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Global Concepts, Local Meanings: How Civil Society Interprets and Uses Human Rights in Asia

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ABSTRACT

Over the past few decades, the human rights movement has made impressive inroads in Asia: human rights have become enshrined in national constitutions as well as increasingly visible in popular discourse and as a legitimising resource for civil society groups. With the recent rise of populist leaders and increased nationalistic discourses, however, a backlash against rights-based activism and counterclaims made by illiberal groups have brought into question the present and future of human rights as a tool for emancipation. In this article, we argue that despite these current challenges, and drawing on case studies from the Philippines, China, Korea and Malaysia, human rights continue to inform and strengthen civil society. At the same time, it is also possible that civil society and state actors may use human rights towards sometimes contradictory ends. The contestation and articulation of rights across the region, however messy, demonstrates that human rights remain a valuable resource for civil society actors to promote political and social change even in the face of immense challenges.

Introduction

In 2019, Freedom House raised the alarm about a global regression of democracy, with a total of 68 countries witnessing a decline in political rights and civil liberties and the share of "not free" countries increasing over the previous year (Freedom House, 2019). On the ground, the threat to political rights and civil liberties is illustrated by a resurgence of authoritarian regimes across the globe. Populist leaders, who often claim to speak for "the majority", frequently portray civil liberties as an obstacle to stability and prosperity. These leaders have successfully taken advantage of feelings of dissatisfaction and apprehension among large sections of the population, blaming minority groups for the challenges inherent in rapidly changing societies and for growing inequalities (Roth, 2017).

The "Colour Revolutions" of Eastern and Central Europe and Central Asia strengthened the vigilance of authoritarian regimes against the perceived dangers of an unfettered civil society, with legislative restrictions modelled on Moscow's fears spreading to far-flung regions of the former Soviet empire and other authoritarian states (Hooper, 2016; Mudde, 2017). This backlash towards civil liberties is also apparent in Asia, where

populism, heightened nationalism, and the persistence of authoritarian regimes pose clear threats to broader liberal agendas. In China – the world's largest authoritarian state – the Colour Revolutions also spurred a crackdown on activists and civil society organisations of all stripes (Wilson, 2009). The Chinese government remains notoriously hostile towards independent civil society, illustrated by the detention and secret trials of human rights advocates and the passage of two sweeping NGO laws in 2016 (Spires, 2020; Yuen, 2015). This shrinking of civic space – the space between the state, business and family in which citizens organise, debate and act (Buyse, 2018) – is also occurring in the Philippines, where Rodrigo Duterte has openly supported the summary executions of drug-dealers and -users (Lamchek & Sanchez, 2021). Liberal civil society actors are not only under threat by state bodies, however, as illustrated by Islamist groups in Indonesia that continue to attack civil society organisations as well as political, religious and sexual minorities (Setiawan, 2020; Wieringa, 2019).

While civil society is not inherently liberal (Alagappa, 2004; Berman, 1997), our focus here is on civil society as a force to support the consolidation of liberal democratic values and liberal interpretations of human rights. Civil society offers a lens through which to view and understand how human rights ideals and the promises of the state are enacted, upheld, challenged and given meaning. The ongoing pressure on liberal civil society actors directly affects the status and promotion of liberal human rights norms. It is obvious that rights – including the freedom of association, the freedom of assembly and freedom of expression – are at stake. At the same time, rights discourses and mechanisms are the spaces in which contestation over civic space occurs. In addition, human rights norms and procedures can serve as important tools to counter threats to civic space. Human rights are thus a lens through which we can approach the issue of shrinking civic space, as well as the movements that resist this development (Buyse, 2018).

In countering rising intolerance and human rights abuses, civil society actors are simultaneously both bold and vulnerable. North Korean defectors, as Song (2021) explains, brave incredible risks to themselves and their families to share their stories with the world. Yet their visibility and aspirations to freedom also open them up to exploitation from unexpected quarters, including conservatives in Seoul and Washington eager to promote their own political agendas. In the Philippines, progressive actors on the political left were called out by both sympathisers and critics after initially supporting Duterte's rise to power only to find themselves unable to stomach his ever-intensifying attacks on human rights as a part of the so-called War on Drugs (Lamchek & Sanchez, 2021). This special issue, conceived in a workshop on rights consciousness and civil society in Asia at the University of Melbourne's Asia Institute in 2018, seeks to explore this boldness and vulnerability. Our aim is to investigate how civil society actors in Asia are responding to new political and social challenges, and to shed light on how they are using human rights discourses in what appear to be increasingly hostile environments.

