# Interim Performance Evaluation

*Implementing a Culture of Labor Compliance in Costa Rica's Agricultural Export Sector*

## United States Department of Labor

### Bureau of International Labor Affairs

Office of Trade and Labor Affairs

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IMPAQ INTERNATIONAL LLC

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## SUBMITTED TO

United States Department of Labor
Bureau of International Labor Affairs
Office of Trade and Labor Affairs

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## PROJECT

Implementing a Culture of Labor Compliance in Costa Rica's Agricultural Export Sector
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## TASK & DELIVERABLE

Interim Performance Evaluation of *Implementing a Culture of Labor Compliance in Costa Rica's Agricultural Export Sector* Project
Initial Draft Evaluation Report

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# ACKNOWLEDGMENTS

This report presents the findings of the midterm evaluation of the *Implementing a Culture of Labor Compliance in Costa Rica's Agricultural Export Sector* project. IMPAQ International, LLC  IMPAQ) conducted fieldwork for this independent evaluation from February 17 to 28, 2020 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 (USDOL). 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

| | |
|---|---|
| ADI | Asociación de Desarrollo Integral |
| CONESUP | National Council of Private Higher Education |
| CSOs | Civil Society Organizations |
| CONAMAJ | Comisión Nacional para el Mejoramiento de la Administración de Justicia |
| COSIBA | Coordinadora Sindical del Banano |
| FRENASAPP | Frente Nacional de Personas Afectadas por la Producción Piñera |
| FUNPADEM | Fundación para la Paz y la Democracia |
| DNI | National Direction for Inspection – Ministry of Labor |
| DAL | Direction for Labor Affairs - Ministry of Labor |
| DTI | Department of Information Technologies - Ministry of Labor |
| MOL | Ministry of Labor |
| OSH | Occupational Safety and Health |
| PRODOC | Project Document |
| RPL | Reforma Procesal Laboral |
| TOC | Theory of Change |
| TPRs | Technical Progress Reports |
| SINTRAICA | Sindicato de Trabajadores de la Industria de la Caña |
| SITRAP | Sindicato de Trabajadores de Plantaciones Agrícolas |
| SACIT | Sistema de Manejo de Casos –Ministry of Labor |
| USDOL | US Department of Labor |
| UTN | National Technical University |
| UISIL | San Isidro Labrador International University |

# EXECUTIVE SUMMARY

## Project Description and Evaluation Background

The U.S. imported $1.6 billion worth of agricultural products from Costa Rica in 2017.[1] While Costa Rica has made commitments toward improving labor standards as part of its trade obligations under the Dominican Republic – Central America Free Trade Agreement CAFTA-DR), workers in agricultural export sectors are still vulnerable to violations of labor rights. An independent investigation found that nearly 40 percent of all agricultural export workers in Costa Rica are paid below minimum wage.[2] Employers often force them to work overtime without compensation and expose them to potentially dangerous agrochemicals.[3,4]

In 2017, ILAB awarded the Foundation for Peace and Democracy (FUNPADEM a four-year, $2 million cooperative agreement for the *Implementing a Culture of Labor Compliance in Costa Rica's Agricultural Export Sector* project. The project's goal is to improve enforcement of minimum wage, hours of work, and occupational safety and health OSH) laws in the agricultural export sector in Costa Rica. To accomplish this goal, the project will strengthen legal and administrative enforcement structures while working with employers and workers to improve implementation of labor laws. Specifically, the project will: 1 increase the number of successful labor violation cases by strengthening the capacity of inspectors, lawyers, and workers to identify and address violations and 2) improve the ability of judges to adjudicate cases while developing the capacity of labor inspectors to give judges appropriate information.[5]

This project is being implemented by FUNPADEM in collaboration with sub awardee Partners of the Americas.

ILAB contracted IMPAQ International, LLC (IMPAQ), to conduct performance evaluations of technical assistance projects in Costa Rica, Malaysia, and the Philippines. The current report presents the key findings, conclusions, and recommendations of the interim evaluation of the *Implementing a Culture of Labor Compliance in Costa Rica's Agricultural Export Sector* project. The purpose of this interim performance evaluation is to:

1. Assess the relevance of the project in the cultural, economic, and political context in the country, 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 toward meeting its objectives, identify the challenges and opportunities encountered in doing so, and analyze the driving factors for these challenges and opportunities;

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[1] https://ustr.gov/countries-regions/americas/costa-rica

[2] Gindling, T.H., Mossaad, N., Trejos, J.D. 2014). The Consequences of Increased Enforcement of Legal Minimum Wages in a Developing Country: An evaluation of the impact of the Campaña Nacional de Salarios Mínimos in Costa Rica. Discussion Paper No. 8253. June 2014. Institute for the Study of Labor IZA). Retrieved from: http://ftp.iza.org/dp8253.pdf.

[3] Polidoro, B.A., Dahlquist, R.M., Castillo, L.E., Morra, M.J., Somarriba, E., Bosque-Peréz. 2008). Pesticide application practices, pest knowledge, and cost-benefits of plantain production in the Bribri-Cabécar Indigenous Territories, Costa Rica. *Environmental Research.* 108(1 : 98-106. https://doi.org/10.1016/j.envres.2008.04.003.

[4] González Pandiella, A. (2016), "Making growth more inclusive in Costa Rica", OECD Economics Department Working Papers, No. 1300, OECD Publishing, Paris. http://dx.doi.org/10.1787/5jlz4043b39w-en

[5] http://www.funpadem.org/Project/detail/77

3. Assess the effectiveness of the project's strategies and the project's strengths and weaknesses in project 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 local and national levels and among implementing organizations and identify steps to enhance its 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, including those who participated in as well as those who were intended to benefit from the project's interventions. The team conducted semi-structured interviews and observations during field visits in February 2020. The team complemented their findings with a document review, including project monitoring data, to address the evaluation questions identified in the Terms of Reference  TOR). Below, we summarize the key findings, lessons learned and promising practices, and recommendations.

## Key Findings

### Validity of Project Design

While the project's theory of change seems sound, the evaluators believe that the underlying logic of the intervention does not hold well for a number of reasons. As will be explained, "a higher number of cases before the courts" might not, in itself, result in "better outcomes in terms of protection of workers' rights."

Further, two other important design-related aspects, appeared consistently in interviews and focus groups: a  there was an identified gap in terms of prevention, and a need to strengthen the preventive and mediation focus in the project; and, b) related to the first point, open lines of dialogue with relevant employers were missing, which implied a need for the project and its partners to establish such lines of dialogue.

The evaluators also concluded that significant "improvement of compliance with regulations on workers' rights" necessitates long-term complex change processes that will, most likely, require significantly more time than the duration of this project.

### Relevance

Through the analysis of primary and secondary data, the evaluators found that the services provided by the project accurately respond to the needs of the three main target groups: the individual workers as well as the two main partner institutions (MOL[6] and the Judiciary .

The project was also found to be relevant with regard to the current cultural, economic, and political context in Costa Rica, as well as with regard to actual priorities and policies of both the Government and national stakeholders.

However, despite the project's overall high level of relevance, some interviewees (mostly union representatives) pointed to a perceived lack of consideration by the project with regard to the specific challenges faced by female workers in the agricultural sector.

[6] MOL: Ministry of Labour. Ministerio de Trabajo y Seguridad Social  MTSS)

**Effectiveness and Efficiency**

Considering this is a mid-term evaluation, it was found that the project has started to make some contributions towards the strengthening of the MOL's capacity and as well as the capacities of workers to address violations of their labor rights. The project has also contributed to some exchanges between the MOL and the judiciary regarding coordination on case management, although very little has yet been achieved in terms of strengthened *inter-institutional* coordination.

Further, qualitative information conveyed by key stakeholders, along with data gathered through the document review, indicate that despite the positive developments that have occurred during the project's implementation, so far the project's effective contribution to *improving the compliance with minimum wage, hours of work and occupational safety and health legislation in Costa Rica* has yet been limited. Several stakeholders opined, however, that this objective is a long-term objective, the achievement of which will most likely take longer than the project's implementation period. In other words, it was found that the country context is currently not yet conducive to achieve the intended project outcomes, which are considered very ambitious, and that the intended changes would require a generational cultural shift.

**Sustainability**

Sustainability strategies developed by the project are mainly related to the institutionalization and ownership of the capacity building interventions, as well as to courses and manuals, the development of materials that will need to be replicated and updated, and to the creation of networks to support stakeholders and promote inter-institutional coordination. These appear to be aligned with the institutional capacities and priorities of the stakeholders that are currently involved in the project. However, there is still ample room for the improvement and further clarification of specific strategic choices that project management and project partners will need to make, in order to be able to effectively contribute towards the overall sustainability of outcomes and results.

For example, in principle, it can be assumed that the completed training and knowledge transfer resulting from the activities undertaken under the project may be considered to be sustainable to some extent. However, this mostly remains true at an individual level, at the level of training received by participants. It would therefore be important for the Project to define broader strategies that can in turn produce a process of "institutional knowledge transfer", such as "Training of Trainers" processes and/or the development of institutional training roadmaps.

Further, a sound project sustainability strategy  currently in development), including an exit strategy for the project, can help establishing the institutional ownership and also identify specific responsibilities of the different project partners that are related to the project at different levels, to ensure the necessary follow up and updates beyond the project's duration.

**Lessons Learned**

1. *Top-down approach in the project design*. Whereas the project currently involves a wide range of national stakeholders in the implementation, the evaluators learned that the project design stage had not been sufficiently participatory and had followed mostly a top-down approach, this is, a donor-led project design. Relevant national stakeholders indicated that they had not been sufficiently consulted by the donor about the initial design of the project. This has resulted in the identified omissions in the design that, if not addressed, can be expected to affect the project´s ability to contribute to effective change. Representatives from the MOL

and the Judicial branch underlined that a more inclusive and participatory approach could potentially have resulted in a better and more realistic project design.

2. *A complex Theory of Change*. The Project´s Theory of Change is complex and, in its current format, fails to serve the purpose of allowing stakeholders to clearly and quickly grasp the project's main purpose, and the multiple processes of change to which the program intends to contribute. Similarly, the revised Results Framework remains overly ambitious and complex and also does not clearly identify the interdependence and complementarity between actions, nor does the Results Framework sufficiently identify that there is a hierarchy between actions, and how the intended outcomes can be achieved only as a result of the cumulative effect of such actions.

3. *Gender considerations*. From interviews with key stakeholders, especially with Union representatives, the evaluators discovered that, compared to their male counterparts, women workers in the Costa Rican agro-export sector are even more vulnerable to violations of their labor rights. The Lesson Learned is that if this inequality is clearly recognized in the design as a cross cutting issue, projects that address violations of worker's rights, including minimum wage, hours of work and OSH, could potentially be well placed to assume an important role in challenging existing negative attitudes that may contribute to discrimination and inequality for women at work.

