

Stability and Change in Japanese Employment Institutions: The Case of Temporary Work

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The expansion of temporary employment, more than any other recent employment change, has been credited with unraveling long-term employment commitments in the U.S. This paper raises the question of whether a major recent deregulation of temporary employment in Japan can be expected to have similar effects. Within neo-institutionalist research, debates about the effects of liberalization on institutional continuity and change tend to focus on the persistence of traditional arrangements, ignoring developments in new sectors and new forms of employment. In this paper we approach the issue of the future of long-term employment from the perspective of the recent development of temporary work. While the deregulation of this employment form is too recent to assess its effects, we expect that a new strata of "permanent temporary" employees will eventually impact on long-term employment practices. In the meantime however, old inequalities, based in the gendered segmentation of employment, seem to be re-cast in the form of temporary labor.

1 The Comparative Institutional Approach to Stability and Change

Japan as a national model has occupied a central role in the comparative institutional literature because of long-term employment commitments and the investment of firms in the skill development of employees. These are qualities which the Japanese model shares with the German model, and which distinguish both from the Anglo-American model of liberal employment institutions (Streeck 2001). In the 1980s, the comparative institutional literature focussed on how the Japanese model successfully adjusted to the economic crises of the 1970s and the micro-electronic revolution and transformation of production work in the 1980s (Dore 1986, Ernst 1988). Adjustments within the model guaranteed its continued success and divergence from liberal employment systems.

In the 1990s, comparative institutionalist research, reacting to a new wave of economic crises and transformations of work in relation to globalization of markets and the diffusion of new media and information technologies, have focussed on the impact of liberalization pressures and the influence of a rejuvenated liberal (American) model of employment on change in the Japanese (and German) models of "embedded/non-liberal capitalism". A major research question in this literature concerns the extent to which the Japanese (and German) models are unraveling, becoming more liberal, or even converging on an American model (Crouch & Streeck 1997).

One line of analysis has focussed on path dependency and the complementarity of employment institutions with a range of other social institutions and concludes with a prognosis of continuing divergence. While recognizing that the high performance of the American economy poses for some, a model to emulate, this line of analysis argues that there is nothing new about liberalizing (or globalizing) pressures (Boyer & Drache 1996) and that imitation is impossible (Hollingsworth 1997). An alternative line of analysis sees the possibilities for change as far more open (Dore 1997, Streeck 2001, Crouch & Streeck 1997) and recognizes something new in the transformation of the economy in relation to the information revolution (Yamamura forthcoming). In short, there is a debate over the extent to which present systems can adjust (continuity) or in fact need to change (transformation) in order to recover their competitive strengths and social stability.

Debates within the comparative institutionalist literature on continuity versus transformation of national models like the Japanese (and German) models of employment focus also on whether emulation of institutions in other national models is possible or likely/desirable. Hollingsworth (1997) argues that institutional change is constrained by the embeddedness of institutions within social systems of production. Dore, in writing about Japan, takes a more open position toward institutional transformation and change (1997). To date, however, the comparative institutionalist literature, including the more open approach, has focussed on assessing the transformation potential from within particular institutional frameworks (for example the long-term employment relation), and ignored the emergence of new forms and arrangements (in our case, temporary work). This blind spot can be regarded as a lack of attention to the institutionalization of new practices and their impact on the old institutional arrangements. Yet the sources of change are just as likely to emanate from outside the old system.

2 The Re-regulation of Temporary Work in Japan

In 1999 a major reform of the regulations covering the operation of temporary help firms (THFs) and the dispatching of temporary help staff to receiving firms laid the foundation for the expansion of temporary employment in the Japanese economy (Araki 1999, Kamata 2000). Already in the wake of the 1970s OPEC crises, Japanese governments and employers had argued for a regulatory environment which would enable temporary employment growth as a new and needed source of personnel flexibility in the Japanese large-firm sector (Ernst 1988, Troppenz 1994, Goka 1999). The first set of deliberations over a temporary work regulation during the early 1980s (culminating in the passing of a temporary dispatched work law in 1985, in effect since 1986) coincided with the inclusion of Japanese labor in a range of new consultative policy-making bodies (Seifert 1997, Kume 1998). By the time of the second wave of reform in 1996 (followed quickly by a major revision of the regulation in 1999), the labor policy network including labor was well-established (Knoke et. al. 1996, Broadbent 2000).

