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Cite as: AIP Conference Proceedings 2114, 040010 (2019); <https://doi.org/10.1063/1.5112439>
Published Online: 26 June 2019

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Land Tenure System and Utilization of *Bengkok* Land in Indrokilo Sub-Village, Lerep Village, Semarang Regency

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Abstract. Indrokilo sub-village in Central Java, Indonesia, has some assets including *Bengkok* land. As a customary land, it is also called as *adat* land and managed by village government of Lerep Village. The objective of the present study is to know the planning process in land utilization and the actors in the land tenure system. This research used an exploratory and descriptive method with time series approach. Furthermore, the result of this study showed that the on-going land utilization process uses the deliberation process. The agriculture program has been operated using Wanatani or agro-forestry concept where the multi-level concept is mutually beneficial among farmers. Community participation is promoted with the spirit of gotong-royong where the farmers contribute their time, materials and money to build communal shed based on collective effort during the constructions process. The seeds are obtained from Non-Government Organization. The secondary crops are cultivated by organic farming concept using feces of cattle as material or fertilizer and Biogas that is streamed to farmers' houses. The result revealed that the tenure system of customary land provides mutual benefits to the local government and farmers. Customary tenure has been recognized by the government as one of the land tenure systems and has been stipulated in the Law No. 5 of 1960.

INTRODUCTION

Background

Indrokilo is located in the administrative area of Lerep Village, Semarang Regency. It has an area of 95.75 ha [1]. This sub-village still implement the concept of *Bengkok* as village assets, a concept that has been existed since the pre-independence. In golden era of the Mataram Kingdom around 1588-1681, it united Java and the surrounding areas up to Madura Island. Based on the history of traditional government in Java, the king was the owner of all lands in the kingdom. Moreover, supported by the Ordonnantie in the Dutch colonialism era, the uncultivated lands were also the king's possession. Meanwhile, agricultural lands, grazing lands and yards were owned communally by the village with permanent parts of them [2].

Bengkok land is still recognized by today's legislation, especially the Agrarian Law. Land utilization system of the village is managed by village officials and local community. The Basic Agrarian Law states that the habitual land rights are converted from the right of ownership in customary law into usage right. *Bengkok* land rights are given by the community to village chief and officials. However, the right must be returned to the village once the

village chief and officials are retired. The management rights are then passed to those replacing them. The rights are called origin rights attached due to their positions [3].

Law Number 6 of 2014 on Village also reaffirms *Bengkok* land management, which must be used for village's interests. *Bengkok* land is customary land managed by the village and must be used for the village's interests or village governance. The law emphasizes that village asset is the village's property. Village assets include village treasury land, customary land, village market, animal market, boat mooring, village buildings, fish auction, agricultural product auction, village forest, village water spring, public bath and other village assets. Meanwhile, according to the Regulation of the Minister of Home Affairs, village land is defined as property of the village in the forms of *Bengkok* land, cemetery and *titisara*.

The process explained the initial idea, setting, planning process to encourage a change of *Bengkok* land utilization for sustainable agricultural and other social activities. Participation theory from Adimassu and Bamlaku explained that the last program's participation could affect the motivation in the investment for land management [4],[2]. Moreover, this theory is suitable for an investment in private land. There are some programs with low-high motivation related to *Bengkok* as customary land in which the land status is usage right. In addition, the Law No. 26 of 2007 on Spatial Planning stipulates the community participation on spatial utilization (see article 65). Therefore, the land status, planning process and role model in the village land management can be reviewed.

Research Focus & Purpose

Indrokilo is located at the altitude of 500 to 1000 meters above sea level Fig. 1 The area is dominated by highland with a slope >45%. The present study is focused on the condition and utilization of *bengkok* land. The study aimed to determine the planning process in utilizing village land and the actors involved in the prevailing land tenure system.

