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Medical Negligence By Doctors Resulting in Criminal Law Charges (Case Study on the Decision of the Supreme Court of the Republic of Indonesia No. 590 K/PID/2012)

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Abstract. *This study investigates the legal consequences of medical negligence in Indonesia, focusing on Supreme Court Decision No. 590 K/Pid/2012 involving Dr. Wida Parama Astiti. The case centers on the death of a pediatric patient following the unsupervised administration of potassium chloride (KCl), a high-alert medication, in violation of national safety protocols. The research adopts a normative juridical approach, examining relevant statutory frameworks including Article 51 of Law No. 29 of 2004 concerning Medical Practice, Minister of Health Regulation No. 11 of 2017 on Patient Safety, and Articles 359 and 361 of the Indonesian Criminal Code. The analysis explores the application of the legal concept of culpa (negligence), particularly culpa lata (gross negligence), to determine the criminal liability of the defendant. Findings show that the failure to follow mandated medical protocols and provide direct supervision constituted a breach of professional duty, justifying the court's custodial sentence. The study also highlights the role of systemic shortcomings in patient safety enforcement within hospital settings. This case serves as a critical reference for understanding how Indonesian law addresses gross medical negligence, setting a precedent for future litigation involving healthcare professionals. The research contributes to legal scholarship by clarifying the boundaries of professional accountability and emphasizing the need for institutional safeguards. It also provides practical recommendations for enhancing regulatory compliance and protecting patient rights through stricter enforcement of medical standards.*

Keywords: *Medical Negligence, Doctors, Lawsuits, Criminal Law*

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INTRODUCTION

The patient's expectation of medical services provided by a doctor is that the services rendered will contribute to recovery and overall improvement of health. This expectation is enshrined in what is known as the therapeutic agreement a mutual understanding between patient and physician that forms the foundation of their professional relationship (Wassinger et al., 2022; de Oliveira et al., 2020; Pebrina et al., 2022). In this legal and ethical contract, the patient entrusts the doctor with their health, while the doctor assumes the responsibility to perform medical procedures in accordance with applicable standards and best practices. The agreement inherently contains obligations on the part of the physician, including the application of medical knowledge, the use of skill in diagnosis and treatment, and, critically, the provision of safe and responsible care.

Berger et al. (2020) emphasized that the doctor-patient relationship is more than a transactional interaction; it is one defined by trust, reliance, and vulnerability, where the patient depends on the doctor's professional competence and ethical commitment to healing. However, this trust must be underpinned by legal accountability. To this end, Indonesian legislation, specifically Article 51 of Law No. 29 of 2004 concerning Medical Practice, outlines five major responsibilities for medical practitioners. These include the obligation to provide medical care according to professional and operational standards, refer patients to other experts when necessary, protect patient confidentiality, offer emergency care grounded in humanitarian values, and continuously update their professional skills (Sugiarti, 2020). These legal expectations set a clear benchmark against which negligence or misconduct may be measured.

Despite these established norms, cases of medical negligence continue to occur, some with fatal consequences. This paper focuses on one such case: the death of a three-year-old child, Dava Chayanata Oktavianto, following the negligent administration of a high-alert medication at Krian Husada Hospital. The attending physician, Dr. Wida Parama Astiti, instructed a nurse to inject potassium chloride (KCl) diluted in Aqua Bides directly into the intravenous line of the patient. Critically, the administration was carried out without her supervision or a second verification by qualified personnel. This contravened safety protocols governing the use of high-alert medications and ultimately led to the child's death. The courts, including the Supreme Court of Indonesia, held Dr. Wida legally accountable, resulting in her conviction under the applicable provisions of the Criminal Code and health-related legislation.

This incident occurred despite the existence of detailed national and institutional guidelines designed to prevent such outcomes. The Minister of Health Regulation No. 11 of 2017 concerning Patient Safety outlines six key patient safety targets, including medication safety, particularly for high-alert drugs like KCl. According to these guidelines, potassium chloride, due to its potential for causing severe cardiac arrhythmias, must only be administered under direct supervision, after appropriate dilution, and following strict verification protocols. Violations of these standards such as in the case under review are not only considered professional misconduct but may also amount to criminal liability if they result in death or serious injury.