In the late 1990s employment policy came under the deregulatory program of the Japanese government (Araki 1999). Within the altered policy context, the second

round of temporary work regulations was characterized by liberalizing tendencies (Weathers & Miyazawa 2000). In part, liberalization was a consequence of political changes under the deregulatory program of the Hashimoto government and of renewed attempts by employers to introduce more diversity into the employment system (Weathers & Miyazawa 2000). The initial institutionalization of temporary employment in Japan was an attempt to supplement, without altering, the existing model of long-term employment for regular workers (Ernst 1988, Dore 1986). Developments in the 1990s however, signaled a political shift toward deregulation and a greater willingness on the part of the Ministry of Labor to step away from protecting the long-term employment system (Weathers & Miyazawa 2000). According to one critique of the new temporary work regulations, the aim of employers is to replace regular with temporary workers (Nakano 1999).

Recent analyses of employment system change in Japan discount this shift (Holzhausen 1998). The 1990s continue to be seen as an era of commitment to the existing stable employment system based on the model of long-term employment, despite liberalization pressures (Thelen and Kume forthcoming). Changes toward creating more labor mobility are seen as functioning in the same way as other adaptations: as necessary measures for introducing flexibility around the edges of the model of long-term employment (Sugeno & Suwa 1997). With one interesting exception (Dore 1997), the continuity of the Japanese employment system remains the dominant interpretation of current reforms and change.

Labor market and policy developments since 1997 may nonetheless challenge the status of regular full-time, "long-term" core employees in the large-firm sector. These developments have unfolded in part only very recently. The liberalization of temporary employment in 1999 is an important case study of these recent developments for a number of reasons. First, the process of reforming the temporary employment regulation represented a shift on the part of the Ministry of Labor to engage itself in the government's deregulation program (Weathers & Miyazawa 2000), thus stepping a degree away from its usual role of broker mediating between labor and employers (Broadbent 2000). Second, temporary employment, more than any other new form of employment, most directly poses an alternative to regular and long-term "normal", "regular", or "standard" forms of employment (Brose et. al. 1987, Brose et. al. 1990, Beck 2000, Kalleberg et. al. 2000, Castells 1996). The liberalization of temporary employment is an integral part of the post-Fordist flexible employment regime in the U.S., and other national contexts (Gottfried and O'Reilly 2000, Gottfried 2000). This point was brought to attention in 1993 in the U.S. when Manpower, the world's leading temporary help firm (THF) declared that it was the largest employer in the United States (Gonos 1997).

Further, the recent scholarly interest in the role of the "temporary help arrangement" is due to the growth of "permanent temporary" employment, especially among high qualified segments of the labour force. Unlike other forms of numerically flexible employment, the characteristics of temporary help do not fit neatly into the imagery of a secondary or peripheral low-wage, low-skill labor segment. This dimension of the temporary work force is equally present in the United States (Gonos 1997), Germany (Brose et. al. 1990), and Japan (Shire & Imai 2000), despite important

differences in the regulation of the industry and employment form, and degrees of labor market inequality for temporary workers.

3 The Temporary Help Arrangement in Japan

Many forms of employment arrangements are in fact, temporary. The use of the term temporary employment in this paper refers to labor dispatched by a temporary help firm (THF) to a receiving company. In the English translation used by the Japanese Ministry of Labor, this is dispatched labor as regulated by the 1986 temporary dispatched employment law and its subsequent revisions. Part-time work, which may also be fixed-term, and various forms of free-lance or limited-term contracts are excluded from this definition. At least two other common Japanese practices, similar to temporary help arrangements, are also excluded from this definition: labor transfers/labor lending between companies (*tenkin, shukko*) and labor subcontracting (*shagaiko*) employment (Ernst 1988, Weathers & Miyazawa 2000).

