

**ANNEXURE-III**

**THE ADVOCATES (AMENDMENT) BILL, 2017**

**A**

**BILL**

*further to amend the Advocates Act, 1961*

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:-

**CHAPTER I  
PRELIMINARY**

**1. *Short title and commencement.*** (1) This Act may be called the Advocates (Amendment) Act, 2017.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

**CHAPTER II  
AMENDMENTS TO THE ADVOCATES ACT, 1961**

**2. *Amendment of Section 2.*** In the the Advocates Act, 1961 (25 of 1961) (hereinafter referred to as the Advocates Act), in section 2, in sub-section(1),-

(i) for clause (a), the following clause shall be substituted, namely:-

(a) "advocate" means an advocate entered in any roll under the provisions of this Act and includes an advocate carrying on practice in law with a law

firm, by whatever name called, and a foreign lawyer registered under any law in a country outside India and recognised by the Bar Council of India;”;

- (ii) after clause (b), the following clause shall be inserted, namely:-

“(bb) ‘Bar Association’ means the association of Advocates recognized by the State Bar Council and includes a district, taluka and town level associations, whether registered or not, under the Societies Registration Act (Act No.XXI of 1860);”;

- (iii) after clause (g) the following clause shall be inserted, namely:-

“(gg) ‘law firm’ means a firm, formed and registered under the Indian Partnership Act, 1932 (9 of 1932); or under the Limited Liability Partnership Act, 2008 (6 of 2009); or a private or public limited company incorporated under the Companies Act, 2013 (18 of 2013) comprising of an advocate or advocates for carrying on practice in law and includes law firms formed and registered under any other law outside India;”;

- (iv) after clause (i), the following clauses shall be inserted, namely:-

“(ii) ‘legal services’ includes the rendering of any assistance or service by an advocate in the conduct of any case or other legal proceedings on behalf of a person before any court, tribunal or any other quasi-judicial body; or giving advice or assistance to a person on any legal matter;”;

“(iii) ‘misconduct’ includes-an act of an advocate whose conduct is found to be in breach of or non-observance of the standard of professional conduct or etiquette required to be observed by the advocate; or forbidden act; or an unlawful behaviour; or disgraceful and dishonourable conduct; or neglect; or not working diligently and

criminal breach of trust; or any of his conduct incurring disqualification under section 24A;”

- (v) after clause (k), the following clauses shall be inserted, namely:-

“(kk) ‘register of law firms’ means a register of law firms,-

- (i) maintained by the Bar Council of India in respect of a law firm formed under any law outside India; and,
- (ii) maintained by a State Bar Council in respect of all law firms formed and registered in India;

(kkk) “scheme” means any scheme framed by the Bar Council of India or as the case may be by the State Bar Council, for the purpose of giving effect to any of the provisions of this Act.”.

**3. Amendment of section 3.** In section 3 of the Advocates Act,-

- (i) in sub-section (2), for clause (b) and the proviso relating thereto, the following shall be substituted, namely : -

“(b) in the case of a State Bar Council, with an electorate not exceeding five thousand, eleven members; in the case of a State Bar Council with an electorate exceeding five thousand but not exceeding fifteen thousand, fifteen members; and in the case of a State Bar Council with an electorate exceeding fifteen thousand, twenty-one members,-

- (i) to be elected in accordance with the system of proportional representation by means of the single transferable vote from amongst advocates on the electoral roll of the State Bar Council, after undertaking the process of verification of certificate and place of practice of advocates under this Act, and
- (ii) from amongst retired judges, senior advocates or an advocate referred to in sub-clause (ii), eminent persons from fields other than law and officers of the State Government to be nominated by the High Court,

and of the total number of members of the State Bar Council of a State-

- (i) as nearly as may be, one half of such members shall be elected subject to any rules that may be made in this behalf by the Bar Council of India from amongst the advocates carrying on practice in law for at least ten years;
- (ii) as nearly as may be the one-third of members shall be nominated by the High Court from senior advocates having experience of not less than twenty-five years of practice and in case of non-availability of senior advocate, any advocate with such experience, retired Judges of the High Court, retired district judges.
- (iii) the remainder shall be nominated by the High Court from Select List of eminent persons of the ability, integrity and standing having professional experience of not less than twenty-five years in accountancy, commerce, medical science, management, public affairs or social science matters, to be provided by the State Bar Council;