What makes this case legally significant is its progression through all levels of the Indonesian judiciary, culminating in Supreme Court Decision No. 590 K/Pid/2012. This ruling confirmed the application of Article 359 of the Indonesian Criminal Code, which penalizes acts of negligence that cause death, and Article 361, which allows for increased penalties when such acts are committed in the course of professional duties. Moreover, Article 84 of Law No. 36 of 2014 concerning Health Workers provides a specific framework for penalizing medical professionals whose gross negligence leads to harm. Together, these articles create a legal structure for addressing medical errors that breach professional standards and lead to loss of life.

From a doctrinal perspective, the concept of criminal negligence or culpa is central to the determination of guilt in such cases. Culpa refers to a failure to exercise the level of care and caution that a prudent and competent professional would under similar circumstances. It is distinguished from intentional wrongdoing (dolus) in that it focuses on omissions or lapses in judgment rather than deliberate harm. Legal scholars such as Simons and Van Hamel define culpa as encompassing two essential elements: a lack of necessary caution (het gemis aan voorzichtigheid) and a failure to foresee the harmful consequences of one's actions (het gemis van de voorzienbaarheid van het gevolg). Both elements were present in Dr. Wida's actions, as she failed to supervise the administration of a dangerous drug and did not implement institutional safeguards.

The institutional framework governing high-alert medication handling in Indonesia is comprehensive. The National Guidelines for Hospital Patient Safety, as established by KARS (Hospital Accreditation Commission), lay out strict requirements for the storage, labeling, preparation, and administration of high-risk drugs. These include the mandatory separation of

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high-alert medications from regular stock, use of distinctive red labeling, and a double-check system by trained personnel before administration (Ruutiainen et al., 2021; Laily, 2024). For KCl specifically, dilution must be performed in a controlled environment, ideally by pharmacy staff, and final administration must be supervised by a physician. In this case, the failure to comply with these protocols was not a mere oversight but a gross violation that reflects systemic and individual negligence.

Informed consent also plays a crucial role in determining liability. In the reviewed case, there was no indication that the patient's family was fully informed about the specific risks associated with the administration of KCl. Informed consent requires more than a general agreement to treatment; it necessitates a detailed explanation of procedures, risks, alternatives, and the right to refuse. Failure to obtain such consent can further aggravate the legal consequences of an adverse outcome. In the context of pediatric patients, where guardians act on behalf of minors, the obligation to communicate clearly and thoroughly becomes even more critical.

The judicial reasoning in this case was aligned with both national statutory provisions and international norms of medical accountability. The court found a clear causal relationship between the physician's negligence and the patient's death. Expert witnesses testified that if KCl had been properly diluted and administered slowly through a main IV line, the fatal outcome could have been avoided. The court determined that Dr. Wida's failure to ensure these steps were followed constituted culpa lata a form of gross negligence so severe that it justifies criminal sanction. The sentencing considered both aggravating and mitigating factors, ultimately resulting in a custodial sentence that underscored the seriousness of the offense while acknowledging the absence of malicious intent.

Legal precedent, both within Indonesia and internationally, supports this interpretation of culpa. Precedents from the Supreme Military Court and the Hoge Raad indicate that professionals cannot escape liability simply because a more skilled practitioner might have acted differently. Instead, the standard is whether the actions taken meet the minimum acceptable standard of care. Van Bemmelen argues that culpability exists when a professional fails to perform duties that are universally expected within the profession. This aligns with the principles outlined in Article 361 of the Criminal Code, which increases penalties for professionals who commit negligent acts in the course of their duties.

Globally, the medical profession is witnessing increasing legal scrutiny and accountability. In many jurisdictions, including the UK, Australia, and the US, criminal charges are being pursued in cases where negligence leads to severe harm or death. International research emphasizes that clear protocols, institutional checks, and regular training are essential to prevent such errors (Touw et al., 2023; Gorska-Ciebiada et al., 2020). The reviewed case signals that Indonesian courts are beginning to adopt similar standards, holding healthcare professionals to account when they breach critical safety protocols.