Temporary employment as defined here involves a triangular arrangement between a dispatching firm, a temporary employee, and receiving firms or clients. The classic description of the nature of temporary work is that the employment relation is separated from the work relation. The former is determined by the employee's contract with a temporary help firm, while the latter by the receiving firm (Gonos 1997, Brose et. al. 1987, Ernst 1988). The presence of labor intermediaries has a precedent in the early industrialization period in most industrial contexts. What is new about the contemporary temporary help arrangement is that temporary help firms act as employers, not intermediaries. THFs not only dispatch workers, they also place them on their payrolls and bill client firms to cover wages, overhead, and profit (Gonos 1997). Thus, a THF claims to be an employer, and the growth of temporary work is paralleled by the expansion of a temporary help industry (THI) (Gonos 1997).

From the point of view of the receiving company, the THF "offers an assured supply of at least minimally qualified workers without the responsibilities of the standard employer-employee relationship" (Mangum, Mayall & Nelson 1985: 603 cited in Gonos 1997, p. 85, FN 5). Especially in the U.S. case, temporary labor is used by receiving firms "while avoiding many of the specific social, legal and contractual obligations" that are attached to employer status (Gonos 1997, p. 85).

Yet the challenge of temporary work to the standard employment relation depends on the regulation of this employment form. In the U.S., where temporary work takes an unregulated or liberalized form, the expansion of this new employment form alone is credited with undoing the stability of the post-war employment system. According to Gonos,

In allowing core firms throughout the economy to rid themselves of legal obligations with respect to a portion of their workforce, the temporary help formula became a key mechanism for the dramatic restructuring of employment relations that began in the 1970s, that is, for the break-up of what Kochan et. al. (1986) call the New Deal model of industrial relations. (Gonos 1997, p. 86)

In the U.S. case, the THI industry itself was instrumental in creating a regulatory environment favorable to its own development, and actively lobbied since the 1960s

for exclusion from regulations limiting the activities of private employment agencies (Gonos 1997).

German temporary help firms have been especially concerned with establishing their legitimacy as employers, and winning recognition as responsible employers has characterized the regulation and development of the industry (Voswinkel & Bode 1993). German regulations are more restrictive than in the U.S. (Brose et. al. 1990). The regulation of temporary employment in Japan is also relatively restrictive in comparison to the U.S. (though less so than German regulations), but with a clear tendency in the direction of deregulation and liberalization, evident since the late 1990s.

Most advanced economies in the post-world war II period had some sort of regulation blocking the activities of private employment agencies, which served as a barrier for the establishment of THFs and the development of the THI. The ILO convention 96 dating from 1949 sought to limit or prohibit the role of private employment agencies, and Japanese post-war labor laws in fact, prohibited private fee-charging employment agencies (Weathers & Miyazawa 2000). Unlike part-time work and other forms of flexible labor mobility in Japan, the growth of temporary employment has been dependent on the creation of a favorable regulatory environment, reversing the limitations on private employment agencies and intermediary labor dispatching outlawed in post-war labor laws. In this sense, temporary work has undergone an institutionalization process involving the social construction (Berger & Luckmann 1970) of a new kind of employment relationship, subjecting the legitimate operation of the industry to emerging standards and norms (Meyer & Rowan 1991). In Japan, this took the form of a "positive list" of selected occupations where temporary employment was allowed, and where licensing requirements were imposed for the majority of temporary help firms.

In total, there have been three reforms of the Japanese temporary help law, (1990, 1994, 1996) and one major revision in 1999. Already, a reform of the 1999 revision is scheduled for 2003. The first attempt to create enabling regulations for temporary employment was undertaken by the Japanese government in the late 1970s, but effectively resisted by trade-unions arguing that temporary work would open the way to replacing regular long-term employees. By the mid-1980s, this resistance was placated with a restrictive regulation of temporary dispatched work, passed by the Japanese legislature in 1985, and in force from 1986. The first regulation limited temporary work to ten occupations and imposed licensing requirements on most temporary help firms. Within the first year of the regulation over 2,500 temporary employment agencies were established (Weathers & Miyazawa 2000). Revisions in 1990, 1994 and 1996 gradually expanded the use of temporary workers by increasing the number of occupations in 1996, and broadening use to older workers and replacements of employees on child or home care leave in any occupation.

