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The Role of Labour Inspector in Preventing and Overcoming Child Labour Exploitation: A Critical Review

M. Rizki Yudha Prawira ^{1*}, Muhammad Raihan Yulistio ²

¹Faculty of Law, Universitas Pembangunan Nasional "Veteran", E-mail: <u>rizkiyudha@upnvj.ac.id</u>* ²Faculty of Law, Universitas Pembangunan Nasional "Veteran", E-mail: <u>2110611110@mahasiswa.upnvj.ac.id</u>

ARTICLE INFO	ABSTRACT
Keywords:	
Child Labour; Labour	The right to decent work is a fundamental human right that applies
Inspection; Human Rights	to everyone without exception, including children. This is clearly
	stated in several Indonesian laws, such as Law No. 39 of 1999
How to cite:	concerning Human Rights, Law No. 13 of 2003 concerning
Prawira, M. Rizki	Manpower, and Law No. 23 of 2002 in conjunction with Law No. 35
Yudha., Yulistio,	of 2014 concerning Child Protection. Although many legal
Muhammad Raihan.	provisions aim to protect children from exploitation in the workplace,
(2024). The Role of	the situation still needs improvement due to a lack of effective
Labour Inspector in	implementation. The labour inspectorate is responsible for enforcing
Preventing and	these laws, but the number of inspectors is limited, and their
Overcoming Child	authority often needs to be fully implemented. As a result, many
Labour Exploitation: A	children are still working in dangerous or exploitative conditions,
Critical Review. Veteran	which is unacceptable. Therefore, it is crucial to strengthen
Law Review. 7(1). 87-102.	the labour inspectorate's role by increasing the number of
	implementing personnel and improving their authority's
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1. Introduction

The 1945 Constitution of the Republic of Indonesia acknowledges the right to have a decent job, especially in Article 27, paragraph (2). This article states that every person has the right to own, obtain, and perform all their labour rights. It emphasizes that everyone has the right to a decent job regardless of their status. This aspect differentiates those who work and receive fair compensation and protection from those who fall victim to exploitation. Law No. 39 Concerning Human Rights (Human Rights Law further confirms that every person without any discrimination has the right to a decent job, as stated in Article 38, paragraph (1). It states that every individual has the right to decent work that matches their talents, abilities, and skills. All humans here must be defined without exception, namely children as well as labour. Additionally, Article 64 ensures the protection of every child from any form of economic exploitation that may jeopardize their education, physical health, morals, social life, and mental and spiritual well-being.

According to Article 1 paragraph (3) of Law Number 13 of 2003 concerning Manpower (Manpower Law), labours are individuals who receive payment in exchange for their work, whether it be in the form of wages or other compensation. Providing labours with fair and decent work is not only a matter of upholding their rights but also contributes to their overall wellbeing. It is crucial for labours to be physically and mentally capable of performing their job duties. Additionally, special protections are in place for vulnerable groups, such as children. In terms of work relationships, children are one of the most vulnerable groups, and there are many provisions to protect them.

A child is defined as an individual who is below 18 years of age, including those who are still in the womb, as stated in Article 1 point 1 of Law No. 35 of 2014 in conjunction with Law No. 23 of 2002 concerning Child Protection (Child Protection Law). Children are part of a vulnerable group because of their situation and needs. On the other hand, they are expected to be the generation that carries the nation's future, so the development process and its sustainability must receive special attention. Therefore, they must have the broadest possible opportunities to grow and develop properly spiritually, physically, socially, and economically. Children's conditions have as specific needs in the context of their physical condition, still being dependent on other people, being in the process of growth/development, and having extra needs, following their condition as part of a vulnerable group (Suparmiyati et all, 2016). Children, being a part of a vulnerable group, are provided special protection under Article 13, paragraph (1) of the Child Protection Law. This protection includes safeguarding them from economic exploitation, further elaborated in the explanation section of Article 66 of the same law. Economic exploitation refers to any action that involves the use of children as victims, with or without their consent, in activities such as work, forced services, slavery, practices similar to slavery, oppression, and extortion.

