).

The application Smart PLS Version 3, which is developed for structural equation estimation on a variance basis, is used as the instrument. The following graphic depicts the structural model used in this study.

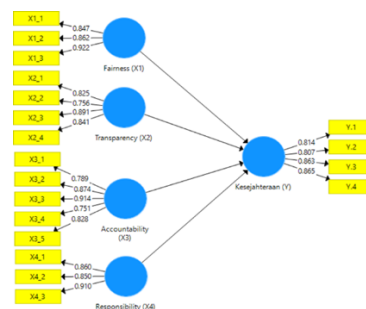


Figure 1. Structural Model

Source: Processed Primary Data (2022)

The underlying structure-oriented dimensions indicate that this study uses relatively adequate reflection dimensions to measure perception. The relationships (hypotheses) to be studied are symbolized by arrows between constructs.

Measurement Analysis (Outer Model)

The link between the latent and manifest variables may be defined using the test measurement model, which is an external model. There are three types of validity tests: convergent, discriminant, and reliability.

Convergent Validity

Structure scores and their correlation with dimensions. Reliability is defined as the degree to which one-dimensional correlation values exceed 0.70. While developing the scale, a load between 0.50 and 0.60 is still considered appropriate for research purposes. There is no statistically significant load as its size is less than 0.60, according to the findings of the external loading.

The research's structural model is shown in the appendix. Presented below is a table containing the results of the Smart PLS output for loading factors:

Table 1. Outer Loadings

	Fairness (X1)	Transparency (X2)	Accountability (X3)	Responsibility (X4)	Welfare (Y)
X1 1	0,847				
X1 2	0,862				
X1 3	0,922				
X2 1		0,825			
X2 2		0,756			
X2 3		0,891			
X2 4		0,841			
X3 1			0,789		
X3 2			0,874		

All valid due to > 0.7

Source: Processed Primary Data (2022)

With a loading factor greater than 0.70, any signal may be considered a reliable indicator of the build.

Discriminate Validity

The section will discuss the discriminant validity test findings. Using cross loading values, the discriminant validity test is conducted. If a dimension has the highest cross loading value on a variable relative to other variables, we say that it has discriminant validity. For each indication, we have the following cross loading values:

Table 2. Discriminant Validity

	Fairness (X1)	Transparency (X2)	Accountability (X3)	Responsibility (X4)	Welfare (Y)
X1_1	0,847	0,636	0,558	0,361	0,612
X1_2	0,862	0,707	0,635	0,561	0,798
X1_3	0,922	0,790	0,638	0,499	0,704
X2_1	0,686	0,825	0,586	0,541	0,781

X2_2	0,567	0,756	0,681	0,544	0,587
X2_3	0,760	0,891	0,616	0,654	0,776
X2_4	0,670	0,841	0,766	0,658	0,705
X3_1	0,641	0,651	0,789	0,502	0,688
X3_2	0,494	0,651	0,874	0,639	0,649
X3_3	0,577	0,674	0,914	0,677	0,667
X3_4	0,511	0,481	0,751	0,615	0,606
X3_5	0,665	0,798	0,828	0,586	0,765
X4_1	0,558	0,727	0,634	0,860	0,717
X4_2	0,396	0,503	0,617	0,850	0,569
X4_3	0,471	0,638	0,644	0,910	0,688
Y.1	0,546	0,615	0,700	0,727	0,814
Y.2	0,803	0,727	0,634	0,481	0,807
Y.3	0,758	0,812	0,630	0,590	0,863
Y.4	0,609	0,740	0,773	0,654	0,865

It is necessary to learn more about and keep an eye on a few dimensions of the study variables as their cross-loading values are lower than those of other variables, according to Table 2 up there. What follows is a description of the construct outcomes for each of the following variables and dimensions: Accountability, Fairness and Transparency, Responsibility, and Ship Crew Welfare.

The square root of the average variance extracted (AVE) value is another metric for discriminant validity. For an effective model, the ideal value is greater than 0.5.

Composite dependability of the construct-measuring dimension blocks is the next test. If the composite reliability value is more than 0.60, we say that the construct is dependable. Additionally, it may be seen by examining the construct's or latent variable's reliability, which is quantified by examining the Cronbach's alpha value of the corresponding dimension block. When Cronbach's alpha is more than 0.7, we say that the construct is dependable.

The research variable constructions that emerged from the Smart PLS program are listed in the following table along with their respective loading values:

Table 3. Construct Reliability and Validity

	<i>Cronbach's Alpha</i>	<i>Composite Reability</i>	Information
<i>Fairness (X1)</i>	0,851	0,909	<i>Reliable</i>
<i>Transparency (X2)</i>	0,848	0,898	<i>Reliable</i>
<i>Accountanbility (X3)</i>	0,889	0,919	<i>Reliable</i>
<i>Responsibility (X4)</i>	0,846	0,906	
<i>Crew Welfare (Y)</i>	0,858	0,904	<i>Reliable</i>

Table 3 demonstrates that all constructs, including Fairness, Transparency, Accountability, Responsibility, and Ship Crew Welfare, have an Average Variance Extracted (AVE) greater than 0.50, indicating reliability. Therefore, it is safe to say that the discriminant validity of each variable is strong.