By 1996, temporary work had already spread throughout the occupational structure for some types of workers and some forms of short-term employment (older workers and replacements for workers on leave). The 1999 revision marked a clear departure from the restrictive system. The major change was the abandoning of a so-called "positive" list of occupations where temporary work was permitted, in favor of a

relatively open system with a short "negative" list of types of work where temporary employees could not be received. Together with other changes, the 1999 reform opened the way for growth of temporary employment throughout the Japanese economy (Shibuya 1999). From the employers' point of view, a one-year restriction on the use of temporary employees in most cases is the major remaining obstacle to the flexible and expanded use of temporary work.

At present, temporary dispatched employment makes up a rather small proportion of all employment in Japan (0.67% in February 2000), but growth has picked up since the 1999 revision (up from 0.5% of total dependent workforce in 1997) (*Rôdô ryoku chôsa tokubetsu chôsa*). In the first six months of the new regulation, the number of dispatched workers had risen by 18%. Optimists predict a growth in the industry matching U.S. proportions, while pessimists settle on a continued 20% yearly growth in the number of temps in Japan (Shûkan Tôyô Keizai 1999).

Throughout the 1990s the THF expanded rapidly in Japan, both in terms of number of firms and revenues. At present, there are well over 10,000 THFs. In the wake of the 1999 revision which makes licensing of new firms much easier, both a further expansion in the THF population, and diversification through the establishment of more affiliates of existing THFs are expected. While the number of THFs is expanding rapidly, the business remains dominated by ten or so large firms, including Pasona (the oldest and largest Japanese THF), Adecco Career Staff (a Swiss affiliate), Manpower, and Tempstaff. Pasona alone has at least 100 subsidiaries at present (Weathers & Miyazawa 2000). A new labor force survey this year will provide a more precise assessment of the effects of the 1999 revision on the growth temporary employment.

There are two types of temporary employment relation in Japan, which continue to exist side-by-side. The first, a registered-type (*tôroku-gata*) most resembles the form of temporary work common in the U.S., where potential workers register with a company, and where the term of employment is matched exactly to the term of dispatching. The second form, *jôyô-gata*, or the employment type, is similar to temporary work in Germany (Bode et. al. 1994). Here, potential temporary workers become regular employees of THFs, and are paid even if they are not dispatched (a situation the firms attempt to avoid of course, through tight personnel planning). The industry is presently dominated by the *tôroku-gata* firms (80%), though union demands are for the expansion of the *jôyô* type of temporary employment relation.

In the wake of the 1986 regulation, many large firms, especially in the banking and trade industry, set up in-house THF subsidiaries (*moppara-gaisha*) which functioned as second personnel offices (*dai-ni jinjibu*) (Weathers & Miyazawa 2000). In one large automobile firm in 1995 for example, all new female customer service staff was recruited to the firm's own temporary help subsidiary, and dispatched to the parent firm (Shire 2000). The 1999 revision of the temporary employment law attempts to curb this practice by prohibiting the practice of establishing subsidiaries dedicated to providing temps for a single parent firm.

Clerical work has been the largest area of temporary dispatched work in Japan. Despite the extension of allowable occupations for temporary work to technical and professional occupations with the 1990 and 1996 reforms, a steady decline in the

proportion of all dispatched workers in these occupations continued. In 1997 70% of all dispatched workers were in clerical roles, and 11.7%, the second largest proportion, in professional and technical work.

Two-thirds of all temporary dispatched workers are women. Further, women are over-represented in the less skilled areas of temporary work (e.g. 92% of clerical work), while men dominate the only clearly skilled occupational grouping: professional and technical workers. Nonetheless, the proportion of female temporary workers in professional and technical occupational areas has been increasing since 1986, and reached a peak in 1997 at 33%. Women also form the overwhelming majority of the *tôroku-gata* or registered type of temporary employment, the more precarious of the two types of temporary work arrangement.

Recent research by the Japan Institute of Labor on the practice of temporary dispatched employment (conducted prior to the most recent reform of the dispatched work law in 1999) reports findings from surveys of dispatching companies, receiving organizations and of dispatched workers themselves. The largest proportion of dispatched workers were young women between the ages of 25 and 35, a third of whom claimed to have chosen temporary work because it offered a degree of freedom of choice in work assignments. The main reasons for employers to accept dispatched workers were "quick recruitment" and the "need for specialized knowledge and skills" (Ikezoe 1999).