4. *Improving compliance with minimum wage, hours of work and occupational safety and health legislation in Costa Rica is a long-term objective*. Ensuring full compliance with regulations on minimum wage, hours of work, and occupational safety would reasonably require more time than the limited project lifespan.

5. *Alternative conflict resolution venues*. Stakeholders confirmed that there is much potential for many of the current labor disputes to be resolved outside of the courts.

6. *Coordination and collaboration among stakeholders*. So far, the project's interventions have often been conducted without significant coordination or cooperation among the different stakeholders. In this regard, the evaluators were informed by stakeholders that interventions aiming at improving labor law compliance would demand joint approaches (both at the central and local levels) that would allow for the different agents to complement each other's actions and to unite efforts.

7. *Collective labor agreements*. At a local level, there may be a lot of untapped potential for collective labor agreements in this sector. Such agreements could be a very effective means to move towards improved compliance with labor regulations in the agro-export sector and across the regions, albeit on the condition that these are negotiated through bi-partite collective bargaining (involving both unions and the company management). Further, they could largely contribute to enhancing labor law. Further, such agreements could include specific regulations for dispute resolution processes in the event that a work-related conflict or disagreement would occur.

**Promising Practices**

1. *FUNPADEM's flexibility to adapt to change*. FUNPADEM in collaboration with PARTNERS has adapted to the many context changes as well as to the varying needs and demands of stakeholders, which has been instrumental to support project implementation, which is considered a good practice. The project has managed to move forward with project

components such as training sessions for different stakeholders, despite such challenges. FUNPADEM's continued commitment and engagement in negotiation processes with key stakeholders, and its willingness to adjust and repeatedly adapt project's interventions in view of changing circumstances, is a demonstration of its dedication to the project. FUNPADEM also has provided innovative modifications and proposals for alternative routes when initial plans needed to be changed, as new information became available  for example on finding that a pre-existing training plan in the MOL already existed).

2. *Recognizing the complementary and varying roles of different project partners and stakeholders*. The project has brought into play a range of government and social actors in supporting progress towards the achievement of the project goals. The promising practice identified by the evaluation is that, by recognizing the different and complementary roles of the different partners, the project itself did not aim to design new or additional roles for partners, but focused instead on supporting them in their respective mandates or facilitating their role, in order to contribute to increased effective performance. This was done for example, by providing targeted training to labor inspectors, public defenders, judges and union representatives, providing each of these groups with knowledge that was suitable for their respective roles and mandates.

3. *Training needs assessment for Judiciary*. The project undertook a needs assessment in order to identify the extent of gaps in the knowledge on the RPL among judges in the labor courts. The results of this assessment guided the training curricula and the training delivery strategies (in this case through mobile device apps). This evidence-based action is considered a good practice.

4. *Adding judicial facilitators to the project*. In a context where there is a scarcity of available financial and human resources for labor inspection, especially in rural areas, with a limited presence of public defenders, and a low presence of unions and/or low levels of unionization of workers, the addition of judicial facilitators  645 across the country) to the project can be considered a promising practice.

***Recommendations***

1. ***Participatory project design processes***: Project design processes should be based on participatory national consultation with all key stakeholders with the assistance of ILAB and the Grantees  where appropriate). The design should also consider the different  national/local) contexts and specific  country/local) needs, as well as risks/limitations and resource constraints in each country or/and intervention context.

2. ***Project designers should consider elaborating clear, intelligible and realistic Theories of Change and Results Framework*** so that both accurately reflect the actual intended change processes to which a project would be able to effectively contribute. The Results Framework should include those activities, outputs and outcomes that can reasonably be expected to be realized within the project´s context, time frame and resources.

3. ***Grant the project a 6 month no-cost extension implementation period:*** The evaluators recommend that USDOL consider, in consultation with FUNPADEM, granting the project a no-cost extension implementation period of six months, in order to compensate for the delays (caused by factors out of the project's control  during the inception phase, and to ensure that the Project will have sufficient time to conduct all the planned activities, as per the newly

approved PRODOC; to culminate all intended processes, as well as to maximize the effectiveness, impact, and sustainability prospects.

4. ***Initiate a dialogue with employers:*** Initiate a dialogue (where and when appropriate) with relevant employers in the sector. The project may consider reaching employers by promoting awareness about the role of the MOL, by training employers in OSH-related aspects and regulations, or by sponsoring local-level, bi-partite (unions and employers) initiatives and processes that can encourage the initiation and/or reinforcement of social dialogue and collective labor agreements (where appropriate).
5. ***Greater emphasis on alternative dispute resolution to mitigate labor-related conflicts between employers and workers:*** Based on the recommendations from the RPL, and with the agreement of both the Ministry of Labor and the judicial branch, the project should consider taking decisive steps to strengthen measures that are geared towards prevention and alternative conflict resolution such as mediation and arbitration in order to mitigate and address potential conflicts related to violations of workers' rights, that may occur between workers and employers.
6. ***Train MTSS regional staff on how to resolve worker complaints***: In order to further protecting workers in a timely and fair process, it is recommended to train MTSS regional office administrators or chief inspectors on how to resolve worker complaints at the lowest regional level with worker and employer participation. This mechanism promises the most potential to protecting workers in a timely and fair process.
7. ***Capacity development strategies for Unions:*** Based on sound needs assessments, FUNPADEM should continue with further development of differentiated capacity development strategies for unions. This also would include tracking who has been trained under the project, as well as what "refresher" sessions may need to be undertaken, if relevant and feasible. Also, it is recommended that FUNPADEM track the capacity development efforts of other institutions, e.g. ILO or the Solidarity Center, in order to avoid overlap and ensure efficiency and complementarity.
8. ***Capacity transfer within the MOL and the Judiciary:*** The Project, in close coordination with the MOL and the Judicial Branch should plan capacity transfer strategies to be potentially implemented by these institutions themselves for their own staff and partners.
9. ***Redoubled efforts to promote enhanced coordination among implementing partners and other key stakeholders:*** FUNPADEM should redouble its efforts to promote enhanced coordination among implementing partners and other key stakeholders at both the central and decentralized levels. Also, FUNPADEM should adopt efforts to promote, coordinate and capitalize on synergies with other relevant institutions that have competencies in labor issues.
10. ***Institutional Implementation of the Case Management System SACIT :*** The donor has been working with FUNDPADEM and the Vice Minister's office to provide support for modernizing the SACIT. The project team is working to develop more of a technological innovation strategy comprising more tools and actions for case management, including tools for employers and workers. FUNDPADEM should help the MTSS visualize SACIT not as the solution to all problems, but as a tool to aid them in the management of their work, and as a tool for institutional change.

11. ***Sustainability Plan:*** It is recommended that FUNPADEM continue with its efforts to finalize a systematic and detailed Project Sustainability Plan, and that the plan takes into consideration what results and outcomes have already been achieved thus far, as well as the anticipated challenges, the status of the "enabling environment" in the country, including institutional capacities, available resources, and political commitment. Also, the plan could describe what exactly should be expected to be sustained; who will sustain it and how it will be sustained beyond the life of the project (and what resources are required) with a well-defined timeline. Of particular important in this regard as part of the sustainability plan, is the exit strategy which is currently being developed by the project team. Exit strategies typically identify how the gradual transfer of responsibilities/capacities from a project to national local institutions or networks would be conducted/embedded in these local structures from early on, with support from the project during its implementation, but with the clear understanding that there may be no continued external support beyond the duration of the current project.

# 1. PROJECT CONTEXT AND DESCRIPTION

FUNPADEM intends to make progress towards its objective by achieving three outcomes and six sub-outcomes, presented in Exhibit 1[7]

**Exhibit 1: Project Outcomes and Sub-Outcomes**

| **Outcome 1: Increase capacities to identify and pursue labor law violations on minimum wage, hours of work, and OSH violations.** |
|---|
| Outcome 1.1: Labor inspectors accurately identify minimum wage, hours of work, and OSH violations<br>Outcome 1.2: Legal advisors have increased knowledge and skills to present workers' cases<br>Outcome 1.3: Workers have increased knowledge and skills on how to file complaints, and how to access free legal counsel |
| **Outcome 2: Increase the number of legal cases received and effectively litigated on minimum wage, hours of work, and OSH.** |
| Outcome 2.1: Judicial operatives have increased knowledge and skills to better safeguard workers' rights. |
| **Outcome 3: Increase cooperation and collaboration among government institutions directly involved in protection of labor rights of workers** |
| Outcome 3.1: MTSS and the Judiciary have strengthened inter-institutional coordination capacities that benefit workers in the agro-exporting sector. |

The *Implementing a Culture of Labor Compliance in Costa Rica's Agricultural Export Sector* project is implemented by a FUNPADEM and PARTNERS.

[7] *Implementing a Culture of Labor Compliance in the Agroexporting Sector from Costa Rica* (Revised Project Document). Foundation for Peace and Democracy: July 3, 2019.

# 2. EVALUATION OBJECTIVES AND METHODOLOGY

## 2.1 Evaluation Objectives

The objectives of the interim performance evaluation as determined by the TOR are to:

1. Assess the relevance of the project in the cultural, economic, and political context in the country, 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 toward meeting its objectives, identify the challenges and opportunities encountered in doing so, and analyze the driving factors for these challenges and opportunities;
3. Assess the effectiveness of the project's strategies and the project's strengths and weaknesses in project 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 local and national levels and among implementing organizations and identify steps to enhance its sustainability.

## 2.2 Methodology

### 2.2.1 Evaluation Questions and Data Sources

The evaluation set out to answer a list of specific questions organized according to the thematic criteria described above, agreed upon by the USDOL, FUNPADEM, and IMPAQ. 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 the performance reporting data presented in the semi-annual Technical Progress Reports (TPRs  to ILAB. Data collection methods and stakeholder perspectives were triangulated to bolster the credibility and validity of the results.

Exhibit 2 lists each evaluation question and the methodology used to conduct the data analysis.