There is a construct value greater than 0.60 for each variable in the composite dependability value, as shown in Table 3 above. All variables have a high degree of realism, since each one has met Composite Realibility, according to these findings.

In addition, as shown in Table 3 above, all of the study variables have Cronbach's Alpha values more than 0.70, indicating that they are reliable. Therefore, it can be stated that all of the variables are of high reliability. Therefore, it is safe to say that the dimensions employed to construct the variables in this study have strong discriminant validity.

Coefficient of Determination (R²)

Examining the study model's R-squared value, significance levels, and construct-to-construct relationships is the goal of inner model or structural model testing. We used R-squared for the dependent construct of the t-test and the significance of the structural path parameter coefficients to assess the structural model. In this way, we can calculate the R Squared value from the data processed using the SmartPLS 3.0 application.

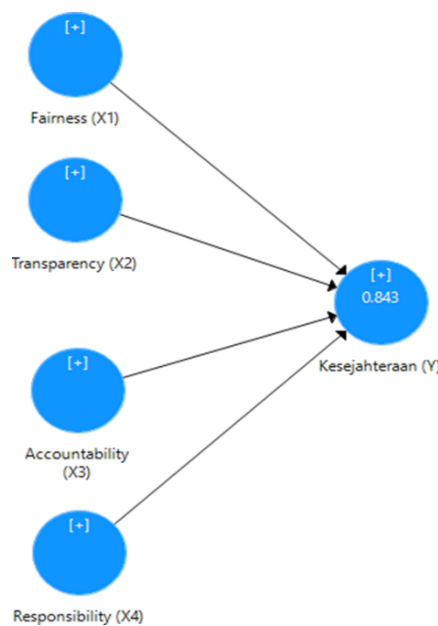


Figure 2. Structural Model (Inner Model)

Source: Processed Primary Data (2022)

Table 4. R Square Results

	R Square	R Square Adjusted
Welfare (Y)	0,843	0,832

Table 4 indicates that the welfare variable has a R Squared value of 0.843. According to these findings, 84.3% of the ship's crew is well-cared for. So, out of a total of 15 factors that affect crew wellbeing, 84.3% are related to accountability, transparency, fairness, and responsibility, while the remaining 15.7% are unrelated.

The Welfare variable has an Adjusted R Square value of 0.832, as seen in Table 4 above. This data explains why 83.2% of ship crews are considered to be in good health. This indicates that other characteristics impact the crew's wellbeing by 16.8%, while Fairness, Transparency, Accountability, and Responsibility affect it by 83.2%.

Goodness of Fit (GoF) Assessment

A declared fit is shown by an NFI result of > 0.818, which demonstrates the goodness of fit model test. Following data processing using the SmartPLS 3.0 application, the following Model Fit values are obtained:

Table 5. Model Fit

	Saturated Model	Estimated Model
SRMR	0,095	0,095
d ULS	1,714	1,714
d G	1,825	1,825
Chi-Square	508,923	508,923
NFI	0,616	0,616

Goodness-of-fit tests for the PLS model are shown in Table 4.11. This proves that FIT is the meaning of the NFI number of 0.616. This study's model passes the goodness-of-fit test and may be used to evaluate hypotheses, according to the findings.

Table 6. Results of Research Hypothesis Summary

Free Variable – Bound	Result	Significance
<i>1. Fairness - The Well-being of the Crew</i>	Significant	0.006 < 0.05
<i>2. Transparency- Crew Welfare</i>	Significant	0.033 < 0.05
<i>3. Accountanbility - Crew Welfare</i>	Significant	0.025 <0.05
<i>4. Responsibility - Crew Welfare</i>	Significant	0.025 < 0.05

The influence of Fairness on the well-being of the Shipcrew

The well-being of the ship's crew is greatly improved by fairness. Statistically, the welfare of the ship's crew is positively and significantly impacted by fairness, which means that changes in fairness have a one-way effect on changes in ship's crew welfare. Put another way, if fairness increases, ship's crew welfare will also increase.

Treating all shareholders fairly is the foundational premise of fairness. In this context, justice is protecting all shareholders against insider trading and fraud, with specific emphasis on minority and international shareholders. The company, the Ministry of Transportation, and the Ministry of Manpower have an obligation to prioritize community interests in all that they do. This includes, but is not limited to, the well-being of the ship's crew, who have put their lives on the line for the sake of the law and other interests founded on fairness and justice. equality.