This essay seeks to analyse the meanings of human rights for civil society actors in several Asian countries, and to make sense of the ways they use human rights as a resource for furthering their goals. The article unfolds as follows. First, we briefly discuss the rise of human rights in the modern era and trace their global spread. Next, we make explicit the linkages between civil society actors and human rights discourses, discussing both the emancipatory promises of global civil society and the contestations and qualifications that sceptics caution warrant our careful consideration. We then focus

our attention on Asia as a region, examining the role of civil society in rights claiming across a diverse social and political landscape (Weiss, 2021), the unsettling influences wrought by rising populism (Lamchek & Sanchez, 2021), the role of social movements in raising rights consciousness in society (Khoo et al., 2021), the politicisation of human rights discourses and activists (Song, 2021) and contestations within civil society itself (Roche, 2021).

Linking Human Rights – Between the Global and the Local

The international human rights framework as we know it today developed from specific historical circumstances, in which the immense and brutal losses of human life during World War II provided an impetus for the international community to develop a legal and political language to condemn, and ultimately prevent, these crimes (Donnelly, 2013). It was in this context that human rights were explicitly included into the principal objectives of the United Nations. In 1946, the UN established the Commission on Human Rights and completed a statement of principles of human rights. In 1948, the UN General Assembly adopted these as the Universal Declaration of Human Rights (UDHR).[1]

While the UDHR is not a legally binding treaty, it remains the most authoritative statement on international human rights norms. Moreover, the UDHR serves as a foundation for the various international human rights treaties that have developed since, including compliance and monitoring mechanisms at regional and international levels (Steiner & Alston, 2000). What is understood as human rights has also significantly expanded over time, from an emphasis on civil and political rights to economic, social and cultural rights. Separate conventions were created for the protection of the rights of children and women, and more recently for migrant workers and people with disabilities. A further impetus followed after the fall of the communist bloc, leading to a near-global acceptance of international human rights standards (Keith et al., 2009). These developments illustrate a seemingly persistent growth of human rights as a common language through which injustices can be addressed (Ignatieff, 2003), and indeed suggest that human rights – as envisaged by Eleanor Roosevelt, chairperson of the UDHR drafting committee – over time have crept "like a curious grapevine into the consciousness of peoples around the world" (cited in New York Times, 1948), including in totalitarian and authoritarian regimes.

However, the development of human rights and their global reach has not been without challenges. A basic premise of the UDHR – and indeed all subsequent human rights instruments that followed – is the universality of rights. While proponents of universality argue that justice and human dignity have long historical precedent in different social and cultural contexts around the world (Goodhart, 2016) and therefore apply to all human beings, early critiques of the international human rights framework have challenged the western bias in this perspective. An early critique was that of the American Anthropological Association (AAA). In 1947, the AAA warned that the UDHR, which was being drafted at the time, predominantly reflected values accepted in Western Europe and North America. As such, the AAA questioned the applicability of the UDHR outside these regions. Over time, the problematisation of Western influence in international human rights norms has been labelled a so-called cultural relativist point of view, which demands attention for specific cultural contexts that influence the ways

rights are understood and interpreted (An-Na'im, 1995; Cowan et al., 2001; Goodale, 2009; Ishay, 2004). Moreover, these critiques highlight that local ownership and embeddedness of international human rights is essential if they are to be realised (De Feyter et al., 2011; Goodale & Merry, 2007; Merry, 2006a; Mutua, 2002).