Explanation.- An Advocate shall only be entitled to be a member of the State Bar Council if he has been in continuous practice for ten years and has appeared in any court, Tribunal or any other quasi-judicial body as a lead counsel in at least twelve cases a year for a continuous period of three years preceding the year of election or nomination.”;

(ii) after sub-section(4), the following sub-sections shall be inserted, namely:-

“(4A) An advocate who has been elected as a member of the State Bar Council consecutively for two terms shall not be eligible to contest elections under clause (b) of sub-section(2), for the ensuing next term of the State Bar Council.

(4B) A Member nominated to the State Bar Council shall not be eligible for nomination, as such, for more than two terms.”.

**4. Amendment of section 4.** In section 4 of the Advocates Act,–

- (i) in sub-section (1), for clause (c), the following clauses shall be substituted, namely:–

“(c) five members to be nominated by rotation every two years, one each in seriatim from the zones as specified in the Second Schedule to represent the Bar Council of the States and Union Territories;

(d) six eminent persons of the ability, integrity and standing having professional experience of not less than twenty-five years in accountancy, commerce, medical science, management, public affairs or social science matters, to be nominated by the Supreme Court on the recommendation of a Committee comprising of a Judge of the Supreme Court, Chairperson of the Appellate Authority constituted under section 22A of the Chartered Accountants Act 1949 (38 of 1949) and the Central Vigilance Commissioner appointed under sub-section (1) of section 4 of the Central Vigilance Commission Act, 2003 (45 of 2003);”;

- (ii) in sub-section (1A),–

(a) for the words – “No person”, the words “No person, except the persons mentioned in clause (d)”. shall be substituted;

(b) for the words “the proviso”, the words “the Explanation” shall be substituted.

- (iii) for sub-section (3), the following sub-section shall be substituted, namely:–

“(3) The term of office of a member of the Bar Council of India–

(a) nominated by the State Bar Council or Bar Council of the Union territories, as the case may be, under clause (c) shall be two years from the date of his nomination;

(b) nominated under clause (d) shall be four years from the date of assumption of his office:

Provided that every such member shall continue to hold office as a member of the Bar Council of India until his successor is nominated.”.

**5. Amendment of section 6.** In section 6 of the Advocates Act,-

(i) for clause (gg), the following clause shall be substituted, namely:-

“(gg) to visit and inspect Universities and institutions imparting legal education in accordance with the directions given under clause (i) of sub-section(1) of section 7;”;

(ii) after clause (dd), the following clause shall be inserted, namely:-

“(ddd) to provide for the recognition, registration and regulation of Bar Associations (except the Supreme Court Bar Association, Association of law firms, foreign lawyers) including election of its office bearers from amongst the list of regular practitioners of such Bar Association situated within its territorial limits and to make rules, schemes with concurrence of the Bar Council of India to secure their orderly growth;”.

**6. Amendment of section 7.** In sub-section (1) of section 7 of the Advocates Act,-

(i) in clause (i), for the word “Universities”, wherever it occurs, the words “Universities and institutions imparting legal education” shall respectively be substituted;

(ii) after clause (k), the following clauses shall be inserted, namely: -

“(l) to provide for legal services to the persons belonging to the Scheduled Castes and the Scheduled Tribes, Other Backward Classes, women, differently abled persons, victims of social unrest, natural calamities, victim of diseases impacting the social acceptability, and needy

persons and for spreading legal literacy, legal awareness amongst the people;

- (m) to frame schemes achieving the objectives mentioned in clause (l) and to generate funds for the same by way of securing aid from the Government or non-government organization engaged in social work;
- (n) to provide for pre-enrolment training and apprenticeship to a person who has obtained from a recognised institution degree in law for a period not exceeding one year;
- (o) to provide for continuing legal education for advocates;
- (p) to provide for recognition and registration of law firms and conditions subject to which they may practice law, and other legal services based Bar Associations or law firms and foreign lawyers, if any;
- (q) to make rules for verification of certificates of Advocates and for periodical verification of antecedents, conduct, place of practice of Advocates; and to make a data based web-portal of all the advocates;
- (r) to make rules for identifying the non-practicing advocates and barring their voting rights in the elections to the State Bar Councils, the Bar Associations and to impose such other conditions as it may deem fit;
- (s) to provide for supervision over the election of the members of the State Bar Councils; for issuance of directions in relation to the conduct of such elections and for resolution of all elections disputes relating thereto;
- (t) to make rules to deal with strikes, boycotts or abstentions from courts by the Advocates, provide for suitable measures in this regard and to provide for punishments including the punishment of

disqualification from contesting any election of Bar Councils or of Bar Association for a period of six years;

