
Pro-women Laws in Pakistan: Challenges towards Implementation

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Abstract

Women status in Pakistan is a complicated phenomenon due to multi-cultural ethnicities. The situation of women in Pakistan is lamentable because of non-implementation of pro-women legislation. The focus of my study is to unveil the lacunas and the barricades in the enforcement of laws. These barricades provide a vacant ground to the violence, injustice, gender inequality and cruelty against women which has become an integral value and staunch belief of a society. My findings from qualitative and quantitative data analysis clearly depicts that numerous multifarious dimensions and immense obstructions are prominent in the way of women protection laws. Such as intrinsic challenges including; dominating and misogynistic behavior of men against women, confession of the fact of women command in the possession of men and privilege and dignity acquired by men and contrary to this social ignorance and neglecting attitude towards women. Simultaneously extrinsic challenges such as; cultural benchmarks on women's status, impotence of mass media, patriarchy in social milieu, patriarchal bigotry in law dispensing agencies, ascendancy of socio-cultural standards, illiteracy, legal illiteracy, fear of notoriety among females, incapacity of justice system, evasion of justice, renunciation of legal reforms, cynical role of police and sterility of NGOs are stern impediments.

Introduction

The status of Women Empowerment in Pakistan has been a focus of intense domestic and international attention. Unfortunately, this attention has been primarily due to the apparent violation of the fundamental rights of women in Pakistani Society. Not only women are deprived of the rights of equality in all walks of life, but also victim of violence in the form of social, political or

economic aspects. Moreover, their rights are been denied in both public and private sphere of life. The radical footsteps of the country provides a sense of being oblivious of the different legislation which deals with the security and protection of women rights and to guard the female population.

In this regard, Pakistan has contributed the laws relating to the protection and security of women rights since 1947. At the time of establishment, there was slight legal peculiarity between the men and women rights that they enjoyed.¹ According to the constitution of Pakistan section 8 to 28 deals with the fundamental rights of citizens which refer to the equal opportunities in all facets without any discrimination, ethnic diversity and sex. On the other hand to stop the continues practice of violence against women numerous laws brought into operation such as Muslim Personal Law of *Sharia* (Bill recognized a woman's right to inherit all forms of property.), Muslim Family Law Ordinance (MFLO, It aimed to regulate the family affairs by protecting the women rights against unjust prevailing procedures of marriage, divorce, and polygamy, etc.), *Hudood Ordinance* (The ordinance was promulgated through an executive order, which was considered as against the rights of women), Women Protection Bill (Bill Its main purpose was to amend the laws under *Hudood Ordinance* as this ordinance victimized the women), Sexual Harassment Bill (Bill The bill was for those Pakistani women, who have to interact mostly in a "bad-mannered" surrounding, especially when they come out of their homes for market places, traveling by local transport and when performing their duties at workplace, along with the male colleagues), Prevention of Anti- Women Practices Bill (The bill was to constitutionally protect Pakistani women against the abomination like giving a woman in marriage or otherwise in *Badla-e-Sulha, Wani, or Sawara*, marriage with the Holy Quran, and depriving women of their inheritance. The bill has proposed strong penalties for the offenders indulging in anti-women practices), Acid Control and Acid Crime Prevention Bill (The bill aims to control the import, production, transportation, hoarding, sale and use of acid to prevent the misuse of acid and provide legal support to acid and burn victims. the bill recommended 14-years lifetime imprisonment sentence and fines up of Rs 1 million as a punishment for the perpetrator of this crime), Child Marriages Act. All these pro-women laws grant and protect the women rights theoretically not practically. These legislations are nothing more than a piece of paper

In this paper, the first part of the study is to evaluate the status of women empowerment and pro-women laws implementation in Pakistan. In which this study explore the correlation between the women empowerment variables (particularly mobility (MOB), household decision making power (HDMP), Domestic Support to Women (DSW), Social Engagement of Women (SEW) Economic Empowerment (EE), Women Political Participation (WPP), and

Women Civic Engagement (WCE). On the other hand the pro-women laws such as Domestic violence (DMV), Acid Throwing Laws (ATL), Property Rights (PR), Harassment at Workplace and public (HL), Anti women practices (AWP) and Child Marriage Act (CMA) are selected. Finally in the second part this article examines the impediments which turn the reality of women empowerment and laws implementation into myth.

