

# Interim Performance Evaluation

*Workers' Rights Centers for the Greater Protection of Labor Rights in Colombia*



Images courtesy of Escuela Nacional Sindical.

## United States Department of Labor

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Interim Performance Evaluation of *Workers' Rights Centers for the Greater Protection of Labor Rights in Colombia*  
Evaluation Report

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## **ACKNOWLEDGMENTS**

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This report describes in detail the findings of the interim evaluation of the *Workers' Rights Centers for the Greater Protection of Labor Rights in Colombia* project. IMPAQ International, LLC (IMPAQ) conducted fieldwork for this independent evaluation from May 20 to May 31, 2019 in collaboration with the project team and stakeholders and prepared the evaluation report according to the terms specified in its contract with the United States Department of Labor. IMPAQ would like to express sincere thanks to all the parties involved for their support and valuable contributions.

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## LIST OF ACRONYMS

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COLabora	Centro de Orientación y Atención Laboral [Center for Orientation and Assistance on Labor Issues]
CTC	Confederación de Trabajadores de Colombia [Confederation of Workers in Colombia]
CUT	Central Unitaria de Trabajadores [Central Union of Workers]
ECMS	Electronic Case Management System
ENS	Escuela Nacional Sindical [National Union School]
FGD	Focus Group Discussion
ILAB	Bureau of International Labor Affairs
ILO	International Labour Organization
IP	Implementing Partner
KII	Key Informant Interview
NDP	National Development Plan
OTLA	Office of Trade and Labor Affairs
PMP	Project Monitoring Plan
TPR	Technical Progress Report
USDOL	United States Department of Labor
UTL	Unidad de Trabajo Legislativo [Legislative Working Group]
WRC	Workers' Rights Center

## EXECUTIVE SUMMARY

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To improve the Colombian government's efforts to strengthen labor rights, in 2016 the United States Department of Labor (USDOL) Bureau of International Labor Affairs (ILAB), through its Office of Trade and Labor Affairs (OTLA), awarded a \$1.4 million grant to Escuela Nacional Sindical (ENS) for the project *Workers' Rights Centers for the Greater Protection of Labor Rights in Colombia*.<sup>1</sup> Located in Medellín, ENS has provided research, monitoring, labor trend analysis, trainings, technical assistance, and advocacy on behalf of unionized workers in Colombia and workers seeking to unionize. The current project is the second ILAB-funded phase of the ENS strategy to administer workers' rights centers (WRCs) as a means to improve Colombian workers' understanding of labor rights, as well as their ability to assert and claim these rights. Since 2013, ENS and its WRCs have grown to serve six cities (Bogotá<sup>2</sup>, Bucaramanga, Cartagena, Medellín, Puerto Wilches, and Zipaquirá<sup>3</sup>) and the surrounding areas via "legal caravans."<sup>4</sup> ENS believes that the best way to realize the full potential of the labor reforms initiated by the Colombian government as a result of the Colombian Action Plan Related to Labor Rights (Labor Action Plan)<sup>5</sup> signed by Presidents Barack Obama and Juan Manuel Santos on April 7, 2011 is to engage workers and assist them in presenting well-supported claims of labor law violations to the proper administrative or judicial authorities.

The project provides services to any worker whose labor rights have been allegedly violated, but it targets five priority economic sectors identified in the Labor Action Plan: ports, sugar cane, mining, flowers, and palm oil.<sup>6</sup> The main mechanism that WRCs use to reach workers in these priority economic sectors is "legal caravans," which offer legal assistance services to workers who cannot travel to any of the five established WRC offices. During the first years of the project, each WRC operated its own legal caravans with the assistance of local unions in neighboring rural areas. But in 2016, the project created an independent "Mobile WRC" tasked with reaching all of the priority sectors across the country.

In September 2018, ILAB contracted IMPAQ International, LLC (IMPAQ), to conduct performance evaluations of technical assistance projects in Colombia, Haiti, and Peru. This report presents the key findings, conclusions, and recommendations of the interim evaluation of the *Workers' Rights Centers for the Greater Protection of Labor Rights in Colombia* project. The purpose of this report is to:

1. Assess the relevance of the project in the cultural, economic, and political context in Colombia, as well as the validity of the project design and the extent to which it is suited to the priorities and policies of the host government and other national stakeholders;
2. Determine whether the project is on track to meeting its objectives, identify the challenges and opportunities encountered, and analyze the factors driving these challenges and opportunities;

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<sup>1</sup> An award modification was made in November 2018 to add \$350,000 to the total and extend the project end date to December 31, 2020.

<sup>2</sup> The Bogotá WRC closed at the end of 2016; however, a small three-person team belonging to the "Mobile WRC" is based in Bogotá and provides limited services to workers in the city.

<sup>3</sup> The WRC located in Zipaquirá is referred to in project documents as "Sabana de Bogotá" or "Sabana" WRC. Zipaquirá is a city located 26 miles outside of Bogotá. This report will use the name Sabana when referring to this WRC.

<sup>4</sup> The project was expanded to Puerto Wilches at the end of 2018.

<sup>5</sup> In the Colombian Action Plan Related to Labor Rights (Labor Action Plan) signed by Presidents Barack Obama and Juan Manuel Santos on April 7, 2011, the Colombian government confirmed its ongoing commitment to ensuring that Colombian labor laws and practices conform to internationally recognized labor rights, as well as preventing violence against labor leaders and prosecuting the perpetrators of such violence.

<sup>6</sup> Project Document, pp. 2-3.

3. Assess the effectiveness of the project's strategies and its strengths and weaknesses in implementation, and identify areas in need of improvement;
4. Provide conclusions, lessons learned, and recommendations; and
5. Assess the project's plans for sustainability at the local and national levels and among implementing organizations and identify steps to enhance sustainability.

The report provides evidence to inform decision-making, understanding of lessons learned, and recommendations for future projects. The evaluation team assessed the project through the perspectives of a diverse range of stakeholders who participated in and were intended to benefit from the project's interventions. The team conducted semi-structured key informant interviews (KIIs) and focus group discussions (FGDs) during field visits in May 2019. The team used the data from these sources to address the evaluation questions identified in the Terms of Reference. Below, we summarize the key findings, lessons learned and promising practices, and recommendations.

## Key Findings

**Relevance.** Both direct and indirect stakeholders still view the project as relevant to their needs or priorities. However, perspectives on the main contribution of the WRCs varied among stakeholders. Some workers, project staff, and all government officials stressed the value of the individual legal assistance, trainings, and legal accompaniment for unions provided by the WRCs, due to the strong demand from workers for such services. Other project staff and stakeholders highlighted the importance of strategic cases and ensuring that ENS maintains the long-term strategic goals of the project, such as advancing policy reforms that will benefit all workers. Opinions were mixed regarding the overall effectiveness of the Mobile WRC. While project staff thought the Mobile WRC filled the need for a more flexible and responsive team to reach priority sectors in rural areas, some stakeholders thought the three-person Mobile WRC team was inadequate to reach the five priority sectors dispersed across the country. Further, there is already some evidence that there is demand for Mobile WRC services from non-priority sectors as well, which may lead the Mobile WRC to lose its priority sector focus since, similar to other WRCs, the Mobile WRC works closely with the regional CUT and CTC unions to coordinate their work and these unions, in turn, refer workers from all sectors to the Mobile WRC. It would be difficult for the Mobile WRC to limit or deny assistance to these workers reaching out to them.

**Efficiency and Effectiveness.** The project has continued to make progress in meeting its stated target goals, particularly those related to capacity building of WRC staff, fostering of partnerships with universities and other civil society organizations. In addition, the evaluation team has seen an improvement in the quality and consistency of reporting of information in quarterly reports, although an enhanced presentation of project information would allow for easier interpretation of results. For example, the body of the report could include a summary table of the five main results that clearly shows the project's overall progress. All the supporting tables could be moved to an Excel file where information can be added each trimester for each sub-indicator. In this way, any changes to the format of how an indicator was recorded would be immediately apparent and would have to be justified in the document.

Some stakeholders were concerned that the pressure to report on certain indicators, particularly the ones related to individual legal assistance, contributed to the project losing focus on what should be its real priority—the strategic actions. The targets related to WRCs' individual legal assistance have been met and surpassed, but the targets related to the results of strategic cases, particularly to the resolutions of the *querellaton* strategy (*querellas* [complaints]) on illegal

outsourcing and misuse of collective pacts<sup>7</sup> presented *en masse* by unions), remain inconclusive, mainly because follow-up with the Ministry of Labor (MOL) is still ongoing and has, in some instances, fallen short since there was no clear strategy on how to conduct the follow-up until recently.

**Impact.** The evaluation team found that the project is achieving its intended impact of improving workers' ability to assert and claim their labor rights, including by engaging the relevant government authorities to respond to rights violations and negotiating with employers. For example, stakeholders generally agreed that the WRCs' engagement with unions improved unions' capacity to negotiate with employers, particularly in the context of the MOL Dialogue Committees related to salary and labor policies. The WRCs also provided useful "empirical input" to external experts working on behalf of workers' rights, in the form of data and statistics that were valuable to complement their legal arguments.

Over the last year, however, the project staff appear to have been reacting to a changing labor context and focusing on what they perceive as new threats to workers' rights. During the first half of the current project funding period, ENS was still engaged in the "*querrellatones*," in which the WRCs and ENS organized with unions to file with the MOL a high number of *querellas* related to illegal outsourcing and misuse of collective pacts. However, around the time of the election of the current President of Colombia, ENS started to focus more on other issues, including the National Development Plan and other policy reforms related to workers' rights. At the regional level, WRCs have emphasized making inroads in the local political environment, where they have been invited to participate and provide input into various labor-related processes. Finally, as a result of the trainings that law student interns receive at the WRCs, the project may also be helping to form the next generation of workers' rights defenders.

**Sustainability.** The project directly addresses the lack of knowledge and the protection of labor rights through capacity building of clients and unions, which helps ensure workers' ongoing capacity to assert and claim their rights. As in previous evaluations, the evaluation team found that unions at the local level were more likely to cooperate with individual WRCs by covering some expenses, such as office rent or legal caravans. Project stakeholders think that the project outcome most likely to be carried on in the future is the knowledge, capacity, and skills gained by law school interns and union workers. In contrast, the main project activity that would likely not be continued in the future without external funding is the individual legal assistance that the WRCs provide to workers.

## Key Recommendations

### For ILAB and ENS:

1. Ensure that project priorities are clearly reflected in the project's logic model so that the project monitoring plan (PMP) and the work plans better reflect the project's goals. For

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<sup>7</sup> The Office of Trade and Labor Affairs 2017 *Public Report of Review of US Submission 2016-02 (Colombia)* explains the nature of the misuse of these contracts: "According to the Labor Code, employers may offer collective pacts (*pactos colectivos* or workplace benefits packages that cover non-union workers) to non-union workers in workplaces where unions are not present, as well as in workplaces where unions represent less than one-third of the company's workforce. Some employers reportedly offer better conditions through collective pacts than those contained in existing collective bargaining agreements. However, Article 354 of the Labor Code prohibits employers from interfering with workers' freedom of association; therefore, employers may not use a collective pact that interferes with or undermines legitimate union activity."

instance, if certain sectors are already prioritized per the Labor Action Plan, these should be easily identifiable across most indicators so that progress can be easily monitored. ENS and ILAB should consider including sector information across relevant indicators to help identify new sectors that are not part of the Labor Action Plan but also need to be prioritized.

2. Include a brief budget narrative that explains any relevant changes in budget line items and ensure these are updated in a timely manner.
3. Include strategies to transfer project capabilities to other institutions in future project design, for example, by strengthening the relationship with local government entities, such as the mayor's office or ombudsman's office to offer individual legal assistance.

**For ENS:**

4. Clarify the priorities and activities of the Mobile WRC so that they clearly link to their efforts on priority sectors. Currently, following a similar strategy of other WRCs, the Mobile WRC also engages non-priority sector unions to build relationships. As demand grows, it will be important to continue evaluating how these relationships help further their priority sector goals.
5. Coordinate the work some WRCs do in their priority sectors with activities of the Mobile WRC to better reach priority sectors in those areas. Some WRCs, for example Bucaramanga and Puerto Wilches, may not need the assistance of the Mobile WRC to reach their priority sector, but others, such as the Cartagena WRC, may benefit from the Mobile WRC's assistance. As the Mobile WRC becomes more established, it may be able to expand its reach to the priority sectors in other parts of the country outside of the city-based WRCs' areas of influence.
6. Explore ways in which the project may better showcase and leverage its potential long-term impact and sustainability on developing future labor rights advocates. For instance, the project could help launch a WRC alumni association from the WRC staff (legal associate, student interns, or assistants) who have moved on to work in other organizations, similar to university alumni associations.
7. Continue working with local unions to develop project activities, as well as identify and make commitments related to their shared goals.
8. Expand collaboration to other potential partners, such as the local Chamber of Commerce, to develop a seminar for employers interested in complying with the law regarding the rights and benefits of their workers.
9. Implement a strategy to follow up on the outcome of the *querellas* presented to the MOL that involves key participants such as unions. The project management committee should also identify specific actions to take after they learn the reasons that the *querellas* were archived. This will also help ILAB check the efficacy of the labor inspection Electronic Case Management System (ECMS) as well as the MOL's performance in reviewing those cases.