In the context of labour law provions, the Manpower Law strictly prohibits entrepreneurs from employing children, as outlined in Article 68. This is because children are vulnerable, and their protection from exploitation is paramount. Additionally, the ILO Convention No. 182 provides a detailed definition of child labour, which includes any work that is physically, mentally, intellectually, or morally dangerous or disturbing (Faridah & Afiyani, 2019). For further details, see the further explanation in the main section no. 3 namely:

- a. all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, bonded labour (debt bondage), and servitude and forced or compulsory labour, including the forced or compulsory deployment of children to be used in armed conflict;
- b. utilization, provision, or offering of children for prostitution, for the production of pornography, or for pornographic performances;
- c. the use, provision, or offering of children for illicit activities, in particular for the production and trafficking of drugs as regulated in relevant international agreements;
- d. work whose nature or conditions could endanger children's health, safety, or morals.

According to the International Labour Organization (ILO), despite international efforts, there are still over 160 million children engaged in child labour in 2021, an increase of 8.4 million since 2016. Shockingly, the number of children aged 5 to 17 years engaged in hazardous work has risen by 6.5 million to 79 million (ILO, 2021). In Indonesia alone, child labour has become a significant concern, with an estimated 2.1 million children affected, accounting for 42 percent of the workforce in the plantation sector (Wibisono, 2023). The exploitation of child labour is still prevalent, with 244 reported cases of trafficking and exploitation in 2019, according to the Indonesian Child Protection Commission (KPAI, 2020). It is evident that regulatory updates are necessary to combat this issue. The large number of cases of child exploitation and the increasing trend of child labour have resulted in the need for action by the relevant government agencies. Labour inspections can be one of the measures relevant government agencies take to address this pressing issue.

As mentioned before, it is crucial for the government to take action in order to protect children from economic exploitation in their work. The Child Protection Law outlines the state's responsibilities in Article 59, which mandates that the government and other state institutions must provide special protection to children, particularly those who are being economically exploited. Article 66 further regulates this form of protection, which includes the following measures: (ILO, 2022)

- a. Dissemination and socialization of the provisions of laws and regulations related to protecting children who are being economically exploited.
- b. Monitoring, reporting, and imposing sanctions as necessary.
- c. Involvement of various companies, trade unions, non-governmental organizations, and communities in eliminating economic exploitation of children.

The government has a responsibility to uphold the human rights of every individual, including but not limited to, the right to decent work and the protection of children's rights. This entails not only respecting these rights but also taking active measures to ensure they are fulfilled. This obligation fulfilled through labour inspection, which is recognized in can be the Manpower Law, Article 1, number 32. Labour inspection is a form of activity that monitors and enforces the implementation of laws and regulations related to labour protection and manpower. Labour inspection plays an integral role in state intervention within the workforce. It not only helps to cultivate a preventative culture but also covers a vast array of aspects such as industrial relations, wages, general work conditions, occupational safety and health, employment, and social security. In Indonesia, the Directorate General of Labour Inspection Development, a technical unit under the Ministry of Manpower, is responsible for safeguarding both workers and employers. The Directorate's ultimate goal is to promote legal certainty and achieve prosperous and equitable industrial relations while fostering safe and productive work environments through its trusted institution. By doing so, the Directorate seeks to ensure that labours and employers alike can thrive and contribute to the country's economic growth and development (ILO & Kemnaker RI, 2020).

Despite being regulated to prevent child labour exploitation in various regulations, violations may still occur during implementation. Therefore, a specific unit in the executive institution is necessary to carry out supervision, as regulated in the Manpower Law and International Convention No. 81. However, child labour exploitation cases, such as the exploitation of child palm oil laboures or farm field labour, still occur. The prevalent scenario has led to a significant rise in the number of children quitting their education to contribute to their livelihood. This has resulted in the loss and affected child development, which could have been otherwise beneficial for the child as a person and, on a larger scale, can affect future human resources. This situation raises the question of the extent of the implementation and effectiveness of labour inspection in preventing and addressing child labour exploitation. This explanation motivates the author to explore the theme of this research.

2. Method

This study utilizes normative juridical methods and a statutory, conceptual, and analytical regulatory approach to examine laws and regulations related to labour inspections and the prevention of human rights violations against child labour. The legislative approach is employed to scrutinize all relevant laws and regulations. The analytical approach found that Indonesian laws and regulations effectively regulate labour inspections, which play a crucial role in monitoring labour violations committed by companies. The conceptual approach seeks to explain the legal framework related to labour inspection and its role in preventing and dealing with cases of labour exploitation of children, as well as evaluating the performance of the responsible institution. The primary legal materials used in this research include laws and regulations related to the protection of children from work exploitation and labour inspections. Secondary legal materials consist of relevant literature such as legal books, opinions of legal experts, journals, and internet articles related to labour inspection issues. Tertiary legal materials include materials that provide instructions and explanations for primary and secondary legal materials, such as legal dictionaries, scientific journals, and other relevant materials.