Table:1 Correlations

	MOB	HDMP	DSW	SEW	WEE	WPP	WCE	DMV	ATL	PRL	HL	AWP	CMA	RPJ
MOB	1													
HDMP	.254**	1												
DSW	-0.037	-.144**	1											
SEW	0.080	0.066	-0.038	1										
WEE	0.086	.154**	.101*	.108*	1									
WPP	0.056	0.095	-0.013	0.000	.182**	1								
WCE	-0.070	-0.031	-0.030	-.230**	-.299**	-0.055	1							
DM	0.089	-.119*	-.187**	-0.014	-.267**	-.282**	0.042	1						
ATL	-0.014	-.115*	-.117*	.155**	-.134**	-.192**	-0.066	.208**	1					
PRL	-0.075	-0.084	-0.042	-0.080	-.387**	-.326**	0.098	.414**	.218**	1				
HL	.189**	.190**	-.105*	-0.041	0.036	.182**	-0.045	-0.037	-0.068	0.031	1			
AWP	-0.053	-0.078	.132**	-.134**	-.158**	-.193**	.160**	.104*	-.175**	.215**	-.183**	1		
CML	-.141**	0.028	-0.045	-.240**	-0.038	-0.069	0.058	.116*	-0.084	.126*	-0.020	.212**	1	
IF	0.023	-.243**	0.092	-.158**	-.161**	0.053	.148**	0.064	-0.020	.098*	0.053	.162**	0.015	1

**Correlation is significant at the 0.01 level (2-tailed).
*Correlation is significant at the 0.05 level (2-tailed).

Challenges towards the Implementation of Pro-women Laws

A precise and effective framework has been constituted which explains gender disparity, violence against women and impediments in implementation of laws. This issue may be addressed by considering two vital challenges, intrinsic and extrinsic. Challenges which are naturally inherited in a human nature in the form of one's traits and attitude and are a part of one's personality are known as intrinsic challenges. Challenges which surround a person and influence externally like culture, religion, society and environment are referred as extrinsic challenges.

Intrinsic Challenges

Internal and biological factors affects individual attitude. There are certain factors which describes the further impact of intrinsic factors.²Such as female as a second

sex; because whatever the place may be, whether she is from the globe or the women is being harassed, raped, and victim of domestic violence. Lack of awareness about rights is another impediment in women maiming and non-implementation of pro-women laws. Unfortunately, most of the females are unaware about their rights so how they can talk or fight for their rights. For instance, like harassment and domestic violence. Most of the females are unaware of the fact they are being harassed, suppressed and are subjected to acute violence. Simultaneously, The object / subject relationship; where men are always subject, but women are object. Men are considered as a superior and integral part of the society. Contrary to this women's are as second class citizen in misogynistic society and are not allowed to excel in desired facets of life.

According to literature there are some internal or inherited characteristics in a personality which forces male to adopt aggressive and harsh attitude particularly towards women. These violent habits and malicious acts are very deeply rooted in one's personality and largely resist change. Aggressive and violent partners are more likely to indulge in depression, possess low self respect and greater aggression as compare to non-violent or peaceful partner. Research studies refer that these types of harsh personalities may suffer from attachment issues, borderline personality, antisocial and schizophrenia.³ Neither any positive measure nor any effort has been made to analyze the diversity of personality in accordance with violence against women in the areas of Pakistan where there is no knowledge and void awareness about the place which Islam accords to a woman, and about the legal status of women in the constitution. Along with it, it states that the one who retrieves childhood nourishment from a violent personality, and then he is more likely to perpetuate the same attitude against women and to become a severe victim of women maiming and deprived her from basic rights.⁴

The social learning theory of Bandura clearly emphasizes on the fact that one can effectively learn and grasp by observing and focusing others.⁵ The above stated phenomenon is referred as modeling and possesses great impact as like experience. In the culture like Pakistan, where majority of the children make their ideals and blindly imitate their parents, siblings and often relatives. When gender inequality would prevail, then naturally that child would repeat the same behavior in their life. If a father beats her daughter, his son would also torture her daughter. This concept is quite ubiquitous in our society and is considered as a vital determinant of domestic violence. Torture commission⁶ present in its report; *"We have in stances of torture being freely practiced in every relation of domestic wife. Servants are thus treated by their masters and fellow servants; Children's by their parents and school masters, for the most terrifying offences."*⁷