**Exhibit 2. Evaluation Questions and Data Sources**

| # | Evaluation Questions | Data Sources |
|---|---|---|
| | **Project Design** | |
| 1 | To what extent is the project's theory of change and intervention logic suitable to and coherent with the implementing context? | Document review; KII; FGD |
| 2 | To what extent is the project design logical and coherent regarding the:<br>a) allocated time and resources (including financial and human)?<br>b) institutional capacities of the implementing partners?<br>c motivations and capacities of national and local stakeholders? | Document review; KII; FGD |
| 3 | To what degree is the project design appropriate and adequate to address compliance with minimum wage, hours of work, and OSH laws in the agricultural export sector in Costa Rica? To what extent do the project's critical assumptions hold? | Document review; KII; FGD |
| | **Relevance** | |
| 4 | To what extent are the project services relevant to current target group needs? | Document review; KII; FGD |

| # | Evaluation Questions | Data Sources |
|---|---|---|
| 5 | To what extent is the project relevant to the current cultural, economic, and political context in Costa Rica? | Document review; KII; FGD |
| 6 | To what extent is the project relevant to the current priorities and policies of the government and other stakeholders? | Document review; KII; FGD |
| | **Effectiveness and Efficiency** | |
| 7 | To what extent is the project making progress towards its objective and outcomes? What are the key results achieved so far, specifically regarding the:<br>a) capacity of the MTSS to effectively manage worker complaints on minimum wage, hours of work, and OSH violations and raise them to the judicial system?<br>b) number of legal cases on minimum wage, hours of work, and OSH received and effectively litigated?<br>c cooperation and collaboration among government institutions directly involved in the protection of labor rights of workers? | Document review; KII; FGD; Secondary data |
| 8 | What are the key internal or external factors that limit or facilitate result achievement? | Document review; KII; FGD |
| 9 | How effective and efficient are the project's strategies? What are the key strengths and weaknesses in project implementation? How has the project responded to changes in the implementing context? What areas need improvement? | Document review; KII; FGD; Secondary data |
| | **Sustainability** | |
| 10 | To what extent has a sustainability strategy been defined and what steps have been taken to ensure sustainability? | Document review; KII; FGD |
| 11 | To what extent are the project's plans for sustainability adapted to the local level, national level, and capacity/interests of implementing partners? | Document review; KII; FGD |
| 12 | Are there any risks or opportunities that are likely to limit or facilitate the sustainability technical, financial, economic, social, institutional, and environmental of project results? | Document review; KII; FGD |

### 2.2.2 Evaluation Schedule

Prior to the field visits, the evaluation team developed interview and focus group guides, and in collaboration with the FUNPADEM, the team developed the site sampling criteria and field schedule. The evaluation team completed a project document review in February 2020. The evaluation team conducted site visits in Costa Rica to collect information from stakeholders and beneficiaries between February 17 and 27, 2020. During the visits, the evaluation team conducted interviews and focus group discussions with beneficiaries, stakeholders, and project staff, culminating in a stakeholder workshop held on February 28. After completion of the visits in the regions, the evaluation team held a debriefing with ILAB to discuss key findings and recommendations. Most of the data analysis and report writing was conducted in March 2020.

### 2.2.3 Site Sampling and Data Collection Methods

**Site sampling.** The evaluation team visited all 4) regions and Districts where the project is being implemented:

**Exhibit 3. In-country visits**

| Region | District |
|---|---|
| Limón | Guacimo |
| | Valle de la Estrella |
| | Sixaola |
| Heredia | Puerto Viejo de Sarapiquí |
| Alajuela | Pital de San Carlos |
| | Ciudad Quesada |
| Guanacaste | Cañas |
| San Jose - Central Region | San Jose |
| | Cartago |
| | Perez Zeledon |

**Data collection methods**. The evaluation team collected data from four sources: semi-structured key informant interviews (KIIs , focus groups discussions (FGDs), document reviews, and secondary data. The team used the data from these sources to answer the evaluation questions proposed for each analytic area.

The team conducted KIIs and FGDs to obtain stakeholders' perspectives on the project's implementation and progress. Exhibit 4 presents the number of participants in FGDs and interviews by stakeholder group.

**Exhibit 4. Participants in Interviews and FGDs**

| Stakeholder Group | No. of participants |
|---|---|
| USDOL Bureau of International Labor Affairs | 3 |
| Ministry of Labor | 14 (1 FGD+KII) |
| FUNPADEM Staff | 9 |
| Partners of the Americas | 2 |
| Judicial Branch | 4 |
| Public defense | 7 (1 FGD+KII) |
| CONAMAJ | 2 |
| CSOs | 2 |
| Unions | 35 (4 FGC + KII) |
| US Embassy | 2 |

The evaluation team facilitated six focus groups in the different regions. Each focus group type addressed a different set of questions.

**Stakeholder Workshop**. The evaluation team conducted a stakeholder workshop in San Jose on February 27 to present the preliminary findings of the evaluation and to solicit further inputs from stakeholders regarding the achievements of the project. The evaluation team provided three key questions for discussion and group presentations were made by each group. These presentations were used as an additional source of data to enrich the evaluation findings.

**Document Review.** The evaluation team conducted a document review to inform the key informant interviews and focus group discussions and to supplement the findings from other data collection efforts.

The main sources of information for the project's progress were the semi-annual Technical Progress Reports  TPRs  submitted to ILAB from April 2018 to February 2020. The evaluation team also reviewed the project baseline study and documentation produced by the project to carry out specific trainings. The team identified relevant documents for the review based on the evaluation questions and each document's main purpose.

**Exhibit 5. Documents Reviewed by Category**

| Operation and Reporting | Training and Capacity Materials | Research and Context literature |
|---|---|---|
| ▪ Project document<br>▪ Technical Progress Reports<br>▪ PMP | ▪ Inspection Protocol<br>▪ Labor Inspection guides<br>▪ Complaint forms<br>▪ Draft report on the optimization of the one-person MOL offices | ▪ RPL Decree<br>▪ MOL and judiciary Strategic Plans<br>▪ Community mediation guide<br>▪ Law reforms and bills |

### 2.2.3 Data Analysis

The document review, stakeholder KIIs, FGDs, and a small number of direct observations generated a substantial amount of raw qualitative and quantitative data. The evaluation team categorized, synthesized, and summarized the raw data captured from the interview and focus group discussion transcripts and the internal document review. The evaluation team reviewed the quantitative data presented in the TPR performance reporting by summarizing the latest data for comparison with end of project targets. These data were triangulated with the qualitative data. Whenever needed, the team requested further assistance from FUNPADEM and PARTNERS to clarify any questions in the data or request missing or additional information. The data analysis process was driven by the evaluation questions.

### 2.2.4 Limitations

The TOR allocation of 12 days for in-country work limited the range of stakeholders who could be interviewed. The time initially allocated to interview project staff was short, but the team and FUNPADEM and PARTNERS staff found time during the field visits to conduct additional interviews with the Project and M  E staff.

Despite these limitations, the evaluation team considers that the field-visits, KIIs and FGDs conducted provided a solid representation of the views of key stakeholders and beneficiaries.

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# 3. FINDINGS

This section presents the evaluation findings based on the data collected from KIIs and FGDs with project stakeholders in Costa Rica, secondary data analysis, and a review of project documents and reports. The key findings are presented for each evaluation criterion: validity of project design; relevance; effectiveness and efficiency; and sustainability.

## 3.1 Validity of Project Design

The current section addresses the extent to which the project's theory of change and intervention logic are suitable and coherent. This section also discusses the extent to which the project design is logical and coherent in terms of allocated time and resources, as well as the institutional capacities of the implementing partners. Additionally, it addresses the motivations and capacities of national and local stakeholders that are involved in the project. The section further explores the degree to which the project design is appropriate and adequate to specifically address compliance with specific labor regulations related to minimum wage, hours of work, and Occupational Safety and Health  OSH) in the agricultural export sector in Costa Rica.

**EQ.1 To what extent is the project's theory of change and intervention logic suitable to and coherent with the implementing context? To what extent do the project's critical assumptions hold?**

The project's Theory of Change  TOC), presented below, is an expression of the vision of the project regarding the generation of improved compliance with the labor regulations that are related to three specific aspects that are of concern in the sector: minimum wage, hours of work and violations in Occupational Health in the Costa Rican agro-exporting sector.

*If labor inspectors are better trained to identify and follow up on identified cases of violations of regulations on minimum wage, working hours or occupational health in the agro-export sector; and, if legal counsel/legal facilitators/public defenders have proper knowledge and skills to represent working people in their complaints; and, if workers have better knowledge and skills related to how to access legal counsel  public defenders) and on how to correctly file formal complaints; then, the number of effectively litigated cases related to minimum wage, working time and occupational health will increase*

*If the available resources of support for the functions of labor inspectors are strengthened and used effectively; and, if Labor inspectors have greater knowledge and better skills to identify violations of regulations related to minimum wage, working hours or occupational health; then, these Labor inspectors will be better able to accurately identify such violations.*

*If workers have knowledge of: 1) their rights as workers (especially on minimum wage, working hours and occupational health) 2) the services provided by the Ministry of Labor and the Judicial Branch with regard to identification and follow up on alleged violations of such rights, and 3) the regulations of the newly reformed Procedural Labor Code (RPL); then, working men and women will be better able to file such complaints and identify opportunities of access to free legal counsel to assist them with the follow up processes.*

*If the judges of labor courts have increased knowledge and skills to adjudicate cases related to alleged violations of regulations related to minimum wage, working time and OSH, in line with the procedures established by the recently reformed procedural Labor Code  RPL); then, they will be able to effectively apply such skills to the cases in which they adjudicate.*

*If there is institutional coordination among the parties (MOL[8], Judicial Branch, and other entities) the process of obtaining information to solve cases becomes easier.*

*If there is an increase in the number of effectively litigated cases related to minimum wage, working hours and occupational safety and health); and if the judges apply their knowledge and skills to adjudicate cases according to the RPL; then, the application of legislation on minimum wages, working hours and occupational safety and health will be improved.*

The main assumptions underlying this TOC were that: a) these different interventions would be undertaken in parallel; b) interventions would complement each other; c) the interventions would result in increasing the numbers of cases of alleged labor law violations that are presented before the labor courts, and hence, that, d) the application of relevant labor laws and protection of workers in the sector would be improved as a result.

While this logic appears sound in theory, the evaluators found, through interactions with key stakeholders and informants during the in-country phase of the evaluation, that a higher number of cases before the courts is assumed to automatically represent *a better protection of workers' rights*.

This logic does not hold well for a number of reasons, including the fact that there may be multiple and additional explanations for a higher number of cases of labor law violations before the courts (including, for example, an increased number of violations, more awareness of rights due to media coverage, pressure on the sector following the 2018 strike in the sugar cane sector, etc. .

Also, a higher number of cases in or before the courts does not necessarily imply a better procedural quality, nor a prompt and good quality representation for workers, nor a better consideration of and improved adjudication of such cases, nor does it in itself result in better outcomes in terms of protection of workers. Protection also greatly depends on what is done *after such cases have been considered by the courts,* in terms of follow up and enforcement of regulations and court verdicts related to compensation, restoration of rights and reparation for violations of workers' rights etc.

