

**Committee: Legal (GA6)**

**Issue: The arbitrary use of power by governmental authorities in the ongoing Philippine Drug War**

**Student Officer: Sophia Kolovou**

**Position: Co-Chair**

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## **Introduction**

Dear Delegates,

My name is Sophia Kolovou, I am a student of the 11<sup>th</sup> grade at Pierce-The American College of Greece and it is an utmost honor to serve as a student officer in the 3<sup>rd</sup> Anavryta Model Lyceum Model United Nations. First, I would like to welcome all of you to the Legal Committee (GA6), a committee that deals with a lot of important issues that concern the international community. I am honored to serve as one of your co-chairs and the expert chair on the issue of the arbitrary use of power by governmental authorities in the ongoing Philippine Drug War. I look forward to meeting all of you and I hope that during the conference we will engage in a productive debate.

The purpose of this study guide is to provide you with some basic information on the topic whilst guiding you on how you will proceed with your further research to find out the policy of your country on the matter. This way you will be able to write good resolutions and be prepared for the debate. I suggest that you carefully study this guide and, if you have any further questions do not hesitate to contact me, so I can provide you with more explanations or perhaps a clarification on the topic. Please contact me via email: [sophia.kolovou1@gmail.com](mailto:sophia.kolovou1@gmail.com).

I wish you all best luck with your research and I am looking forward to meeting all of you! See you in February!

Best regards,

Sophia Kolovou

## Introduction to the topic

The term “war on drug<sup>1</sup>” was first used in the United States by President Nixon in 1971, to introduce his new policy against drugs. Since then, in many countries worldwide this term has been used to describe the actions that a country takes to eliminate and prohibit illegal drug abuse and trade. Countries that have openly declared a war against drugs are Mexico, Bangladesh and the Philippines. These wars have resulted in the death of hundreds of thousands of people. Therefore, the term that is used to describe a lawful act to battle the issue of abuse and distribution of harmful narcotics, has taken a different turn. Especially, in the Philippines, it has resulted in approximately 27,000 deaths. The current President of the Philippines, Rodrigo Duterte, since June 2016, has followed a strict anti-drug policy. He has threatened and encouraged killings against drug users and distributors. Thus, his attitude has resulted in acts of vigilantism and arbitrary use of police and military power. Duterte has transformed the Philippines in a state of unlawfulness as not only has he caused the death of thousands of civilians, but he has also imprisoned anyone voicing an opinion against his policies.

Before Rodrigo Duterte was elected illegal drug trade was an issue in the Philippines, as officials had estimated that in 2015, 1.8 million Filipinos were drug users. Thus, Duterte took advantage of the situation by drawing the attention of the people on the issue, blaming drugs for the high murder and rape rate and promising to eliminate drug addicts and lords. Through making these promises he succeeded in winning the elections. To fulfill the main goal of his agenda, he announced that he will take severe measures such as imprisonment or even execution of suspects related to drug issues. Duterte’s administrations used its power in an arbitrary way; not following the international law nor respecting human rights in an effort to impose tranquility in the nation. Although, the number of deaths was high the public approved his practices as they felt their president has followed his promises.

Duterte’s controversial approach to the narcotics issue has split the international community’s opinion as most western countries expressed their concern and sometimes even condemned some of his measures. On the other hand, some countries such as China, Japan and others have approved his anti-drug policy. Nevertheless, the international community has been shaken by the high toll of deaths and has tried to shed a light on the situation and to help the Philippines.

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<sup>1</sup>“English Dictionary, Thesaurus, & Grammar Help.” *Lexico Dictionaries | English*, Lexico Dictionaries, [www.lexico.com/en/definition/arbitrary](http://www.lexico.com/en/definition/arbitrary)

## Definition of Key-Terms

### War on Drugs (WoD)

War on drugs is a series of actions tending toward a prohibition of illegal drug trade. It is a campaign adopted by the U.S. government along with the foreign military aid and with the assistance of participating countries, to both define and end the import, manufacture, sale, and use of illegal drugs<sup>7</sup>.

### Arbitrary

When a ruling body uses its power without any restraint and autocratically when exercising its authority<sup>1</sup>.