Recent critiques of dispatched employment in Japan focus on the following problems: the lack of labor protections (Tsuchida 2000), the ease with which time-limitations (one- or three-years depending on the occupation dispatched) can be ignored, and the ambiguity of occupation-based regulations, which make manipulation and abuse of the regulations quite simple (Kamata 2000, Nihon rôdô bengo-dan 2000, Nakano 1999). Dispatching companies supported the partial deregulation of this employment form in 1999, and while applauding the lifting of most occupational/sectoral restrictions and loosening of some time restrictions on dispatching, argue for further deregulation in the future (Shûkan Tôyô Keizai 1999, Shibuya 1999). The 1999 revision was passed with the provision that the regulation would be reconsidered in three years.

4 Sources of Liberalization Pressures on the Japanese Employment System

Among international organizations, the OECD is a strong proponent of American-style flexible labor market policies. The recommendations of the OECD Jobs Survey for deregulating labor markets includes a list of specific measure for Japan, which are assessed continuously in the bi-annual Economic Surveys publication (OECD 1994, OECD 1999a). Among the major OECD recommendations for Japan are the deregulation of temporary work and the improvement of the availability of firm-external training and skill certification to enhance labor market mobility. Both measures run counter to traditional employment practices, which include an emphasis on long-term regular employment and on-the-job and firm-specific skill formation.

According to the OECD, the system of lifetime employment "is increasingly seen as inappropriate to the current context of slower and more variable growth and inconsistent with the need for boosting returns on invested capital [...]" (OECD 1999b, p. 203). In a comparative analysis of employment security regulations, undertaken by the OECD in order to assess compliance with its jobs survey recommendations, Japan scored among the group of highly regulated labor markets, on a par with Germany (OECD 1999b). The step toward deregulating temporary work taken in 1999, only partially met OECD recommendations because time-limit restrictions on the use of individual temporary workers remain in Japan. In fact, most of the OECD labor market liberalization recommendations have not been acted upon (see OECD 1999a).

Recent statements by the Japanese Ministry of Labor about the limitations of the long-term employment practice also show an acceptance for liberalization, but only gradual liberalization in order to insure economic and social stability. The advantage of long-term employment is that it "provides stability for the economy as a whole". Disadvantages are rooted in the tendency for long-term employment commitments to "obstruct rapid transitions in the industrial structure". Gradual change in long-term employment is desirable from "the perspective of economic and lifestyle stability" and because "it is unnecessary for Japan to have the exact same employment system as the U.S., where the labour market is fluid and employment adjustments are made easily". The diversification of employment, along with changes in young people's attitudes and values toward work are factors, which the Ministry names as likely to "have a significant impact on employment practices". (Rôdôsho 1999).

Another interesting source of external pressures for change derives from the enactment of a new treaty guiding the regulation of temporary work by the International Labor Organization in 1997. Ironically, both employers and labor use the treaty to legitimate their specific reform interests against each other. Thus, the Japanese THI argues that the 1999 reform is in compliance with the ILO treaty, which legalizes the temporary help industry (Shibuya 1999), while labor claims that protections outlined in the treaty for equalizing employment relations with standard employment are ignored by the Japanese law (Weathers & Miyazawa 2000).

5 Change or Stability?

Something has changed, but not completely. The re-regulation of temporary work opens the possibility for Japanese firms to source new skills and new workers from the external, THI mediated, labor market. Temporary workers in *jôyô-gata* employment relation could make employment relations among high-skill workers more flexible and perhaps even lower the boundaries between core and temporary employees. The bulk of employment however, is in the *tôrôko-gata* type, where primarily qualified women are placed in precarious employment relations, buttressing rather than eroding the core employment relation of male regular employees. The experience with temporary work in Japan is too recent to reach a decisive conclusion about the impact on the institution of long-term employment. Understanding the development of such employment relations however, is central to analysing sources

of social inequality and social integration in advanced economies under liberalization pressures.