3. Results & Analysis

3.1. The Role of Labour Inspection in Protecting Child Labours from Exploitation

Labour Inspection, which regulates the protection of child labour, is regulated in the Minimum Age (Industry) Convention 1919 (No. 5). Article 2 regulates that basically, children under 14 years of age cannot be employed in public or private industry. There are exceptions to this provision in Japan, which allows children over 12 years old to be employed as long as they have completed elementary school, and in India, which prohibits children under 12 from working. The convention provides a minimum age limit for a child to work. Furthermore, the 1973 Minimum Age Convention (No. 138) regulates the state's obligation to make regulations regarding the age standards for a child to be able to work and ensure their protection. The convention requires ratifying countries to develop national policies to eliminate child labour effectively and progressively increase the minimum age for a person to work or work at a level compatible with the optimal physical and mental development of children (IPEC, 2002). In Article 7, it is emphasizing that the vulnerable age for children to be employed is 13 to 15 years and only for light work that is unlikely to endanger their health or development and does not interfere with their time at school and must be done with the knowledge of the authorities.

Various provisions regarding the age of children and all forms of mandates aimed at the state to regulate protection and strictness by employers. More specifically, the protection of children from forms of labour exploitation is regulated in ILO Convention No. 182 concerning the Prohibition and Immediate Action for Elimination of the Worst Forms of Child Labour as ratified through Law No. 1 of 2000. Furthermore, the covenant regulates the state's obligation to take steps related to protecting children from various types of worst work in the form of:

- a. make laws and regulations related to its protection;
- b. coordinating with various companies as employers;
- c. designing and implementing action programs to eliminate the worst forms of child labour;
- d. coordinate with other related state institutions;
- e. empowerment and education regarding hazardous work for children;
- f. increasing international cooperation and/or assistance to support social, and economic development, poverty reduction programs, and compulsory education.

As a government agency responsible for enforcing the Manpower Law, the assurance of the commitment to upholding its child protection provisions is a must. Article 68 of the Manpower Law clearly prohibits the employment of children, but specific provisions allow entrepreneurs to employ children under strict conditions. To comply with existing regulations, there are certain conditions that must be met before allowing children to work. These conditions involve verifying that the child is of minimum age, guaranteeing that the work is safe and does not hinder their physical, mental, or social growth, and acquiring written consent from their guardians or parents. Additionally, a work agreement must be established, with a limit of three hours of work per day to ensure that it does not conflict with school time. It is also crucial to provide the child with fair compensation in accordance with the law.

Moreover, when it comes to fulfilling the necessary administrative prerequisites for employment, entrepreneurs are required to adhere to the following conditions: (1) work under the direct supervision of a parent or guardian, (2) limit working hours to a maximum of three hours per day, and (3) ensure that the working conditions and environment do not impede physical, mental, social development or academic progress. These regulations are stipulated in Article 71 of the Manpower Law. Additionally, Article 72 of the Manpower Law mandates that when children are employed alongside adult labour, their workplace must be separate from that of the adults. All parties include government and private sectors must take these provisions seriously and are committed to protecting the rights and well-being of all labours, including children.

Article 74 of the Law outlines Manpower the types of work that are classified as the most hazardous for child labour. According to this law, it is illegal for any employer or entrepreneur to engage children in any of the worst forms of work as defined in Article 74, paragraph (1) of the Manpower Law. These forms of work include slavery, prostitution, pornography, the production of liquor and narcotics, and any work that poses a threat to the health, safety, and morals of children.

The Manpower Law mandates that state institutions or agencies are responsible for implementing protect children measures to from labour exploitation. As mentioned earlier, labour inspector aims to all regulations pertaining to child labour protection guarantee that standards are effectively monitored, executed, and enforced per the legal provisions. These provisions require not only enforcing the law but also preventing violations. Labour inspectors, who must be competent and independent, carry out inspections to ensure compliance with labour laws and regulations as outlined in Article 176 of the Manpower Law.