- (u) to provide for Entrance Test for admission in the Institutions imparting legal education in the country and to provide for measures for improvement of legal education and to make provision for on-line teachings for all the law students of the country either directly or through some charitable Institution;
  - (v) to provide for Lawyers Academies and other similar institutions in each State through State Bar Councils, or any other organization, Institutions or Agencies for imparting continuous legal education for Advocates;
  - (w) to provide for recognition, registration and regulation of law firms, foreign lawyers;";
- (iii) clauses (l) and (m) shall be re-numbered as clauses (x) and (y) respectively.

**7. Amendment of section 8.** In section 8 of the Advocates Act, for the words "five years", the words "six years" shall be substituted.

**8. Substitution of new section for section 9.** For section 9 of the Advocates Act, the following section shall be substituted, namely:-

**"9. Disciplinary Committees.-** A Bar Council shall constitute one or more disciplinary committees, each of which shall consist of five persons of whom—

- (i) two persons shall be elected by the Council from amongst its members;
- (ii) two persons shall be from amongst eminent persons from fields other than law to be co-opted by the Council; and
- (iii) the fifth member shall be a person nominated by the High Court, in the following manner, namely:-



- (a) in case of the Bar Council of India, fifth member of such Disciplinary Committees shall be a person, who has been the Chief Justice or a Judge of a High Court, as its nominated member;
- (b) in case of a State Bar Council, fifth member of such Disciplinary Committees shall be a person, who has been a district judge, as its nominated member;

Provided that the co-opted member shall not be a member of the Council, in case of Disciplinary Committee constituted by the Bar Council of India, the Judge shall be the Chairman of the Committee, and the the members of a Disciplinary Committee of the State Bar Council, in its first meeting decide as to who shall preside over as the Chairman of the Committee.

**9. Substitution of new section for section 9A.** For section 9A of the Advocates Act, the following section shall be substituted, namely:-

**“9A. Constitution of legal aid committees.-**(1) A Bar Council may constitute one or more legal aid committees each of which shall consist of seven members, of whom four shall be persons elected by the Council from amongst its members and three persons who are not members, to be co-opted by the Council from the following categories, namely:-

- (i) former Chief Justice or a Judge of a High Court;
- (ii) advocates who possess the qualifications specified in the first proviso to sub-section (2) of section 3;

and the Chief Justice or the Judge of the High Court, co-opted as member thereof, shall be the Chairman of the committee.

(2) The term of office of the members of legal aid committee shall be five years.”

**10. Insertion of new section 9B.** After section 9A of the Advocates Act, the following section shall be inserted, namely:-

**9B. Special Public Grievance Redressal Committee of Bar Council of India:-**

(1) The Bar Council of India shall constitute a Special Public Grievance Redressal Committee consisting of the following members, namely:-

- (i) one former Judge of Supreme Court or Chief Justice of any High Court as its Chairman;
- (ii) two retired Judges of different High Courts as its members;
- (iii) one senior Advocate;
- (iv) one member of the Bar Council of India;

(2) The Special Public Grievance Redressal Committee shall inquire into any allegation or complaint of corrupt practices or misconduct against any office bearer or member of the Bar Council of India in discharge of his duties as a member of the Council, which is referred to it by the Council.

(3) The inquiry report of the Committee shall be placed before the General Body meeting of the Council and the Council after considering the report may-

- (i) accept the findings of the report and lodge a First Information Report; or
- (ii) accept the report and may refer the matter to initiate a disciplinary proceedings against the office-bearer or as the case may be a member, or
- (iii) not accept the report, for the reasons to be recorded in writing.”.