It is a fact that society of Pakistan is a traditional one where the flag of decision making is often raised by men, and resolves the family disputes unilaterally. Often women are ignored in making household decisions, because of a solid reason that they depend upon their husband economically and socially.⁸ In this despair atmosphere women feel insecure and vacant and consider themselves to be insufficient without the presence of males.⁹ Therefore the overwhelming and dominating behavior of males is becoming a prominent hurdle in the implementation of laws regarding women empowerment in Pakistan.¹⁰ Furthermore, the marital controversy has not only made the path of women much narrow and complex but has entangled them in the present suffocated atmosphere. Due to this several vacant spaces have been provided in the process of effective and better implementation of laws.

Early marriage is considered another factor, which sprouts a poisonous leaf of violence which is nourished by aggressive partner. Marrying the girls at early ages have had been a usual norm of southeast countries like Pakistan, in these states women are economically, socially and religiously dependent upon their families, and consider it a good practice to dispatch them as earlier as they could.¹¹ This immaturity of women is considered their weak point and obstacle in laws implementation

Extrinsic Challenges

Haughty and dominating behavior of males towards women is written as a fundamental annulment/abrogation in the women empowerment bill. It stimulates domestic violence and is creating obstacle in the way of laws implementation.¹² As a matter of fact majority of the law makers or legislators are men, due to this authority, men has acquired a significant place in a society. And this narrow attitude enhances the chance of not getting adequate and proper rights to the women.¹³

The cultural structure and norms in Pakistan restrict women to exercise their social, economic, political and legal rights prescribed by the law. It is a fact that Pakistan is an Islamic state but unfortunately in few matters in which significantly women empowerment comes under this shade in which legal commandment and interpretation is originated from the orthodox and traditional rituals instead of constitution.¹⁴ The customs of a society are not stationery and can be reshaped according to the increasing requirement of the environment. Although the conventional norms like *Wani*, *Swara*, honor killing and domestic violence have deep roots but can be alleviated and crushed under the footsteps of justice and fair play.¹⁵

Despite of the existing laws, administrations exhibits biased attitude towards women due to which it does not pay a great heed towards the implementation of

women protection laws in a true sense.¹⁶ It has become quite pivotal to get rid of the patriarchal culture which vividly promotes violence and oppression against women under the vague shade of honor and societal values. Laws will be incapable to protect and guard the rights of women in a valuable way unless the society intends to scrap out the cultural values and conventional rituals. In fact, society must ensure the cultural norms to synchronize with the real practice of human rights.¹⁷

Media has cast an effective and influential reflection of values on Pakistani society. Pakistani media not only displays a derogatory picture of deep rooted traditions towards women but also strengthens some stereotypes that reflect a black spot on the wall of women in the society. Very little is heard regarding the issues of women even in the main stream media. Media does not highlight the issue of gender sensitivity in the printed and electronic news. Men are greater in number in decision making as compare to the women, in the field of media. Media is considered to have a massive influence on mass but unfortunately, the flag of power in media is raised by minute people. The above stated fact clearly reveals that print media shows a scattered and inferior fragment of women in the society. It has been found that majority of the TV channels present the news of women like violence and rape cases against women not to create awareness among the society but to enhance their ratings and viewership. It also promotes yellow journalism by adding spice and thrill to their news. Media can be a reliable source to educate and spread information regarding women issues and their rights, but the channels are heavily indulged in the competition and their performance about negotiating on women issues is quite dissatisfactory.¹⁸

In the formal legal system, several barricades are quite evident in the path of justice which sustains in the form of informal systems. Attorney Evalyn G. Ursua states that women “generally suffer discrimination”.¹⁹ Various rules are governed in the plural legal system which entirely depends upon the cultural and the religious identity of an individual. On the polished legal floor there exists unjust laws under the shade of religion and cultural pattern “effectively denies women justice for violations of their human rights, exacerbates their poverty, and restricts their political participation in the public sphere.”²⁰ There has been a staunch hindrance in the way of plural legal system which may incorporate, male-dominancy, unfair customary laws, lack of awareness, negligible access to legal services, authoritative bodies, biased judiciary, a social pressure confined within a community or a family, lack of trust in judicial system. Despite of the above stated boundaries women are utilized for the conflict resolution and in the numerous strategy development mechanisms. Unfortunately, still the dark and hollow structure of justice highly force the women to seek the solution of their

legal disputes through the existing judicial system, or to seek resolution through personal source, family and friends and community groups.²¹