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Comment:
**Stability and Change: Typifying 'Atypical'
Employment in Japan**

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The restructuring of work is proceeding rapidly through a series of reforms and economic transformations that promise to alter both the industrial structure and the mix of employment arrangements. Comparative studies on the regulation of labour markets, employment policy and industrial relations have not adequately understood these changes despite an otherwise sophisticated development of theories and data on post-Fordism and employment regimes (e.g., Crouch and Streeck 1997). Thus, for example, the School of Comparative Political Economy (Kitschelt, Lange, Marks and Stephens, 1999) generally refers to work and social regulations designed for standard industrial work and a corresponding form of standard family life, underestimating the weight of the service sector economy in advanced capitalistic countries. Due to this 'industrialism bias', the heterogeneity in content of work, modes of work organization, ways of working, and gender employment structures within the service sector tend to be blind spots.

The case of diversification of employment relationships in Japan puts in sharp relief the problems with such gender-blind accounts. Japan's flexible mass production model of capitalism has incorporated 'atypical' employment, chiefly among women, as a cheap labour buffer to manage high personnel costs associated with the lifetime employment system (Gottfried 2000). Job security of regular employees working in large Japanese companies have been underwritten by inferior working conditions further down the job hierarchy and the production chain throughout the postwar period (Gottfried and Hayashi 1998). Since the mid-1970s, when shocks from the energy crisis sent tremors throughout this oil-dependent nation, the rate and the magnitude of atypical employment arrangements (including temporary, casual, and contract labour, as well as irregular and involuntary part-time work) grew at the expense of regular employment (Gottfried forthcoming). Globalization and the resultant intensification of competition have pushed this trend even further (Eades 2000: 11). By the early 1990s, the bursting of the economic bubble has fuelled, and in some cases has required, the search for flexible alternatives to the standard employment contract with its implicit and explicit guarantees. As a result, one of the former pillars of the Japanese employment system is undergoing change.

Social policies have figured centrally in structuring employment diversification as gendered. The design of entitlements has privileged regular workers with long-term commitments and disadvantaged atypical employees. There is little disagreement

over the fact that many atypical workers do not enjoy the same array of benefits as available to regular workers.¹ Agency temporary workers lack both explicit and implicit contractual guarantees compensating Japanese core workers. The employment and welfare system has institutionally embedded a male-breadwinner model in which women in irregular employment are assumed to earn a secondary or supplementary income. The continued neglect of gender, however, has prevented comparative institutionalists from seeing the particular pressures on conservative welfare states in a period of restructuring, which are becoming more apparent in light of changing economic fortunes (Gottfried and O'Reilly 2002).

Much of the concern in comparative political economy literature has been with de-regulation (Standing 1999). This focus has tended to miss the gendered nature of both de-regulation and the forms of regulation or re-regulation that are also taking place (Walby 1999). Under pressure to liberalize, Japan has enacted a contradictory set of reforms to deregulate and re-segregate the employment structure (Shire and Imai, 2000) but also to improve gender equality (Osawa 2000). More specifically, a series of reforms to the Worker Dispatching Law have opened most job areas to temporary employment but conceded provisions that placed time limits on the use of agency temporary contracts in formerly restricted occupations, particularly in manufacturing where the bulk of (male) union members work. Deregulation not only will likely spread the use of temporary employees more broadly but also shift employment functions to temporary agencies. Shire suggests that high-skill (male) workers may experience positive prospects in the more secure temporary employment relationships, but the majority of (female) temporary employees who occupy the less secure positions face a more tenuous work future.

Although agency temporary work remains a relatively small component of total employment, it signals the unraveling of both implicit and explicit norms established by the post-war social contract. The rise of atypical employment prompts several questions for future research: What are the implications of increasing individualization of employment relationships and diversification of employment contracts? Will shifting employment statuses lead to permanent disadvantages and greater inequalities? How will discontinuities and shifting career paths affect the meaning of work and the shared narratives of belonging in a work community? What effect will atypical employment relationships have on social security systems and the distribution of risks? As Shire cautions, it is too soon to reach a conclusive answer on the long-term impact of atypical employment on the institution of long-term employment. Her paper carefully documents both stability *and* change in Japanese employment institutions.

¹ Regular full-time employees enjoy universal health care coverage while only 66 percent of temporary agency workers receive the benefit, albeit higher than the 33 percent of part-time workers. While two-thirds of agency temporary workers have access to pension insurance, a small percentage have access to private enterprise annuities (9.6 percent), bonus payments (28.8 percent), lump sum retirement payments (15.4 percent) (Houseman and Osawa 2000), and transportation and vacation allowances (see Weathers 2001).

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