Indonesia the specific government institution, The Directorate General of Labour Inspection Development (Ditjen Binwasnaker) is a technical work unit under the Ministry of Manpower and Transmigration (Kemenakertrans). It is primarily responsible for providing protection and ensuring excellent services in the field of employment. The main objective of the Directorate General of Binwasnaker is to create a prosperous and just industrial society while realizing legal certainty in the field of employment. To achieve this, it aims to become a mainstay institution and create a comfortable and productive working atmosphere for all, including the child labour situation (Kemnaker & ILO, 2011).

The function of labour inspection is a vital public and administrative task in the workplace. The primary aim is to convince social partners about the significance of complying with workplace regulations and how it benefits them both. This is accomplished by taking proactive and informative steps and, if necessary, using legal measures to enforce compliance. The role of labour inspection is becoming more complex due to a variety of factors, such as evolving economic and social conditions, changes in industrial development, the emergence of new labour organization and employment relations, increased social and political expectations, advancements in technology, and the changing nature of hazardous work (Casale *et al*, 2012). Labour inspection is an indispensable tool for the state to maintain its presence and intervene in the workplace. Its purpose is to foster a culture of prevention encompassing all aspects within its purview, such as industrial relations, wages, general working conditions, occupational safety and health, and matters related to employment and social security, including child labour protection (Tannasa, 2016).

According to the Manpower Law, labour inspection is defined explicitly as activities that involve monitoring and enforcing labour laws and regulations. A distinct work unit within the agency that oversees employment matters at the central, provincial, and district/city government levels has jurisdiction over this responsibility. This is in accordance with the provisions of Article 178, paragraph (1) of the Manpower Law. Presidential Regulation No. 21 of 2010 further specifies that there are three labour inspection work units - one at the central government level and one each at the provincial and district/city levels.

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Table 1.

In accordance with Minister of Manpower Regulation No. 1 of 2020 jo No. 33 of 2016 concerning the procedures of labour inspection, this activity serves to ensure compliance with labor laws, offer guidance and technical support to workers on matters that promote the effective implementation of labor laws and regulations, as well as gather information on work relationships and employment conditions in order to enhance labor laws and regulations. Article 9 paragraph (1) outlines the three stages of labour inspection

implementation. The first stage is educational and preventive, which involves disseminating Employment Norms, offering technical advice, and providing mentoring to prevent violations of labour laws. The second stage is non-judicial and repressive, comprising coercive measures outside the court to ensure compliance with labour laws and regulations. The measures are in the form of an Inspection Note that acts as a warning or a statement of willingness to fulfill labour laws and regulations based on inspection and/or testing. The third stage is judicial repression, which involves a coercive effort through the judiciary by conducting an investigation process by the Labour Inspectorate.

The subsequent implementation of labour inspection in Article 9 paragraph (2) of the Minister of Manpower Regulation concerning Procedures for Labour Inspection is performs through coaching, inspection, testing, and/or investigation of labour crimes. Article 26 Presidential Regulation No. 21 of 2010 regarding Labour Inspection expands on the development of labour inspection, including institutions, human resources for Labour Inspectors, facilities and infrastructure, funding, administration, and labour inspection information systems. Article 27 outlines the implementation of labour inspections through guidance, consultation, counseling, supervision and monitoring, outreach, education and training, assistance in implementing labour inspections, and other guidance-related activities.

Article 9A of the Minister of Manpower Regulation outlines the different stages involved in labour inspections. The first stage is the preventive stage, which aims to guide employers about labour norms to prevent violations. The second stage, known as the non-judicial repressive stage, involves external coercive measures taken by court institutions for labour norms that are not being followed under laws and regulations related to labour. The third stage, the judicial repressive stage, involves coercive measures that court institutions take to enforce labour norms that are not being fulfilled.

In order to exercise law enforcement authority, it is essential to have a deep understanding of the law and its applications. However, more than this knowledge is required to carry out the duties of law enforcement personnel. They must also possess the necessary skills and expertise to coordinate and collabourate with the police to ensure effective law enforcement. This coordination requires close communication and a shared understanding of the objectives and scope of law enforcement activities. The police force is often the primary point of contact for law enforcement personnel, and they must work closely together to identify and apprehend individuals who violate child labour issues. Additionally, Article 182 paragraph (1) Manpower law allows Labour Inspection Employees to have special authority as civil servant investigators, in order to doing investigation matters granting them to:

- a. verify reports and information related to employment-related crimes;
- b. investigate suspected criminals;
- c. request information and evidence from individuals or organizations;
- d. seize materials or evidence in criminal cases;
- e. examine documents related to employment crimes;
- f. seek the assistance of experts; and
- g. conclude investigations if there is insufficient evidence to prove an employment-related criminal act.