This study is grounded in the analysis of one landmark case, but its implications are far-reaching. It serves as a reminder of the importance of rigorous adherence to medical protocols, the need for robust institutional safeguards, and the legal ramifications of professional negligence. The research not only aims to provide a doctrinal analysis of culpa in the context of Indonesian law but also seeks to explore its application in real-world scenarios where human lives are at stake. It highlights the role of courts in interpreting statutory provisions, the responsibility of hospitals in enforcing compliance, and the ethical obligations of medical practitioners in safeguarding patient welfare.

METHODS

This research employs a normative juridical method, focusing on the study of legal norms, statutory provisions, and court decisions as sources of law. The primary aim is to understand how existing laws are applied in real-life cases involving medical negligence and to determine the legal

reasoning used by the judiciary in interpreting these laws. This method is particularly suitable for analyzing the intersection of healthcare practices and criminal liability under Indonesian law. The type of legal research used is doctrinal legal research, which involves examining and interpreting legal texts, court decisions, and statutory materials. This method is chosen because it allows for a deep and systematic analysis of legal responsibilities arising from medical negligence. The research is intended to uncover legal principles, assess statutory interpretations, and evaluate judicial consistency in applying Articles 359 and 361 of the Indonesian Criminal Code (KUHP), as well as Article 84 of Law No. 36 of 2014 on Health Workers.

Legal materials used in this research are categorized into primary, secondary, and tertiary sources. The primary legal materials include the Indonesian Criminal Code (particularly Articles 359 and 361), Law No. 36 of 2014 concerning Health Workers, Minister of Health Regulation No. 11 of 2017 concerning Patient Safety, and Supreme Court Decision No. 590 K/Pid/2012, which is the central case analyzed in this study. Secondary legal materials include legal textbooks on medical law and criminal liability, academic journal articles analyzing culpa, negligence, and medical jurisprudence, and legal commentaries or expert opinions discussing intersections between health and criminal law. Tertiary sources include legal dictionaries and legal encyclopedias that provide supporting conceptual clarity.

This research applies a single-case study design, focusing on Supreme Court Decision No. 590 K/Pid/2012, which involved the conviction of a doctor due to medical negligence that led to a patient's death. The case was selected because of its precedent-setting value in Indonesian criminal and health law. It demonstrates how the professional duty of care is interpreted and how statutory violations of patient safety protocols translate into criminal liability. It also highlights how national health regulations are implemented in judicial reasoning.

The analysis was carried out using a qualitative normative approach, involving four main stages. First, statutory interpretation was conducted to examine the language and legislative intent of Articles 359 and 361 of the KUHP, as well as Law No. 36/2014. Second, doctrinal analysis was employed to compare these statutory provisions with established legal doctrines on culpa (negligence), foreseeability, and duty of care. Third, a case law analysis was performed to evaluate the court's legal reasoning, especially how it established causal links, the role of professional duties, and consideration of aggravating or mitigating circumstances. Finally, a limited comparative insight was included by referencing other relevant Indonesian court decisions and international legal perspectives to highlight interpretive consistency. By combining statutory, doctrinal, and case-based analysis, this method ensures that the research findings are grounded in both legal theory and judicial practice, thereby offering a comprehensive understanding of how criminal liability in medical negligence cases is established in Indonesia.

RESULT AND DISCUSSION

In the Minister of Health Regulation No. 11 of 2017 concerning Patient Safety, there are six National Patient Safety Targets (SKP) consisting of: (1) SKP.1 Identifying Patients Correctly; (2) SKP.2 Improving Effective Communication; (3) SKP.3 Improving the Safety of Medicines That Must Be Watched Out For; (4) SKP.4 Ensuring the Correct Surgical Site, Correct Procedure, Surgery on the Correct Patient; (5) SKP.5 Reducing the Risk of Infection Due to Health Care SKP.6 Reducing the Risk of Patient Injury Due to Falls. The use of concentrated electrolytes in this case KCl (potassium chloride) which is included in "High-Alert Medications" requires strict supervision with limited access to prevent accidental or careless administration as stated in SKP. 3 of the Minister of Health Regulation No. 11 of 2017 concerning Patient Safety.