**For ILAB:**

10. Coordinate future project implementation so that regional MOL representatives and labor inspectors also benefit from capacity-building efforts on how to effectively engage with unions during their negotiations with employers. Ideally, this would be implemented through projects already targeting government institutions, such as those involving training of labor inspectors.

# 1. EVALUATION OBJECTIVES AND METHODOLOGY

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## 1.1. Evaluation Objectives

The objective of the interim performance evaluation was to (1) assess the performance and achievements of the *Workers' Rights Centers for the Greater Protection of Labor Rights in Colombia* project (the project) from December 2016 to May 2019; (2) explore whether ENS has implemented the project as planned; and (3) identify promising practices and lessons learned. The evaluation criteria for the performance evaluation are outlined below:

- **Relevance.** The evaluation team assessed whether the objectives and implemented activities of the project met the needs of direct and indirect beneficiaries, given the current economic and political context in the country.
- **Efficiency.** The evaluation team evaluated the project's progress and assessed whether resources and inputs (funds, expertise, time, etc.) led directly to the desired results, on time and on budget.
- **Effectiveness.** The evaluation team assessed the effectiveness of the project's strategies and interventions in achieving the goal of improving Colombian workers' understanding of labor rights, as well as their ability to assert and claim these rights. The team identified the project's strengths and weaknesses in these efforts.
- **Impact.** The evaluation team identified positive and negative primary and secondary long-term effects produced by the project, whether directly or indirectly, intentionally or unintentionally, in relation to the primary project objectives.
- **Sustainability.** The evaluation team determined whether the implementers took steps to ensure the sustainability of outcomes and key outputs produced by the project and their benefits for local or national stakeholders. The evaluation also determined whether the benefits of the project outcomes are likely to continue over time.

This evaluation report provides evidence to inform future decision-making by reporting on the findings, lessons learned, and recommendations for project enhancement and for shaping of future ILAB and ENS projects in Colombia. The primary audience of the performance evaluation report will be ILAB, as well as ENS and its implementing partners (IPs), including the American Center for International Labor Solidarity (Solidarity Center) and Colombian union federations.

## 1.2. Methodology

The methodology for data collection and analysis was primarily qualitative in nature. The evaluation team addressed the evaluation questions using multiple sources of evidence, combining primary qualitative data with secondary quantitative data. Qualitative data were obtained from key informant interviews (KIIs) and focus group discussions (FGDs). Quantitative data were obtained from tables presented in the quarterly technical progress reports (TPRs) to ILAB, the WRC database and specific requests for information to ENS and incorporated into the analysis when appropriate. Data collection methods and stakeholder perspectives were triangulated to bolster the credibility and validity of the results. Exhibit 1 lists each evaluation question and the methodology that the team used to conduct the data analysis.

## Exhibit 1. Evaluation Questions and Data Sources

#	Evaluation Questions	Data Sources
<b>Relevance</b>		
1	To what extent was the centralization of mobile WRC efforts into one unit to reach the priority sectors logical and coherent?	Document Review; KIIs; FGDs
2	Are the project outcomes and objectives still germane and realistic in light of the latest announcement by the Ministry of Labor (MOL) that it will not present a labor law reform proposal before Congress this year? How has the project adapted to critical factors and assumptions outside of its control, such as the long processing times of workers' cases presented to the MOL, infrequent labor inspections, lack of fines imposed or collected by labor inspectors, and continued abusive subcontracting practices in the priority sectors?	Document Review; KIIs; Secondary Data
3	How appropriate and useful are the indicators described in project documents in assessing the project's progress? Are there targeted indicators that can be tracked? How should the project modify them to be more useful?	Document Review; KIIs; Secondary Data
4	Is the project still pertinent to the priorities and policies of the Colombian government and other national stakeholders (trade unions, ILO, etc.), such as the ones included in the Integrated System of Truth, Justice, Reparation and Non-Repetition?	Document Review; KIIs
5	Are the project's main activities still applicable to workers' legal needs, such as filing claims against an employer (salary payments, settlements, labor conditions, etc.) or insurance company (denial of service)? To what extent are the project's outcomes and outputs consistent with addressing workers' ability to identify and take action to challenge abusive hiring practices?	Document Review; KIIs; FGDs
6	How has the project adapted to overcome obstacles faced in its efforts to improve workers' knowledge of their labor rights? In particular, how has the project addressed concerns about trust and privacy related to mobile WRCs?	Document Review; KIIs; FGDs
7	What are the lessons learned with respect to ensuring the project's relevance and how can they be taken into account for future projects?	Document Review; KIIs; FGDs
<b>Efficiency and Effectiveness</b>		
8	Is the project making sufficient progress toward its planned outputs and outcomes on schedule and on budget? What are the challenges encountered?	Document Review; KIIs; Secondary Data
9	Were project resources (funds, human resources, time, expertise) allocated strategically and efficiently to achieve objectives and outcomes? In particular, how efficient and effective is serving priority-sector workers in rural areas with mobile WRCs relative to serving workers in city-based WRCs?	Document Review; KIIs; FGDs; Secondary Data
10	How effectively does ENS monitor project performance and results? Does ENS regularly analyze information to inform management decisions? How has ENS improved its methodology to follow up on workers' legal cases submitted at the WRCs, particularly its selection of users to follow up on, frequency and recording of follow-up attempts, and resources assigned to this task?	Document Review; KIIs; Secondary Data
11	To what extent does the increase in workers' knowledge of their labor rights improve employer compliance with and government enforcement of relevant labor laws?	KIIs; FGDs
12	To what extent is the filing of emblematic cases effective and efficient in improving workers' ability to protect and enforce their labor rights? How have changes in Colombian legislation affected the effectiveness or efficiency of these cases?	Document Review; KIIs

#	Evaluation Questions	Data Sources
<b>Impact</b>		
13	To what extent has ENS engaged with the appropriate government representatives to advocate for workers' rights and to what extent have such engagements led directly or indirectly to positive changes urged by ENS?	Document Review; KIIs; FGDs
14	To what extent has union engagement with the WRCs increased union capacity to effectively advocate with employers and the government on behalf of their members, including through productive social dialogue, and to identify and assess potential short-term contract and subcontracting violations, among other legal labor issues?	Document Review; KIIs; FGDs
<b>Sustainability</b>		
15	How has ENS adapted its original strategy for project termination concerning the union federations' lack of available of resources and management capacity to sustain WRC operations? Is the new strategy effective and realistic? To what extent has ENS implemented this strategy?	Document Review; KIIs
16	Can any of the project outputs continue after ILAB's funding expires? Are there financial commitments from other sources to ensure the continuation of the project's outcomes?	Document Review; KIIs
17	Which elements (activities and products) of the project are self-sustaining and which will rely on external financial support for their continued operation? In particular, to what extent is the WRCs' use of volunteer law students sustainable?	Document Review; KIIs; Secondary Data
18	Are there any project activities that could be offered through the Ministry of Labor's COLabora center or other government initiatives?	Document Review; KIIs
19	How likely are workers, law student interns, local unions, and union federations to continue to use the knowledge, skills, tools, and materials gained from their collaboration with WRCs and ENS?	KIIs; FGDs

Note: KII=key informant interview; FGD=focus group discussion.

### 1.2.1 Evaluation Schedule

The evaluation team completed a project document review in March 2019, with additional specific requests for documentation in June 2019. The site visit to Colombia to collect information from KIIs and FGDs was conducted between May 20 and May 31, 2019. Since the evaluation team was not able to travel to every city with a WRC, ENS arranged for these KIIs to take place in nearby WRCs. The Puerto Wilches WRC KII took place in Bucaramanga and the Cartagena WRC KII took place in Medellín. In addition, the Mobile WRC KIIs took place in Bogotá where the team maintains a small office, and the Sabana WRC KIIs took place in its headquarters in Zipaquirá. Prior to the visit, the evaluation team developed KII and FGD guides. During the site visit, the evaluation team conducted KIIs and FGDs with beneficiaries and stakeholders. After completion of the site visit, the evaluation team held a workshop with stakeholders and then a debriefing with ILAB to discuss key findings and recommendations. The majority of the data analysis and report writing was conducted in June 2019.

### 1.2.2 Data Collection

The evaluation team collected data from four sources: semi-structured KIIs, FGDs, document reviews, and secondary data. The team used the data from these sources to answer the evaluation questions proposed for each analytic area.

**Key Informant Interviews.** The team conducted KIIs to obtain stakeholders' perspectives on the project's implementation and progress. Exhibit 2 presents the number and types of KIIs conducted in each city. For this evaluation, the "Steering Committee" includes ENS's Director General, the

Expert on Labor Rights Protection, and the Project Director. The “WRC Board of Directors” includes CUT and CTC union representatives and the WRC directors of WRCs in Bucaramanga, Cartagena, Medellín, Puerto Wilches, and Zipaquirá.<sup>8</sup> “Other project experts (staff)” includes the WRC Mobile director and legal associates, WRC assistants, Project Monitoring Plan Expert and the Social Communicator. “External experts” includes a university professor specializing on labor issues, a labor judge, and the Department of Labor Attaché at the U.S. Embassy. “MOL Reps.” includes members of the Inspection, Vigilance, and Control Department. “Other” includes small-businesses employers and representatives of an employer organization.

### Exhibit 2. Participants in the KIs

City <sup>9</sup>	Steering Committee	WRC Board of Directors	Other Project Experts (staff)	External Experts	Solidarity Center	MOL Reps.	Other	Total
Bogotá	1	2	3	2	4	5	0	17
Bucaramanga	0	3	1	0	0	1	1	6
Medellín	2	5	3	1	0	1	3	15
Zipaquirá	0	1	1	0	0	0	1	3
<b>Total</b>	<b>3</b>	<b>11</b>	<b>8</b>	<b>7</b>	<b>4</b>	<b>7</b>	<b>5</b>	<b>41</b>

**Focus Group Discussions.** The evaluation team facilitated eight FGDs: three in Bucaramanga; three in Medellín; and two in Zipaquirá. In the original plan, the team had scheduled, in each city, one FGD with union-affiliated WRC clients and one with WRC interns to discuss the project. Both types of participants were interviewed as planned; however, some adjustments were made for workers’ FGDs in Bucaramanga and Medellín. Due to different arrival times as well as higher than expected turnout, the evaluation team held separate FGDs for men and women union workers in these two cities to keep the number of participants in each FGD to no more than ten. Each FGD type addressed different types of questions.

**Document Review.** The evaluation team conducted a document review to inform the KIs and FGDs and to supplement findings from other data collection efforts. The main source of information for the project’s activities and budget information were the quarterly TPRs to ILAB from the first quarter of 2017 to the first quarter of 2019. The evaluation team also reviewed documentation produced by the project to carry out certain trainings as well as information published in their website and social media pages. The team identified relevant documents for the review based on the research questions and each document’s main purpose.

### Exhibit 3. Documents Reviewed by Category

Training and Education	Operation and Reporting	Outreach Efforts
<ul style="list-style-type: none"> <li>▪ Labor rights training program</li> <li>▪ Evaluation of training received (format only)</li> </ul>	<ul style="list-style-type: none"> <li>▪ TPRs to ILAB</li> <li>▪ WRC Perception Survey (format only)</li> <li>▪ WRC 2017-2018 Progress Report presented to the Ministry of Labor</li> <li>▪ Access to Information Report and related updates.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Calcolombia website (NotiCAL, news, etc.)</li> <li>▪ WRC Facebook page</li> </ul>

<sup>8</sup> The WRC Mobile internal structure does not currently include a Board of Directors like the other WRCs.

<sup>9</sup> This column refers to the name of city where the interviews took place and not the name of the WRC.

### **1.2.3 Data Analysis**

The document review, stakeholder KIIs, FGDs, and observations generated a substantial amount of raw qualitative and quantitative data. The team used standard qualitative data analysis methods, including matrix analysis, to categorize, synthesize, and summarize the raw data captured from the KII and FGD transcripts and the internal document review report. The team reviewed the quantitative data presented in the TPRs first by compiling all the tables into an Excel file and cleaning the data. Whenever needed, the team requested further assistance from ENS to clarify any questions in the data or request missing or additional information. The data analysis process was driven by the five evaluation criteria.

### **1.2.4 Limitations**

The team had to rely on ENS to convene WRC clients and interns to participate in the FGDs, which might have been an issue if participants had been purposefully selected for their positive opinions of the project. However, in the case of the FGDs with workers, the evaluation team mitigated this issue by providing a list to ENS of randomly selected workers to contact in each city. Since the previous implementation evaluations included FGDs composed mostly of workers who were not unionized, the evaluation team asked ENS to exclusively recruit union members to participate in FGDs for this evaluation.