For instance, according to labor inspectors and representatives of trade unions and the judiciary, as interviewed by the evaluators, in Costa Rica, the action in the courts and the resolution of labor conflicts is well-known for being extremely slow, with legal processes sometimes taking up to 3 years. According to the same informants, this means that in many cases, the rights of workers in the agro-export sector will not necessarily be restored and that no reparation will be provided to workers whose rights have been found to have been violated by their employers.

This is because in many cases where such sentences are finally handed down by the courts, it may be extremely difficult to locate the affected worker. The sector has very high mobility rates, with elevated numbers of immigrant workers, and many of whom may find themselves in an irregular situation and thus prefer to remain undetected by authorities.

Similarly, it may be difficult to locate the employer in question, since it is also quite common in the sector to hire workers through middlemen. In other cases, follow up with the enterprises in question may be further complicated by the fact that frequent changes occur in the social denomination of companies in this sector such as changes in the companies' names,

[8] MOL: Ministry of Labor

headquarters etc. , or there may be changes in a company's ownership, which can further complicate any eventual attribution of responsibility to an employer.

Another factor to consider in this regard is that such legal proceedings require high levels of human and technical resources, which imply high costs for the Costa Rican State. Several stakeholders in the judicial branch were therefore of the opinion that the cost of judicial proceedings is disproportional, as they are much more expensive than the compensation requested or that could eventually be allocated to workers under the laws. For instance, lawyers from the Public Defense provided the evaluation with numerous examples of cases in which the claim by workers would be roughly CRC 40,000  the equivalent of about US$70).

It must also be noted that the main objective of the *Procedural Labor Code Reform  in Spanish: Reforma Procesal Laboral –or RPL)* was to provide necessary changes to the legislation, so that both workers and employers could have better access to justice in a manner that is more swift, effective, and professional, as compared to the way that the judicial apparatus has functioned until then.

This explains why one of the main pillars of the reform of the Labor Code was the strengthening of different means of alternative conflict resolution. Article 456 of the Labor Code provides that conciliation, mediation, and arbitration will become an important venue for resolving labor-related conflicts. This may explain why the evaluators found a wide consensus among the interviewed project's stakeholders on the <u>need to strengthen the project's vision of in terms of how to work towards prevention and mediation in conflicts between employers and workers.</u>

However, despite the many advantages of such alternative conflict resolution processes, these do not provide an easy or all-encompassing solution for all labor conflicts. Some lawyers in the public defense branch underlined that certain labor conflict situations may require the intervention of the judicial system, as they simply cannot be solved through mediation or arbitration. This is the case when the conflict in question is related to the interpretation of the laws, including compliance or non-compliance with specific regulations that affect the irrevocable human rights of workers. Other examples are cases of workplace accidents or law infringement which may require settlements and measures to prevent further occurring of such incidents.

Thus, there is wide-spread agreement among key stakeholders that *the achievement of a higher number of cases before the courts* per se would not be the sole desired effect of the current project, but rather that a higher number of *effectively and consistently <u>negotiated or litigated cases with proper follow up processes that provide evidence of effective and improved protection of workers</u>*, which would better reflect the project's objective.

Moreover, as further explained in other sections of this document, trade union representatives pointed to another highly desirable outcome area, namely <u>collective bargaining agreements between workers and employers.</u> Having access to fairly negotiated and effective collective bargaining agreements would in turn potentially allow for the protection of workers, the prevention of violations, and/or the reduction of the occurrence of labor disputes among both parties.

**Collective Labor Agreements**

Collective bargaining is a fundamental right. It is rooted in the ILO Constitution and reaffirmed as such in the 1998 ILO Declaration on Fundamental Principles and Rights at Work. Collective bargaining is a key means through which employers and their organizations and trade unions can establish fair wages and working conditions. It also provides the basis for sound labor relations.

Typical issues on the bargaining agenda include wages, working time, training, occupational health and safety and equal treatment. The objective of these negotiations is to arrive at a collective agreement that regulates terms and conditions of employment. Collective agreements may also address the rights and responsibilities of the parties thus ensuring harmonious and productive industries and workplaces. Enhancing the inclusiveness of collective bargaining and collective agreements is a key means for reducing inequality and extending labor protection[9].

In the context of the evaluated project, Collective Labor Agreements could be a very effective means to move towards improved compliance with labor regulations in the agro-export sector and across the regions, albeit on the condition that these are negotiated through bi-partite collective bargaining (involving both unions and the company management .

Further, they could largely contribute to enhancing labor law compliance as they can clarify and regulate specific terms and conditions at work. Agreements could be negotiated on, among others, wages and benefits; hours of work; OSH; non-discrimination, as well as a clear definition of duties of the employees and the duties and responsibilities of the employers. Further, such agreements could include specific regulations for dispute resolution processes, in the event that a work-related conflict or disagreement would occur.

In this regard it is worth mentioning that both SITRAP and SINTRAICA already have experience with managing the negotiation of collective agreements with their respective employers in the sector.

**EQ.2 To what extent is the project design logical and coherent regarding the:**

**a) allocated time and resources (including financial and human)?**

Based on interviews and focus groups that were undertaken as part of field work, evaluators noted that there is a consensus amongst different informants as to the need for further strengthening of relevant capacities of different partners/beneficiaries, in addition to focusing on *systemic changes* for the improvement of the compliance with regulations on workers' rights.

Examples of systemic changes could include: the strengthening of the administration and management of labor inspection systems; mainstreaming specialized inspection approaches such as a targeted approach for the agricultural sector; improved policy and decision making including allocation of budgets, based on improved evidence and data gathering systems; or strengthened monitoring and enforcement of labor regulations through inter-institutional coordination that results in improved judicial procedures. These are all long-term complex

[9] Collective bargaining and labour relations, ILO. https://www.ilo.org/global/topics/collective-bargaining-labour-relations/lang--en/index.htm

processes that will, most likely, require more time than the time assigned for the implementation of the project.

**b) institutional capacities of the implementing partners?**

Also, based on the interactions with key informants and evaluators' observations in the field, the information collected suggests that technical capacities in both the Ministry of Labor as well as in relevant parts of the Judicial Branch are adequate for ensuring a proper follow-up by and implementation of the project.

However, in this regard, the persistent lack of human resources and budget was mentioned repeatedly during the interviews and focus groups that were undertaken, as both institutions are facing serious capacity challenges. The situation became even more dire as a result of recent budget cuts for Government agencies, due to fiscal adjustment measures that have been applied over the past few years.

On the other hand, evaluators observed a wide variety in levels of (technical, management/other) capacities of trade unions and Civil Society Organizations  CSOs) who had partnered with the project, while, in more general terms, all of them also reported serious gaps in terms of budgetary and human resources. Moreover, specific to the case of the unions, their technical capacities were often considered to be limited as well. Examples of challenges that trade unions were faced with were the following: insufficient management capacities; weaknesses in institutional leadership. The lack of understanding of the principles of unionism and of collective bargaining skills was also mentioned by union representatives. There was also an observed lack of knowledge within workers and their organizations of labor legislation/labor rights, as well as of negotiation or litigation procedures that are relevant for labor law monitoring and enforcement confirms the importance and relevance for the current project. However, an important awareness gap was observed as there appears to be a disconnect and a lack of awareness of the resources that are available for and from different stakeholders and institutions  MOL, public defenders, judicial facilitators).

**c) motivations and capacities of national and local stakeholders?**

During interviews and focus groups that were undertaken, the evaluation observed a substantial degree of motivation and commitment to the Project and its objectives, in all institutions that are involved in the Project, and at all levels. This was considered remarkable, especially in light of the many reported challenges and the limited levels of technical, human resources or financial institutional capacities.

**EQ.3 To what degree is the project design appropriate and adequate to address compliance with minimum wage, hours of work, and OSH laws in the agricultural export sector in Costa Rica?**

Taking into account all of the above, the evaluators consider that the project design is somewhat appropriate for increasing the number of cases of violations of workers' rights that are presented before the labor courts, especially those related to specific issues such as minimum wage, hours of work, and OSH.

Nevertheless, two elements appear consistently in interviews and focus groups: a) there was an identified gap in terms of prevention of conflicts and need to strengthen the preventive and mediation focus in the project, as explained previously; and, b) related to the first point, open lines

of dialogue with relevant employers were missing, which implied the need for the project and its partners to establish such lines of dialogue.

A wide range of stakeholders who were consulted  from the Vice-Minister Office to union representatives) argued that the project should reach out to employers, in view of the fact that compliance with the labor law cannot be achieved in isolation, and without the involvement and collaboration of the employers concerned.

Along these lines, stakeholders also argued that improved information and awareness among employers in the sector about the overall role of the different actors (MOL, the RPL, workers , especially with regard to the protection of workers' rights, OSH issues, etc., can be expected to improve their willingness to collaborate with the project. This can then be used to improve labor inspection practices in the workplace (prevention), to introduce negotiating conflicts through alternative means (other than judicial procedures), as well as to promote collective agreements. This scenario would present, according to some informants, a desirable outcome for employers.

In this regard, unions in the sector also strongly emphasized that they require additional training in negotiation and in collective bargaining, in order to be able to better represent workers from the sector as well as their many challenges, especially workers who are the most vulnerable. Unions and workers also need to be better prepared to engage in effective social dialogue processes with employers in the sector.

With regard to the project indicators, key stakeholders underlined that some of them are not well suited to measure the project progress and or are not easy to collect and verify (e.g. *number cases before the courts with positive outcomes for workers*; *# of workers aware of labor rights, reached by the campaign*; etc. .

In addition, in view of the multiple contextual and project related challenges, and in particular the complexity of systemic change (labor inspectorate, relevant components of the judicial branch), as well as the fact that proposed systemic changes will require a longer timeframe, it might be relevant for the project and the M  E officer to consider simplifying and fine-tuning the project's objective and outcome indicators.

## 3.2 Relevance

This section addresses the extent to which the project services are relevant to current target group needs, the project's relevance regarding the current cultural, economic, and political context in Costa Rica, as well as in relation to the current priorities and policies of the government and other stakeholders.

**EQ.4 To what extent are the project services relevant to current target group needs?**

Representatives from the Office of the Vice-Minister of Labor the Judiciary and workers' unions confirmed to the evaluators the overall relevance of the project, during the interviews and Focus Group Discussions that were undertaken during the field component of the evaluation.

Representatives from the Ministry of Labor, the judiciary (including magistrates and Public Defenders  and workers' organizations, confirmed that there was a continuing need for strengthening of the capacity to identify labor law violations, as well as their capacity to address such violations. Similarly, informants agreed on the current need to improve their knowledge on the RPL. In addition, these stakeholders confirmed that inter-institutional coordination should be

strengthened in order to address labor violations more effectively and efficiently, and to restore workers' rights.