The potential gray areas have cast a significant impact on women that are developed by the overlapping of the state laws and customary laws. The biased attitude of the courts, the conventional approach of the jury and the formal practitioners are acting as a huge obstacle for the women to seek the real light of justice, or when the arbiters are not knowledgeable enough to comprehend the relevant laws and the legal verdict were made according to the discriminatory norms and traditions. According to a human rights advocate in Mon State “The women’s rights agenda is expected to wait for the peace process, the elections and political dialogue to [conclude] because our leaders think it’s damaging to our more important goals to talk about it now.”²²

Parallel²³ justice systems- like *jirgas* (tribal councils) are very vigilant in the rural areas of Pakistan-perpetuates the legalization of honor crimes, trading of women in order to resolve the disputes.²⁴ The decisions in *jirga* support illegitimate practices like *wani*, *sawara*, *karokari*.²⁴ These types of *jirgas* have indigenous in the rural areas of Pakistan which are commanded by the religious or social elders of that village.²⁵ These local councils have “strong social legitimacy” within rural communities “and exert informal control over women’s lives and bear responsibility for violations of women’s fundamental rights.”²⁶ At times they perpetrate acts of violence against women and sometimes they allow and push such acute acts against the will and the dignity of a woman.²⁷ According to the laws of Pakistan, these councils have no legal position.²⁸ Ironically, most of the time these councils are practiced at official premises and attended by the district officials.²⁹

Islamic laws and several international platforms have entirely perpetrate and secured the human rights, the position and the status of women has acquired a sound support of laws, pacts and variety of conventions; contrary to this there are few societies in the world who have neglected the dignity and respect of the prestigious being of Allah. These problems prevail in the culture of Pakistan.³⁰ There are two major features of the patriarchal society, first is the extreme dominancy of men upon women in the entire facets of life,

As it is argued in *The Ordinance of Manu*; “Their fathers protect them in childhood; their husbands protect them in youth; their sons protect them in age: a woman is never fit for Independence.”³¹ The second is the ignorance of women from the professional areas and to limit their selves to home only.³²

The introduction of Islamic law into legal systems has raised issues of legal doctrine versus the actual application of such doctrine, and Pakistan appears to be no exception.³³ “There are also tribal courts (*Jirgas*), and while *Jirgas* are legal authorities, Pakistan’s Constitution prevents interfering or having authority in

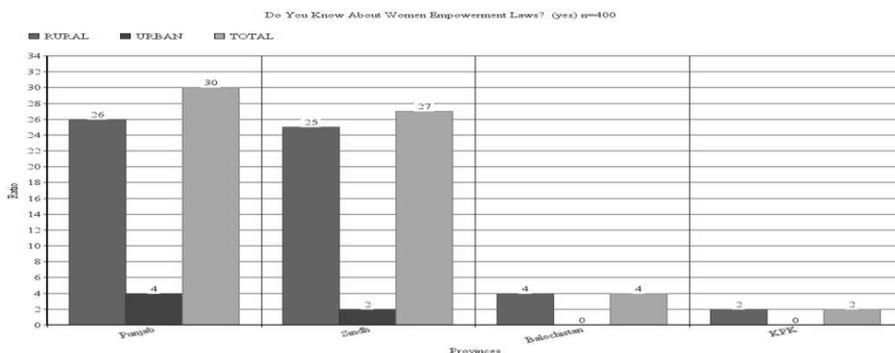
legal matters in the area overseen by *Jirgas*, unless the Parliament grants permission. Islamic law is known as *Shari'a*. *Shari'a* “courts were installed within the Pakistani judiciary for the purpose of determining whether a law or court decision is contrary to Islamic principles.”³⁴ Judges usually are not fully informed and experts in Islamic sharia law. They act on the basis of their own interpretation and limited understanding of the matter. This is why the results are based on judge’s [own] social and gender bias”³⁵ and very life threatening to the woman they entail. Not only is it dangerous, the results are very driven by the male misogyny that exists in the society. Most often than not, the results of the sharia judges decisions are driven by the gender biases that exist within our society. The constitution specifies that the court cannot interfere with what the Sharia states and even the police is not allowed to intervene. The example for this can be seen in regards to what happened to Mukhtar Mai. She was gang raped when a tribal council found it to be appropriate retribution when the woman’s brother was wrongly accused of an affair and “disgraced” the tribe. In the beginning, law enforcement agencies did not took action, but when this case reached to the media the police finally interfere to deal with matter.³⁶