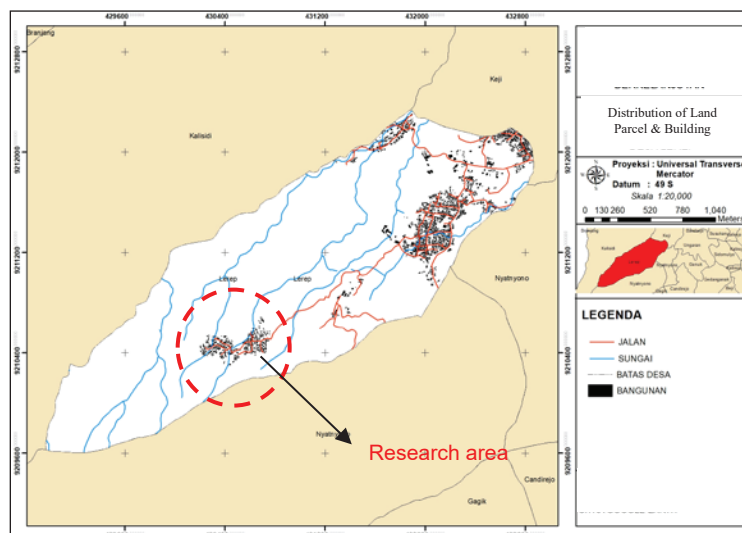


FIGURE 1. Distribution of Residential Areas in Lerep Village, Semarang Regency

(Source: Landsat TM7 satellite imageries, Bappeda Semarang 2015).

LITERATURE REVIEW

Land Tenure System

Land tenure generally refers to the understanding on land position so that someone can use a land under a legal utilization system which is regulated on the government regulation or local system in community recognized by the state. Below are some definitions of land tenure from some sources:

Arrangement or right that allows a person or a community to use specific pieces of land and associated resources in a certain period of time and for particular purposes [5].

Compromises the habitual and/or legal rights that individuals or groups have to land and the resulting social relationships between the numbers in society [6].

A land tenure system consists of the organized and established institutional arrangements in society that govern how land and resources are allocated, used, and enjoyed [7].

From the above definitions, there are some elements related with land tenure, including: regulation, land access, land utilization control, ownership, land utilization type and social relation in the community. The combination of the elements form land tenure system, which is an interpretation of ownership of property in general. Subsequently, land tenure system creates a condition in which available land is connected with physical object and realized as construction on the owned asset. The strength of a land status depends of the certainty of land use. Therefore, land tenure is very vital on planning and development in a location.

The strength of land status depends on one's legal and social aspect in relation with land utilization. The legal aspect contains legal recognition of land ownership, while social aspect entails reality which produces community's recognition of the land. Both aspects can reinforce the position of land ownership, so that tenure security is also very important in land planning and development. Legal recognition and fact of land status also demand thoughts, concept and strategy for land legitimacy or legalization [8]. According to [9], there are 5 (five) types of land tenure system, namely:

- a. Customary land. The system considers land as the community asset that must be managed and protected for the current and future generations. The allocations, transfers and usages are determined by the community leaders.
- b. Private tenure. The system recognized individual asset and gives complete freedom for individuals to own and manage their land asset. The condition is concentrated in urban area.
- c. Public tenure. The system exists due to reaction to the limitation of individual ownership and the growth in public needs.
- d. Religious tenure. The system is often found in Islamic countries where charity agencies are appointed to manage certain lands.
- e. Non formal tenure. The system is land ownership system which is closely related with legality and illegality. The system is often found in lower social class society.

Community Participation in Sustainable Development Planning

According to Arnstein, participation is an effort to redistribute authority which enables people who are socio-economically weak, currently 'marginalized' from economic/political process, can deliberately or consciously join in the future [10]. Similarly, Roberts states, "participation is a process where community members—who do not possess administrative position or are in the government—share authority with public officials in making substantive decisions and taking important actions related with community life condition [11]. Therefore, community participation can be interpreted as the joining of the entire or part of community members in solving problem on the life of community.

Participation is also defined as a process where people, especially the less fortunate, affect the allocation, policy and program formulation and implementation of particular resources. They like a dynamic character of a participation process which emphasizes the involvement of a target group in the policy making, resources' allocation & implementation or post-implementation of policy [12]. Meanwhile, the World Bank defines participation as a process where stockholders can influence, share supervision on initiative and decision, as well as development resources, which can impact them [13]. The aspect of participation is an element of community empowerment and the main support for the success and sustainability of a development program [14].