### Vigilantism

The practice of an ordinary, self-appointed group of people to enforce a law without legal authority to prevent crime or to catch and punish people believed to be criminals<sup>2</sup>.

### Extrajudicial

It is something not founded upon nor connected with the action of a court of law. More specifically, an extrajudicial killing is a deliberated killing not authorized by a previous legal judgment<sup>3</sup>.

### Enforced Disappearances

The act of making someone disappear against his/her will often suddenly in the form of informal arrest, detention or abduction followed by a refusal to acknowledge the fate of that person. The victim is outside the protection of law, therefore, finds himself in situations of utter vulnerability and is especially at risk of being tortured or executed<sup>4</sup>.

### Crimes Against Humanity

According to the Roman Statute, which is the founding treaty of the International Criminal Court (I.C.C), the definition of 'crime against humanity' is any inhuman act that is committed as part of a widespread or systematic attack directed against any civilian population.

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<sup>2</sup> "English Dictionary, Thesaurus, & Grammar Help." *Lexico Dictionaries | English*, Lexico Dictionaries, [www.lexico.com/en/definition/vigilantism](http://www.lexico.com/en/definition/vigilantism)

<sup>3</sup> "English Dictionary, Thesaurus, & Grammar Help." *Lexico Dictionaries | English*, Lexico Dictionaries, [www.lexico.com/en/definition/vigilantism](http://www.lexico.com/en/definition/vigilantism).

<sup>4</sup> "Enforced Disappearance." *TRIAL International*, [trialinternational.org/topics-post/enforced-disappearance](http://trialinternational.org/topics-post/enforced-disappearance)

There are no crimes that are specifically crimes against humanity, but the most common example is genocide<sup>5</sup>.

## **Background Information**

### Brief history of “War on Drugs” (WoD)

#### United States of America

The term “War on Drugs” was used in the United States by President Richard Nixon in 1971 to describe the effort to combat illegal drug use and trade. The president declared drug abuse to be the “public enemy number one” and increased federal funding for drug-control agencies and drug-treatment efforts, imprisonment and legal prosecution of drug dealers and abusers. Four hundred thousand people had been imprisoned by 1997. United States being a country with a big illegal drug market has followed strict policies against illegal drug trade over the years. The Trump administration has followed a strict anti-drug policy. The President has called for harsher sentences for drug law violations and the death penalty for people who sell drugs<sup>7,8</sup>.

#### Drug war in Philippines

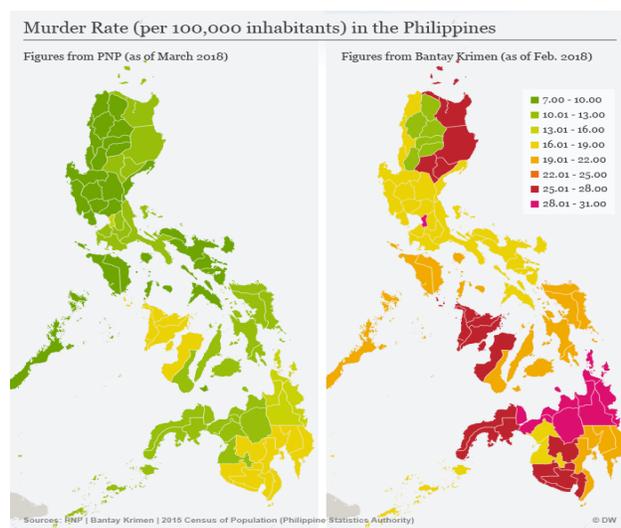
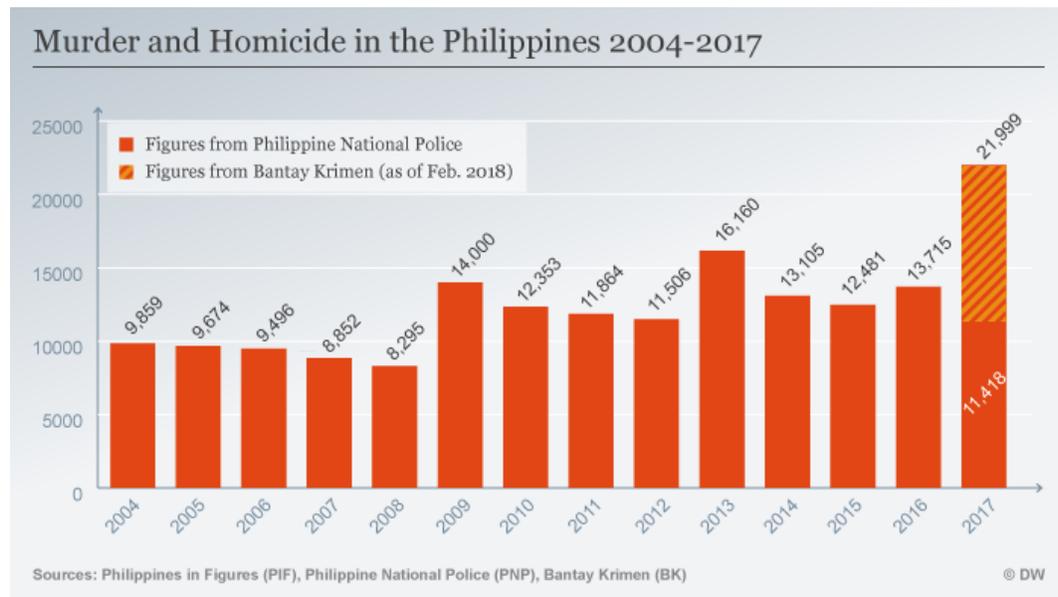
The Drug War in Philippines has been going on for almost four years leaving behind human and material casualties. Governmental officials have been acting outside the legal boundaries and civilians have been taking action without any official authorization. Therefore, the legal community has been concerned and for the past few years has been trying to find a solution.