Labor inspectors further explained that they required accurate and up-to-date knowledge on both the labor law and the RPL, as well as on more specific issues such as minimum wage, working hours, and OSH in order to improve their own labor inspection practices. This would improve their capacity to detect and document violations of labor law regulations, and allow for the keeping of accurate records, which would in turn contribute to the presentation of stronger evidence during relevant procedures and trials.

Similarly, workers in the agricultural sector also referenced the need to improve their understanding of the Labor Code and the new RPL, as well as on the available complaint procedures, in order to be better equipped to act on violations of their labor rights.

Magistrates and public defenders further confirmed that strengthened capacities, to be achieved through the activities of the project, were expected to result in an overall improvement of relevant judicial processes. This would particularly benefit workers, as a better legal representation in proceedings and trials would ultimately lead to more truthful and fair sentences, especially for future cases related to violations on minimum wage, working hours, and OSH rights.

**EQ.5 To what extent is the project relevant to the current cultural, economic, and political context in Costa Rica?**

Cultural context

As corroborated during the fieldwork phase of the evaluation, this project is marked by the fact that it is implemented in a wide range of regions across the country, each with their own specific socio-cultural contexts. Union representatives confirmed that the project is sufficiently flexible to allow for adaptation to such contexts, while taking into account the different needs and challenges that local workers may face.

During interviews and focus groups with key stakeholders, information was collected about continuing violations of workers' rights, as well as on a lack of promptly available solutions for such situations. Examples include reported cases of noncompliance for minimum wage, a lack of adherence to regulations on maximum working hours, and several instances of plain disregard for safety and health procedures.

Unions, labor inspectors, and public defenders further confirmed that the project is particularly relevant for indigenous people and foreign workers. Many workers in the sector are migrant workers from Panama and Nicaragua, often undocumented. As a result of these multiple vulnerabilities, they are even more prone to potential violations of their rights, as compared to their local colleagues. In many cases they have been hired by intermediaries, who provide them with little or no social and legal protection. This situation raises great concern, especially among the union representatives who were consulted, as this clearly represents a fraudulent use of the recruitment system.

Regarding indigenous workers, the project has also made efforts to address their specific needs. One piece of evidence of an effort to accommodate to cultural differences had been the project's effort to create manuals in *ngäbere*, the native language of the indigenous *Ngäbe* group. Many of the migrant workers are indigenous people from Panama, who do not speak Spanish, so this initiative aims to eliminate language barriers while raising awareness about their labor rights. At the moment of the evaluation, the manuals were under development.

Despite the project's overall high level of relevance, some interviewees  mostly union representatives) pointed to a perceived lack of consideration by the project with regard to the specific challenges faced by female workers in the agricultural sector. Discriminatory practices persist, such as a prohibition of hiring women in some positions or of the fact that women are excluded from performing specific production tasks within agricultural companies. Female workers also experience difficulties in accessing reproductive healthcare and there is a reported lack of respect for their right to maternity leave.

Economic and political context

Representatives of the MOL and the Judiciary referred to the consequences for the sector, resulting from the cuts in Government budget due to the fiscal deficit. This was found to be affecting their ability to assist workers in need. Insufficient financial and human resources were also preventing their overall ability to reinforce compliance with the laws.

Moreover, the increase in unemployment in Costa Rica had reached a rate of 12.4% in the last quarter of 2019  a 33% growth from the same period in 2017)[10], the highest in the previous decade. Several stakeholders expected that the rising unemployment rates would make labor compliance even more challenging. The Ministry of Finance had also reported in January 2020 that Costa Rica's fiscal deficit had reached 6.96% of GDP in 2019, which was the highest in the last three decades.

Several stakeholders opined that the combination of these two factors could unchain even more strained scenarios, such as leading to growing numbers of workers in need of a job, and/or potentially willing to accept inadequate working conditions or refusing to speak up about violations, due to fear of losing their jobs if they do so. In this scenario, they agreed that the project's interventions will become even more relevant.

The evaluators also found widespread agreement among stakeholders who were consulted that the project responds to the changes that are required for the proper implementation of the Labor Procedural Code Reform – RPL – (Law No. 9343 , which became effective on July 25, 2017. The RPL is considered by many as the most important amendment to the Costa Rican Labor Code since its enactment in 1943.

The reform entails several constructive institutional changes, both in the Labor Ministry and the Judicial Branch. For example, the law created a specific budget line for public defenders in labor matters, in addition to an increase in the number of labor judges and labor inspectors. Personnel from these institutions report that the institutions remain in the process of adjusting to the new regulations, which underscores the project's relevance during this time of transition.

**EQ.6 To what extent is the project relevant to the current priorities and policies of the government and other stakeholders?**

Since the initial presentation of the project to the US Department of Labor  USDOL), the country has had three different Ministers of Labor. Despite the respective priorities of the consecutive Ministers, the project has had, and continues to have, the support of the Ministry's leadership, as was confirmed by the Vice-Minister Office to the evaluators.

[10] Continuous Employment Survey prepared by the National Institute of Statistics and Census

The project is aligned to the Institutional Strategic Plan of the Ministry of Labor and Social Security 2018-2022), as it contributes to two of its four priorities, namely:

a) *Promote effective compliance and application of international labor standards and national labor legislation*. Under this priority, there is a specific objective related to the implementation of the RPL through training and dissemination, automation, and documentation of processes.

b) *Quality services nationwide based on the principles of equity, efficiency, effectiveness, and opportunity.* This includes simplifying and automating the processes and institutional procedures to improve the attention to and satisfaction of the target population.

Further, the Strategic Plan states that the Ministry will take advantage of opportunities, such as the use of technology for the automation of MTSS services and the establishment of strategic alliances, which are an integrated part of the project's activities.

The project also fits with the Strategic Institutional Plan of the Judicial Branch of Costa Rica (2019-2024), contributing to four of its five strategic themes:

a) Timely conflict resolution, which refers to an impartially, quickly, and effectively resolved conflict.

b) Strengthen the trust of society in the service of justice through activities such as public participation and internal/external collaboration.

c) Optimization and innovation of judicial services to streamline justice services.

d) Personnel Management through improving the competence of judicial personnel.

The project is also relevant to recently approved law reforms and bills such as: the reform of the *Regulation of Occupational Health in the Management and Use of Agrochemicals* published in October of 2019; and the *Draft Bill on the Strengthening of Labor Inspection.* This last Bill is intended to modernize the regulations that are related to the inspection of labor law compliance, in order to improve the capacity of the Ministry of Labor and Social Security, to guarantee the protection of such rights.

### 3.3. Effectiveness and Efficiency

This section presents the evaluation's findings regarding the extent to which the project has made progress towards its objective and outcomes. More specifically, it analyses the key results achieved so far related to: a the capacity of the MOL to effectively manage worker complaints on minimum wage, hours of work, and OSH violations and to bring those complaints into the judicial system, where required; b) the number of legal cases on minimum wage, hours of work, and OSH that were received and have been effectively litigated; and c) cooperation and collaboration among government institutions that are directly involved in the protection of labor rights of workers.

This section also addresses the key internal and/or external factors that have limited implementation or that have facilitated the achievement of results; the effectiveness and efficiency of the project's strategies; key strengths and weaknesses in project implementation; the project's responsiveness to changes in the context; and, finally, this section identifies areas that will need improvement.

**EQ. 7.a) To what extent is the project making progress towards its objective and outcomes?**

**Project objective: Improving the compliance with minimum wage, hours of work and occupational safety and health legislation in Costa Rica.**

**Background**

Costa Rica has committed to improving labor standards as an integral part of its trade-related obligations under the Dominican Republic – Central America Free Trade Agreement (CAFTA-DR). The country is also seeking access to the Organization for Economic Co-operation and Development which requires respect for labor laws. However, in practice, workers in agricultural export sectors in Costa Rica continue to be highly vulnerable and subject to violations of regulations related to minimum wage, hours of work, and laws related to occupational safety and health (OSH).

The labor law reform *Reforma Procesal Laboral* , which was approved in December 2015 and came into effect on July 24th, 2017, seeks to establish improved access to labor justice for workers, through different mechanisms. The RPL clarifies that labor violations can be brought before the courts in two ways: 1) by the labor inspectorate, after administrative procedures have been exhausted, which include inspections, notifications, re-inspections and reports ; and/or 2 by direct petitions to the court, by the worker who has been affected by labor violations.

This project seeks to improve workers' knowledge of the protection of workers' labor rights, in particular the protection of their rights through workers' access to the newly established mechanisms for the filing of complaints with national administrative and judicial tribunals. In order to achieve increased awareness among workers about their rights, as well as about the mechanisms that are in place protect them, the FUNPADEM project pursues the following: a) the strengthening of the capacities of the MTSS and its abilities to plan, inspect, and process worker complaints, b inform the public about the new services of the RPL, c) reinforce the capacities of legal aid workers and judges, in order to improve the quality of trials and sentences in cases related to minimum wage, work hours (which includes overtime), and OSH-related issues, and d increase cooperation and collaboration among government institutions that are directly involved in the protection of the labor rights of workers.

**Project Objective Findings**

From primary and secondary evidence, the evaluation found that the project has started to make some contributions towards strengthening of the MOL's capacity and as well as the capacities of workers to address violations of their labor rights. The project also contributed to some exchanges between the MOL and the judiciary regarding coordination on case management, although not much has been achieved in terms of strengthened *inter-institutional* coordination so far. Nevertheless, it should be noted that it was only after working on implementing the other components of the project that the strengthening of inter-institutional coordination was identified as a need.

Nevertheless, the evaluators found that the contribution of activities to the achievement of the project objective cannot be assessed empirically. The evaluators were unable to find any clear evidence that would establish any straightforward causal link between the project's actions and the progress achieved, based on the objective's indicators.

Further, qualitative information conveyed by key stakeholders along with data gathered through the document review that was undertaken, indicate that, despite the positive developments that have occurred during the project's implementation, so far the project's effective contribution to *improving the compliance with minimum wage, hours of work and occupational safety and health legislation in Costa Rica* has been limited. Several stakeholders opined, however, that this is a long-term objective, the achievement of which will, most likely, take longer than the project's implementation period.

**EQ.7.b) What are the key results achieved so far, specifically regarding the:** a capacity of the MTSS to effectively manage worker complaints on minimum wage, hours of work, and OSH violations and raise them to the judicial system; b) number of legal cases on minimum wage, hours of work, and OSH received and effectively litigated; c cooperation and collaboration among government institutions directly involved in the protection of labor rights of workers?