In Indonesia, centralistic development paradigm has started to shift significantly since 1999. It is indicated by the efforts to distribute authority or decentralization and development, which depend on regional resources. Generally, the development paradigm in the decentralization era has reinforced the role of local governments in implementing top-down development. Considering the global pressure for good governance, transparency and accountability, the pattern is hardly implemented entirely because development orientation leads to individual/localized empowerment. The emphasis of empowerment is demonstrated in Law No. 6 of 2014 on Villages, which emphasizes the aspect of management of localized resources, i.e. *Bengkok* and *Bondo* lands, which must be used for the interests of village

community. Referring to land status on the Basic Agrarian Law, land tenure system of *Bengkok* has encourage the community participation on the utilization of land resource based on a collective effort.

Today, community participation is a key element in the planning process. In reality, there is complex relation between community participation and planning process. On one hand, planning requires community input to make it a successful one, but on the other hand, community cannot give any input [6]. A weakness of resources (place, power and money) and time limits are common in planning process, reducing the effectiveness of public participation [6]. People also are not willing to accept decision by one person only. To produce an agreement, people must feel they have an idea or become part of decisions making process [15], since every individual has different characteristics based on their conditions.

RESEARCH METHODOLOGY

Research Material and Instrument

In the present study, the material was primary data as obtained from interview and observation or field documentation. The primary data included the history of land utilization, the actors who have significant role for the land use change, the process and procedure of deliberation, and the physical conditions as influence factors in communal use planning. Another material was secondary data, e.g., landsat TM7 satellite imageries, obtained from the government agencies. All the collected data were then presented in the forms of maps, flowcharts and figures to explain the research objective.

In the mapping process, ArcGIS application was used by using basic maps or thematic maps as inputs. Literatures related to the research theme were utilized as supporting materials or data in descriptive analysis. The instruments on this study included: interview guideline, recorders or Smartphone, and mobile mapper [16].

Analysis Method

The present study used explorative approach with qualitative descriptive analysis that related phenomenon, physical condition, temporal process, and the role of stakeholder in association with land use and participation theory. In-depth interview with key sources was carried out to obtain detailed explanations on the condition more specifically. It was necessary in the case the information given by the members of the farmer groups as village land users were incomplete or ambiguous.

RESEARCH RESULT & DISCUSSION

Generally, the land use patterns in Lerep Village can be classified into agricultural and non-agricultural related activities. The non-agricultural pattern is mostly in the form of buildings/houses and yards. Meanwhile, agricultural activities are dominated by yard or garden (24.36%), plantation (22.2%) and irrigated agricultural field (19.9%) as presented in Fig. 2.

The residential lands (houses & yards) are predominantly distributed from the north to the centre of the village. The southern area only has a small number of buildings/houses. The land in the south part of the village is mostly used for agronomic lands and uncultivated lands. The agricultural land in the south part of the village is used to cultivate perennial plants such as Sengon trees, coffee and clove. The uncultivated land mostly has steep topography (15 to 25%). The condition of land use in Lerep village is presented in the following maps Fig. 2.

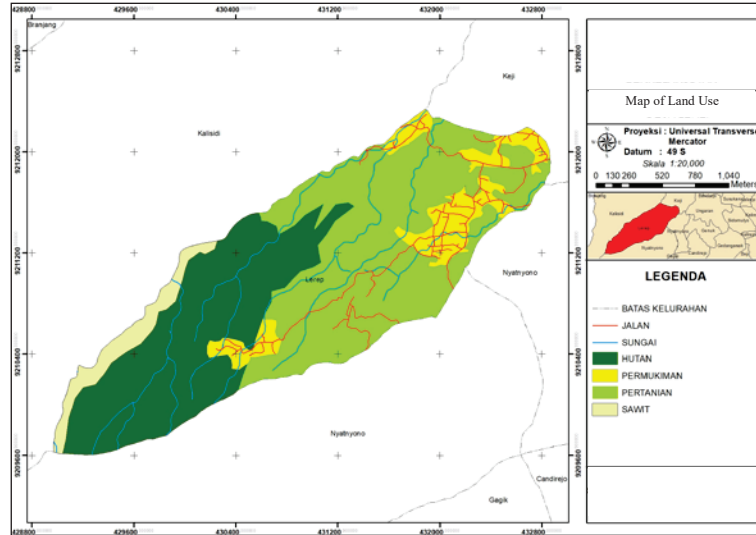


FIGURE 2. Map of Land Use in Lerep Village & Indrokilo Sub-village.