In Pakistan, the reason behind long steadiness of crime against women and hindrance in laws execution is recognized as the predominant socio-social standards and practices that result of feudal and tribal culture. There are multiple socio-cultural practices which are milestone in prompting violence against women in Pakistan. The child marriage or early marriage is one such practice that is in itself a crime which leads the way different criminal practices and violations against women in various parts of the state such as anti-women practices like *Wanni, Sawara, Watta, Satta, Walwar*, and so on.³⁷

The two fundamental reasons behind the women's exploitation and obstacle in implementation of law in Pakistani society, showed up from the data analysis and discourse, were dearth of education among women and not reporting the incidents of brutality against women to law implementing agencies (i.e. police).³⁸ The absence of access to education and awareness in regards to human rights enactment and women rights generally adds to the continued subsistence of parallel justice system, which proceed to “sanction acts of violence against women” or “hand down severe punishments (such as honor killings) for women who allegedly transgress societal norms.”³⁹ The continued existence of these tribunals—in spite of their sanction in the constitution—is proof that enactment without extensive access to education is insufficient to counteract brutality against women.⁴⁰

The purposes behind women’s inclinations to avoid from reporting brutality and crime against males to police for investigation is based on two important reasons.

Firstly, avoid to portrait the bad image, reputation and disrespect to their family and secondly is the police exploitation, long and unfair legal process. Legal literacy is a procedure of strengthening the social and self-empowerment. It moves women not exclusively to enact the rights they do have, additionally rethink and reshape the lacking ones which are communicated in law and in its practice.⁴¹ Knowledge about legal rights and law is generally low among the general public, police, judiciary and the women’s especially. In light of a question whether police officers were given any instructions on the newly passed laws in the country, the response were negative by all. Simultaneously, when a similar question was asked from the judges, they said that they were not given any training briefings on newly passed laws. That is the reason, when a case is brought in the process and in front of them then they turn to consult and learn about new laws.⁴²



It was watched that there was not an adequate knowledge about women’s protection laws, among the judiciary and police and women’s herself as mentioned above in table. When they asked whether they might want to be educated by their departments on the new legislations and the process of execution, every one of them with no exemption responded positively. They said it is vital for them to think about the laws as an effective in provision of justice.⁴³ Lack of legal capacity in criminal justice system is another roadblock and sluggishness in the way of laws implementation and speedy justice. From the case registration to investigation, trial and prosecution individuals endured because of dearth of professionalism, lack of demonstrable skill and limited capacity of criminal justice system.⁴⁴ Investigation personals are not appropriately trained in standard investigation procedure particularly in handling the sexual crimes victims. No doubt, enforcement of new laws is milestone to bring the social change but does not ensure the justice if criminal judicial system keep working in the same scenario. It is need of the hour to take positive initiatives to make the criminal justice system effective, dynamic and judicious. In Pakistan massive

congestion and delay in prisoner's trials stems from basic lacunas in the criminal justice system. These problems incorporate the police failure in investigation within defined timeline according to law, the restricted application of bail laws, frequent deferment in hearings, insufficient staff, probation departments, lack of free legal guidance and representation.

The major loophole in justice system of Pakistan is delay. There are several reasons of delays and blockages in justice system of Pakistan. There are different determinants, lacunae inside and outside of the courts. "Justice delayed is, undoubtedly, justice denied." As a result it has the utmost primary concern of developed societies to deal with the issue of delay in justice system through possible and suitable means to eradicate the deficiencies in justice administrations.⁴⁵ Unfortunately, delays in justice system strengthen the parallel justice system. It enraged the system and also allows individuals to take matters into their own hand which is not merely illegal but also invigorate the misguided vigilantes. The existence and prevalence of rough justice system is a ubiquitous phenomenon in Pakistan.