Overall, this strategy worked in Sabana and Medellín, but it was only partially successful in Bucaramanga because most women union members were not able to get the morning off to participate. Thus, the WRC reached out non-union women workers to participate in the FGD. Only one participant in that FGD belonged to a union. This was not an issue for the male workers' FGD in Bucaramanga or for female workers in other cities.

In addition, the evaluation team tried to secure the perspective of employers as indirect stakeholders of the project. Since most employers would not be familiar with the project, the evaluation team asked ENS to identify and, in a few cases, reach out to potential participants. Thus, there is a risk that the participants were not chosen randomly and were chosen because they had a positive experience with ENS. The team was able to secure KIIs with three employers who had used WRC services in the past (one in each city) as well as a representative of an employer organization familiar with ENS's work in general, but not the project specifically.

## 2. PROJECT CONTEXT AND DESCRIPTION

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Colombia has a high level of structural unemployment; as of January 2019, unemployment had risen 1 percent compared to the previous year, for a total of 12.8 percent.<sup>10</sup> Youth under the age of 25 have the highest unemployment rate—59 percent are unemployed.<sup>11</sup> With participation levels in the informal sector of the economy at 46.9 percent of the total working population, some 11 million workers may lack access to comprehensive social protections, employer-subsidized retirement savings, and occupational accident insurance, and they may also be excluded from the universal health care system.<sup>12</sup> The great majority of workers in the informal economy are poor—nearly one-half earn less than the minimum wage. Low incomes and widespread precarious employment, as well as ongoing significant obstacles to exercising workers' rights, may explain why Colombia ranks first, worldwide, in income inequality, as measured by the Gini coefficient.<sup>13</sup>

Under the Colombian Action Plan Related to Labor Rights (Labor Action Plan) signed by Presidents Barack Obama and Juan Manuel Santos on April 7, 2011, the Colombian government confirmed its ongoing commitment to ensuring that Colombian labor laws and practices conform to internationally recognized labor rights, as well as preventing violence against labor leaders and prosecuting the perpetrators of such violence. This Labor Action Plan, and the concrete actions articulated therein, continue to function as a compliance check for the Colombian government to ensure it is upholding this commitment.<sup>14</sup>

To support the Colombian government's efforts to strengthen labor rights, ILAB's Office of Trade and Labor Affairs (OTLA) awarded a \$1.4 million grant in 2016 to Escuela Nacional Sindical for the *Workers' Rights Centers for the Greater Protection of Labor Rights in Colombia* project.<sup>15</sup> Located in Medellín, ENS has provided research, monitoring, labor trend analysis, trainings, technical assistance, and advocacy on behalf of unionized workers and workers seeking to unionize in Colombia. The current project is the second ILAB-funded phase of the ENS strategy to administer WRCs as a means to improve Colombian workers' understanding of labor rights, as well as their ability to assert and claim these rights. Since 2005, ENS and its WRCs have grown to serve six cities (Bogotá<sup>16</sup>, Bucaramanga, Cartagena, Medellín, Puerto Wilches and Zipaquirá<sup>17</sup>) and surrounding areas via mobile WRCs.<sup>18</sup> ENS believes that the best way to realize the potential of the labor reforms initiated by the Colombian government is

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<sup>10</sup> Colombia National Administrative Department of Statistics (DANE). (2019). Retrieved from <https://www.dane.gov.co/index.php/estadisticas-por-tema/mercado-laboral/empleo-y-desempleo>

<sup>11</sup> Ibid.

<sup>12</sup> Ibid. and Ministerio de Salud y Protección Social. (2019). Retrieved from [https://www.minsalud.gov.co/Normatividad\\_Nuevo/](https://www.minsalud.gov.co/Normatividad_Nuevo/)

<sup>13</sup> World Bank. (2017). *World development indicators tables*. Retrieved from <http://data.worldbank.org/indicator/SI.POV.GINI>

<sup>14</sup> Agencia de Informacion Laboral (AIL). (2019). Retrieved from <http://ail.ens.org.co/noticias/la-cut-presento-observaciones-ante-el-departamento-del-trabajo-de-los-estados-unidos/>

<sup>15</sup> An award modification was made on November 2018 to add \$350,000 to the total and extend the project end date to December 31, 2020.

<sup>16</sup> The Bogotá WRC closed at the end of 2016; however, a small three-person team belonging to the "Mobile WRC" is based in Bogotá and provides limited services to workers in the city.

<sup>17</sup> The WRC located in Zipaquirá is referred to in project documents as "Sabana de Bogotá" or "Sabana" WRC. Zipaquirá is a city located 26 miles outside of Bogotá. This report will use the name Sabana when referring to this WRC.

<sup>18</sup> The project was expanded to Puerto Wilches at the end of 2018.

to engage workers and assist them in presenting well-supported claims of labor law violations to the proper administrative or judicial authorities.

The WRCs provide two primary types of legal assistance (*asesoría jurídica*): (1) services directly related to *actionable* legal claims, and (2) services that are *informational* (see Exhibit 4). WRCs rarely initiate judicial actions directly, because of the limited capacity of their staff, most of whom are law students, but in exceptional instances they bring judicial actions as part of their legal assistance services.<sup>19</sup> Additionally, although the WRCs primarily provide legal support for individual workers' claims, they also work with ENS's legal team to develop strategic, impactful cases that can initiate broader change or create legal and administrative precedents that improve the protection of workers' rights.

**Exhibit 4. Types of Legal Assistance Offered by WRC Offices**

Type of Legal Service	Type of Legal Action/Service
Actionable Legal Claims Services	<ul style="list-style-type: none"> <li>▪ Petition for protection<sup>20</sup> [<i>tutelas</i>]</li> <li>▪ Formal requests [<i>derechos de petición</i>]</li> <li>▪ Payment claims [<i>reclamaciones de pago</i>]</li> <li>▪ Complaints [<i>quejas</i>]</li> <li>▪ Request for investigation [<i>solicitudes de investigación</i>]</li> <li>▪ Enforcement actions [<i>desacatos</i>]</li> <li>▪ Appeals of petition for protection [<i>impugnaciones de tutela</i>]</li> <li>▪ Involuntary resignations [<i>renuncias motivadas</i>]</li> </ul>
Informational Legal Services	<ul style="list-style-type: none"> <li>▪ Labor settlements [<i>liquidaciones laborales</i>]</li> <li>▪ Labor rights information request [<i>conceptos jurídicos</i>]</li> <li>▪ Requests to persist<sup>21</sup> [<i>solicitudes de insistencia</i>]</li> </ul>

The project targets five priority economic sectors: ports, sugar cane, mining, flowers, and palm oil.<sup>22</sup> The main mechanism that WRCs use to reach workers in these priority economic sectors is “legal caravans,” which are a means of offering legal assistance services to workers who cannot travel to any of the five established WRC offices. During the first years of the project, each WRC operated its own legal caravans with the assistance of local unions in neighboring rural areas. Starting March 2016, the project assigned one lawyer to be able to travel across the country to reach priority sectors. This strategy evolved and in January 2017 the project created an independent “Mobile WRC”, consisting of one director and two legal associates, tasked with reaching all the priority sectors across the country.<sup>23</sup>

In its 2017–2019 work plan, ENS outlines the results that will support achievement of the project's development objective (see Exhibit 5).

<sup>19</sup> ENS identifies these legal activities as “*acciones jurídicas que se verifican*.” The services referred to as “actionable” are legal-assistance services that WRCs provide to workers to enable them to file or otherwise initiate a legal claim.

<sup>20</sup> [http://ccprcentre.org/doc/HRC/Colombia/CCPR.C.COL.6\\_En.pdf](http://ccprcentre.org/doc/HRC/Colombia/CCPR.C.COL.6_En.pdf)

<sup>21</sup> “Requests to persist” are a legal recourse available to the parties affected by a tutela ruling, where they make an official request to the Attorney General's Office [*Procuraduría General de la Nación*] to review the ruling.

<sup>22</sup> Project Document, pp. 2-3.

<sup>23</sup> For the purpose of this report, “legal caravans” refer to the trips carried out by WRCs to reach workers in their nearby rural areas. “Mobile WRC” refers to the three-person team created to reach priority sectors across the country.

## Exhibit 5. Revised Project Work Plan (2017–2019)

**Development Objective: To improve Colombian workers' understanding regarding labor rights, as well as their ability to protect and enforce these rights, by means of the administration of five WRCs.**

**Result 1.** The staff members of WRCs (attorneys, labor activists, and university interns) will increase their capacity to provide legal advice and counseling services for workers and their organizations. They will have come to fully understand the scope and applicability of labor and criminal law in protecting workers' rights (especially in cases of illegal labor intermediation and violations of freedom of association) as well as all requirements for case documentation, procedural advancement, and follow-up actions.

**Outcome 1.1.** A portfolio of documents and important cases will be produced to be used in the specialized training of WRC staff (attorneys, labor activists, and university interns) that covers the conceptualization, content, scope, strategies, actions, procedures, and monitoring of activities that can be undertaken to protect labor rights.

**Outcome 1.2.** WRC staff (attorneys, labor activists, and university interns) will become qualified and able to provide counseling and high-quality legal advice for workers with regard to their labor rights.

**Outcome 1.3.** The quality of counseling and legal-advice services will be evaluated on a permanent basis and measures will be adopted to ensure ongoing improvement.

**Result 2.** Workers, activists, labor organizations, and the general public will gain a better understanding of the scope and applicability of criminal and labor law, allowing them to more effectively protect labor rights, document events, and assemble information necessary for the initiation of legal actions as well as their procedural advancement.

**Outcome 2.1.** Training materials will be produced for capacity-building activities with workers, union activists, or the general public concerning labor rights and the required procedures for the filing, processing, and procedural advancement of requests for information, grievances, complaints, and lawsuits.

**Outcome 2.2.** Workers, activists at workers' organizations, and the general public will attain a better understanding concerning labor rights as well as relevant legal, administrative, and criminal mechanisms that can help guarantee their protection.

**Result 3.** The capacities of the five WRCs will grow in order to better provide legal advice and consulting to a greater number of workers in order to protect their labor rights.

**Outcome 3.1.** The five WRCs will partner with workers' organizations, universities (law, communications, and social work departments), and the regional offices of the Labor Ministry, among other entities.

**Outcome 3.2.** A campaign will be organized and executed with the goal of raising awareness among workers, activists and members of workers' organizations, and the general public concerning the availability of services provided by the WRCs.

**Outcome 3.3.** WRCs will provide legal advice and counseling services in priority economic sectors and regions.

**Outcome 3.4.** The volume of consultation services via the WRC website will increase.

**Result 4.** The WRCs will process higher numbers of requests for information, grievances, complaints, and lawsuits that look to protect workers' rights by means of relevant, high-quality services and will implement ongoing follow-up activities in order to monitor the results of these actions.

**Outcome 4.1.** Updated and improved rules and protocols will be designed to ensure the quality of the services provided at the WRCs.

**Outcome 4.2.** A national registration and monitoring system will be put in place to track information that describes the beneficiaries of WRC services and the actions taken by WRC staff.

**Outcome 4.3.** The documentation of strategic cases will be carried out to multiply the impacts of labor-rights protections.

**Outcome 4.4.** Annual report of the results and main cases processed by the WRCs.

**Result 5.** ENS and the Solidarity Center, in collaboration with workers' organizations and universities, will propose reforms with regards to public policy, that looks to facilitate access to legal remedies for workers, to the ILO [International Labour Organization] Colombia Office, the Labor Ministry, the Justice Ministry, the

Chamber of Labor at the Supreme Court [ <i>Sala Laboral de la Corte Suprema</i> ] and the Superior Council of the Judiciary [ <i>Consejo Superior de la Judicatura</i> ].
<b>Outcome 5.1.</b> Analyses will be conducted and proposals made in order to overcome the principal causes for workers' lack of access to legal remedies in cases involving illegal labor intermediation and violations of freedom of association.
<b>Outcome 5.2.</b> Public debate will increase concerning the need to facilitate workers' access to legal remedies.
<b>Result 6.</b> The WRC of Puerto Wilches will increase the capacity of the unions of the region to design and develop strategic campaigns of affiliation and growth of union membership.
<b>Outcome 6.1.</b> Design and development of union membership campaigns.

Project activities are implemented at two levels: (1) WRCs deliver direct services to workers and their organizations at the local level primarily through city-based offices and periodically through legal caravans; and (2) ENS and its partners support the WRCs with training for university student interns and workers, capacity building for union workers, awareness raising for workers and the general public, and advocacy activities.<sup>24</sup> These activities are discussed below.

**ENS.** As the national coordination and support structure for the WRCs, ENS and its partners aim to strengthen the efficiency and effectiveness of the WRCs in delivering their services, achieving labor policy reforms, and ensuring the general sustainability of WRC activities. ENS accomplishes this through the activities listed below.