What is meant by "High-Alert Medications" is a drug that has a high percentage of causing errors and/or sentinel events, drugs that are at risk high cause undesirable effects as well as drugs that look similar/sound similar (Drug Name, Appearance and Sound Similar/ NORUM, or Look-Alike Sound-Alike / LASA). Errors can occur if medical personnel do not receive proper orientation, for that health care facilities must formulate policies related to effective drug use management, regarding the general principles of handling "High-Alert Medication" namely

storage, prescribing, preparation and distribution and administration of drugs that require strict supervision to improve the safety of drugs that must be watched out for.

It should also be remembered that the safety assessment currently used in Indonesia is carried out using the Hospital Accreditation instrument issued by KARS (Hospital Accreditation Commission). The Indonesian Ministry of Health has issued the third edition of the National Guidelines for Hospital Patient Safety in 2015 which consists of 7 standards, namely: (1) Patient rights; (2) Educating patients and families; (3) Patient safety and continuity of care; (4) Using performance improvement methods to evaluate and program patient safety improvements; (5) The role of leadership in improving patient safety; (6) Educating staff about patient safety; (7) Communication is key for staff to achieve patient safety. Each hospital's policy is different, the Ministry of Health has set general principles for handling "High-Alert Medication" including:

Storage

High alert medication is stored in a drawer or cabinet in a locked area and separated from other products (Ruutiainen et al., 2021). Each high alert medication is given a red “High-Alert” label on the front of the package without covering the information on the package. Each concentrated electrolyte is stored in the pharmacy, except for NaHCO3 8.4% which is also stored in the ICU/ICCU, and the ER. MgSO4 $\geqslant$ 20% is stored in the pharmacy, emergency kit in the ER and delivery room. Narcotics are stored in a sturdy cabinet, not easily moved and has two different locks. Anesthetic drugs are stored in a place that can only be accessed by doctors, nurses and pharmacy staff. Cytostatic drugs, Insulin and heparin are only stored in the pharmacy or in a locked area where the drugs are prescribed. Dextrose $\geqslant$ 20% is only stored in the Pharmacy, ER, ICU and emergency trolley. Storage of NORUM drugs is separated, not placed side by side, and must be labeled "LASA"

High Alert Medication Prescribing

Create a dosage guide for anticoagulants, narcotics, insulin, and sedation according to clinical practice guidelines and clinical pathways. Clear and complete prescription writing. The patient's weight must be weighed for drugs that need to be prescribed according to the patient's weight (Laily, 2024).

Preparation and Distribution of High Alert Medications

Independent double check is carried out by two different staff at the preparation and distribution stage of the drug and then documented by initialing the drug order sheet (Westbrook et al., 2021). Dilution of concentrated electrolytes. Each concentrated electrolyte must be diluted before being handed over or given to staff or patients (Touw et al., 2023). Dilution is carried out by trained pharmacy staff except in cardiac surgery conditions, dilution of 7.46% KCl can be done directly by nurses/doctors. Each concentrated electrolyte that has been diluted is given a completely filled-in “drug added” label and a “high alert” label without covering the drug name, expiration date and batch number.

High Alert Medication Administration

Perform an independent double check before administering medication by performing the 5 correct steps in administering medication. Provide education to patients for the patient's own use of insulin (Gorska-Ciebiada et al., 2020). Pharmacy staff provide explanations and counseling on high-alert medication to patients/patient representatives in outpatient care. Drug information brochures can be used to improve patient understanding and comprehension. In this case, Dr. Wida Parama Astiti as the Defendant gave instructions to nurse Setyo Mujiono to inject 12.5 ml of KCl first diluted using Aqua Bides slowly into the intravenous injection section of the patient without supervision by the Defendant. As a result of the Defendant's negligence, the victim Dava Chayanata Oktavianto died.

As based on expert testimony, KCL injection should have been done by mixing it into an IV so that the KCL fluid could enter the patient's body slowly. Because the increase in potassium

levels that are very high up to seven to eight times the normal value causes heart rhythm disturbances to the point of stopping the heart which causes death. Buluttekin & İçten (2023), The Defendant's actions were found guilty as referred to in Article 359 of the Criminal Code in conjunction with Article 361 of the Criminal Code which was demanded by the Public Prosecutor to be imprisoned for one year and six months.