The bills on women rights insurance and protection, introduced by National Assembly, to wipe out violence against women such as honor killing , child marriages or anti women practices bills did not execute in its true spirit. Non-government organizations (NGOs) and human rights activists are not be up to snuff the gender inequality and violation of laws due to the sturdy opposition from the political –cum-religious parties.

NGO's played an important role in order to bring the awareness among females about social, political and economic rights which cannot be undermined. The role of NGOs is varied in aims and objectives. Contrary to this, the women rights NGOs contribution is very limited for women in Pakistan due to multiple reasons. Firstly, most of the NGOs are impound to major urban areas and failed to achieved the target in the for women uplift in rural areas. Secondly, according to the population census of Pakistan, the women literacy rate is just 36.8 percent and literacy ratio of rural women is 20 percent which is very poor as contrasted with men's, which is 61.3 percent. Albeit, this chasm can be found all over the Pakistan which additionally, underpins the argument of ubiquitous phenomena of gender inequality in the state. On the other hand the major loophole is, "the literature is mainly published in English or Urdu though the female literacy rate in Pakistan is very low. The large majority of women are unable to read either of these languages. Moreover, most women are located in rural areas so their access to these organizations and their published material is limited and above all, they lack the financial resources to purchase this literature."⁴⁶

Conclusion

Women rights are human rights which can only be protected if the Pakistani society will free from gender-based violence and address the role of women because, females are not only mothers, daughters, sisters and wives but also they are human beings. In the crux of the above mentioned barricades, legislation is an important tool to bring the social change however it is insufficient itself to accomplish the due diligence⁴⁷ obligation to stop violence against women. To prevent the females from the traditional practice of violence, parallel justice system and decisions of tribal's, government should take positive initiatives for gender equality. In this regard rule of law required the harmony which is predominantly in the shape of state law. Pakistan has a plural justice system which is completely diverse and independent such as; the Islamic law, traditional law and the state law. Although, the state and state law does not acknowledged the non-state laws as a law but the reality is entirely different because in Pakistan traditional laws predominantly in practice. Traditional laws practiced indifferent form such as Jirgas, panchayts, and informal gatherings of families by pirs and chaudharys. It's only due to practice of law by people according to their cultural structure, mores, values in their social milieus. The state laws does not implement in true spirit with the existence of cultural practices and values. Education is the only panacea and uniform socialization towards the implementation of rule of law. True implementation of pro-women laws can be a landmark in eradication of gender inequality and turn the myth of social change in to reality if all existing barricades will address on priority basis.

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 - 21 Justice Base, "Voices from the Intersection," 47-48.
 - 22 Ibid., 48.
 - 23 One of key issues in the criminal justice system is parallel judicial systems such as Federal Sharia Courts (FSC) and the Shariat Appellate Bench, Special Trials Courts, Customary practices, Frontier Crimes Regulation (F.C.R) and International Human Rights Law functions alongside the ordinary judicial system. These parallel judicial systems create massive confusion amongst litigants and the law enforcement agencies as all of these systems are incorporated in the Constitution. Also there is an overlapping in the jurisdiction of FSC and Ordinary Court especially in the matters of Hudood Ordinances. There is no justification for differential

legal treatment of equal citizens of the country. These parallel judicial systems have an adverse bearing on the notion of justice and human rights. It was observed that the overlapping of the judicial system gave a free hand to police to register a case in whatever way they wished. Police register the complaint of similar offences either under Hudood Ordinance or PPC depending on their discretion. The legal coverage of several crimes covered by PPC as well as Hudood Ordinances has caused tremendous contradictions and confusion. See Institutional Strengthening of NCSW Support to Implementation of GRAPs, Study to Assess Implementation Status of Women Protection Act 2006, National Commission on the Status of Women Islamabad. <http://www.ncsw.gov.pk/previewpublication/4> P.11

- 24 Human Rights Commission of Pakistan, *State of Human Rights in 2010* (Lahore: Maktaba Jadeed Press, 2011): 206, Accessed November 15, 2016, <http://hrcp-web.org/hrcpweb/wp-content/pdf/ar/ar10e.pdf>.
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