3.2. A Critical Review on the Implementation of Labour Inspection in Safeguarding Child Labour.

Based on Article 8 paragraph (1) of the Regulation of the Minister of Manpower concerning Procedures for Labour Inspection, Labour Inspectors are required to prepare and execute inspection work plans, as outlined in Article 7 paragraph (3) letter b, for a minimum of five companies per month. However, this number may need to be increased further, as inspecting only five companies per month may not cover all the necessary inspections. It should be noted that the number of companies inspected may vary based on geographical location, such as between villages and cities, and behavioral factors of the population. Additionally, this provision does not mandate a minimum monthly inspection requirement for labour inspections, meaning that inspectors can only execute an inspection work plan once monthly for each company.

The ILO Convention Number 81 of 1947 regulates the number of labour inspectors required to ensure practical labourin spection standards. Article 10 of the convention states that the number of inspectors must be sufficient to enforce labour laws based on the number, nature, size, and situation of workplaces, labour's present, and legal provisions. However, the number of labour inspectors in Indonesia is not proportional if compared to the number of companies, which totals 812,379, consisting of 661,986 micro companies, 67,334 small companies, 58,148 medium companies, and 24,911 large companies (Kemnaker RI, 2022). According to a recent Ministry of Manpower presentation, there will be 1,552 labour inspectors in 2022. However, this falls considerably short of the ideal number of 6,000 personnel

recommended by the Ministry of Manpower, resulting in a shortage of 4,449 personnel (Waseso, 2022). Therefore, if labour inspectors are sufficient amount, they should be able to supervise all companies in the province instead of just five.

Labour inspectors often struggle to enforce labour regulations for a variety of reasons. According to Minister of Manpower Regulation Number 33 of 2016, labour inspections are carried out through several stages, including preventative education, non-judicial repression, and judicial repression. However, when the labour complaints or supervisory work plans prompt inspections, it can be challenging to measure their effectiveness. The stages that are typically encountered are more focused on coaching, technical advice, and mentoring instead of more punitive measures. While coaching is essential, more is needed to ensure compliance. If labour inspectors only focus on coaching, it could lead to longer completion times and lower quality of service (Ombudsman, 2021). There are no specific procedures in place for investigating allegations of child labour violations. Suppose a breach of authority is discovered during various inspection processes. In that case, the company may be issued an inspection note under Article 30, paragraph 1 of the Minister of Manpower's Regulation on Labour Inspection. In addition, the Labour Inspectorate must persuade child labours to comply with the Labour Law and not work. Education and training activities aimed at preventing child labour, not the only forms of prevention, as repressive education is also necessary when it is discovered that child labour is still taking place at the company. This is to ensure that the child does not continue to work or work while respecting the rights and limitations outlined in the Manpower Law and related regulations.

Labour Inspector's existence alone does not guarantee a decrease in the number of child labours, as evidenced by the data from the Central Statistics Agency. The number of child labourers, as measured by law, is expected to decline from 1.33 million people in 2020 during the pandemic to 1.05 million people in 2021. However, this number is still higher than the pre-pandemic level of 0.92 million in 2019 and 1.02 million in 2018. If we exclude the pandemic year of 2020, the number of child labours has increased from 2019 to 2021 by 0.13 million people. The reduction in child labour measured by the Global Sustainable Development Goals is also not significantly different from the reduction in child labours measured by law. In 2021, the number of child labourers is expected to decrease from 1.24 million in 2019 and 0.93 million people in 2018 (BPS, 2022).