The chart below Fig. 3 shows the initial environmental conditions in Indrokilo Sub-village. The existing condition leads to the idea or suggestion to construct a communal cattle feeding pen on village land (*Bengkok*). The initial conditions include: the disadvantages of houses located near cattle pens, unfavorable cattle waste disposal, contamination of water disposal, air pollution from cattle pens, and utility issues in Indrokilo Sub-village.

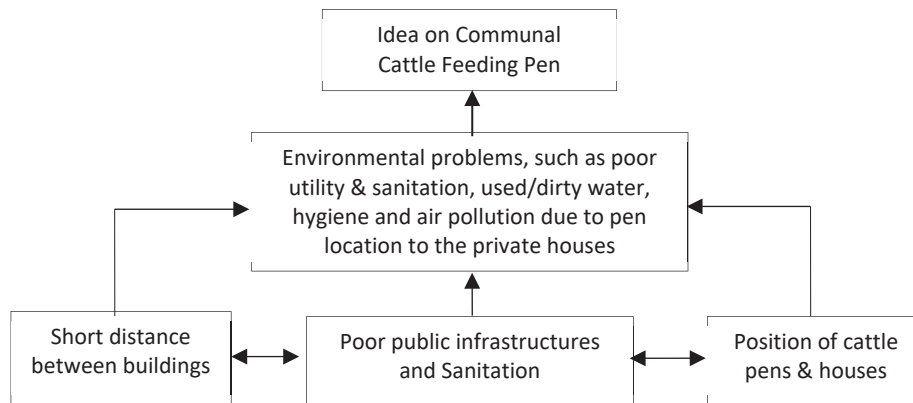


FIGURE 3. Physical Condition, Distance between Buildings & Environmental Issues as the Supporting Factors of Communal Cattle Pen Planning.

Furthermore, the initiative and process of agreement between the communities, farmers and village officials in association with the utilization of *Bengkok* land is presented in Fig. 4. The discussion resulted in the joint commitment to utilize the land to build communal cattle pen by involving the owners of the cattle. It was also decided that the fund and materials would be provided by the breeders, while the members of the sub-village would give donation to buy materials for utilities, e.g. clean water pipe, animal waste pipe, glue, elbow and so forth.

In addition, the construction of other facilities was also designed on the land, e.g. animal waste processing or bio-gas facility, health facility, educational facility and pre-school. The deliberation and agreement process required a total of two years, from 2006 to 2007. Today, *Bengkok* land is still used jointly by breeders and farmer groups. The plants cultivated by farmers in *Bengkok* land (owned by the head of sub-village and *Modin*) are mostly coffee, clove, sengon and enau.

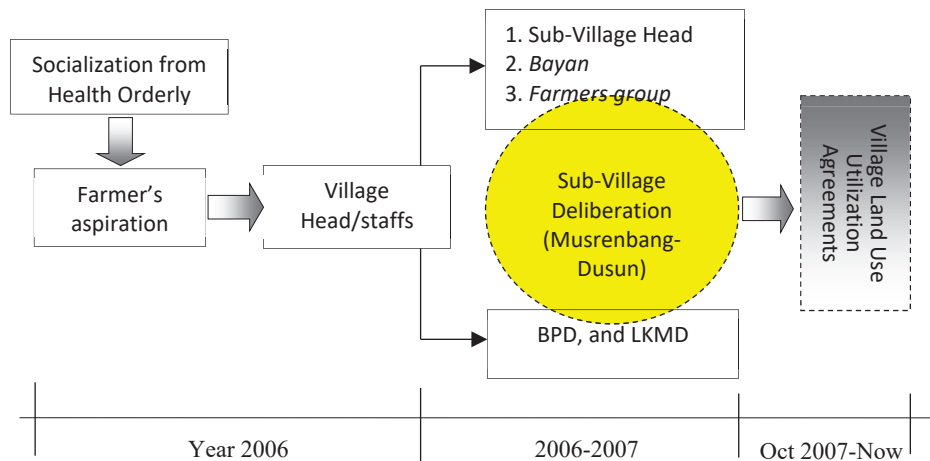


FIGURE 4. The Process of Proposal & Actors Involved in Discussion of *Bengkok* Land Utilization Planning.