In the context of Asia, critiques of human rights' universality took renewed form in the so-called "Asian values" debate and the assertion that differing cultural contexts implied differing notions of rights. Starting in the early 1990s, leaders of authoritarian and semi-authoritarian countries increasingly challenged the universality of human rights as articulated in "the West". Singapore's Prime Minister Lee Kuan Yew, and his Malaysian counterpart Mahathir Mohamad, argued that the appropriate site of human rights in the context of Asian cultures was the community, not the individual. Claims that Asian societies were based on consensus, not conflict, served to legitimise and cover the paternalism that permeated the politics of several Asian countries (Thompson, 2001). Combined with the rapid economic growth experienced by the region during the 1980s and 1990s, this discourse also served to frame claims that economic rights were more important and relevant to Asia than the civil and political rights championed by countries in the global North at the close of the Cold War. In addition, this debate also asserted the national sovereignty of Asian nations and expressed criticism of double standards in international relations (Brems, 2001). "Asian values" were articulated in various regional declarations, most notably the 1993 Bangkok Declaration, which recognised the universal nature of human rights while at the same time emphasising national and regional particularities, as well as the rejection of the imposition of incompatible values.

Observers generally agree that the Asian Financial Crisis and its attendant economic downturn discredited the Asian values debate (Thompson, 2001). However, the region's ambiguous relationship with the international human rights regime remains evident in the region's lack of a regional human rights framework – in sharp contrast to the European Union, Africa and the Americas. While some inroads have been made at the level of the Association of Southeast Asian Nations (ASEAN) – including the establishment of the ASEAN Intergovernmental Human Rights Commission in 2009 and the ASEAN Declaration of Human Rights in 2012 – these mechanisms lack enforcement powers (Collins, 2019). Although civil society organisations have worked hard to put human rights issues onto ASEAN's agenda, Poole (2015) has argued convincingly that these developments have been primarily driven by ASEAN's desire to secure external legitimacy rather than an internalisation of human rights norms. In China, for instance, a Chinese Communist Party communique circulated in 2013 took direct aim at such norms, branding the promotion of universal values as an attempt to delegitimise the Party, civil society as an attempt to stir political opposition, and a free press as a plot to oppose the leadership of the Party (ChinaFile, 2013). It is thus evident that reception of international human rights standards at regional and national levels is a far from straightforward process and contestations of these standards remain fierce, even after the end of the Asian values debate.

It would be inaccurate to attribute critiques of human rights as an "alien" and imperialist intervention solely to actors in the global South. In fact, similar criticisms are increasingly heard in countries that are commonly considered to be "friendly" towards human rights and that in many cases have played leading roles in developing

the international human rights framework. For instance, cultural relativist arguments have been extensively used by actors in Europe to oppose the incorporation of human rights norms in national law (Halliday & Schmidt, 2004). Here, the ambivalence towards human rights is also apparent in that it is usually regarded as a matter of foreign policy rather than something that is relevant at the domestic level. Moreover, the rise of more conservative governments in these countries has increasingly made the space for explicitly addressing "human rights" smaller (Oomen, 2013).

Other critiques of the international human rights regime emphasise additional moral, intellectual or strategic problems with the dominant interpretations and approaches to human rights protection and promotion. One criticism is that they are too legalistic, and that by placing rights-holders and duty-bearers in opposition to one another in a court of law, they become adversarial rather than effecting conflict resolution (Babbit & Lutz, 2009). Both legal philosophers (Douzinas, 2000) and political economists (Rosser, 2013) have highlighted how human rights are an arena of political contestation. This may mean that some rights issues are bypassed altogether, whereas others may be addressed in only a limited fashion depending on the interests of powerful groups such as donor agencies and development workers, as well as local elites. In a compelling example of the promotion of health rights, Easterly (2007) has drawn attention to the global interest in HIV prevention and treatment, which – while commendable – has come at the cost of other pressing health issues such as malaria, which impacts many more people globally than HIV. Moreover, control mechanisms – such as courts – may also be hijacked by interest groups unsympathetic towards human rights causes, with detrimental effects on the actual protection of rights (Rosser, 2015).

Perhaps the greatest challenge is the criticism that the international human rights framework is ultimately not making a difference to people's everyday lives. From this perspective, the framework is too convoluted, placing too many – and ultimately unrealistic – requirements on states. As Mutua (2016) writes, "creeds and ideologies that overpromise – and inevitably underperform – are destined to suffer public fatigue". Moreover, the implementation of rights is also hindered by a lack of effective enforcement mechanisms, with many people across the globe being victimised by injustices every day (Posner, 2014). As such, the sombre conclusion from this perspective is that "the human rights era has ended" (Mutua, 2016).