1. **Training for WRC staff.** ENS develops training materials and provides specialized training for WRC staff, including attorneys, labor activists, and university interns, that covers the conceptualization, content, scope, strategies, procedures, and monitoring of activities to protect labor rights. Through this training, WRC staff become qualified and able to provide counseling and high-quality legal advice and assistance to workers. ENS also assists the WRCs in updating their rules and procedures to ensure quality services and monitor the outcomes and impact of their actions.
2. **Partnership Development and Awareness Raising.** To increase the capacity of WRCs to provide legal advice and counseling to a greater number of workers, ENS facilitates and supports WRC engagement with worker organizations, universities, and regional offices of the Ministry of Labor (MOL), among other entities. ENS also organizes public campaigns to raise awareness of WRC services among workers, activists, and members of workers' organizations, helping WRCs expand their presence and impact in priority sectors.
3. **Policy Reform Advocacy.** ENS and the Solidarity Center, in collaboration with workers' organizations and universities, propose public policy reforms to facilitate workers' access to legal remedies for labor violations, including through the ILO Colombia Office, the MOL, the Ministry of Justice, the Chamber of Labor at the Supreme Court [*Sala Laboral de la Corte Suprema*], and the Superior Council of the Judiciary [*Consejo Superior de la Judicatura*].
4. **Support for the Puerto Wilches WRC to Increase Regional Union Capacity.** At the end of 2018, ILAB approved a \$350,000 grant modification request to allow ENS to open and operate a new WRC in Puerto Wilches under its current cooperative agreement. In

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<sup>24</sup> The evaluation team used the project work plan, the TPRs, and its experience conducting the final evaluation of the previous iteration of this project to develop a narrative outlining the logic model of the current project. The logic model explains the link between the primary activities, outputs, and overall objective of the project.

addition to supporting the legal and educational services all WRCs provide, ENS aims to increase the capacity of local unions to design and develop strategic union organizing campaigns, particularly among palm industry workers in the region.

**WRCs.** Staffed by attorneys, labor activists, and law student interns, the WRCs provide direct service delivery to Colombian workers, the end beneficiaries of the project. The WRCs accomplish this goal through three primary strategies to inform, implement, and amplify their services.

1. **Collecting and Analyzing Violation Data.** By offering high-quality legal services to workers to defend their individual or collective rights, WRCs are able to collect and store user information in a unified database. These data can then be used to analyze trends in labor violations, disaggregated by economic sector and other variables of interest. Such analyses thus increase unions' and ENS's knowledge of the current legal labor environment. The systematization of information collected via the WRC database enables staff to gather evidence to support more impactful and strategic cases, design innovative routes for better worker protection, and support the improved use of labor law enforcement mechanisms.
2. **Legal Assistance.** The WRCs engage workers, unions, and other affected groups of workers to provide them with the legal advice and counseling services they need to submit legal labor complaints to the relevant administrative or judicial authorities. In the case of unions, these services also include "accompaniment services" during negotiations with employers as well as trainings on the scope and applicability of labor laws and criminal laws covering workers' rights (especially in cases of illegal labor intermediation and other violations of freedom of association) and the legal institutions available to enforce them. In the case of individual assistance, interns follow an "assistance protocol" to ensure that workers understand the process and the documentation required to file their complaints.
3. **Strategic Cases.**<sup>25</sup> The WRCs and ENS file highly visible, strategic, impact cases seeking to achieve more systemic changes for the protection of workers' rights. These filings are informed by the unified database and the cases on which the staff work. Strategic cases have the potential to set favorable legal labor precedents and/or affect a large number of workers. In previous years, these included the "*querrellatones*," in which the WRCs and ENS organized with unions to file with the MOL a high number of *querellas* related to illegal outsourcing and misuse of collective pacts. Currently, it includes all activities related to Result 5 as well as Outcome 4.3.

Overall, by receiving direct assistance from the WRCs, workers learn how to file administrative labor grievances, criminal and civil labor complaints, and actions that support petitions for protection [*tutelas*]. They also learn to choose the most appropriate legal mechanisms to vindicate their labor rights. WRCs facilitate claims that would be difficult for individual workers to pursue alone. Accordingly, increasing workers' use of WRC services will also increase the frequency with which workers use administrative and judicial mechanisms to assert and claim their labor rights, their awareness of labor violations, and their ability to effectively address them.

Although this project has progressively evolved over multiple iterations, the same core interventions have been applied. The evaluation team has therefore been able to use findings and conclusions from previous evaluations to inform the data collection and analysis for this evaluation.

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<sup>25</sup> The terms "emblematic cases" and "strategic cases" are used interchangeably in project documents. For consistency, the report uses the term "strategic cases."

## 3. FINDINGS

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This section presents the evaluation findings based on the data collected from KIIs and FGDs conducted with project stakeholders in Colombia, secondary data analysis, and a review of project documents and reports. The key findings are presented for each evaluation criterion: relevance, efficiency and effectiveness, impact, and sustainability. Each section concludes with a summary of lessons learned and promising practices based on the findings.

### 3.1. Relevance

#### 3.1.1 Reaching the Priority Sectors

The previous project evaluation found that the WRCs were more effective in reaching urban populations than rural populations, given the central locations of the WRC offices. Since all the priority sectors (ports, sugar cane, mines, flowers, and palm oil) are located in remote rural areas, there was a concern that this strategy was less effective at reaching these sectors. The report also highlighted issues related to worker distrust of new service providers in these areas, which further impeded WRC effectiveness.

To remedy this, the project implemented a new “Mobile WRC” that would have the ability to travel to rural areas, particularly during the weekends when workers are not working in the plantations, without the burden of maintaining and operating a physical location open to the general public. The Mobile WRC is based in Bogotá, where the staff share a small co-working space and keep project-related files and equipment. It is staffed by a director and two legal associates. A couple of weeks before the site visit, the Mobile WRC began offering services at the *Central Unitaria de Trabajadores* (CUT) office in Bogotá one day a week to provide assistance during regular office hours to unions based in Bogotá.

All project staff interviewed agreed that the Mobile WRC strategy had significantly helped the project’s ability to reach out to priority sectors. One reason mentioned was that the Mobile WRC had fewer logistical restrictions to travel to remote areas and could do so on short notice, because it has three permanent staff and does not have to rely on the availability of law student interns to offer services. Students are often unavailable to travel due to universities’ travel-related policies. The staff also noted that the Mobile WRC could assist clients at times better suited to their schedules, like Saturday evenings or Sundays, unlike the physical WRCs that keep an office schedule (Monday to Friday, 8 a.m. to 5 p.m.). Despite the general perception of the importance and benefits of the Mobile WRC, some project staff, IP representatives, and an external expert stated that even greater effort is needed to fully cover the targeted sectors, considering the significant legal labor needs in the priority sectors and the logistical and other challenges of serving them. These stakeholders said that the Mobile WRC is currently too small an operation to effectively reach all priority sectors, which are spread across the country.

To better understand the project’s reach to priority sectors, the evaluation team analyzed two main activities performed by the WRCs: legal accompaniment services and legal caravans. In the case of legal accompaniment services, the WRCs help unions draft and present petition documents with negotiating demands (*pliegos de peticiones*) during negotiations with their employer, making sure they follow any sector-specific requirements. Exhibit 6 shows the frequency of union accompaniment services that each WRC provides, disaggregated by whether the unions served belonged to a priority sector. Although the Mobile WRC has provided the most accompaniment services to unions (148 cases), only about 39 percent of the services have been provided in the priority sectors. Bucaramanga is the next WRC to provide the most legal

accompaniment services to unions (102 cases), and 53 percent of these services have been provided to unions in the priority sectors (54 cases).

#### Exhibit 6. Accompaniment Services by WRC and Priority Sector (2017–2019\*)

WRC	Other	Priority	Total
Bucaramanga	48 (47.1%)	54 (52.9%)	102
Cartagena	35 (97.2%)	1 (2.8%)	36
Medellín	23 (100%)	0 (0%)	23
Mobile	90 (60.8%)	58 (39.2%)	148
Puerto Wilches	0 (0%)	2 (100%)	2
Sabana	58 (90.6%)	6 (9.4%)	64
<b>Total</b>	254 (67.7%)	121 (32.3%)	375

\* First quarter of 2019

As mentioned earlier, legal caravans were created to reach rural workers, particularly those in the priority sectors. It is important to note that even with the introduction of the Mobile WRC, WRC offices have continued their individual efforts to conduct legal caravans in the rural areas near their offices. Exhibit 7 shows the number of legal caravans carried out by WRC, disaggregated by whether the unions served belonged to a priority sector.<sup>26</sup> With the exception of Bucaramanga and Puerto Wilches WRCs, WRC legal caravans target harder to reach rural workers in general, not just those in the priority sectors. In the case of the Mobile WRC, out of 48 legal caravans reported during the evaluation period, only 46 percent targeted unions in the priority sectors. As mentioned above, the ability of WRCs to effectively reach workers in the priority sectors is limited due to budget, time, and law students' travel availability.

#### Exhibit 7. Legal Caravans by WRC and Priority Sector (2017–2019\*)

WRC	Other	Priority	Total
Bucaramanga	20 (24.1%)	63 (75.9%)	83
Cartagena	3 (100%)	0 (0%)	3
Medellín	18 (94.7%)	1 (5.3%)	19
Mobile	26 (54.2%)	22 (45.8%)	48
Puerto Wilches	0 (0%)	18 (100%)	18
Sabana	47 (59.5%)	32 (40.5%)	79
<b>Total</b>	114 (45.6%)	136 (54.4%)	250

\* First quarter of 2019

Finally, to mitigate issues of worker distrust mentioned in the previous project evaluation, the Mobile WRC replicated the strategy used by the WRC offices to conduct legal caravans in rural areas; that is, they coordinated their work with existing unions in the field. In general, the WRCs addressed issues of distrust among workers (both union and non-union members) by offering comprehensive advisory services and dedicating adequate time to each consultation. Initial distrust dissipated as workers recognized that staff take sufficient time to listen to the details of their cases and to help them better understand the options available for seeking legal recourse.

<sup>26</sup> The evaluation team compiled the information regarding legal caravans from the TPRs and manually added the sector information to determine which union belonged to a priority sector. ENS provided missing information.

In fact, regional government stakeholders often refer workers to the WRCs because these stakeholders trust the services that will be provided.

Union members reported that they value the legal accompaniment services provided by the WRCs as well as the trainings. This process of building trust may be more challenging, however, in sectors and regions with lower rates of union affiliation and labor activism, where workers are less accustomed to receiving support and encouragement for exercising and defending their rights.

### 3.1.2 Maintaining Relevance in a Changing Labor Context

The general perception among project staff, IP representatives, and some external experts was that the current Colombian administration has created a more challenging environment in which to advance workers' rights. Staff members mentioned that the political advisors and other appointees were more "business friendly" than in previous administrations. This was corroborated by an external expert, who described several examples of labor reforms or attempts at reforms that he viewed as a setback for labor rights protections, for example, reforms affecting disability and pregnancy-related labor protections and retirement plans or the partial annulment of decree 2025 of 2011, which limited the use of cooperative associations for a company's permanent core activities ("*funciones permanentes misionales*").<sup>27</sup> Moreover, the external expert and project staff noted increasing attempts from the private sector to influence Colombian legislation to the detriment of workers' rights, especially regarding collective rights, such as freedom of association and collective bargaining.

In this context, ENS's legal team has collaborated with other partners, such as the Solidarity Center, unions, and universities, to counter what they perceive as attempts to roll back laws protecting workers' rights. One example is the legal complaint before the Constitutional Court filed by a private law firm challenging Article 200, clause 2, of the Penal Code, which establishes a penalty for the misuse of collective pacts against unions, and the Colombian Labor Action Plan.<sup>28</sup> Several project staff and an external expert also mentioned ENS's work during the phase of public consultations of the government's National Development Plan (NDP),<sup>29</sup> opposing certain clauses they argue would have negatively impacted Colombia's working class. Project staff explained that, in their view, although the NDP that was later approved still contains clauses that raise concerns, the most egregious clauses have been successfully removed. Appendix B includes a brief overview of the NDP and the main clauses that were discussed during the KIIs.

Despite these efforts, IP representatives expressed concern that ENS was not engaging in a sufficient number of strategic actions (the strategic cases approach, such as the *querellatones*).<sup>30</sup> They worry that day-to-day WRC activities take away time and resources from what they believe should be the main focus of the project—bringing targeted strategic cases to advance systemic

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<sup>27</sup> See [https://www.garrigues.com/en\\_GB/new/latest-developments-regarding-cooperative-work-associations-colombia](https://www.garrigues.com/en_GB/new/latest-developments-regarding-cooperative-work-associations-colombia)

<sup>28</sup> The private firm presented an unconstitutionality complaint against Article 2 of the Penal Code and the Colombian Labor Action Plan. The Constitutional Court reached a decision just prior to the site visit. Seven of the nine members voted against ruling on the foundations of the legal claim, so it did not move forward. <http://ail.ens.org.co/wp-content/uploads/sites/3/2019/05/Comunicado-Corte-Constitucional-08-y-09-de-mayo-de-2019-Art%C3%ADculo-200.pdf>

<sup>29</sup> At the start of each new government, the elected Colombian president enacts a National Development Plan, which is the legal framework that outlines the government's political objectives and policies. The current NDP was approved by the Colombian Congress on May 25, 2019.