Figure 6 presents a spatial distribution of *Bengkok* land for sub-village officials. The observation showed that in Indrokilo, the allocation of *Bengkok* for *Bayan* (the deputy of sub-village head), was omitted. However, interviews showed that cow/goat breeders as well as clove and Sengon farmers in Indrokilo sub-village used the *Bengkok* land which was initially allocated for the head of sub-village and Modin. The job description of the village and sub-village officials is clarified in detail in Fig. 5 below.

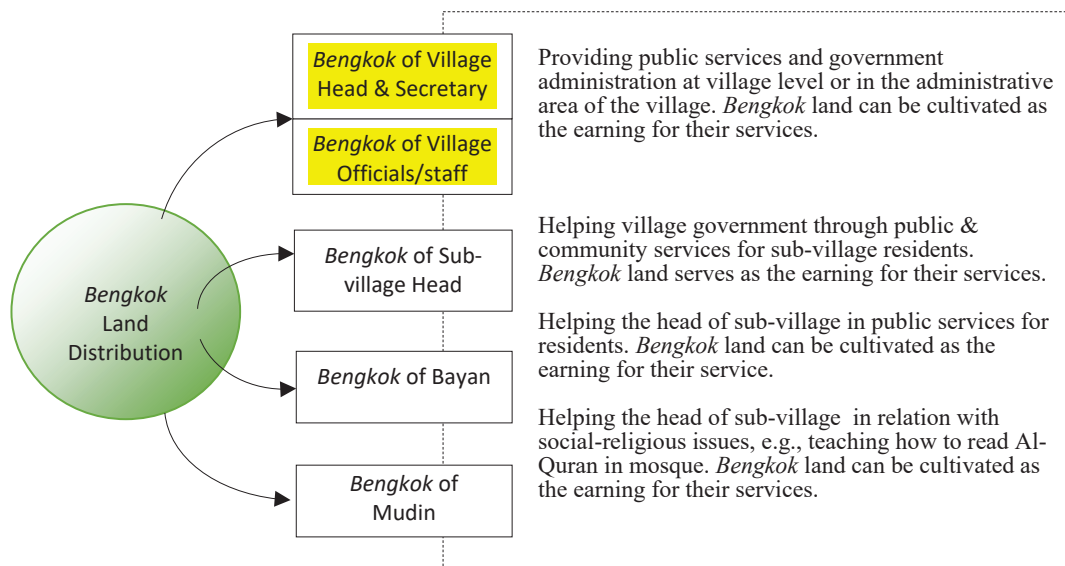


FIGURE 5. Distribution of *Bengkok* Land Management for the Village and Sub-Village Officials, and Their Tasks.

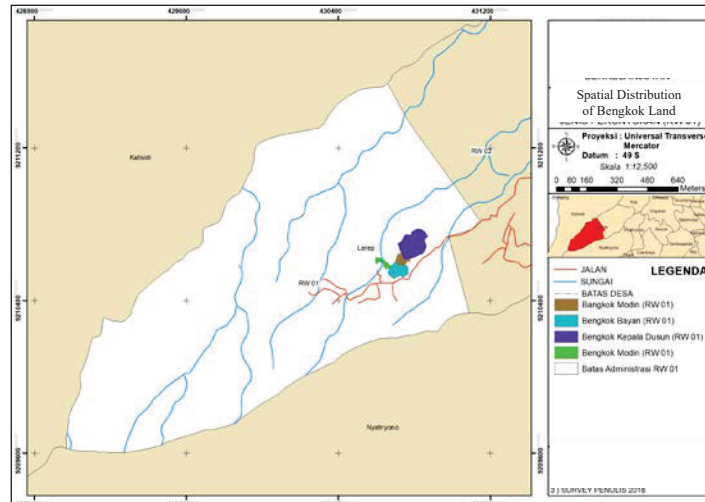


FIGURE 6. The Spatial Distribution of *Bengkok* Land in Indrokilo Sub-village.