**11. Amendment of section 10.** In sub-section (1) of section 10 of the Advocates Act, after clause (b), the following clause shall be inserted, namely: -

“(c) a bar associations affairs committee consisting of five members, of whom three shall be persons elected by the Council from amongst its members and two persons who

are not members to be co-opted by the Council one each from the following categories, namely: -

- (i) former Chief Justice or a Judge of a High Court or retired district Judge;
- (ii) advocates who possess the qualifications specified in the first proviso to sub-section (2) of section 3;

and the Chief Justice or the Judge of the High Court, co-opted as member thereof shall be the Chairman of the committee.”.

**12. Amendment of section 10A.** In section 10A of the Advocates Act, after sub-section (4), the following sub-section shall be inserted, namely: -

“(4A). A nominated member shall have a right to participate in all proceedings of the Bar Council and shall be entitled to vote on any matter except on the issue of removal of any office bearer of the Council.”.

**13. Substitution of new section for section 14.** For section 14 of the Advocates Act, the following section shall be substituted, namely:-

**“14. Dispute as to election to Bar Councils:-**

- (1) Any dispute as to the election to the Bar Council of India or the State Bar Council including election of its office bearers shall be referred to a committee constituted for this purpose by the Bar Council of India prior to the conduct of elections:

Provided that an election of a member to a Bar Council shall not be called in question merely on the ground that due notice thereof has not been given to any person entitled to vote thereat, if notice of the date of election has been published in the Official Gazette, not less than thirty days before the date of election.

- (2) The Committee referred to in sub-section(1) shall be comprised of (a) in case of Bar Council of India a retired Judge of the Supreme Court as its Chairman and

Chairmen of two State bar Councils as its Members; and  
(b) in case of State Bar Councils, a retired Judge of the High Court as its Chairman and two Members of the Bar Council of India of whom one Member shall be a person from the other State.

(3) The Committee shall have powers to pass any interim order and such other power as may be prescribed."

**14. Amendment of section 15.** In sub-section (2) of section 15 of the Advocates Act, after clause (j), the following clause shall be inserted, namely:-

"(ja) the form in which complaint shall be made to the State Bar Council and fees payable therewith;"

**15. Substitution of new section for section 19.** For section 19 of the Advocates Act, the following section shall be substituted, namely:-

**"19. State Bar Councils to send copies of rolls of advocates to Bar Council of India.**

Every State Bar Council shall send to the Bar Council of India a copy of the roll of advocates prepared by it for the first time under this Act and shall thereafter communicate to the Bar Council of India all alterations in, the additions to, any such roll, electronically, as soon as the same has been made within a period not later than seven days.

**16. Amendment of section 22.** After sub-section (2) of section 22 of the Advocates Act, the following sub-section shall be inserted, namely: -

"(3) The State Bar Council shall maintain an electronic data base of all the advocates on its roll containing such information as may be prescribed; and it shall keep updating it, as and when any change takes place, and such Data be made available on the web-site of the State Bar Council."

**17. Amendment of section 24.** In sub-section (1) of section 24 of the Advocates Act,-

(a) in clause (f),-

- (I) (i) for the words "six hundred rupees", the words "two thousand rupees" shall be substituted;
- (ii) for the words "one hundred fifty rupees", the words "five hundred rupees" shall be substituted;

- (II) (i) for the words "one hundred rupees", the words "five hundred rupees" shall be substituted;
- (ii) for the words "twenty-five rupees", the words "one hundred rupees" shall be substituted;

(b) after clause (f) the following clauses shall be inserted, namely:-

"(g) he has paid professional development fees of three hundred rupees to the State Bar Council and two hundred rupees to the Bar Council of India:

Provided that where such person is a member of the Scheduled Castes or the Scheduled Tribes, the professional development fee payable by him to the State Bar Council shall be two hundred rupees and to the Bar Council of India, one hundred rupees;

(h) he clears the All India Bar Examination or any other test prescribed by Bar Council of India and fulfils such other conditions as may be specified in the rules made by the Bar Council of India."