<sup>30</sup> "*Querrellaton*" is the strategy to present a large number of *querellas* to the Ministry of Labor, filed by the unions, to make visible the misuse of collective pacts and other illegal outsourcing mechanisms. <http://ail.ens.org.co/derecho-laboral/ante-min-trabajo-50-sindicatos-presentaran-querellas-masivas-pactos-colectivos/>

change. In their view, providing individual assistance to workers is less effective in the long run than bringing strategic cases. This, however, does not take into account the fact that the project is also trying to gather statistics and show trends by collecting this information in their database to support future strategic cases and identify the needs of workers more quickly than other organizations.

In contrast, most of the project staff believed that legal assistance to individual workers was still a relevant objective and important for the long-term priorities of the project. Union representatives, government officials, and an external expert said that there was a great need for individual legal assistance to workers. For example, MOL representatives considered that the WRCs were fulfilling a service they were unable to provide themselves because the “[MOL] couldn’t be judge in their own cause.” In one instance, a regional MOL representative mentioned that the local MOL office is surrounded by offices of labor lawyers, and there was a risk that workers could fall prey to unscrupulous parties as they were leaving the Ministry. In this sense, he was significantly relieved that he could refer workers to a WRC.

All workers who participated in the FGDs agreed that the project was relevant to their legal needs. To better capture how the project addressed unions’ legal needs, most workers interviewed for this interim evaluation were selected because they belonged to a union.<sup>31</sup> While the evaluation team expected to learn more about how the WRCs helped defend these union members’ collective rights, most union workers stated that they visited the WRCs to seek assistance with individual rights violations. Workers who were familiar with the WRCs for the longest time were more likely to mention either the training they received from the WRCs or legal accompaniment services provided during negotiation processes with their employers. One WRC board member mentioned that when he first joined the project, the most frequently requested types of claims were for missing salary payments and lack of benefits, but now they are for the employer’s failure to make social security affiliation payments.

### **3.1.3 Lessons Learned and Promising Practices**

Several stakeholders reported that the project’s goals and activities were still relevant to their priorities or needs. Project staff agreed that the creation of the Mobile WRC helped fill the need to better reach priority sectors in rural areas, due to its ability to travel on short notice with the entire three-person team. The data show that the Mobile WRC does reach more priority sectors in terms of legal accompaniment services compared to other WRCs. It will be important to track how offering legal services from the CUT office in Bogotá once a week will affect this. There is a risk that increasing demand from unions outside the priority sectors may consume more of the Mobile WRC’s time and resources, shifting the main focus away from the priority sectors.

## **3.2. Efficiency and Effectiveness**

### **3.2.1 Overview of Project Progress**

The evaluation team found that the project has made significant progress toward meeting the planned outputs and outcomes stated in its work plan and the project monitoring plan. Several of the project’s activities have surpassed their target goals, particularly those related to the capacity development of WRC staff, the fostering of partnerships with universities and civil society organizations, and social media dissemination efforts. In addition, all WRC directors and ENS

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<sup>31</sup> Previous implementation and impact evaluations of the project focused on workers in general, not just union workers.

staff felt confident that they would be able to complete their planned activities for the remainder of the project.

The evaluation team assessed project progress according to each of the six results (i.e. outcomes) of the project using both quantitative project indicators and qualitative data collected through KIIs and FGDs. The narrative below provides an overview of the project's main achievements and challenges for each of its stated results.

**Result 1: Continue training of staff of five WRCs.** All direct and indirect stakeholders interviewed trusted the services provided by WRCs, which they said were a result of the high-quality training provided to WRC staff. The project has surpassed its annual target for the number of student interns who have received training in 2017 and 2018, and appears on track to exceed its 2019 target. From January 2017 to March 2019, 711 student interns have received training, far more than the target. Although not captured in the indicators, interns, once trained, may take this knowledge and use it in other endeavors to promote worker rights leading to potentially unmeasured positive externalities (see Section 3.3.3). However, according to some project staff, some WRCs face difficulty recruiting long-term law students to staff WRCs.

**Exhibit 8. Performance Indicators for Result 1**

#	Indicator	Result	2017	2018	2019*
1.1	Number of training courses carried out on regulations, required documentation, and procedural advancement in cases involving illegal labor intermediation and violations of freedom of association	Target	2	2	2
		Actual	11	2	2
1.2	Number of induction courses that provide specialized training for WRC staff on the essence and applicability of labor rights and internal rules and protocol that govern WRC services (counselling and legal advice)	Target	9	9	11
		Actual	8	11	6
1.3	Number of student interns that have received training throughout the duration of the project.	Target	140	140	156
		Actual	291	311	109
1.4	Number of Certificates in International, Constitutional, and Labor Law in partnership with universities with WRC staff	Target	1	1	1
		Actual	0	1	0
1.5	Number of Legal Clinics in which emblematic cases processed by WRC are analyzed and discussed	Target	43	43	51
		Actual	42	53	16
1.6	Percentage of evaluations in which an outstanding rating has been scored among participants in training courses [at WRC Puerto Wilches]	Target	NA	NA	80%
		Actual	NA	NA	0%

\*Actual values are as of March 2019

**Result 2: Better understanding of labor law by workers, activists, and the general public.** ENS and WRC trainings for workers and student interns were also highly regarded by direct and indirect stakeholders. The project met or exceeded nearly all its training-related annual targets. According to the TPRs, from January 2017 to March 2019, 3,256 worker-beneficiaries were trained using the protocol for joint training and service delivery. However, fostering better understanding of labor law by the general public remains a challenge, as other events outside of the project's control likely influence the general public's perception of worker's rights in Colombia.

### Exhibit 9. Performance Indicators for Result 2

#	Indicator	Result	2017	2018	2019*
2.1	Number of video clips on cases involving illegal labor intermediation and violations of freedom of association that have been successfully challenged, to be used in training courses with beneficiaries, on social media, and on the WRC website	Target	4	4	5
		Actual	15	18	1
2.2	Number of FAQs on the WRC website to complement labor rights manuals	Target	60	60	60
		Actual	54	90	0
2.3	Number of WRC beneficiaries that have been trained using this protocol [i.e. while they are receiving services]	Target	1,200	1,200	1,252
		Actual	1,509	1,507	240
2.4	Percentage of evaluations in which an outstanding rating has been scored among [worker] participants in training courses	Target	80%	80%	80%
		Actual	92.20%	93.07%	89.20%
2.5	Number of Basic Courses on Labor Rights with activists and university students during the various 'caravans' carried out by WRC	Target	1	1	2
		Actual	4	1	0
2.6	Number of Training Courses on Labor Rights with activists at unions in the five priority economic sectors	Target	1	1	1
		Actual	2	1	3

\*Actual values are as of March 2019

**Result 3: Increase capacity of WRCs to provide legal services.** The project developed a coherent communications strategy specific to union and non-union workers. Furthermore, it developed strong relationships with universities, formalized through 40 inter-institutional partnerships in cities where WRCs operate, and with other non-union organizations, through 179 partnerships. However, most agreements with schools do not allow for students to travel outside a WRC office and some WRCs face difficulties securing university students from departments other than law (such as social work or communications).

Stakeholders also thought that WRCs were successful at forming the next generation of organized labor rights advocates. From December 2017 to March 2019, the project provided 347 consultations for unions regarding public communication strategies to inform and train workers in the priority economic sectors about labor rights and legal protection tools, far more than the 10-11 unions annually targeted. However, according to stakeholders, reaching priority sectors continues to be a challenge.

### Exhibit 10. Performance Indicators for Result 3

#	Indicator	Result	2017	2018	2019*
3.1	Number of inter-institutional partnerships with universities, nationally	Target	10	10	11
		Actual	12	13	15
3.2	Number of inter-institutional partnerships with non-union organizations	Target	10	10	11
		Actual	59	72	48
3.3	Number of newsletters issued	Target	4	4	5
		Actual	4	4	1
3.4	Number of unions that have benefitted from consulting services [regarding public communications strategies]	Target	10	10	11
		Actual	179	147	21
3.5	Number of campaigns per year [to promote labor rights, in April and October of each year, with a specific focus on priority economic sectors]	Target	2	2	2
		Actual	2	2	0
3.6	Number of times project services are provided via website or social networks	Target	40,000	40,000	40,000
		Actual	86,415	178,563	49,930

#	Indicator	Result	2017	2018	2019*
3.7	Percent increase of website use	Target	20%	20%	20%
		Actual	64.50%	21.97%	64.60%
3.8	Number of campaigns per year [for communication and promotion of WRC Puerto Wilches services]	Target	NA	NA	1
		Actual	NA	NA	0

\*Actual values are as of March 2019

**Result 4: Increase ability to process legal and administrative requests.** Since the last evaluation, the project improved protocols on following up on cases and using the WRC database. As of March 2019, the project presented 47,487 legal actions and provided counseling services to 37,940 beneficiaries. However, stakeholders noted that individual follow-up of cases is time-consuming, and some IP representatives expressed concern that the project was focusing too much on individual worker assistance and not investing enough resources in strategic cases. In addition, project monitoring data shows a decrease in the percentage of favorable outcomes to workers for administrative actions and grievances filed from 2017 to 2018 (indicators 4.7 and 4.8, respectively). However, project monitoring data does not distinguish strategic cases from individual worker assistance.

#### Exhibit 11. Performance Indicators for Result 4

#	Indicator	Result	2017	2018	2019*
4.1	Number of beneficiaries that have received counseling per period	Target	16,664	16,664	19,414
		Actual	15,524	18,472	3,944
4.2	Number of legal actions presented by WRC	Target	16,664	16,664	19,414
		Actual	24,035	19,508	3,944
4.3	Number of grievances presented in the period	Target	1,200	1,200	1,200
		Actual	2,290	1,636	307
4.4	Number of administrative actions presented before the Labor Ministry	Target	160	160	160
		Actual	251	166	20
4.5	Percentage of grievances of which outcome is known	Target	100%	100%	100%
		Actual	64%	71.26%	80.66%
4.6	Percentage of administrative actions of which outcome is known	Target	100%	100%	100%
		Actual	87%	82.40%	84.60%
4.7	Percentage of grievances in which outcome favors workers	Target	70%	70%	70%
		Actual	44.50%	26.30%	9.50%
4.8	Percentage of administrative actions in which outcome favors workers	Target	70%	70%	70%
		Actual	13.50%	6.82%	0%
4.9	Number of reports on results presented throughout the period	Target	4	4	4
		Actual	4	4	1
4.10	Number of meetings with labor experts to identify strategic cases	Target	1	1	1
		Actual	0	6	0
4.11	Number of strategic cases documented	Target	1	1	1
		Actual	0	4	0
4.12	Number of reports on results and WRC analyses presented to Labor Ministry	Target	1	1	1
		Actual	0	0	4

\*Actual values are as of March 2019

**Result 5: Collaboration to advance reforms to public policy.** Some project stakeholders recognized the importance of collaboration to advance reforms and project sustainability. However, the perception of many project staff, IP representatives, and external experts was that the current national labor rights context is far more challenging for the project than it was prior to President Duque's administration (as discussed in sections 3.1.2 and 3.3.1).

### Exhibit 12. Performance Indicators for Result 5

#	Indicator	Result	2017	2018	2019*
5.1	Number of updates made to access to justice study	Target	1	1	1
		Actual	1	1	0
5.2	Number of proposals made to improve institutional capacity	Target	1	1	1
		Actual	0	1	1
5.3	Number of meetings held with authorities to address labor issues	Target	2	2	2
		Actual	0	0	4
5.4	Number of events held to raise awareness about proposal with regards to labor issues	Target	1	1	1
		Actual	1	6	0

\*Actual values are as of March 2019

**Result 6: Establishment of Puerto Wilches WRC.** This result was added as part of the July 2018 project modification which provided additional funding and extended the period of performance to establish a WRC in Puerto Wilches, with a particular focus on serving workers in the local palm plantation and oil extraction industry. Since it was established, the Puerto Wilches WRC developed a greater focus on and ability to reach the priority sector in its area of influence (i.e. palm oil). However, the establishment of day-to-day operations has been difficult due to the remote location, where there are fewer basic services and challenges recruiting law students.

### Exhibit 13. Performance Indicators for Result 6

#	Indicator	Result	2017	2018	2019*
6.1	Number of unions that design and develop union membership campaigns accompanied by the Puerto Wilches WRC.	Target	NA	NA	1
		Actual	NA	NA	0
6.2	Percentage of union membership growth [in unions accompanied by the Puerto Wilches WRC]	Target	NA	NA	10%
		Actual	NA	NA	0%

\*Actual values are as of March 2019

#### 3.2.2 Effectiveness of Performance Monitoring

The evaluation team found that ENS has made significant improvement in the monitoring and reporting of project activities and results. The TPRs are the main mechanism for reporting project progress. Although the way the information is presented can be improved for easier reading and interpretation, the quality of the information is better than it was in the past: outputs have both targets and specific goals; there are fewer inconsistencies among indicators; the overall status of progress of activities is now reported; and there is a greater effort to capture the various project activities, including specialized work with unions. In addition, project managers now make more apparent the effort involved in monitoring the project, as well as how they are using the information gathered to benefit the project. Specifically, the latest work plan now includes efforts from project managers to improve their own monitoring mechanisms, employ greater use of the WRC database, and develop new strategies to reach project goals.