While these critiques exploring ongoing challenges towards the fulfilment of rights are evident across the world, at the same time they gloss over the fact that human rights "can be a tremendous force for protecting the rights of those living in poverty to challenge and gain power" (Khan, 2009, p. 203). This emancipatory potential of human rights has been conceptualised as "subaltern cosmopolitan legality" (De Sousa Santos & Rodríguez-Garavito, 2005), or a bottom-up perspective that considers how marginalised citizens use human rights (as well as other aspects of the law) to challenge structures that disadvantage them. This approach, while not dismissing the everyday realities of people and acknowledging the effects of unequal power relations, emphasises that law – and in particular human rights – can have progressive and even liberating impacts on people's lives.

While Roosevelt's notion of a "grapevine" of human rights remains relevant today, it is impossible to imagine this process without local actors. Local contexts matter for human rights not only because these norms need to be embedded at this level to be effective, but also because human rights problems emerge, firstly, at the local level (De

Feyter, 2006). This also means that local social actors – or the many different indivi-duals, collectivities and institutions (Goodale, 2007) – are the starting point for the protection and promotion of human rights. This does not suggest that international human rights organisations and transnational networks are not important – to the contrary, they are especially crucial in situations where domestic political space is limited (Kaldor, 1999; Risse et al., 1999; 2013) – but it is in local contexts and communities that human rights impacts are directly felt, contested and challenged. A key dimension in these processes is "the people in the middle: those who translate the discourses and practices from the arena of international law and legal institutions to specific situations of suffering and violation" (Merry, 2006b, p. 39). In this vein, we argue that it is only through focussing on local actors and dynamics that we can fully understand how and why human rights emerge as they do.

The Promises of Global Civil Society, and their Discontents

Human rights as a concept may have a relatively short history in global terms, but it has spread broadly and deeply over the past several decades, making its way into national constitutions and political party platforms on every populated continent. Borne aloft on the wings of numerous international NGOs and carried along by even more local- and national-level organisations, human rights principles are now at the core of many progressive social movement organisations and their activities.

Since at least the end of the Cold War, scholars of global civil society have heralded the coming of a new age of human rights and freedom from multiple forms of oppression. Often considered inseparable from individualism and democracy as a political ideal-type, global civil society is seen as a structural shift in the way people connect – through a proliferation of NGOs, primarily – but it is also a highly normative project. Mary Kaldor and her colleagues, for example, have promoted the emancipatory potential of interconnected groups of progressive people, arguing that civil society (global and otherwise) is "about managing difference and accommodating diversity and conflict through public debate, non-violent struggle, and advocacy" (Kaldor et al., 2005, p. 2). Just 10 years after the fall of the Soviet Union, scholars saw in global civil society the sinews of a new consensus on human rights, depicting a diverse field that varied "from UN conferences about social welfare or the environment to conflict situations in Kosovo [and] from globalised resistance to the Mutual Agreement on Investments to local human rights activism in Mexico, Burma, or Timor" (Anheier et al., 2001, p. 4). Kaldor (2003) suggests that global civil society could serve as an antidote to war, while others view it as "a popular resistance movement challenging the institutions and policies of corporate globalisation" and "a manifestation of social energies released by an awa-kening of human consciousness to possibilities for creating societies that nurture and rejoice in a love of all beings" (Korten et al., 2002, Part IV, para. 5).

Such arguments have made clear that civil society actors have an important role to play in addressing critiques of human rights, and as agents of a cosmopolitan agenda can help localise human rights (Goodale, 2007; Merry, 2006a). In making international norms locally relevant and meaningful, civil society actors address concerns that human rights are "alien" to local contexts. By bringing disparate groups together, in particular, civil society actors may also help to bridge gaps between rights-holders and

duty-bearers. Finally, in calling on authorities to better protect human rights, civil society actors can help ensure that human rights promises are being fulfilled.

However, not all observers have been so optimistic. Anderson and Rieff (2005) note the un-democratic context of international NGO advocacy – "because, plainly, international society is not democratic" (Anderson & Rieff, 2005, p. 30). The people of the globe do not "elect" the leadership of Greenpeace, for example, yet the organisation claims to represent the interests of all the world's people (if not the planet itself). In an even more critical view, historian John Fonte asserts,

> an entire industry of transnational agencies and nongovernmental organisations is pushing forward changes designed either to deny or override the national sovereignty of democratic states against surprisingly muted or inchoate opposition. Taken together, these changes amount to a serious political and intellectual challenge to democratic sovereignty vested in the liberal democratic nation-state (Fonte, 2004, p. 117).