**Exhibit 6. Performance Ratings by Project Outcome**

| | |
|---|---|
| **Outcome 1: Increased capacities to identify and pursue labor law violations on minimum wage, hours of work, and OSH violations.** | |
| Outcome 1.1: Labor inspectors accurately identify minimum wage, hours of work, and OSH violations<br>Outcome 1.2: Legal advisors have increased knowledge and skills to present workers' cases<br>Outcome 1.3: Workers have increased knowledge and skills on how to file complaints, and how to access free legal counsel | |
| *Number of Indicators: 11* | |
| **Performance Rating** | Low ○ — Moderate ● — Above-Moderate ○ — High ○ |
| **Sustainability Rating** | Low ○ — Moderate ● — Above-Moderate ○ — High ○ |
| **Outcome 2: Increase the number of legal cases received and effectively litigated on minimum wage, hours of work and OSH.** | |
| Outcome 2.1: Judicial operatives have increased knowledge and skills to better safeguard workers' rights. | |
| *Number of Indicators: 3* | |
| **Performance Rating** | Low ● — Moderate ○ — Above-Moderate ○ — High ○ |
| **Sustainability Rating** | Low ○ — Moderate ● — Above-Moderate ○ — High ○ |
| **Outcome 3: Increase cooperation and collaboration among government institutions directly involved in protection of labor rights of workers.** | |
| Outcome 3.1: MTSS and the Judiciary have strengthened inter-institutional coordination capacities that benefit workers in the agro-exporting sector. | |
| *Number of Indicators: 2* | |
| **Performance Rating** | **N/A** |
| **Sustainability Rating** | **TBD** |

## OUTCOME 1: Increased capacities to identify and pursue labor law violations on minimum wage, hours of work, and OSH violations

### Background

Since 2016, the overall quality of government services has been affected by stagnant unemployment rates, rising fiscal deficit paired with difficulties to jumpstart the economy PEN 2018), and services were found to have deteriorated across all government institutions. The MOL has not been an exception, and has undergone budget cuts in various areas. Thus, the MOL is faced with several difficulties in complying with its mandate, among them conducting labor inspections the identification of labor law violations, and following up on violations including those related to minimum wage, hours of work, and OSH in regions were the agro-industrial sector is prevalent.

Outcome 1 focuses specifically on the two key offices of the MOL: the National Direction for Inspection DNI in Spanish) and the Direction for Legal Affairs DAL in Spanish). Both the inspection and legal counsel corps are targeted through the current intervention. By providing training, the project seeks to: a) build the Labor inspectors capacities to accurately identify violations related to minimum wage, hours of work, and OSH, b) to better respond to worker complaints, c to process and write up more robust evidence-based reports and represent workers' interests, and d to reinforce the knowledge and skills of legal advisors to present workers' cases to the courts. Further, the project seeks to help workers' organization, as the RPL is new, complex and little relevant training has yet been provided to the agro-exporting sector. Thus, workers will not only receive training, but also assistance with accessing relevant support, both from the relevant institutions as well as from civil society organizations.

### Outcome 1 Findings

The level of achievement of Outcome 1 is estimated as **moderate**.

The project's contributions included support for the MOL and to workers' organizations, in order to strengthen their capacities for detecting and addressing labor law contraventions.

In this regard, the project supported the MOL with contributing to the development of a protocol on Labor Inspection and Manuals for Labor Inspectors on Minimum Wage and Working Hours. In addition, the project initiated a process aiming at the optimization of the MOL's one-person offices. The project also delivered an OSH workshop for labor Inspectors and is currently in the process of negotiating a contract with the *San Isidro Labrador International University* (UISIL) to train 45 labor inspectors in OSH. Further, FUNPADEM has agreed to provide support to the Labor School in the implementation of its National Training Plan for the Labor Inspection.

The project is also supporting workers by providing training to selected unions and workers to increase their knowledge and abilities to detect labor law violations, how to file complaints, and how to access free legal counsel.

However, as confirmed by key stakeholders through interviews and focus groups, there is still ample room for the improvement of the capacities of the MOL and of workers' organizations *to effectively manage worker complaints on minimum wage, hours of work, and OSH violations and to file these complaints, so that these can be addressed by the judicial system.*

**Key results achieved by the project**

**Outcome 1.1: Labor Inspectors accurately identify minimum wage, hours of work, and OSH violations.**

*Protocol on Labor Inspection and Guides for Labor Inspectors on minimum wage and Working hours*

The project, along with the MOL found that there was no standardized format for the elaboration of labor inspection reports and has identified a need to standardize such reports. So far, each labor inspector prepares the reports according to his or her respective knowledge and/or experience, resulting in a range of formats used. The project and the MOL agreed on elaboration of a General Inspection Protocol and inspection guides on minimum wage and on hours of work.

These documents were prepared, reviewed and recently approved by the MOL's Planning Department January 2020). In addition, they have been validated by the DNI and the Deputy Minister of Labor, and are now considered official Ministry documents.

The project is currently making some syntax adjustments to the final version of the protocol for later printing. The inspection guides will be reproduced in booklet format, to be sent to each of the Regional Directorates with which the project collaborates, for the use by the labor inspectors.

*Optimization of the MOL's one-person offices*

The MOL has one-person offices in rural areas, which provide information to the public on labor rights, and also engage in mediations. However, due to the MOL's scarce human resources, these offices have reduced opening hours, usually limited to one day per week, which seriously hinders the ability to carry out their mandate.

The project undertook a study aiming at identification of opportunities to enhance the services offered by offices in regions with higher presence of export-agricultural production of pineapple, banana, sugar cane and coffee. On February 21, 2020, a draft report was submitted to the Directorate and Sub-directorate of Labor Affairs for comments. The project informed the evaluator that the final version of the study is expected to be ready by mid-March, 2020.

Project staff informed the evaluators that this study is expected to provide valuable inputs for the decision-making process of the Directorate of Labor Affairs, the National Directorate of Inspection and the Vice-Ministry of Labor. The study's conclusions, recommendations and proposals are expected to be relevant for developing a roadmap for the continuous improvement of both departments, as well as for the optimization of its processes.

*OSH workshop for labor inspectors*

In September 2019, a representative from ILAB provided an occupational security health workshop for MOL labor inspectors, who work in different regions. The workshop covered topics of interest for the inspectors and provided specific and conceptual guidelines for their inspections. The workshop also covered general standards for the application of controls on the place of work and on monitoring the use of substances in fieldwork in the sector (such as the highly toxic cholinesterase).

This training activity seeks to create more awareness in inspectors on the importance of (respect for) OSH regulations. This is particularly important for establishing the link between OSH issues, which is key for the potential impact of inspections processes with regard to improving occupational health and safety of workers at their workplace.

*Occupational Safety and Health (OSH) training program for DNI officials*

In 2018, the MOL Technical Commission proposed to develop and implement an OSH training program in partnership with the National Technical University  UTN . The objective was to develop a specialized OSH training course on occupational health in the agro-export sector, for Labor Inspectors, based on the occupational health degree already offered by the UTN.

By the end of 2018, the project engaged in a process of identifying the training needs and defining the training modalities to be covered by the UTN. In September 2019, the UTN submitted a technical and financial proposal for this training program, which consisted in a 180-hour course for 15 labor inspectors with a total cost of US$23,174 ($1,545 per person). In addition to the course fees, the MOL was expected to assume the cost of travel, lodging, and meal expenses for the labor inspectors who participated in the course.

Considering the high cost and taking into account that the certificate obtained would not be officially recognized by the Costa Rica Civil Service, the office of the Deputy Minister of Labor decided to look for alternatives.

Thus, between October and November 2019, the project developed the TORs for the development of a course and launched a call for proposals. A proposal from the *San Isidro Labrador International University* (UISIL) was considered and approved.

The UISIL already offered a 400h specialized course of Occupational Health in the agricultural sector, certified by the National Council of Private Higher Education  CONESUP) and recognized by the Civil Service of Costa Rica. The current cost per person for this course is US$1,200. In addition, UISIL offered to award 7 scholarships. Under this arrangement, according to the information provided by the project, a total of 45 Labor inspectors would be trained. In addition, as UISIL has campuses located throughout most of the country, and thus no allocation will be required to cover the cost for the inspectors' travel and lodging.

The project is currently in the process of elaborating the contract with the UISIL and expects the courses to start by the first week of May 2020.

*Support to the Labor School in the implementation of its National Training Plan for Labor Inspection*

During 2018, the project, together with a Technical Commission of the MOL, started with the elaboration of the National Training Plan for the Labor Inspection. However, in early 2019, due to internal differences between the DNI's Sub-Directorate and the National Directorate, the representatives of the DNI to the MOL's Technical Commission replaced by officials who were appointed by the National Director.

During a review process of the activities to be undertaken in partnership with the project, the new members of the Technical Committee reported that a National Training Plan for the Labor Inspection had already been developed by the Labor School, which was an initiative headed by the National Director of Inspection.

For this reason, and as requested by the DNI and the office of the Deputy Minister of Labor, the project has since then refocused on providing support to the Labor School in the implementation of its National Training Plan for the Labor Inspection. Moving forward, the project will further assist the Labor School with the development of:

- Training courses in management and soft skills for the Direction of National Inspection (DNI) and the Direction of Labor Affairs (DAL) Regional Directors
- Ngäbere courses for labor inspectors working in the southern regions of the country, in order to improve the services provided to indigenous workers in the agro-export sector.
- The operating regulations of the Labor School.

The project also provided logistic and material support of the first induction course of the Labor School. The first course, an introduction to inspection, started on June, 25th, 2019.

**Outcome 1.2: Legal advisors have increased knowledge and skills to present workers' cases.**

Electronic Case Management System

The project will provide the MOL's DIT and Labor Inspector Department with financial support to develop a new software, specifically for the case-management system -*Sistema de Manejo de Casos*- SACIT) aiming at integrating information from different MOL departments, creating a "unique labor file" for employers and workers, allowing integration with cases in the court (in coordination with the Judiciary), and granting full traceability of the inspection process. The system will also allow for workers and employers to manage their dossiers on-line. Work is currently underway on the preparation of the terms of reference for development of the SACIT.

When asked about the expected dates for the SACIT's to be operational, MOL officials informed the evaluators that this is yet to be determined, as they expect the process to be long and complicated. Some opined that most likely, the SACIT will not be functional by the date the project is expected to end September 30, 2021).

Nevertheless, the evaluators would like to underline that the project has been diligently working on the Electronic Case Management System. Further, delays in its final development and implementation have been not only unforeseen, but also outside of the project´s control. In this regard, the project informed that it has contingency plans that are currently undergoing to achieve this result.

**Outcome 1.3: Workers have increased knowledge and skills on how to file complaints, and how to access free legal counsel.**

*Unions' Training* on *labor rights: minimum wage, hours of work and Occupational Health.*

A workshop on the identification of needs and the main labor violations in the agricultural sector in the Southern Region of Costa Rica was held with FENTRAG during the first quarter of 2019, at Ciudad Neilly, with the participation of 18 Ngäbe[11] leaders.