One of the main concerns of the international community is that the Duterte administration has been accused of manipulating official data after publishing inaccurate figures on the number of people killed during the “war on drugs”. The numbers given by officials were significantly below the toll that the Philippines Human Rights Commission had given (27,000 people have been killed since the anti-drug campaign has started).

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<sup>5</sup> “Crimes against Humanity.” *ICD - Crimes against Humanity - Asser Institute*, [www.internationalcrimesdatabase.org/Crimes/CrimesAgainstHumanity](http://www.internationalcrimesdatabase.org/Crimes/CrimesAgainstHumanity)

The problem occurred when the Philippine National Police (PNP) launched a site in 2016 called “Bantay Krimen” whose purpose was to promote crime awareness. According to this site in 2017, more than twenty thousand people were killed. The authorities tried to explain this extremely high murder rate by saying that the data uploaded on the site are not official nor accurate. After some questions were raised, PNP changed the site in April 2018 making the numbers a lot smaller. The way they did that was by creating a lot of different categories for the deaths between July 1, 2016, and June 30, 2019. The majority of deaths were categorized as “homicide cases under investigation”. Therefore, they were not including in the death toll of the drug war. Following this lack of transparency and the worrying number of deaths the Supreme Court asked the government to explain more than 20,000 deaths during the drug war and provide clear and accurate data <sup>17,18</sup>.



Duterte's strict policies were bound to face some kind of upheaval that came in the form of Davao city's bombing. The explosion took place outside an area frequently visited by Duterte, who was in Davao at the time but was not hurt.

Duterte used this opportunity to declare a state of national emergency that gave him the excuse to exercise martial law and further rationalize the use of police force in his drug war. Duterte has declared a "state of lawlessness" following the incident, which he said would allow troops to be deployed in cities and assist police with checkpoints. Although a spokesman of the extremist jihadist group "Abu Sayyaf" took full responsibility for the attack, the president kept supporting that they should investigate the possibility that drug syndicates were behind it<sup>15</sup>.

### Rodrigo Duterte background

Rodrigo Duterte was born on March 28, 1945, and he has been a prominent and controversial political figure because of his anti-drug policy, which has been in effect since he was elected president of the Philippines in 2016.

Duterte won the presidential election through promises to relieve the country from drugs and crime by killing every drug dealer and even going as far as saying he was going to "feed their corpses to the fish in Manila Bay"<sup>10</sup>.