DISCUSSION

The paradigm of participatory planning is identical with development, which is emerged from the aspiration of the marginalized group, especially in the aspects of structural, economic, social and political issues. In this context, it is linked to the decentralization policy of the National Development Planning, which depends on the empowerment of local potentials, e.g. communities of village, urban village, hamlet, Curug, Luhak, Nagari and other similar terms. The decentralization policy requires the empowerment of the lower-class society, villagers, and members of agricultural sectors, especially in small towns, toward the modernization and improvement of human civilization.

During the socialization phase, six actors have been actively involved in the decision-making process of the utilization and management of *Bengkok* land. They included health orderly or *Mantri*, the head of the village, the head of the sub-village, *Bayan*, *Modin* and the residents of Indrokilo. It was initiated with proposal from the health orderly and socialization by the head of the village through deliberation or community meeting (*Musrenbang* dusun), and finally agreement and decision making. This phase required almost two-year process Fig. 4.

In terms of legal aspect, the regulation of Basic Agrarian Law No. 5 of 1960 has accommodated the village land status and its management rights. With usage rights, village land management is given to the village officials, namely the head of the village head and village officials. In terms of legitimacy, there is a statement containing the recognition from the community regarding *Bengkok* land that has been managed by a number of generations. The elected village officials, e.g. the head of village, village secretary, the head of sub-village, *Bayan* and *Modin* should receive *Bengkok* lands as the rewards for their services in relation with the governance and public services. *Bengkok* land cannot be sold without permission of the people in the village, but it can be rented by those given the rights to manage it [16], [17].

Based on the existing land tenure system, *Bengkok* land is a customary land which actually a village asset that has to be protected and managed for the current and future generations. However, considering the usage rights in the prevailing regulations and the complexity in gaining village's approval, *Bengkok* land cannot be sold to gain an individual or private ownership rights. As an impact, there are social-economic issues within the community concerning the utilization and management of *Bengkok* land including:

- (a). The sense of belonging and concerns regarding the maintenance of sanitation facility, especially biogas tank, which seem to be overlooked during the planning, meeting and village budget allocation Fig. 7.
- (b). Uneven distribution of allocation and utilization of *Bengkok* land among the sub-village residents, primarily at the level of neighborhood (*Rukun Tetangga* and *Rukun Warga*).
- (c). Land ownership through individual ownership rights is relatively low, implying the low purchasing power of the local community, especially the people of Lerep Village.



FIGURE 7. Communal Cattle Pen of the Farmers & Breeders of Indrokilo Sub-village.

CONCLUSION AND RECOMMENDATION

Conclusion

The three social economic impacts as revealed in the present study show that the status of *Bengkok* land is semi-public. It is because in the allotment or utilization of *Bengkok* land, only a small number of sub-village residents who actually receive the land management rights. The residents referred to are those who have broad religious knowledge and given the task as *Modin* or religious (Muslim) officials at village level to manage the needs of sub-village residents. In addition, other parties who live outside Lerep Village can still use the *Bengkok* land by bidding (rent) process with the approval of village official as explained by the Modin of Lerep Village.

Furthermore, the results of interview and observation show that most sub-village residents have no management rights to utilize *Bengkok* land for their household economic activities. However, they have the opportunity to manage community forest around Indrokilo sub-village by cultivating perennial plants, e.g. coffee, clove, avocado, durian and *sengon*.

Recommendation

In addition to social-economic problems as explained previously, there is another problem related to the transparency and fair criteria during the agreement process which involves breeders/farmers, and the rights to manage *Bengkok* land as a part of conserved or inherited customary land. Based on the findings, it is recommended that the local government, BPN as national land agency and village officials can collaborate in devising a land registration system that is integrated into the national spatial data network. In addition, it is recommended for the government and NGO to build an information system to input people's aspirations about customary land management for their activities and public goods.

Village government should allocate village asset, including available land, to accommodate public and customary related activities, i.e., ceremonies, traditional, religious, art & cultural activities, so as village land can be included in the RTRW or the regional spatial plan document. A study in the sub-urban area of Semarang Regency shows that people consider the benefit of RTRW for their social economic activities is less optimal [18].

ACKNOWLEDGMENT

The researchers would like to thank *LPDP* (Educational Fund Management Agency) for the research financial assistance, and the Rector of *Universitas Islam Riau* for the study permit. The author also would like to thank the promoters for their inputs and the research assistant for the help.

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