#### 3.2.3 Effectiveness of Project Strategy

The evaluation team looked at the extent to which the project improved employer compliance with or government enforcement of labor laws. To do this, the evaluation team relied on the perceptions of direct and indirect project stakeholders regarding their interactions with employers and government officials after being involved with the project. For the most part, workers were satisfied with the assistance received at the WRCs, specifically because it helped them more appropriately and effectively raise issues with their employers and the appropriate administrative or judicial authorities and obtain satisfactory resolutions. Indirect project stakeholders also

recommended WRC services to workers whenever possible, primarily because they thought workers would be able to find resolutions to their problems through such assistance.

The level of responsiveness by employers, however, varied greatly depending on the situation and on whether the employers had intentionally or unintentionally violated labor laws. In one case, a union worker reported being directly engaged by the employer as “a support” to ensure the employer’s compliance with labor laws. At the other extreme, another worker reported having to repeatedly seek the help of a WRC because of employer harassment in response to the original complaint filed by the worker. Such varied responses were corroborated by project staff who said that while some employers responded positively to workers’ legal challenges by improving their compliance with labor laws, others sought sophisticated mechanisms to avoid improving workers’ rights, including illegally outsourcing the work previously performed by workers bringing such legal challenges.<sup>32</sup>

In the past, WRCs were hesitant to offer their services to employers because they were concerned this would take away from the time and resources available to workers. However, now the WRC assistance protocol assumes that not all employers are purposefully violating the law and extends some flexibility to such employers, particularly when they are small businesses. For example, the WRC in Medellín assists employers of domestic workers if the two parties come together to the WRC office. In these cases, WRC staff reported that the relationship between employer and worker was a cordial one and that the main issue was not knowing how to proceed in cases of a *liquidación*, an illness (disability), or pregnancy. In fact, all the employers interviewed at the WRCs by the evaluation team reported having learned of WRC services from their own workers and were highly satisfied with the assistance received. One employer mentioned that although he was a member of the local chamber of commerce, he was not aware of any trainings being offered that would help employers navigate the complexities of labor law.

In addition, project staff stated that the MOL’s decision to archive most *querellas* without notification to the unions showed that the Ministry was not fulfilling its responsibility to investigate workers’ claims. Some IP representatives and an external expert stressed the importance of these *querellas* as a strategy to bring attention to the problem of illegal outsourcing and noted the Ministry’s lack of reply. However, some criticized ENS’s slow response in following up with the MOL and maintaining pressure to investigate these cases. A few project staff and IP representatives thought ENS had lost control of the follow-up process because of project management’s failure to clarify who would continue the process after the *querella* had been filed with the Ministry (i.e., ENS or the union’s party to the complaints). However, an ENS project expert noted that the administrative process of a *querella* complaint can take several years to be handled by the MOL. The expert provided the example of a *querella* that was originally filed in 2014 and reached its final administrative procedure in 2018, after various appeals by the union as well as the employer.<sup>33</sup> Some project staff and IP representatives suggested that a potentially effective approach would have been to teach the union members filing the *querellas* that they would need to “do the leg work” of going to the MOL and following up with the inspectors on a monthly basis to pressure them to investigate the claims. Further complicating potential follow-up, the MOL

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<sup>32</sup> For example, Decree 2025 of 2011, which prohibited the use of cooperatives to execute permanent core activities of the company (“funciones misionales permanentes”). The decree was partially annulled last year, see <https://confescoop.coop/actualidad/actualidad-2018/anulado-parcialmente-decreto-2025-de-2011-en-relacion-con-las-cooperativas-de-trabajo-asociado/>.

<sup>33</sup> After initially archiving the *querella* in early 2015, the Ministry later re-opened the preliminary investigation following an appeal by the union. Between September 2015 and September 2016, the MOL investigated the claims and placed a fine against employer of 1,000 minimum salaries. Between 2017 and 2018, the employer appealed this amount and the fine is decreased to 500 minimum salaries.

assigned certain complaints to the Bogotá office while transferring others back to the corresponding regional offices, making it cumbersome to keep track of the status and outcomes of complaints. In general, IP representatives, the external experts, and other stakeholders perceived the Ministry as lacking the capacity to investigate the large number of workers' claims, particularly in rural areas where there is often only one labor inspector for several municipalities.

The evaluation team noted greater convergence of perceptions among project staff regarding the importance of the project's efforts to provide individual legal assistance as well as pursuing strategic cases and viewed them as complementary activities. However, some IP representatives still perceived the strategic cases as the main project tool for achieving long-term change. In their opinion, the WRCs individual legal assistance had already "fulfilled its mission" of showing how widespread worker rights violations are and the project should now focus its resources on strategic cases and long-term change for all workers. Some IP representatives were concerned that the pressure to report on indicators related to individual legal assistance contributed to the project losing its focus on strategic actions. While none of the project staff characterized individual legal assistance in this way, WRCs do dedicate significant time to individual labor settlements and claims of payment benefits, which a minority of stakeholders thought the MOL should be able to resolve. Although time-consuming, individual legal assistance will likely remain an important aspect of the project based on high demand from both union and non-union workers.

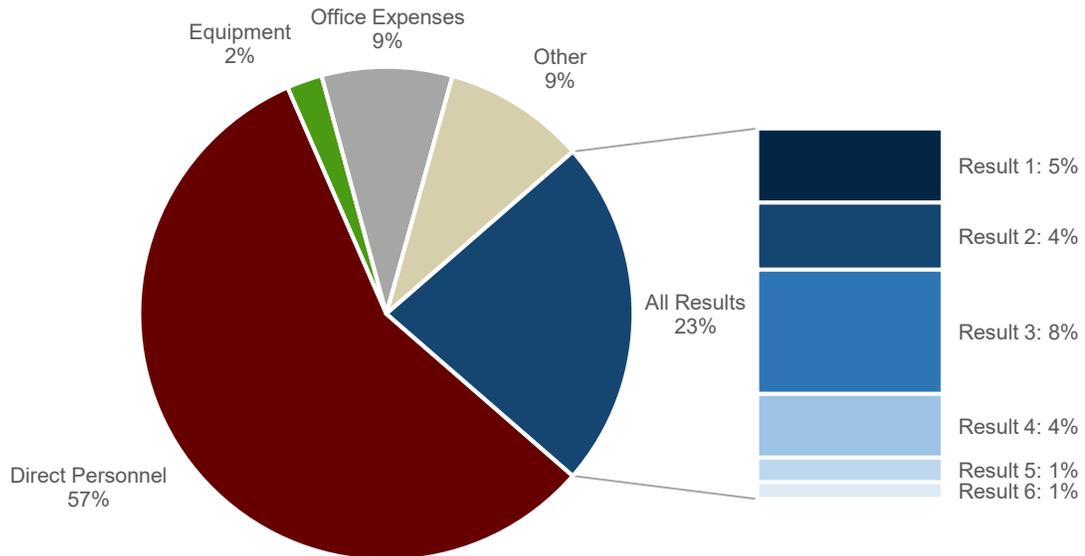
#### **3.2.4 Efficiency of Allocation of Resources**

The evaluation team analyzed the yearly budget information available in the TPRs. Exhibit 14 summarizes the total project budget for the first three years of the project.<sup>34</sup> Approximately 57 percent of the project budget is allocated to direct personnel costs. These include WRC directors and assistants, as well as ENS project managers and various experts. The evaluation team believes this percentage is reasonable for professional services-intensive project. Project activities, captured in "All Results", constitute 23 percent of the budget, with most of the resources allocated to Result 3—growing the capacity of WRCs. Exhibit 15 shows the accrued expenses of the project until the first quarter of 2019 and its percentage executed. As Exhibit 15 shows, the Result 3 budget item is the only one that is already over budget. According to the 2019 TPR, this is due to "the number of interns needed to meet the greater demand of users for the services of the WRCs and the number of legal caravans carried out in different regions." These costs are related to the operation of WRCs.

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<sup>34</sup> The total budget for 2017 to 2019 is US\$ 1,750,000.

**Exhibit 14. Project Budget (2017–2019)**



**Exhibit 15. Project Budget and Accrued Expenses (2017–2019)**

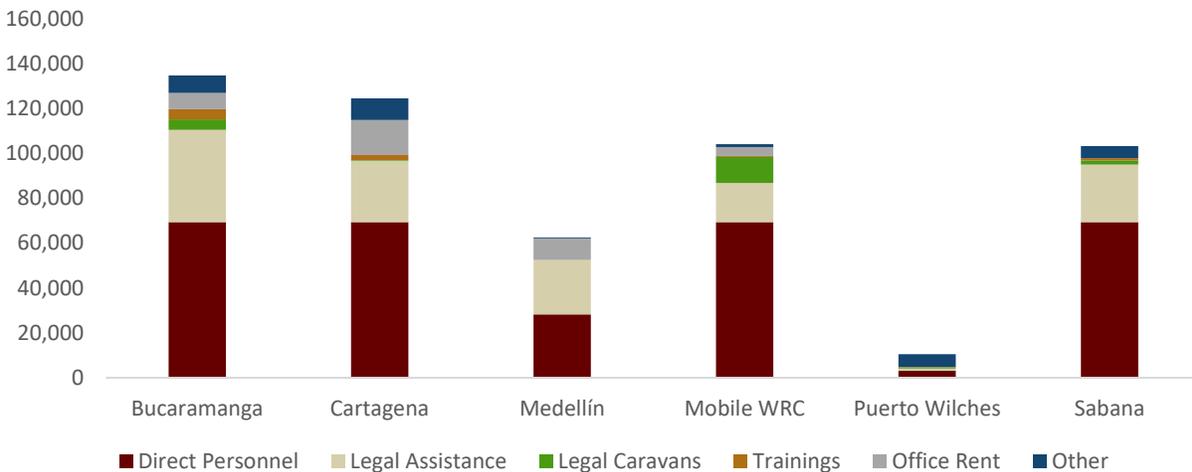
Main Category	Total Budget	Accrued Expenses (2019)	Percentage Expended
Direct Personnel	\$ 998,500	\$ 588,204	59%
Equipment	\$ 40,500	\$ 16,481	41%
Office Expenses	\$ 149,593	\$ 96,483	64%
Result 1	\$ 79,835	\$ 38,244	48%
Result 2	\$ 72,200	\$ 31,935	44%
Result 3	\$ 133,800	\$ 137,219	103%
Result 4	\$ 68,550	\$ 20,831	30%
Result 5	\$ 26,600	\$ 9,691	36%
Result 6	\$ 18,000	\$ 2,971	17%
M&E	\$ 33,000	\$ 1,217	4%
Other	\$ 129,422	\$ 85,614	66%
<b>Grand Total</b>	<b>\$ 1,750,000</b>	<b>\$ 1,028,891</b>	<b>59%</b>

According to additional information provided by ENS, each WRC is assigned a yearly budget for their operations. This represents about 52 percent of the project’s total budget. Exhibit 16 shows the accrued expenses for each WRC.<sup>35</sup> The greatest expenses in each WRC are for direct personnel (director and assistant) and WRC legal assistance (volunteers and interns). As expected, the Mobile WRC spends a greater portion of its resources for legal caravans compared to other WRCs because the Mobile WRC is required to travel more often. The Cartagena WRC

<sup>35</sup> Each TPR includes a budget table describing the direct personnel budget allocation to each WRC; however, the WRC names have not been updated to reflect the current offices’ locations or names in two instances: The line descriptions “of Villavicencio” and “Buenaventura” WRCs should be the “Mobile” and “Sabana” WRCs, respectively. The evaluation team made the manual change after consulting with the project director.

spends the most on office rent compared to other WRCs, which is the reason its director is working to secure a *comodato* agreement with the municipality for a new space.

**Exhibit 16. WRC Accrued Expenses (2017–2019)**



### 3.2.5 Lessons Learned and Promising Practices

The improvement in the reporting of project information shows a willingness by project staff not only to better comply with ILAB’s requirements, but also a deeper understanding of the benefits of monitoring mechanisms to showcase their work and improve project outcomes. The project could benefit from greater clarity among all its stakeholders regarding the project’s logic model, particularly as it relates to the prioritization of daily WRC operations and individual legal assistance, which are important but often all-consuming activities, and of strategic cases, which are still perceived by some stakeholders as the main project tool for achieving long-term change. In addition, project staff have also realized that in strategic cases, like the *querellatones*, they need to do a better job inculcating a sense of commitment with the unions to follow up on their cases, instilling an understanding that their responsibility does not end with the evidentiary stage and complaint presentation but continues throughout the process.