Picture 1. Diagram of Child Labour Based on the Law and SDG's Global



According to the report published by the Central Statistics Agency, it is estimated that by 2023, there will be approximately 1.01 million children in Indonesia who will be working. This proportion of child labours will account for 1.72% of the total number of children aged between 5 to 17 years old at the national level. The report further states that of these child labours in 2023, around 539,224 children, which is about 1.52% of the total population of their age, will be in the age group of 5-12 years. In addition, there will be an estimated 162,276 child labours aged 13-14 years, accounting for 1.87% of the total population of their age, and around 305,593 child labour aged 15-17 years, making up 2.13% of the total population of their age. The report also highlights that in 2023, the majority, which is around 676,156 child labours aged 5-17 years, will still be in school. However, there will be around 318,948 child labour who will not be attending school anymore. Additionally, there will be 11,989 children who have yet to have the opportunity to attend school at all. These statistics point towards the need for focused efforts to address child labourin Indonesia and to ensure that all children have access to education, which is their fundamental right, which is already regulated in Indonesian Manpower Law (Nabilah, 2024)

The issue of child labour is a growing concern, with alarming figures and data to back it up. The Indonesian Child Protection Commission (KPAI) reports that child labour has reached a worrying stage, with an estimated 2.1 million affected individuals. This constitutes 42 percent of the labour force, with the plantation sector being the primary culprit (Wibisono, 2023). The problem is only getting worse, with 160 children in 19 Cities/Districts experiencing the worst forms of labour in 2020, including prostitution, scavenging, domestic work, street work, and agricultural labour. KPAI's 2021 data shows 147 cases of child victims of economic and/or sexual exploitation

(KPAI, 2022). In 2019, there were 244 cases of child victims of trafficking and exploitation, including child labour (KPAI, 2019). These high numbers of child labours indicate that labour inspectors are not effectively supervising the situation. To address this, the Minister of Manpower's Regulation on Labour Inspection should be updated to keep up with the growing problem.

According to the 2020 Sakernas report, approximately 9% of children aged between 10 and 17 years in Indonesia are engaged in labour. It is noteworthy that most of these children, which is around 88.77%, work in the informal sector. Additionally, it is concerning to know that 3 out of 4 children who work are unpaid labour or family labour. For further analysis of child labour assessments in Indonesia reveals that the agricultural sector has the highest number of child labourers. Specifically, Modelez International received recommendations in the same year, highlighting over 4 million child labourers in Indonesia. Shockingly, 20.7% of these children are trapped in the Worst Form of Child Labour (Save the Children, 2021).

According to various sources that explained before, the current situation for preventing and protecting children from labour exploitation is still far from the ideal situation. It is essential to understand that any form of labour exploitation of children is a violation of their fundamental rights and can even be considered a serious crime. From a legal standpoint, several statutory regulations have been put in place to protect children from labour exploitation, including the Employment Law, the Child Protection Law, and various provisions for labour inspection. However, it is essential to note that more than simply having regulations is needed. Effective implementation and enforcement of these regulations is crucial. In particular, there is a need to pay closer attention to the implementation of labour inspection provisions in order to ensure that they are being carried out effectively and efficiently. Only through a concerted effort to implement and enforce these regulations can we protect children from the harmful effects of labour exploitation and create a safer, more just society for all.

The Indonesian government has made strides in digitalization through the creation of an Online Compulsory Company Employment Reporting (WLKP) system, which is part of the Employment Information System (Sisnaker). This system aims to simplify the process of mandatory employment reporting for stakeholders by allowing them to submit reports online. Since its launch in 2017, the system has enabled the government to gather information on companies and the labours (Nuraeni, 2022). However, it is important to note that further measures are needed to ensure transparency and accountability, particularly in cases of child labour exploitation. Labour inspectors should explain their investigative process

openly to the public through the platform, allowing for greater public participation and monitoring.

4. Conclusion

As acknowledged as human rights, several statutory regulations in place recognize but also regulate child labour protection, with severe penalties such as criminal and administrative sanctions imposed on violators. Additionally, a specialized agency has been established to monitor, prevent, and enforce laws relating to the protection of child labour from exploitation. However, there are still some gaps in the labour inspection process, and inspectors need to improve their performance in carrying out their duties. For instance, labour inspectors can take non-judicial repressive action, such as inspection and testing of work norms, against companies that do not comply with the Labour Law. Nonetheless, labour inspections conducted by labour inspectors still have gaps for companies. They are only given a minimum limit of 5 company inspections per month, and the number of labour inspectors is not proportional to the number of existing companies. As a result, a significant number of child workers' rights have yet to be fulfilled by the state, and the number of child labourers and children working in dangerous sectors still considered too high.

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