As these critics contend, while organisations may make up the body of a new global civil society, the individuals that comprise them and the larger dynamics that drive them are not immune to human weakness and hubris.

Moving from the global to the local, Muthiah Alagappa offers a similar critique of the blinders that proponents of civil society – again, often equated with democracy – have trouble removing. As he reminds us, civil society is nothing if not complex and, particularly, contradictory. For many theorists, he writes,

> civil society is viewed as a supporting structure to democratise the state. Associational life is thought to provide the social infrastructure for liberal democracy, supply the means to limit, resist and curb the excesses of the state and market, present alternatives when they fail, facilitate service delivery at the local level, assist in conflict management, deepen democracy (by cultivating civic virtues, establishing democratic norms, and spreading democracy to more domains of life), offer a voice to disadvantaged groups, and promote economic development (Alagappa, 2004, p. 41).

To accomplish all this is a tall order for civil society, one made even more challenging by the reality that:

> civil society, like other realms, is an arena of power, inequality, struggle, conflict and cooperation among competing identities and interests. It is populated by diverse formal and informal organisations with widely varying structures, resources, purposes and methods. Not all civil society organisations have the purpose, potential, or consequence of advancing democracy (Alagappa, 2004, p. 46).

Civil society is clearly a contested concept, as are the principles and norms of human rights that civil society actors are often assumed to promote. The development of human rights law, of course, is not a purely philosophical undertaking, but historically speaking, the outcome of negotiations between political leaders. Enshrined as it is in the conventions of the United Nations, human rights law is a negotiated political outcome, a process that by its very nature implies the inclusion of some interests and the exclusion of others (Merry, 2006a). While, within international society, many personally adhere to a more liberal-progressive view of human rights, the exclusionary nature of rights articulation and promotion has, in a diverse world, opened the door to their contestation.

Indeed, human rights are not static concepts held to be self-evident to all. As the contributions in this special issue show, human rights in Asia (and elsewhere) are

interpreted nationally and locally in sometimes very different ways. Illiberal leaders and exclusionary groups can and do lay claim to "rights" in the same ways that more open and inclusionary actors do. People and organisations on both ends of the political spectrum challenge the other's assumptions about who has what rights, and particularly whose rights deserve protection and promotion.

In this context of ongoing contestation of liberal human rights norms, nurturing broader social awareness and consciousness of human rights is no simple task. Civil society groups are often seen as conduits for human rights promotion, for structuring understanding and developing strategies for action (such as protests and advocacy campaigns). But civil society consists of actors and organisations embedded in specific social, cultural, historical and political contexts. Those specificities mean that civil society organisations must respond to changes in their contexts, including the resources that they have at their disposal. Civil society groups at any level – and particularly in a contentious field such as human rights – are not neutral actors, nor simply embodiments of a rationality-based movement. They are, rather, intertwined with larger normative projects and, especially in authoritarian or semi-authoritarian settings, tied heavily to personal identities and immediate social contexts.

The Meanings and Uses of Human Rights for Civil Society in Asia

In recruiting and guiding the contributors to this special issue, we sought to focus attention on the connections between human rights discourses and civil society actors in a variety of settings – China, Korea, Malaysia and the Philippines – and also highlight the implications of contemporary challenges to human rights for the region as a whole. The authors here generally understand civil society as Weiss relates it, namely "those groups and individuals who, regardless of their perspectives or organisational bases, debate, evaluate, and challenge or support official discourses, interpretations, structures, or policies" (2006, p. 9). This collection combines quantitative and qualitative approaches to trace how global human rights norms and practices are interpreted, adapted and used through local lenses, by local actors. Rather than focus on how global human rights principles are represented on paper, the authors consider how they are understood, contested and transformed into place-specific and movement-specific resources for action (Goodale, 2007).