**18. Substitution of new section for section 24A.** For section 24 A of the Advocates Act, the following section shall be substituted, namely: -

"24A. **Disqualification for enrolment.** (1) No person shall be admitted as an advocate on a State roll-

- (a) if he is convicted of an offence involving moral turpitude; or

- (b) if he is convicted on an offence under the provisions of the Untouchability (Offences) Act, 1955 (22 of 1955) or the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989); or
- (c) if he has been convicted of contempt of court subject to any order or decision of court.
- (d) if he has been dismissed or removed from service or employment under the Union or the State or its undertakings or any statutory body or Corporation.”.

**19. Substitution of new section for section 26A.** For section 26A of the Advocates Act, the following shall be substituted, namely:-

“26A. **Power to remove names from rolls.**- A State Bar Council may on receipt of information or request, remove from the State roll, the name of any advocate,-

- (a) who is dead; or
- (b) from whom a request has been received to that-effect; or
- (c) who is found guilty of serious misconduct or abstaining from courts work or causing obstruction in court’s functioning; or
- (d) who has incurred any disqualification under section 24A.”.

**20. Amendment of section 33.** In section 33 of the Advocates Act, the following proviso shall be inserted, namely:-

“Provided that the practice by law firms and foreign lawyers recognized and registered by the Bar Council of India shall be subject to the terms and conditions of the registration under this Act.”.

**21. Insertion of new section 33A.** After section 33 of the Advocates Act, the following section shall be inserted, namely: -

“33A. **Registration of an advocate with a Bar Association.**\_\_

- (1) An advocate enrolled with the State Bar Council engaged in or intend to practice before a court of law, tribunal or before any authority or person shall get himself registered as a member of the Bar Association where he ordinarily practices or intends to practice law.
- (2) In case any advocate leaves one Bar Association and joins another by reason of change of place of practice or by reason of change of field of law, he shall intimate such change to the Bar Association of which he is a member within a period of thirty days.”.

**22. Amendment of section 35.** In section 35 of the Advocates Act, -

- (i) after sub-section(1A), the following sub-section shall be inserted, namely:-

“(1AB) The decision of referring a case under sub-section(1), to the disciplinary committee shall be taken by the concerned Bar Council within a period of six months from the date of receipt of the complaint.

(1AC) The complaint to the State Bar Council shall be made in such form and accompanied by such fees, as may be prescribed by the State Bar Council.”;

- (ii) in sub-section (3), the following clauses shall be inserted, namely:-

- “(e) impose a fine which may extend of rupees three lakhs and the cost of proceedings;
- (f) award compensation of such an amount, subject to a maximum of rupees five lakhs as it may deem fit, payable to the person aggrieved by the misconduct of the advocate;
- (g) impose costs, subject to a maximum of rupees two lakhs,-
  - (i) on the complainant in case the complaint is found to be vexatious, false or frivolous;

(ii) on the advocate concerned in case he is found to be not cooperating in the disciplinary proceedings under the Act.”,

(iii) after sub-section(5), the following sub-section shall be inserted, namely:-

“(6) During the pendency of a disciplinary proceeding in the complaints of grave misconduct, the State Bar Council, if deems fit, it may suspend the advocate concerned from practice during the pendency of such proceedings, provided no such suspension shall be made without the recommendation of a Committee consisting of (a) a former Judge of the High Court who will be the Chairman of the Committee; and (b) two Senior Advocates, as may be constituted by the State Bar Council.

(iv) after sub-section (6), the following proviso shall be inserted, namely:-

“Provided that if the advocate is convicted under section 24A, he shall be deemed to have been guilty of professional misconduct unless operation of such conviction is stayed by a court of competent jurisdiction.”.

**23. Insertion of new section 35A.** After section 35 of the Advocates Act, the following section shall be inserted, namely:-

**“35A.Prohibition on the boycotts or abstention from courts’ work.–** No association of advocates or any member of the association or any advocate, either individually or collectively, shall, give a call for boycott or abstinence from courts’ work or boycott or abstain from courts’ work or cause obstruction in any form in court’s functioning or in court premises.”.

**24. Amendment of section 36B.** For sub-section (1) of section 36B of the Advocates Act, the following sub-section shall be substituted, namely:-



“(1)(a) The disciplinary committee of the State Bar Council shall dispose of the complaint received by it under section 35 expeditiously and in each case the proceedings shall be concluded by the concerned Bar Council within a period of six months from the date of receipt of the complaint.