## 3.3. Impact

### 3.3.1 Impact at the National and Regional Levels

Several project staff, IP representatives, and an external expert mentioned that during the past year, the project joined efforts to influence the President’s National Development Plan (NDP). This was considered particularly important because the Plan outlines the government’s policy objectives for the next four years. In the case of the new administration, these stakeholders viewed the initial proposals of the NDP with concern as a weakening of workers’ rights protections. One external expert mentioned that thanks to the joint efforts of interested parties, including ENS, certain articles that were of major concern were removed, such as proposed labor and pension reforms and reforms undermining disability rights.

Moreover, according to one expert, the WRCs provided useful “empirical input,” with data and statistics that were particularly valuable to complement legal arguments on behalf of workers’ rights protections and that no other organization is collecting that data. For example, ENS

provided technical assistance and inputs based on the WRCs' work to support the MOL's *Unidad de Trabajo Legislativo* (UTL) [legislative working group] in charge of drafting pension reform, and the complaint challenging the constitutionality of the current workplace harassment law.<sup>36</sup> ENS also provided a legal opinion on the unconstitutionality complaint brought by a private law firm against "Article 200 of the Labor Code and the United States–Colombia Action Plan Related to Labor Rights." This legal opinion was reflected in the majority opinion drafted by the Constitutional Court. At the regional level, WRC directors mentioned the work they are doing to influence local public policies. For example, the Cartagena WRC is participating in various forums where decisions are made regarding the local "decent work" policy. The WRC was invited to provide input by the University of Cartagena's labor market observatory, which is working to advance the policy. The Cartagena WRC was also asked by local authorities to provide input regarding the terms and conditions for workers who work in the port authority. The Puerto Wilches WRC has a particularly favorable standing in the local political environment because it is seen as the sole provider of an important service to workers. Because the director is originally from the area and is now returning to the town after gaining experience in her field, she is generally recognized and respected. The director believes she has greater access to local elected officials and decision-makers than when she was the director of WRC Bucaramanga.

### 3.3.2 Impact on Union Capacity

Some project staff explained that the capacity of Colombian labor unions to negotiate is still "in its infancy," which is the reason one of the main services provided by the WRCs is legal accompaniment during union negotiations with employers. The WRCs help unions draft and present petition documents with negotiating demands (*pliegos de peticiones*), making sure they follow any sector-specific requirements. They also provided, from January 2017 to March 2019, 347 trainings to unions in relevant topics, such as collective negotiation strategies for the public sector, understanding of which areas can be negotiated, and how to follow proper negotiating procedures. One WRC director reported having great success using this strategy with the unions, achieving collective agreements, salary increases, and agreements regarding union rights and guarantees. However, he also mentioned that there were times negotiations did not progress efficiently because the public administration lacked capacity. He added that local officials also needed training on negotiating with unions.

### 3.3.3 Other Impacts

During FGDs, WRC legal interns said that working for the WRC had been a life-changing experience for them, enabling them to become familiar with the difficult realities facing workers in the country and to deepen their understanding of labor law. They explained that most university law programs do not offer classes on labor law, especially on collective rights, so they are not producing the next generation of labor rights advocates. This was also mentioned by an external expert, who perceived an erosion of this study area in the curriculum of many universities. According to project monitoring data, over 700 student interns received training through the project since 2017.

As a direct result of their experience working at the WRCs, most students expressed a desire to continue their careers in labor law, either specializing in a particular area of labor law or working more generally in the field. This has also directly benefited the project, since three of the five WRC

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<sup>36</sup> Presented as a public action of unconstitutionality in alliance with the Labor Observatory of the Universidad del Rosario and the Universidad de Antioquia challenging Law 1010, par. 1, of 2006 on workplace harassment. The law in its current state recognizes workplace harassment only in cases where there is a labor contract. The proposal's aim is to improve protection for contractors, student interns, and workers who do not have a labor contract.

directors, the project director, and several legal associates first started as student interns and rose through the ranks. Other former WRC student interns went on to work for the MOL, labor courts, or similar employers. Nearly all groups of stakeholders agreed that the training of law students at the WRCs is one of the most notable contributions of the project, with some describing it as “a great legacy” that unfortunately has not been captured in the monitoring reports.

### 3.3.4 Lessons Learned and Promising Practices

The project is having an impact on its overarching goal—improving workers’ ability to defend their rights. While ENS and other project staff stressed the importance of defending workers’ rights, which they perceived as being under threat in the current political environment, some WRC directors focused on how they could still have political influence at the local level. In this sense, the project is responding to the changes in the national context. In addition, there is growing evidence of the potential long-term impact of the collaboration between WRCs and law students on the workers’ rights field as students decide to continue their education and specialize in labor law or work in various institutions with a view to protecting workers’ rights.

## 3.4. Sustainability

### 3.4.1 Exit Strategy

In line with previous findings, it is more likely that the WRCs will secure resources and assistance from local unions rather than from the union federations *Central Unitaria de Trabajadores* (CUT) and *Confederación de Trabajadores de Colombia* (CTC)<sup>37</sup> at the national level. For example, the Sabana WRC has adopted some effective sustainability strategies to secure partial funding for certain project expenses. The WRC reached an agreement for the local unions to fully pay office rent; in exchange, the WRC offers priority service to their affiliates. The Cartagena WRC used to operate from an office owned by a local union; however, the union recently lost the building in a local land dispute. The WRC director is currently in conversations with the municipality to secure a new space under a *comodato* contract.<sup>38</sup> The Sabana, Cartagena, Bucaramanga, and Puerto Wilches WRCs consider that building a stronger relationship with local government entities, such as the mayor’s office, ombudsman’s office, and *personerías*,<sup>39</sup> may be an interesting alternative for the sustainability of the project. In particular, the Sabana WRC has been reaching out to mayoral candidates to increase their awareness of the impact that the WRC has in the community and to explore their interest in investing in this type of project or if they are interested in replicating certain aspects of the project they can reach out to the WRC to assist. For example, the WRC has already had some success with the municipality of Funza, where they’ve been able to coordinate legal caravans.

The current sustainability strategy does not contemplate handing over the management of the project to the CUT and CTC national federations as it did previously. Apart from limited resources, the reason most often mentioned was the lack of CUT and CTC management capacity to sustain WRC operations. Two union representatives even said that they thought the current arrangement, where CUT and CTC federation representatives form part of the WRC’s Board of Directors, was better because it allowed for the two federations to cooperate closely without the potential

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<sup>37</sup> The regional CUT and CTC federations are represented in each WRC as members of the Board of Directors, except for the Mobile WRC which does not have a Board of Directors. According to the Project Document, “these Boards will consist of an odd number of at least three (3) elected officials at labor confederations. ENS will be represented by the WRC Director, who will serve as Secretariat of the Board.”

<sup>38</sup> A *comodato* contract is a type of bail agreement.

<sup>39</sup> *Personerías* are government entities that monitor and surveil public offices in municipalities.

tensions and difficulties that could result from jointly leading the project. In fact, one worried about the complications that might arise regarding the management of project funds, since there is no existing mechanism for the joint management of resources. Another concern was that the federations at the national level would face political pressures, which would result in lower prioritization of the project.

Another external expert suggested that an alternative sustainability strategy would be for the union federations to provide the physical space for the WRCs and resources for daily office activities, while ENS supported the WRCs with professionals who would offer legal assistance, support, training, and other services to the unions and non-union workers. Any institution replicating the project activities successfully would also have to replicate ENS's support structure and expertise because an important reason the WRCs are trusted and accepted is the continuous training of WRC staff, as well as the trainings offered to workers and the general public.

### **3.4.2 Sustainable and Non-Sustainable Outcomes**

Project staff and some union representatives think that the project outcome most likely to be carried on in the future is the knowledge, capacity, and skills gained by law school interns and union workers. As mentioned in the previous section, there is growing evidence that a significant number of law students who interned at the WRCs are likely to continue working in the workers' rights field. Some IP representatives emphasized that whatever shape the project takes in the future, the law student component should be an integral part of the sustainability strategy.

Similarly, workers, particularly union workers, stated that the services they received at the WRCs had provided them with knowledge about collective and individual labor rights that would help them assert and claim those rights in the future. Union workers tended to be more active in sharing this knowledge and information with other workers. This was made apparent to the evaluation team after a FGD in which all the participants were union members from various unions. When the discussion was over, some more experienced participants stayed and held an informal meeting to help other participants who had just recently formed a union. A person previously involved with the project explained that the WRCs always tried to make sure to provide unions with the basic legal tools to help them defend their rights and increase the union's capacity.

In contrast, the main project activity that would likely not be continued in the future without external funding is the individual legal assistance that the WRCs provide to workers. Both the Sabana and Medellín WRC directors agreed that constraints related to the budget would preclude continuing the one-on-one legal assistance. They also noted that no other institution offers the individualized legal services that the WRC does, which also reduces the possibility of continuity of the service.

The evaluation team found some discrepancies in what project stakeholders believed the MOL was able to do and should be able to do to help workers protect their rights, particularly after the project's completion. Ministry representatives explained that they referred workers to the WRCs, university legal clinics, or other institutions because, as an administrative authority, they needed to remain neutral in any labor conflict and were therefore only available to provide general guidance and counseling to workers, rather than direct legal assistance.<sup>40</sup> One external expert also explained that Law 1610 of 2013 that regulates certain aspects of labor inspection gives the MOL the competence to apply the code of administrative disputes (*código contencioso administrativo*), which helps "correct and sanction" employers, but it is not a mechanism to "restore the rights" of workers. The only mechanism to restore their rights is through the judicial

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<sup>40</sup> For more details on national laws regulating labor inspection, please see section II of this report: <http://calcolombia.co/publicaciones/balance-la-inspeccion-laboral-2018/>

system. Almost all stakeholders felt the Ministry could provide better guidance and counseling to workers, while some also thought the Ministry should help workers with certain procedural actions, like rights of petition. Still others argued that this should be considered outside the Ministry's mandate. Regardless of these discrepancies, it is unlikely that labor inspectors will be able to provide the same quality of guidance and counseling that is provided at the WRCs because of the space and time constraints they face in each case. In one regional office the evaluation team visited, an announcement had been placed in the waiting room stating that the labor inspectors were only available for 15-minute advisory sessions. In another regional office visited, the location of the Ministry was not considered safe, particularly for women, and the main entrance door was kept closed to the public except for deliveries.

### **3.4.3 Lessons Learned and Promising Practices**

Over time, all the WRC directors turned their attention and efforts to improving their local alliances and partnerships to help ensure the sustainability of certain project activities, like legal caravans. They may not raise sufficient resources to cover all WRC operations, but at least there is a greater focus on what else they can do to support certain expenses, such as finding an office space with a *comodato* agreement with the municipalities or partnering with other government institutions like *personerías* to offer services. The strategic partnership with universities that allows law students to intern at the WRCs has been especially successful, and all main stakeholders believe that WRC students are key to the sustainability of the project and to the labor rights movement in general.

## 4. CONCLUSIONS AND RECOMMENDATIONS

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This section presents the evaluation team's conclusions about the project's overall implementation and its progress for each evaluation criterion. The team also makes recommendations based on the evaluation findings presented in Section 3.

### 4.1. Conclusions

#### 4.1.1 Relevance

Both direct and indirect stakeholders still view the project as relevant to their needs or priorities. However, perspectives on the main contribution of the WRCs varied among stakeholders. Some workers, project staff, all regional MOL representatives and an external expert stressed the value of the individual legal assistance, trainings, and legal accompaniment for unions provided by the WRCs, due to the strong demand from workers for such services. Other project staff, IP representatives, as well as external experts, highlighted the importance of strategic cases and ensuring that ENS maintains the long-term strategic goals of the project, such as advancing policy reforms that will benefit all workers. Opinions were mixed regarding the overall effectiveness of the Mobile WRC. While project staff thought the Mobile WRC filled the need for a more flexible and responsive team to reach priority sectors in rural areas, some IP representatives and an external expert thought the three-person Mobile WRC team was inadequate to reach the five priority sectors dispersed across the country. Further, there is already some evidence that there is demand for Mobile WRC services from non-priority sectors as well, which may lead the Mobile WRC to lose its priority sector focus since, similar to other WRCs, the Mobile WRC works closely with the regional CUT and CTC affiliated unions to coordinate their work and these unions, in turn, refer workers from all sectors to the Mobile WRC. It would be difficult for the Mobile WRC to limit or deny assistance to these workers reaching out to them.

#### 4.1.2 Efficiency and Effectiveness

The project has continued to make progress in meeting its stated target goals, particularly those related to capacity building of WRC staff, fostering of partnerships with universities and other civil society organizations. In addition, the evaluation team has seen an improvement in the quality and consistency of reporting of information in quarterly reports, although an enhanced presentation of project information would allow for easier interpretation of results. For example, the body of the report could include a summary table of the five main results that clearly shows the project's overall progress. All the supporting tables could be moved to an Excel file where information can be added each trimester for each sub-indicator. In this way, any changes to the format of how an indicator was recorded would be immediately apparent and would have to be justified in the document.