In this special issue, the authors demonstrate that the question of how to make human rights work for individuals on the ground level does not have a simple answer. Taking a bird's-eye view of Asia as a whole, Weiss (2021) points out how global trends – particularly the rise of populist leaders – have led many activists to wonder if civil society can live up to its emancipatory promises and defend a liberal human rights order. One risk she observes across the region is that "opening the public sphere allows for full-throated rights claims, but also for demands for exclusivity in conferring those rights" (Weiss, 2021, p. 13).

The rising populism Weiss notes is at the core of the article by Lamchek and Sanchez (2021), who ask why the traditional leftists in the Philippines were initially willing to stand by and tolerate Duterte's indiscriminate killing of suspected drug-users and -dealers. Bridging civil society and politics via different organisations, the militant left took a "dual strategy" approach to Duterte's rise, condemning the mass disregard for human rights – the

very lives of people – on the one hand while joining his administration in promoting greater social welfare programmes for the poor and marginalised. In this analysis, we see how civil society organisations – even within the same movement – can be torn when confronting a populist leader who makes progressive promises while simultaneously pursuing policies that are an affront to basic human rights principles.

Analysing a treasure trove of data concerning three prominent North Korean refugees, Song (2021) reveals how Mutua's "savage–victim–saviour story grammar" (2001) is embraced and reproduced not only by the refugees but by the various political actors they encounter in other countries, including South Korea and the United States of America. Thrust onto the global stage and into the world of human rights claims-making, such individuals are asked to choose sides between (global) political conservatives and progressives who decry the insertion of human rights into debates on inter-Korean relations. In such a situation, paradoxically, the global and the local come into sharp relief, just as their intertwining also seems inevitable and inescapable.

Roche's (2021) analysis of Tibetan language activism illustrates how emerging discourses of language rights, both at a transnational level and within Tibetan communities, provide space and legitimacy for some civil society actors despite the broader crackdown on civil society in China. At the same time, however, Roche exposes some of the potential contradictions and challenges in the promotion of language rights in that these discourses claim rights for some languages but not for others. Discerning which groups' languages deserve promotion – and which do not – is a power-laden process that inevitably makes some winners and others losers. Roche illustrates the contestations that take place within civil society itself and how this contestation permeates processes of human rights promotion, often leading to the further marginalisation of particular communities.

Khoo, Selvanathan and Lickel (2021) turn the lens to one of the most dramatic political changes in Southeast Asia in decades: the fall of Malaysia's Barisan Nasional (BN) regime, which had ruled the country for more than 60 years. Asking to what extent the Bersih electoral reform movement is linked to rights consciousness in society, the authors look to the Bersih protests in 2016 and the historic General Elections in 2018. Drawing on the findings of two longitudinal surveys of the Malaysian public, they argue that Bersih fostered greater rights consciousness, especially among Chinese and Indian minority groups. In particular, the authors examine internal political efficacy as "a manifestation of rights consciousness" (2021, p. 88) – which entails believing in one's *own* ability to influence politics. The surveys found that the more people believed the Bersih movement could achieve its goals for electoral reforms, the more they felt a sense of internal political efficacy. In other words, believing that the movement would be successful could empower Malaysians to participate in the electoral process and exercise their right to vote. By generating greater rights consciousness in civil society, the authors conclude, social movements such as Bersih can have important societal outcomes that play a crucial role in promoting democratic change over the long term.

This collection provides original and critical analyses of contemporary civil society interventions across Asia. Bringing together scholars from multiple disciplines, including anthropology, political science, international relations and social psychology, the contributions are connected in their rich empirical findings and illustrate the authors' deep knowledge of the subjects they are addressing. Our focus on the societal contexts in

which civil society and rights operate underlines that rights promotion is not merely a matter of law and politics. Instead, in highlighting the dynamics of human rights engagement, these articles consider what human rights actually *do* for people. Moreover, we show how human rights are an analytical tool to understand the various pressures on liberal civil society actors and at the same time deepen our understanding of these tensions' implications for the promotion of global human rights norms in Asia. While recognising that human rights and civil society continue to be contested – and in fact in recent times have come under increasing attack by illiberal forces – the collective argument here suggests that despite democratic setbacks in multiple political contexts and paradoxes within local movements, human rights remain a valuable resource for civil society actors to promote progressive political and social change.

Notes

1. While some (e.g., Moyn, 2010) have challenged the centrality of World War II to the global human rights framework, it is clear that international human rights activism increased dramatically after 1945.

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