Between April 1-Sept 30, 2019 the project started its collaboration with the *Coordinadora Sindical del Banano* (COSIBA) a federation of unions in the agricultural worker sector. COSIBA has over 1700 workers who are affiliated to its three unions, 1) SITRAGAH which works with pineapple and banana plantations, 2) SITRACHIRI which exclusively represents Chiquita banana workers, and 3) SITRAPEN, a pineapple sector union. These unions also represent an important number of migrant workers, especially in the Caribbean and Northern regions Nicaraguan immigrants), as

[11] Indigenous People living in the Costa Rica/Panama Border

well as some Panamanian Ngäbe indigenous workers in the Southern region.

The project and the unions agreed to develop trainings in the regions where these unions are present: Valle de la Estrella and Sixaola in the South East Caribbean; and Pital and Sarapiqui in the Northern region. To date, the project has developed a series of workshops in order to train unions in the documentation of and reporting on violations concerning: minimum wage, hours of work and occupational health and safety.

In this regard, the project developed a template for a "labor incident report" and conducted in-region trainings on the use of this template. These trainings aimed to improve the documentation of violations and the reporting on such violations, especially those concerning minimum wage, hours of work, and OSH. A total of 100 workers attended these trainings, in Sixaola, Valle de la Estrella, Sarapiqui, Pital de San Carlos, Santa Rosa de Pocosol, and Guácimo de Limón.

Additionally, in February 2020, an agreement was reached with the *Sindicato de Trabajadores de la Industria de la Caña* SINTRAICA), to develop trainings on thermic stress, to be held on March 4 and 5, 2020, in the city of Cañas Guanacaste). The project foresees the participation of at least 100 workers. Similarly, the project and the *Sindicato de Trabajadores de Plantaciones Agrícolas* (SITRAP) in Siquirres, agreed to develop trainings on topics related to sanitary facilities and pesticide protection equipment in the banana sector.

*Support to the MOL's annual fairs*

Each year, the MOL organizes and implements fairs about compliance with the regulations on the Christmas bonus regulations and other labor rights. The project has supported the MOL's information fairs since December 2018, starting with the Christmas bonus *Aguinaldo*) fairs held in Pérez Zeledón, Cartago, Alajuela, and Parque Central in San José. In 2019, another fair was held in Coopevega de Cutris de San Carlos with the participation of the DAL, the DNI and the Labor Unit of the Public Defense Office. During this fair, both the MOL and the public defense staff informed and advised workers on labor rights and Labor Code procedures, as well as on how to access labor justice services.

Information provided by the project for 2020 indicate that more fairs are planned in the near future, in coordination between the Judiciary, the MOL and workers' organizations, in order to reach a greater target audience and to join efforts among institutions.

*Support to expand the capacities and information of the MOL's application App) on labor rights ("TrabajoCR" .*

The project has cooperated with the MOL's Department of Information Technologies (DTI) and assisted with the development of the "Work CR" App on both Android and iOS platforms. In 2018 a new module was included in the App that will allow for the registration of complaints on the non-payment of the *Aguinaldo (Christmas bonus* .

According to the information provided in the project's Technical Progress Reports TPRs , during the 2019 *Aguinaldo* campaign, 275 complaints of non-compliance were received through the App. In January 2020, the app registered another 128 complaints, although, only 13 were related to the agricultural sector.

The project is expecting to further expand the App, by including modules on violations of minimum wage, working hours and OSH. However, the Labor Inspector Department has decided to put on

hold the inclusion of new modules of complaints, due to the scarce technical capacities and human resources of the Department, stating it would be unable to attend to all complaints.

This position is at odds with that of the Office of the Vice-Minister of Labor, which sees IT as an important asset for the MOL, as it has the potential to provide workers with real-time access to the services of the Ministry. In this regard, the project's intention is to continue working with the Deputy Minister's Office to continue to support the strengthening of the "WorkCR" App both in terms of development and implementation, and the integration of new modules on minimum wage, working time and overtime.

*Development of informative videos on Labor Rights.*

The Development of informative videos on labor rights is currently in progress. A preliminary version of these videos has been developed and is currently being reviewed by the MOL.

*Creation of a project's stakeholder support network*

In December 2019 and February 2020, the project organized workshops with potential working partners. The first workshop was organized together with the *Frente Nacional de Personas Afectadas por la Producción Piñera* FRENASAPP) in Guácimo de Limón. The number of participants was reported to have been low. Stakeholders informed the evaluator that while there was some interest among representatives in collaborating with the project, however, FRENASAPP has not yet officially confirmed whether they are interested to participate in a network of labor rights trainers.

Likewise, in December 2019, a workshop on labor rights was held in Pocosol de San Carlos, in collaboration with the *Asociación de Desarrollo Integral* (ADI) of Santa Rosa de Pocosol, which is an area with a high concentration of pineapple plantations. The ADI agreed to join the project's efforts. A joint planning process (ADI and FUNPADEM) is scheduled for March 2020.

Further, in collaboration with the Municipality of Buenos Aires de Puntarenas, FUNPADEM held an informative workshop for pineapple workers and CSO's. As reported by the project, the municipality has expressed interest in collaborating with the organization of the training on labor rights, in particular those on occupational and health issues.

*Design and validation of a curriculum for training the stakeholder support network*

The project, in partnership with the San Juan de la Cruz University, developed an assessment of the working conditions of banana and pineapple workers, in addition to a labor rights training manual and a supporting video. These products provide basic information on how to train workers on their labor rights and include a number of training activities for workers on both OSH and labor rights issues. Both the video and the manual are intended to be used in the training of individuals in civil society organizations and unions. The video is especially useful for people who find managing paper-based training materials more difficult.

*Training of the stakeholder support network*

The development of a training plan on labor rights for these networks is currently under way.

**OUTCOME 2: Increase the number of legal cases received and effectively litigated on minimum wage, hours of work and OSH.**

### Background

In addition to the shortcomings of the MTSS in executing its mandate, lengthy delays in the judicial system have resulted over time in delays in the consideration of such cases, which usually take multiple years to complete. This is limiting the potential impact that such cases could have on deterring future violations. As described in the ProDoc, *the judicial system is in fact considered by several sectors as an important factor in the undermining of labor rights, especially in relation to the deficient and poor service provision on labor matters, even if these cases represent the bulk of complaints and inquiries*.

The introduction of the new Procedural Labor Code presents an important opportunity to address these systemic limitations, as it creates new processes and mechanisms that are intended to improve and substantially transform labor law enforcement in Costa Rica. This includes the strengthening of the labor inspection capacity and speeding up the resolution of labor-management disputes, as well as replacing written procedures with oral ones, and providing free legal assistance to several categories of workers. In addition, labor case resolution is now mandated to take place within two years, and the reform foresees the elimination of small claim courts. The new Labor Code also incorporates a wide range of causes for which a worker can sue his employer, including violations of the prohibition of discrimination based on age, ethnicity, sex, religion, race, sexual orientation, marital status, political opinion, national, social origin, discrimination, disability, trade union or economic situation. These changes have the potential to significantly improve labor law enforcement, however, their success depends on the ability of the judicial system to effectively implement the reforms, which is why its organizational and resource forecasting will be critical to its application (PEN, 2016).

Outcome 2 focuses on the judicial branch. The project targets four different audiences who are all related to the promotion of services and training on new requirements of the RPL. The first group is composed of judges and their legal assistants, most of whom have had relevant previous training. However, in the geographical areas such as the ones served by the project Areas in the Northern, Caribbean and Southern Zones , such training has been insufficient. A second category is composed of public defenders. Although public defense has existed and served the public for over 50 years, only since the adoption of the RPL have public defenders been required to take on cases of labor law violations. This implies that they need to have the knowledge of relevant legislation, and to provide public service, client management and follow up, issues which all may require additional training. The third group is a court related category of professionals called "judicial facilitators". These professionals play a key role in the legal process, as they serve both as advisors for the public in a *pro bono* manner while they are also linked to the National Commission on Justice. This institution provides the facilitators on a yearly basis with materials and training, but has also recognized that the knowledge on RPL is yet scarce among facilitators. In addition, training is required for legal aides, including judges' aides, paralegals and other staff, in order to be able to support both the work of public defenders and the work of judges.

### Outcome 2 Findings

The high level of employee turnover in the Judiciary branch in the course of the project implementation, has added to the overall challenging context described at the beginning of this

section. In turn, this has led to multiple delays in the implementation of the activities related to this outcome. Eventually a formal agreement was signed on 2 July 2019, between the Judiciary and FUNPADEM for the planning and implementation of several actions that were foreseen in the framework of the project.

At the moment of this evaluation, the project had undertaken an assessment of training needs among judges and technical staff and was developing two training modules which will be accessible through Apps for mobile devices. The project also undertook two training workshops for Public Defenders of the Labor Unit. A Manual for judicial facilitators on Labor Rights and the Labor Code is also underway, and the 2020 training schedule for judicial facilitators has been determined. Additionally, the project is now in the process of elaborating an informative video on the RPL, for judicial facilitators.

However, so far the project has not undertaken any training for judicial operatives. In this regard, the level of achievement of Outcome 2 is assessed as **low**.

**Key results achieved**

*Assessment of training needs for personnel in the Judiciary*

Between August and October 2019, the project conducted an assessment of the training needs among judges and technical staff in the Second Chamber of the Court  the Labor Court . This assessment allowed identification of the main training needs related to RPL Reform and identified a demand for virtual trainings.

Initially, as learned from FUNPADEM staff, the project had reached an agreement with the Judicial School for the elaboration of the training curriculum, including the possibility of using the Judicial School facilities for video recording and the printing of training materials. However, as also informed by project personnel, due to the numerous changes in the technical staff of the Judicial School, in addition to the many delays, with numerous bureaucratic hurdles that yet to be overcome, the project team eventually opted for outsourcing the development of the training curriculum. This contracting process is currently underway and the project is expecting to start implementing the contract by mid-March 2020. According to data provided by the project, the actual training process is expected to start during the second half of 2020.

*Development of Training Apps for Mobile Devices*

This classroom training will be complemented by the development of two apps for mobile devices. The first app will include an "interactive glossary" on the RPL and related regulations. An informative document has been drafted for this purpose by Magistrate Mr. Jorge Olaso. The application seeks to facilitate quick access for labor judges to information related to the RPL. The project expects to start with the process for contracting the app developer by March 2020.

The second app aims at facilitating better knowledge on the application of the RPL, tailored to the profiles and needs of the different users  judges, technicians and students . This App development process is also expected to begin during March 2020.