Some stakeholders were concerned that the pressure to report on certain indicators, particularly the ones related to individual legal assistance, contributed to the project losing focus on what should be its real priority—the strategic actions. The targets related to WRCs' individual legal assistance have been met and surpassed, but the targets related to the results of strategic cases, particularly to the resolutions of the *querellaton* strategy (*querellas* on illegal outsourcing and misuse of collective pacts presented *en masse* by unions), remain inconclusive, mainly because follow-up with the MOL is still ongoing and has, in some instances, fallen short since there was no clear strategy on how to conduct the follow-up until recently.

### 4.1.3 Impact

The evaluation team found that the project is achieving its intended impact of improving workers' ability to assert and claim their labor rights, including by engaging the relevant government authorities to respond to rights violations and negotiating with employers. For example, stakeholders generally agreed that the WRCs' engagement with unions improved unions' capacity to negotiate with employers, particularly in the context of the MOL Dialogue Committees related to salary and labor policies. The WRCs also provided useful "empirical input," with data and statistics that were valuable to complement legal arguments of an external expert working on behalf of workers' rights.

Over the last year, however, the project staff appear to have been reacting to a changing labor context and focusing on what they perceive as new threats to workers' rights. During the first half of the current project funding period, ENS was still engaged in the *querrellatones*. However, around the time of the election of the current President of Colombia, ENS started to focus more on other issues, including the National Development Plan and other policy reforms related to workers' rights. At the regional level, WRCs have emphasized making inroads in the local political environment, where they have been invited to participate and provide input into various labor-related processes.

Finally, as a result of the trainings that law student interns receive at the WRCs, the project may also be helping to form the next generation of workers' rights defenders.

### 4.1.4 Sustainability

The project directly addresses the lack of knowledge and the protection of labor rights through capacity building of clients and unions, which helps ensure workers' ongoing capacity to assert and claim their rights. As in previous evaluations, the evaluation team found that unions at the local level were more likely to cooperate with individual WRCs by covering some expenses, such as office rent or legal caravans. Project stakeholders think that the project outcome most likely to be carried on in the future is the knowledge, capacity, and skills gained by law school interns and union workers. In contrast, the main project activity that would likely not be continued in the future without external funding is the individual legal assistance that the WRCs provide to workers.

## 4.2. Recommendations

The evaluation team makes the following recommendations based on the findings of the interim evaluation:

### ***For ILAB and ENS:***

1. Ensure that project priorities are clearly reflected in the project's logic model so that the project monitoring plan and the work plans better reflect the project's goals. For instance, if certain sectors are already prioritized per the Labor Action Plan, these should be easily identifiable across most indicators. Including sector information across all relevant indicators will also help clearly identify new sectors that are not part of the Labor Action Plan but also need to be prioritized.
2. Include a brief budget narrative that explains any relevant changes in budget line items and ensure these are updated in a timely manner.

3. Include strategies to transfer project capabilities to other institutions in future project design.

**For ENS:**

4. Clarify the priorities and activities of the Mobile WRC so that they clearly link to the WRCs' efforts in the priority sectors.
5. Coordinate the work some WRCs do in their priority sectors with the activities of the Mobile WRC to better reach priority sectors in those areas. Some WRCs, for example, Bucaramanga and Puerto Wilches, may not need the assistance of the Mobile WRC to reach their priority sector, but others, such as the Cartagena WRC, may benefit from the Mobile WRC's assistance. As the Mobile WRC becomes more established, it may be able to expand its reach to the priority sectors in other parts of the country outside of the WRC's area of influence.
6. Explore ways in which the project can better showcase and leverage its potential long-term impact on developing future labor rights advocates. For instance, the project could help launch a WRC alumni association from the WRC staff (legal associate, student interns or assistants) who have moved on to work in other organizations, similar to university alumni associations.
7. Continue working with local unions to develop project activities and identify and make commitments related to their shared goals.
8. Expand collaboration to other potential partners, such as the local Chamber of Commerce, to develop a seminar for employers interested in complying with the law regarding the rights and benefits of their workers.
9. Implement a strategy to follow-up on the outcome of the *querellas* presented to the MOL that involves key participants like the unions. The project management committee should also identify specific actions to take after they learn the reasons that the *querellas* were archived. This will also help ILAB check the efficacy of the labor inspection Electronic Case Management System (ECMS) as well as the MOL's performance in reviewing those cases.

**For ILAB:**

10. Coordinate future project implementation so that regional MOL representatives and labor inspectors also benefit from capacity-building efforts on how to effectively engage with unions during their negotiations with employers. Ideally, this would be implemented through projects already targeting government institutions, such as those involving training of labor inspectors.

## APPENDIX A: PERFORMANCE INDICATORS

	#	Indicator	Result	2017	2018	2019*	Total
Result 1	1.1	Number of training courses carried out on regulations, required documentation, and procedural advancement in cases involving illegal labor intermediation and violations of freedom of association	Target	2	2	2	6
			Actual	11	2	2	15
	1.2	Number of induction courses that provide specialized training for WRC staff on the essence and applicability of labor rights and internal rules and protocol that govern WRC services (counselling and legal advice)	Target	9	9	11	29
			Actual	8	11	6	25
	1.3	Number of student interns that have received training throughout the duration of the project.	Target	140	140	156	436
			Actual	291	311	109	711
	1.4	Number of certificates in international, constitutional, and labor law in partnership with universities with WRC staff	Target	1	1	1	3
			Actual	0	1	0	1
	1.5	Number of legal clinics in which emblematic cases processed by WRC are analyzed and discussed	Target	43	43	51	137
			Actual	42	53	16	111
	1.6	Percentage of evaluations in which an outstanding rating has been scored among participants in training courses [at WRC Puerto Wilches]	Target	NA	NA	80%	0.8
			Actual	NA	NA	0	0
Result 2	2.1	Number of video clips on cases involving illegal labor intermediation and violations of freedom of association that have been successfully challenged, to be used in training courses with beneficiaries, on social media, and on the WRC website	Target	4	4	5	13
			Actual	15	18	1	34
	2.2	Number of FAQs on the WRC website to complement labor rights manuals	Target	60	60	60	180
			Actual	54	90	0	144
	2.3	Number of WRC beneficiaries that have been trained using this protocol [i.e. while they are receiving services]	Target	1,200	1,200	1,252	3,652
			Actual	1,509	1,507	240	3,256
	2.4	Percentage of evaluations in which an outstanding rating has been scored among [worker] participants in training courses	Target	80%	80%	80%	-
			Actual	92.20%	93.07%	89.20%	-
	2.5	Number of basic courses on labor rights with activists and university students during the various 'caravans' carried out by WRC	Target	1	1	2	4
			Actual	4	1	0	0
	2.6	Number of training courses on labor rights with activists at unions in the five priority economic sectors	Target	1	1	1	0
			Actual	2	1	3	0
Result 3	3.1	Number of inter-institutional partnerships with universities, nationally	Target	10	10	11	31
			Actual	12	13	15	40
	3.2	Number of inter-institutional partnerships with non-union organizations	Target	10	10	11	31
			Actual	59	72	48	179
	3.3	Number of newsletters issued	Target	4	4	5	13
			Actual	4	4	1	9
	3.4		Target	10	10	11	31

	#	Indicator	Result	2017	2018	2019*	Total
		Number of unions that have benefitted from consulting services [regarding public communications strategies]	Actual	179	147	21	347
	3.5	Number of campaigns per year [to promote labor rights, in April and October of each year, with a specific focus on priority economic sectors]	Target	2	2	2	6
			Actual	2	2	0	4
	3.6	Number of times project services are provided via website or social networks	Target	40,000	40,000	40,000	120,000
			Actual	86,415	178,563	49,930	314,908
	3.7	Percent increase of website use	Target	20%	20%	20%	-
			Actual	64.50%	21.97%	64.60%	-
	3.8	Number of campaigns per year [for communication and promotion of WRC Puerto Wilches services]	Target	NA	NA	1	1
			Actual	NA	NA	0	0
	Result 4	4.1	Number of beneficiaries that have received counseling per period	Target	16,664	16,664	19,414
Actual				15,524	18,472	3,944	37,940
4.2		Number of legal actions presented by WRC	Target	16,664	16,664	19,414	52,742
			Actual	24,035	19,508	3,944	47,487
4.3		Number of grievances presented in the period	Target	1,200	1,200	1,200	3,600
			Actual	2,290	1,636	307	4,233
4.4		Number of administrative actions presented before the Labor Ministry	Target	160	160	160	480
			Actual	251	166	20	437
4.5		Percentage of grievances of which outcome is known	Target	100%	100%	100%	-
			Actual	64%	71.26%	80.66%	-
4.6		Percentage of administrative actions of which outcome is known	Target	100%	100%	100%	-
			Actual	87%	82.40%	84.60%	-
4.7		Percentage of grievances in which outcome favors workers	Target	70%	70%	70%	-
			Actual	44.50%	26.30%	9.50%	-
4.8		Percentage of administrative actions in which outcome favors workers	Target	70%	70%	70%	-
			Actual	13.50%	6.82%	0%	-
4.9		Number of reports on results presented throughout the period	Target	4	4	4	12
			Actual	4	4	1	9
4.10		Number of meetings with labor experts to identify strategic cases	Target	1	1	1	3
			Actual	0	6	0	6
4.11	Number of strategic cases documented	Target	1	1	1	3	
		Actual	0	4	0	4	
4.12	Number of reports on results and WRC analyses presented to Labor Ministry	Target	1	1	1	3	
		Actual	0	0	4	4	
Result 5	5.1	Number of updates made to access to justice study	Target	1	1	1	3
			Actual	1	1	0	2
5.2	Number of proposals made to improve institutional capacity	Target	1	1	1	3	
		Actual	0	1	1	0	

	#	Indicator	Result	2017	2018	2019*	Total
	5.3	Number of meetings held with authorities to address labor issues	Target	2	2	2	6
			Actual	0	0	4	4
	5.4	Number of events held to raise awareness about proposal with regards to labor issues	Target	1	1	1	3
			Actual	1	6	0	6
Result 6	6.1	Number of unions that design and develop union membership campaigns accompanied by the Puerto Wilches WRC.	Target	NA	NA	1	1
			Actual	NA	NA	0	0
	6.2	Percentage of union membership growth [in unions by accompanied the Puerto Wilches WRC]	Target	NA	NA	10%	-
			Actual	NA	NA	0%	-

\*Actual values are as of March 2019.

## APPENDIX B: OVERVIEW OF THE NATIONAL DEVELOPMENT PLAN

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On May 25, 2019, the Colombian Congress approved President Duque’s National Development Plan 2018–2022, “Pact for Colombia. Pact for Equity.” According to the National Development Plan’s (NDP) website, the document “serves as the basis for and provides strategic guidelines of public policies formulated by the President through his government team.... The NDP is the formal and legal instrument ... that allows the subsequent evaluation of the government’s administration.”<sup>41</sup> During interviews with project staff and other stakeholders, participants raised several concerns regarding the some of the proposals in the NDP, including old-age pensions, disability, social protection floor, and the Ministry of Labor’s punitive proceedings.

- **Old-age pensions:** The NDP promotes the mechanism of periodic economic benefits (BEP, for the Spanish acronym) for certain old-age pensions. BEP was created to incentivize independent and voluntary savings from low income workers who did not meet the requirements for affiliation to the General Pensions System. The government does not consider BEP a pension system, but a savings incentive mechanism so that workers can have an income (up to 85% of the minimum wage) at the end of their work life. Article 198 states that, in certain cases, the resources invested by workers will be transferred automatically from the General Pensions System to the BEP unless otherwise requested by the worker. The original proposal contemplated that the transfer would be done within ten days of the original notification. After the public debate, this period was extended to six months.
- **Disability pensions:** The draft bill included two articles that limited the disability benefits received by workers. Article 58 tried to establish the incompatibility between the disability and old-age pensions, even though both the Constitutional Court and lower courts have established the compatibility between the old-age pension and occupational disability pension. Article 118 tried to limit the number of days recognized for disabilities of “common origin”<sup>42</sup> up to a maximum of 630 days, after which, if the worker did not qualify for disability pension (less than 50% loss of ability to work), the worker would be referred to the Ministry of Labor’s job agency in case the company would not be able to relocate the worker. Both articles were successfully removed from the final document.
- **Social protection floor:** Similar to the concern raised for old-age pensions, Article 193 establishes a mechanism that promotes the BEP mechanism for people who earn below the minimum wage. The main concern is that the BEP mechanism will compete with and weaken the General Pensions System, because it may act as an incentive for employers to pay workers less than minimum wage.
- **Closing of labor punitive proceedings:** Article 200 of the NDP states that the Ministry of Labor may suspend or close, by mutual agreement, an administrative punitive proceeding for labor violations other than those related to labor formalization. Project stakeholders criticized this article because in their view it went against the principle of tripartite social dialogue. The “mutual agreement” is only between the Ministry of Labor and the company, leaving the workers out of this interaction.

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<sup>41</sup> <https://www.dnp.gov.co/DNPN/Paginas/Plan-Nacional-de-Desarrollo.aspx>

<sup>42</sup> Disabilities that are not work-related.