Criminal acts by health workers who commit gross negligence against recipients of health services. Law of the Republic of Indonesia Number 36 of 2014 concerning Health Workers. Article 84 (Sherel Poluan, 2021): (1) Any Health Worker who commits gross negligence resulting in serious injury to the Health Service Recipient shall be punished with a maximum imprisonment of 3 (three) years; (2) If gross negligence as referred to in paragraph (1) results in death, any Health Worker shall be punished with a maximum imprisonment of 5 (five) years; (3) Negligent; careless; lack of caution; this problem is closely related to the Criminal Code Article 359 and Article 360. Article 359 states that "Whoever, due to his mistake (negligence), causes another person to die", so in addition to the mental attitude of culpa, there must be three other elements.

The three elements in question are the details of the sentence; causing another person to die; (1) There must be a certain form of action; (2) There must be a consequence of the act of death; (3) There must be a causaal verband (causal relationship). Article 359 provides legal protection for patients as a preventive measure to prevent and overcome patient safety incidents. A doctor can be subject to criminal penalties under Article 359 of the Criminal Code if the action is carried out very carelessly (culpa lata), serious and reckless errors. The elements in Article 359 of the Criminal Code according to Adami Chazawi are as follows: (1) There is an element of negligence; (2) There is a form of a certain act; (3) There is a result of the death of another person; (4) There is a causal relationship between the form of the act and the result of the death of another person. From the criminal provisions regulated in Article 359 of the Criminal Code, it can be seen that for the death of a person, the law has required the element of schuld or culpa in the perpetrator. According to Sofyan et al. (2021), a person can be said to have Schuld in carrying out his actions, if the action has been carried out without being accompanied by the necessary care and attention that he may be able to provide.

Therefore, schuld according to Simons consists of two elements, namely: (1) Lack of caution (het gemis aan voorzichtig menstruation); (2) Lack of attention to the consequences that may arise (het gemis van de voorzienbaarheid van het gevolg). Van Hamel also has the same opinion that schuld consists of two elements, namely: (1) Lack of attention to the possibilities that may arise (het gemis aan de nodige voorzichtigheid); (2) Lack of necessary caution (het gemis van de voorzienbaarheid van het gevolg). In Article 359 of the Criminal Code for a doctor, there is an element of error as intended in the formulation, Van Bemmelen firmly answered that it could be on the grounds that when there was a general discussion regarding the meaning of schuld in 1881, in his response to the report from the Tweede Kamer, the Minister of Justice had said that what was meant by the word schuld in the field of criminal law was only errors that were of a glaring nature.

Van Bemmelen's opinion is similar to the opinion of the Hoog Militair Gerechtshof (Supreme Military Court) and Hoge raad which among other things have stated as follows: "Thus a doctor cannot be sued for his mistake in causing the death of a patient simply because the most skilled doctor would be able to save the patient's life, but it is sufficient if he has not examined, does not know or has not done something that would generally be examined, should be known or done by every good doctor." With the requirement of error in several formulations of certain criminal acts such as in the formulation of criminal acts regulated in Article 359 of the Criminal Code, Van Bemmelen is of the opinion that with the recognition of the validity of the provision that there is no punishment without error (geen straf zanoder schuld) in the applicable criminal law, then if in a formulation of a criminal act it is implied that there is an error in the criminal act charged by the public prosecutor against him, then the judge must decide acquittal or Vrijspraak. Meanwhile, if the perpetrator turns out not to have schuld against an element that may have been

expressly stated as an element of a criminal act, then this is a basis that eliminates the criminal penalty that can be imposed on the perpetrator (Miśkiewicz & Vadokas, 2024).

The legal basis for a doctor's responsibility in medical actions towards a patient is the existence of informed consent or approval from the patient before the medical action is carried out.5 If a doctor is suspected of committing an action that results in the death of a patient as regulated in Article 359 of the old Criminal Code, Article 474 of the new Criminal Code, and Article 84 of Law Number 36 of 2014 concerning Health Workers, then it must be proven that the doctor committed negligence in medical actions towards the patient. It must be proven that what was done by the doctor was an action that deviated from operational standards and procedures (Adelita & Romadhona, 2023). Negligence is often interpreted as being careless, but there is no explicit explanation regarding being careless in either the Criminal Code or the Law concerning Health Workers, causing the norms in the Article to be unclear. Medical professional standards, medical service standards, and operational procedure standards must receive more serious attention, because these standards are things that must be met in proving a doctor's negligence (Samanta et al., 2021; Liddell et al., 2022; Mulyadi et al., 2020; Sinamo & Sibarani, 2020).