### Davao death squad and the confession of Arturo Lascañas

The Davao death squad was a gang that was sponsored and directed by President Duterte as Mr. Lascañas has confessed. Arturo Lascañas was the leader of the Davao Death Squad, a group that at first went after small-time drug dealers and petty criminals which later evolved into a force to eliminate political opponents of Duterte. Lascañas made this confession, and has received numerous threats ever since he made it. He said that the squad received orders from Duterte and his longtime lieutenant, Ronald Dela Rosa, now director-general of the Philippine National Police. His statements confirmed the statement of another member of the death squad, Mr. Matobato. Both men, referred specifically to the assassination of a radio commentator who was critical of the former mayor's policy, for whom they were offered \$60,000 to execute<sup>13,14</sup>.

### Duterte's encouragement of vigilante acts

Duterte has made provoking announcements concerning his anti-drug policy. He has publicly condemned, threatened and even called the people to take actions against drug users and distributors. Thus, he has openly encouraged vigilante acts promising impunity to people who kill drug offenders. For example, in a speech he made in front of hundreds of people he openly said: "*If you know of any addicts, go ahead and kill them yourself*". Duterte who won the election by pledging to end crime within six months has given the authorities shoot-to-kill orders that have resulted in the death of thousands of people from extrajudicial killings conducted from officials but also from civilians<sup>12</sup>.

## Allegation of illegal police involvement

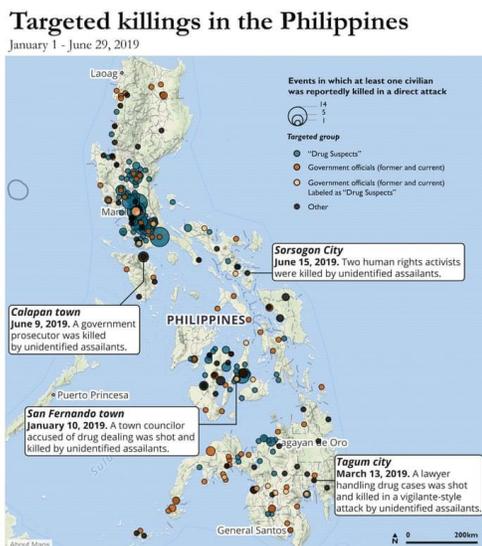
Through an investigation conducted by the international news organization “Reuters”, it has been discovered that police have admitted thousands of drug users to hospitals that were already dead upon their arrival. Witnesses and family members have supported that many of the victims were summarily executed. Crime data were collected and analyzed from two of Metro Manila’s five police districts and through interviews with doctors, law enforcement officials and victims’ families the conclusion was that police were sending corpses to hospitals to destroy evidence at crime scenes and hide the fact that they were executing drug suspects. The percent of deaths covered this way raises concern as nearly 97 percent of the deaths were justified this way. This is an indication of the extent of corruption as well as the seriousness of the situation in the Philippines<sup>16</sup>.

## Governmental Stance

Duterte has imposed an almost authoritarian regime in the Philippines and like most authoritarian political figures he has not been very open to criticism.

Senator Leila de Lima was one of the most prominent figures against the government’s actions being the one who had led an investigation into Duterte’s extrajudicial killings in Davao City. She was targeted via Facebook articles that defamed her. At one point an “*Arrest Leila DeLima*” campaign began and after some months she was arrested, on drug charges that she refused.

Duterte also moved on to targeting anti-governmental newspapers such as the Philippine Daily Inquirer, one of the nation’s most prominent newspapers, because it kept track of drug war victims. In public remarks, Duterte cursed the newspapers accusing them of conspiring against the government and threatening them. These cases are some of many cases where voices were silenced by Duterte <sup>19,20,21,22,23,24</sup>.



## Ninja cops' issue and allegations

'Ninja cops' is the term used to describe 13 officers that are accused of stealing and reselling drugs that were seized in anti-drug operations. These 13 officers after a bust in the Filipino Province were accused of freeing the main suspects in exchange for the drugs that were found. The policemen profited a payment of 50 million pesos; approximately 965,000\$<sup>25</sup>.

## Amnesty International Investigation

Amnesty International published a report explaining that the target of extrajudicial killings is the poor. The report provides details on how the police have systematically targeted mostly poor and defenseless people across the country while planting "evidence", recruiting paid killers, stealing from the people they kill and fabricating official incident reports. It presents how Duterte has failed to follow his promises to get rid of crimes in the streets when hundreds are killed in the streets illegally every day<sup>26,45,46</sup>.