The application of the principle of fairness in shipping companies is to provide equal rights for ship crew members to be given the opportunity to express opinions. The shipping company protects the rights of the crew and treats them in accordance with the agreement.

The Effect of Transparency on the Welfare of Ship Crew

There is a significant positive influence of Transparency on the welfare of Ship Crew. Transparency has a positive and significant effect on the welfare of the Ship's Crew, meaning that changes in Transparency have a unidirectional influence on changes in the welfare of the Ship's Crew or in other words, if Transparency increases, there will be an increase in the welfare of the Ship's Crew and statistically it has a significant influence.

Transparency is providing open, timely, clear and comparable information regarding financial conditions, company management and company ownership, disclosure of important information and dissemination of information that has been audited and disclosed in line with quality bookkeeping.

Applying the principle of transparency in shipping companies, it can be seen that there is openness of information and ease of obtaining information. Regular work meetings can create a good flow of information so that employees do not have difficulty getting this information. Company policies are discussed clearly and made based on the results of joint decisions. Every

time a company makes a policy, all employees in the company must know about it so that it can run according to plan. The regulations as well as the company's vision and mission are well known to Shipping Company employees.

The influence of accountability on the welfare of ship crew

There is a significant positive influence of Accountability on the welfare of Ship Crew. Accountability has a positive and significant effect on the welfare of the Ship's Crew, meaning that changes in Accountability have a direct influence on changes in the welfare of the Ship's Crew or in other words, if Accountability increases, there will be an increase in the welfare of the Ship's Crew and statistically it has a significant influence.

To ensure that management follows the interests of shareholders and other interested parties, accountability highlights the significance of establishing an efficient supervisory system based on the division of power among commissioners, directors, and shareholders. This system should include monitoring, evaluating, and controlling management.

The application of the principle of accountability in shipping companies is not yet optimal. This is due to overlapping functions which make the organizational structure not work with the job description. Apart from that, some employees do not work according to company operational standards. There are still violations in carrying out duties and responsibilities that violate the company's operational standards.

The Influence of Responsibility on the Welfare of Ship Crew

There is a significant positive influence of Responsibility on the welfare of the Ship Crew. Responsibility has a positive and significant effect on the welfare of the Ship's Crew, meaning that changes in Responsibility have a direct influence on changes in the welfare of the Ship's Crew or in other words, if Responsibility increases, there will be an increase in the welfare of the Ship's Crew and statistically it has a significant influence.

Compliance with relevant legislation is an example of corporate responsibility. These regulations might pertain to tax concerns, industrial relations, environmental protection, creating a welcoming neighborhood for business, and many more. It is believed that businesses would realize they also have a responsibility to their shareholders and other stakeholders in their operational operations if they follow the guidelines of Good Corporate Governance.

Looking at the responsibility side, shipping companies have implemented it. As a company, we must comply with statutory regulations and carry out our responsibilities towards society and the environment so that business continuity can be maintained in the long term. Shipping companies really prioritize the safety of their employees, this is proven by the clothing, hats, eye protection, gloves and shoes that must be worn when working, especially in the field. Employees use eye protection, gloves and safe shoes to prevent accidents while working.

The application of the principles of Transparency, Accountability, Responsibility and Fairness has been implemented in shipping companies, but in its implementation, there are still obstacles. The application of these principles makes the company operationally better because the company already has good governance internally so that it is not difficult for the company to achieve the targets that have been set. By continuing to have good governance, the company's targets will be achieved more quickly.

Conclusion

Based on the results of the research and data analysis explained in the previous chapter, the following conclusions can be drawn:

There is a significant positive influence of Fairness on the welfare of Ship Crew, where H0 is accepted or Ha1 is accepted. Every increase in Fairness will improve the welfare of ship crews so that it is in line with the urgency of changing the status of Indonesian seafarers from migrant workers to ship crew members with permanent legal force through the influence of good corporate governance policies on the welfare of ship crews.

There is a significant positive influence of Transparency on the welfare of Ship Crew, where H0 is rejected or Ha2 is accepted. Every increase in transparency will improve the welfare of ship crews so that it is in line with the urgency of changing the status of Indonesian seafarers from migrant workers to ship crew members with permanent legal force through the influence of good corporate governance policies on the welfare of ship crews.

There is a significant positive influence of Accountability on the welfare of Ship Crew, where H0 is rejected or Ha3 is accepted. Every increase in Accountability will improve the welfare of Ship Crews so that it is in line with the urgency of changing the status of Indonesian seafarers from migrant workers to ship crew members with permanent legal force through the influence of good corporate governance policies on the welfare of ship crews.

There is a significant positive influence of Responsibility on the welfare of Ship Crew, where H0 is rejected or Ha4 is accepted. Every increase in Responsibility will improve the welfare of Ship Crews so that it is in line with the urgency of changing the status of Indonesian seafarers from migrant workers to crew members with permanent legal force through the influence of good corporate governance policies on the welfare of ship crews.

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