Unlike articles with elements of intent that do not have to pay attention to these standards because it is clear that the act was intentionally carried out by the doctor (Wyatt et al., 2023; Bo, 2021). These standards are important because patients often confuse medical risks with the doctor's mistakes or negligence, medical risks can occur because of the risk of a doctor's medical actions that arise outside the doctor's expectations and cannot be avoided. For example, the death of a patient after surgery does not necessarily constitute a basis for the doctor's negligence because the death can be a medical risk factor caused by the uniqueness of certain biochemical processes inherent in the patient.

Article 361 of the Criminal Code states: "If the crime described in this chapter is committed in carrying out a position or job, then the punishment may be increased by one third, and the right to work, which is used to carry out the crime, can be revoked, and the judge can order the announcement of his verdict". Article 361 of the Criminal Code is an article that aggravates the criminal sentence applicable to perpetrators in carrying out a position or career who commit crimes referred to in Article 359 and Article 360 of the Criminal Code. Parties that can be charged with this article include doctors, midwives, and pharmacists, each of whom is considered to be more careful in carrying out their work. Based on this article, a doctor who has caused disability or death related to his duties or position or work, then Article 361 of the Criminal Code provides a heavier criminal threat.

In addition, the judge can impose a penalty in the form of revocation of the right to carry out work used to commit the crime and order the announcement of his decision. 10 In addition, there are also considerations of aggravating circumstances and mitigating circumstances according to Article 197 paragraph (1) letter f of the Criminal Procedure Code: Articles of laws and regulations that are the basis for criminalization or action and articles of laws and regulations that are the legal basis for the decision, accompanied by aggravating and mitigating circumstances for the defendant. The results of the author's analysis in this case, Dr. Wida Parama Astiti as the Defendant was proven to have committed a criminal act of negligence. Considering that the Defendant did not supervise and there was no evidence of an education form made before giving or injecting KCl to the patient's family.

CONCLUSION

The element of medical negligence committed by Dr. Wida Parama Astiti as the Defendant resulting in a claim in accordance with the applicable legal system in Indonesia is that the Defendant was negligent because he did not carry out strict supervision in the administration of KCl which is included in "High-Alert Medication" as stated in the Minister of Health Regulation No. 11 of 2017 concerning Patient Safety, which caused a boy aged approximately three years named Dava Chayanata Oktavianto to die. It was stated that the Defendant "DUE TO HIS MISTAKE CAUSING THE DEATH OF A PERSON PERFORMED IN THE PERFORMANCE OF A POSITION OR

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WORK" in the Decision of the Sidoarjo District Court No. 1165/Pid.B/2010/PN.Sda. dated July 19, 2011 and "DUE TO HIS MISTAKE CAUSING THE DEATH OF A PERSON PERFORMED IN THE PERFORMANCE OF A POSITION OR WORK" in the Decision of the Surabaya High Court No. 638/PID/2011/PT.SBY. dated November 7, 2011, the Defendant was sentenced to 10 (ten) months in prison as regulated in Article 359 of the Criminal Code in conjunction with Article 361 of the Criminal Code and with consideration of Article 197 paragraph (1) letter f of the Criminal Procedure Code which culminated in the Decision of the Supreme Court of the Republic of Indonesia at the Cassation Level No. 590 K/Pid/2012 rejected the cassation application from the Public Prosecutor at the Sidoarjo District Attorney's Office. Judex facti did not err in applying the law because it had considered the articles of the legal rules that were the basis for the sentencing and the legal basis for the decision as well as consideration of aggravating and mitigating circumstances (Article 197 paragraph 1 of the Criminal Procedure Code). The reasons and objections submitted in the cassation application cannot be considered in the examination at the cassation level, because the examination at the cassation level only concerns the non-application of a legal regulation, the way of trying is not in accordance with the law and whether the court has exceeded its authority. Therefore, the application of the law in this decision does not conflict with the law or statutes.

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