## **Major Countries and Organizations Involved**

### China

China is the first country to support Duterte's illegal actions by offering unconditional support and capital funds for infrastructure development and drug repression<sup>28</sup>.

### Japan

Japan has publicly supported Duterte's anti-drug campaign. Therefore, Japan will assist, with an \$8.7-billion aid package, to support drug "facilities" and treatment programs<sup>29</sup>.

### Iceland

Iceland is the first country to submit a resolution related to human rights in the Philippines on the UN agenda. It also highlighted that human rights defenders face threats and terrorization<sup>31,47</sup>.

### Indonesia

The results of research conducted by the University of Melbourne show that similar practices concerning drug-addicts and contributors have occurred. Even, Senior Indonesian officers have declared their support to the actions of Duterte<sup>30</sup>.

### United States of America

United States of America is trying to establish US presence in the South China Sea. Hence, the Trump administration tried to boost the U.S.-Philippine alliance by funding the

counter-narcotics operations, controls and law enforce. Millions of dollars will be invested on funding drug prevention campaigns- programs and police training <sup>48,49</sup>.

### Amnesty International

Amnesty International was one of the first organizations that conducted research for the situation in the Philippines. The importance of this investigation was that the results were known to the public and they exposed that the target of the anti-drug campaigns are the poor and not so much the drug lords <sup>50</sup>.

### European Union (EU)

The European Union (EU) had established a trade agreement that gave Philippines economic privileges. Nevertheless, the majority of the European countries have expressed their concern about the ongoing drug war. Therefore, they have tried to convince the Philippines to follow the international law and to collaborate with the United Nations by warning them that the trade agreement might come to an end<sup>32,47</sup>.

### International Criminal Court (ICC)

The international criminal court has launched a preliminary investigation that will look into the high number of deaths noted after the beginning of the drug war in July 2016 <sup>33</sup>.

### United Nations Human Rights Council (UNHCR)

The UNHCR tried to appoint Special Rapporteurs to shed light on the situation and inform the UN as well as to convince the Philippines to end the wave of extrajudicial executions and killings, highlighting that drug charges must be judged in a court of law not but vigilantes <sup>44</sup>.

## Timeline of Events.

Date	Description of event
18 June 1971	President's Nixon declaration on 'Drug War and Increase of federal controls' <sup>8</sup>
2 February 1988 – June 30, 1998	Duterte, Rodrigo is elected Mayor of Davao City for a ten-year term (1988-1998) <sup>10</sup>
30 May 2016	Duterte is the winner of the presidential elections in Philippines <sup>36</sup>
3 September 2016	Duterte declares state of national emergency, after a bombing in Davao City, by exercising martial law and rationalizing the use of police force in drug war <sup>15</sup>
28 November 2017	Duterte expands his targeted addict groups and warns human rights advocates that their expression of opinions at variance with those commonly or officially held will not be taken lightly <sup>15</sup>
31 January 2017	International amnesty reports that Duterte fights poverty rather than drugs
29 June 2017	A Reuters investigation reveals that police covers up executions by sending corpses to hospitals. The percentage of drug suspects pronounced dead-on-arrival to hospitals is 85% in some districts.
February 2018	International Criminal Court and US take actions against Duterte accusing him to be a threat to democracy. He claims that he is only a threat to crime in his effort to destroy it.
17 March 2019	Philippines withdraw from the ICC, in an attempt to escape international justice and to stop the ICC's work <sup>38</sup> .
19 June 2019	The UN Human Rights Council approves a resolution for an independent investigation into suspected crimes of drug war <sup>54</sup> .

## **Relevant UN Treaties, Resolutions and Events**

### A/HRC/RES/41/2

This resolution was the first official resolution drafted for the war on drugs in the Philippines and it was submitted by Iceland on the 19<sup>th</sup> of June 2019. It provided clauses that mainly focused on the collaboration of the Philippines and the United Nations to mitigate the problem and it also reminded the Philippines its legal responsibility under international law<sup>41,51</sup>.