(b) The proceedings initiated by the State Bar Council either on the complaint or *suo motu* shall be completed within a period of six months from the date of initiation subject to extension for a maximum period of six months by the Bar Council of India, for the reasons to be recorded in writing.

(c) In the event of,-

(i) a decision not being taken whether to initiate the proceeding within a period of six months from the date of receipt of the complaint, or

(ii) the proceedings being initiated, but not completed within a period of six months or the extended period, as the case may be,

then, such complaint or the proceedings shall stand transferred to the Bar Council of India, which may dispose of the same as if it were a proceeding withdrawn for inquiry under sub-section(2) of section 36.”.

**25. Amendment of Section 45.** In section 45 of the Advocates Act, for the words “with imprisonment for a term which may extent to six months”, the words “with imprisonment for a term which may extend to three years and with fine which may extend to rupees two lakhs” shall be substituted.

**26. Insertion of new section 45A.** After section 45 of the Advocates Act, the following section shall be inserted, namely:-

**45A. Claim for compensation in certain cases.-**

(1) If any person suffers loss due to the misconduct of the advocate or for his participation in strike or otherwise,

then, such person may make a claim for compensation against the advocate in the appropriate forum established under any law for the time being in force.

- (2) The non-payment of fees, either in full or part, by a person to his advocate shall not be a defence available for the advocate against whom such claim for compensation is made.

**27. Amendment of section 49.** In sub-section (1) of section 49 of the Advocates Act,-

- (i) after the words "State Bar Council", wherever they occur, the words "and the Supreme Court Bar Association" shall be inserted;
- (ii) for clause (af), the following clause shall be substituted, namely:-  
"(af) the minimum qualifications and other eligibility including age required for admission to a course of degree of law in any recognised university;"
- (iii) for clause (d), the following clause shall be substituted, namely:-  
"(d) the standards of legal education to be observed by Universities and institutions imparting legal education in India; and for that purpose the manner of inspection, and the fees relating thereto keeping in view the budgetary provisions of universities and institutions imparting legal education, and the term and conditions for approval of the courses;
- (iv) after clause (i), the following clauses shall be inserted, namely:-  
"(ia) the manner in which the State Bar Council may exercise supervision and control over Bar Associations except the Supreme Court Bar Association, Association of law firms and foreign lawyers, situated within its territorial jurisdiction and the manner in which the

directions issued or orders passed by the State Bar Council may be enforced;

(ib) to provide for continuing legal education for advocates and its monitoring;

(ic) to make rules to register and regulate the law firms including such firms operating in more than one State;

(id) to register and regulate Bar Associations;

(ie) for rendering of legal services and spreading legal literacy;

(if) regulation of the Supreme Court Bar Association in consultation with the President of the Bar Association and for regulation of Associations of law firms and foreign lawyers;

(ig) to prepare and carry out welfare schemes for advocates in practice.”.

**28. Amendment of section 50.** In sub-section (5) of section 50 of the Advocates Act, in clause (b) for the words “the Schedule”, the words “the First Schedule” shall be substituted.

**29. Insertion of the Second Schedule.**-After section 60 of the Advocates Act, for the words “THE SCHEDULE”, the words “THE FIRST SCHEDULE” shall be substituted and after the First Schedule, the following schedule shall be inserted, namely:-

*“THE SECOND SCHEDULE*

*[See section 4(1)]*

**Zone I**

1. Adhra Pradesh
2. Goa
3. Karnataka
4. Kerala
5. Maharashtra
6. Odisha

7. Tamil Nadu
8. Telangana

**Zone II**

1. Haryana
2. Himachal Pradesh
3. Jammu and Kashmir
4. Punjab
5. Uttarakhand
6. Uttar Pradesh

**Zone III**

1. Bihar
2. Chhattisgarh
3. Gujarat
4. Jharkhand
5. Madhya Pradesh
6. Rajasthan
7. West Bengal

**Zone IV**

1. Arunachal Pradesh
2. Assam
3. Manipur
4. Meghalaya
5. Mizoram
6. Nagaland
7. Sikkim
8. Tripura

**Zone V**

1. Andaman and Nicobar Islands
2. Chandigarh
3. Dadra and Nagar Haveli
4. Daman and Diu
5. Delhi
6. Lakshadweep
7. Puducherry.”.

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