### Special Rapporteurship Resolution 1982/35

This resolution established the legal personality of the Special Rapporteurs by determining the term of each agent that holds this position as well as defining its responsibility. The Special Rapporteur has to seek and receive information from governments as well as specialized agencies for issues such as summary and extra-judicial killings<sup>52</sup>.

### Rome Statute A/CONF.183/9 o

The text of the Rome Statute was originally circulated as document A/CONF.183/9 of 17 July 1998. The Rome Statute served as the legal basis of the International Criminal Court that established the jurisdiction and main purposes of the ICC. More specifically, it established that it is within the jurisdiction of the Court to exercise its functions and powers on the territory of any State Party for the purpose of ending impunity for people responsible for serious crimes that concern the international community<sup>45,53</sup>.

## **Previous Attempts to solve the Issue**

### UN Special Rapporteurs involvement

Many UN Special Rapporteurs were alarmed when this war began. They tried to better understand the situation and to ensure that any actions against narcotics were done within the international framework by collaborating with the government. The Special Rapporteur on extrajudicial, summary and arbitrary executions, Mrs. Agnes Callamard was one of the most involved UN agents. She openly expressed her concern and informed the public and the UN High Commissioner for human rights. She tried to remind the government of the Philippines of the legal responsibilities and she was one of the first official agents that requested to conduct an official investigation. Although a meeting was agreed to take place the Filipino government imposed a series of preconditions that halted the process. In addition, the Special Rapporteur on the right to health Mr. Dainius Puras tried to remind the Filipino government that drug-dependency should be treated as a public health issue and justice systems that decriminalize drug consumption and possession<sup>44</sup>.

### International Criminal Court preliminary investigation

The International Criminal Court (ICC) announced a preliminary examination of the situation in the Philippines. Its purpose is to investigate and analyze crimes that were committed since the beginning of the drug war by the government of the Philippines. Although some of the deaths have been justified as the result of clashes between or within gangs, most of them are reported as extra-judicial killings conducted during the police anti-drug operations<sup>45,46</sup>.

### European Union's resolution

The European Union (EU) has developed a trade agreement with the Philippines that falls under the category of the Generalized Scheme Preferences ( GSP ). GSP and more specifically GSP+ basically means that EU has slashed the tariffs of imported goods to 0% for countries such as the Philippines. Following the outbreak of the drug war and the escalating concerns relating extrajudicial killings and related impunity, the EU has tried to persuade Philippines to follow the international law and to collaborate with the United Nations by warning them that the trade privileges might cease if this situation continues<sup>32,47</sup>.

### **Possible Solutions**

The issue of the Drug war in the Philippines is an ongoing and escalating issue that has concerned many nations world-wide. Thus, effective and feasible solutions to tackle the problem are necessary. To address the issue sufficiently it is important to focus on solutions that cover a variety of aspects.

A way to persuade the government of the Philippines to collaborate with other member states and organizations is by giving incentives. Another mean is an official condemnation of Duterte's anti-drug policy by the Security Council if he refuses to implement measures to mitigate the problem. Also, another efficient way to convince the Philippines is by imposing sanctions and other financial punishments.

Aside from the reasons that will convince the government of the Philippines, it is very important to focus on the measures that should be taken to tackle the issue. ICC's involvement in the issue is an efficient way to shed light on the situation. Therefore, the ICC should execute the preliminary investigation for crimes committed before the secession of the Philippines from the ICC and for crimes committed after that, the Security Council should demand further investigation conducted by the ICC. Another domain it is important to focus on is the legal proceedings, every case reported for violation of any legal proceeding should be dealt by the Supreme Court to ensure partiality and made known publicly to ensure transparency. In addition to that official, simple legal terms should be used for the procedures to avoid issues

such as the confusion of the real number of deaths. Since numerous times violations of human, children and journalists' rights have been reported it is important to include measures that will ensure their protection. It is very important that independent lawyers and human rights defenders are able to do their job by ensuring their rights. In addition, some kind of legislation should be passed that will ensure that cases concerning the drug war are dealt in ad hoc courts. Some ways to do that is through the collaboration of UN special agents and the government and by locating UN and NGO's supervisors in Philippines to ensure the protection of said rights. Lastly, a way to emasculate Duterte's power is to cause him to lose the public support that so far has helped him in many of his actions. One way to achieve that is by raising awareness about the issue.

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