*Training for Public Defenders of the Labor Unit*

To date, the project has undertaken two of the three training workshops that were originally planned. The first training for 74 public defenders of the Judiciary Labor Unit took place on July 9, 2019. A second training was held on September 20, 2019 and was attended by 51 public

defenders. The third session was planned for February 28, 2020 and was expected to be attended to by 45 public defenders from the Labor Unit.

Further, the Public Defense is in the final process of developing a training manual for the staff of the Public Defense Labor Unit. The project will collaborate with the diagramming process of this document, which expected to begin during the second half of 2020.

*Training for Judicial Facilitators on the Labor Code and the RPL*

The project is preparing a Manual for judicial facilitators on Labor Rights and the Labor Code. As of February 19, the Manual was being reviewed. The project expects to have the final version by mid-March for diagramming, printing and dissemination.

In addition, the project informed the evaluators that it will develop training for judicial facilitators who operate in some of the main agro-export areas of the country. The training schedule for 2020 is as follows:

**Table 1. Judicial facilitators training schedule for 2020**

| Date | Place | Estimated Participants |
|---|---|---|
| March 6 – 7 | Santa Clara de San Carlos (Northern Region) | 40 |
| March 28 – 29 | Ciudad Neilly (Southern Region | 25 |
| April 25 - 26 | Guápiles (Caribe) | 40 |
| May 23 - 24 | Puerto Viejo de Limón (Caribe) | 30 |
| June 13 - 14 | Guanacaste, Liberia (North-West) | 50 |

Moreover, the project is developing an informative video for judicial facilitators on the RPL. To date, the video's scripts, storyboard and storyreel have been developed, and these have been validated by the *Comisión Nacional para el Mejoramiento de la Administración de Justicia* (CONAMAJ), the Public Defense and the MOL. The project expected to have the final version of the video by early March 2020.

**Outcome 3: Increase cooperation and collaboration among government institutions directly involved in protection of labor rights of workers**

**Background**

Outcome 3 was added to the revisited (and approved) project document in the fall of 2019, and seeks to unite efforts among the MTSS and the Courts. The main activity is the sharing of information between institutions, and to provide each other with information that is key to labor cases and any sentencing, such as wage calculations and MTSS resolutions; and to coordinate the information that is needed for inspection reports and cases that are brought to the courts through the MTSS system. The project anticipated that a better coordination will contribute to higher quality of sentencing for future cases, thus contributing to the protection of workers' rights.

Further, the project aims at reinforcing coordination and collaboration among the MOL and the Judiciary by supporting the implementation of one unified IT System between both institutions.

**Outcome 3 Findings**

As explained in EQ.9.d the project's inception phase was affected by a number of challenges that resulted in delays of several of the project's interventions. In this regard, the project has yet to start implementing activities related to increasing the cooperation and collaboration among

government institutions. To date, **no achievements can yet be reported** under this outcome.

**EQ.8 What are the key internal or external factors that limit or facilitate result achievement?**

There is a generalized agreement amongst different actors, which was underlined by both the Office of the Vice-Minister and representatives of the Judiciary, that the application of a "top down approach" by the project was a key limiting factor. It was felt that the project was designed mainly by the donor, without participation of the main local actors in the design. This has initially limited the acceptance of and ownership of the project.

Consensus also exists about the limitations in human resources and budget that project partners had dedicated to the project. Furthermore, as underlined by different informants, the limited capacities of trade unions were another factor, both in terms of technical, human, and budgetary capacities, as well as in the low levels of organization of workers in the agro-export sector, as recognized by the sector's trade union leaders.

Among the factors that contribute to facilitating project results, stakeholders mentioned FUNPADEM's availability and flexibility to accommodate the many different visions and interests of the different relevant stakeholders.

In this regard, the evaluators, during the field work stage of the evaluation, observed the high level of appreciation for and support to the project amongst the key stakeholders, including the Ministry of Labor, the Judiciary, trade unions and other actors involved in the project.

**EQ.9 a) How effective and efficient are the project's strategies?**

The evaluators recognize the efforts of the project management, to reformulate the ProDoc in the course of 2019, and have taken note that this has been a lengthy process, involving multiple consultations with stakeholders, in an attempt to not only reflect the many changes that have occurred, but also the many challenges, related to both the context as well as the project itself. The evaluators acknowledge that the multiple challenges in the project's context, are beyond the control of the project, but required modifications to and delays in the activities that were foreseen. The challenges combined prompted the need for the reformulation process, which was completed and approved by USDOL in November 2019.

As part of the inception stage of this evaluation, the evaluators carefully reviewed the ToC and accompanying Results Framework on which the program was based. The ToC and Results Framework were designed in a complex manner, with multiple levels of outcomes and a high number of outputs and activities.

The project logic is based on four pillars with the explicit recognition that the interventions related to each of these pillars *mutually complement and reinforce each other:*

1. Strengthened capacities and awareness within the MOL (specifically the DNI, the DAL, and the DTI for improved identification and legal action on violations of labor law provisions, specifically those related to minimum wage, hours of work, and OSH in three selected agro-export sectors.
2. Increased awareness and knowledge in workers and their representative organizations on workers' rights related to workers' minimum wage, working hours and OSH, specifically in the three selected sectors.

3. Increased levels of systemic cooperation and collaboration among government institutions, and with institutions involved in protection of labor rights of workers including judicial institutions).
4. Increased protection of workers' rights, evidenced through an increasing number of litigated cases in labor courts, addressing violations of regulations on minimum wage, hours of work and OSH especially in agro-export sectors.

In order to contribute to achieving these pillars, the following project interventions strategies were identified:

a. Strengthening the capacity of the labor inspectorate, judges, legal advisors and judicial facilitators on the identification and/or follow up on observed cases of violations of the regulations on workers' rights;
b. Strengthening the capacity of the MOL to improve the technical resources related to the DNI for a better quality of labor inspectorate services, and with regard to the regulation and governance of inter-institutional coordination with the judicial branch;
c. Improving the awareness in workers and their organizations regarding their rights as workers' and representatives' organizations, as well as on the forums available to them to discuss such violations, or to bring cases of alleged violations to the attention of legal services and mechanisms, and the respective authorities mandated to follow up on them;
d. Improving the knowledge base and capacity within the judicial system about the Reform Procedural Labor Code, in particular as it relates to the enforcement of workers' rights, through strengthened capacity of judges, lawyers, legal facilitators.
e. Strengthening cooperation and collaboration among government institutions directly involved in protection of labor rights of workers.

Generally speaking, and based on the desk review, and the interactions with key stakeholders during the visit, the evaluators can conclude that the project's strategies, especially those aiming at strengthening the capacities among different partners, are effective and efficient.

**EQ.9.b) What areas need improvement?**

Most informants consider that inter-institutional coordination (both at the central as well as at the local levels) is a key component that should eventually be achieved. In this regard, there is still much room for improvement of the effectiveness of coordination processes, not only at the central institutional level in San Jose for instance through the creation of a project Steering Committee), but also at local, operational levels for instance, through the creation of local steering committees .

On the other hand, there is widespread agreement among informants of the evaluation, that a "*judicialization* focus" requires and absorbs much of the time and resources (human, technical and economic) from the respective public institutions that are involved, and from the trade unions. It does however not necessarily directly lead to the restoration of workers' rights. As a result, consensus has developed amongst informants on the need for the adoption of an additional and complementary project focus, namely on the *prevention of conflict and conflict resolution between employers and workers.*

In this regard, the project might want to consider, as part of its current activities, the active promotion and discussion of prevention and conflict resolution processes between employers and

workers, as well as on how to promote the effective creation of spaces for such dialogue. If different stakeholders can come together in a conversation about such constructive dialogue, where solutions can be worked up in order to avoid conflicts in the agro-export sector, this can be an important step to contributing the better protection of workers' rights.

In addition, different project partners agree that the project would need to adopt explicit complementary project strategies for the inclusion of employers, as well as for the promotion of social dialogue, which would potentially lead to the prevention of violations of workers' rights and increase the effectiveness of the project's strategies.

On the other hand, several information sources point to the fact that the training process for trade unions would be more effective if they were structured on the bases of a "Training Plan" which would include relevant objectives (negotiation techniques, trade-unionism; collective bargaining etc.) as well as implementation strategies that are well adjusted to the different contexts in which the project interventions are taking place, and which are aligned with the needs of the respective workers' organizations.

Equally, due to the mobility of workers and high turnover rates of administrative staff, some stakeholders expressed that there was a need for tracking and following up on training, as to what kind of training has been provided to whom, and with what effect, and to include strategies to provide refresher trainings over time.

**EQ.9.c) What are the key strengths and weaknesses in project implementation?**

The different stakeholders that were consulted by the evaluation agreed that the main strength of the project has been FUNPADEM's capacity of dialogue, and the organization's ability to adjust the Project to the different institutional needs of project partners, as well as to the large variety in the (regional) contexts of the interventions.

However, several stakeholders stated, and the evaluator agrees, that the project was very ambitious, especially taking into account the highly complex environment, while trying to cover multiple, large, extensive geographic areas with very distinctive characteristics.

In this regard, the highly centralized structure of FUNDADEM can be considered a weakness: with the technical staff in San Jose and no local teams or focal points, due to budget limitations, there is not enough continued presence in the different regions where the project is implemented. Even if project staff regularly visits the interventions areas and provides relative close follow up processes for the activities, the absence of local project teams limits what could be provided through more intensive local support, especially in more remote areas.

**EQ.9.d) How has the project responded to changes in the implementing context?**

The project's inception phase took place in a context that was exceptional, highly unpredictable, and at times even volatile. This affected the enabling environment in which the already quite complex project was expected to be implemented.

There were changes in the National Government and Administration and the withdrawal from the project of one of the main trade unions (FENTRAG), which had initially been enlisted as a key implementing partner. This departure prompted a search for new project partners, who needed to be trained before they were fully operational as partners. In addition, there were important changes and turnover in project focal points and staff in both the MOL and the Judiciary which has repeatedly affected the projects effectiveness.

Additionally, the project staff at the donor agency went through changes. Finally, as mentioned above, the original project document (ProDoc) needed to be reviewed and underwent multiple adjustments resulting in a final reformulation  approved by the donor in November 2019).

Based on the document review, and confirmed by interviews with key informants, the challenging context described above has provoked considerable delay and/or rescheduling of most of the project's interventions. In this regard, the document review also confirms that although the project was approved in in December 2017, the project activities started only in October 2018. Thus, the *actual* project implementation schedule at the time of the present evaluation was approximately only 15 months.

Despite the many challenges and the shortened implementation time, several stakeholders agreed that the project has been quite flexible and has successfully adapted to the changing implementation contexts and has now reached full speed.

### 3.4. Sustainability

The current section examines whether a sustainability strategy has been defined; what steps have been taken to ensure sustainability; the extent to which the project's plans for sustainability are adapted to the local level, national level, and capacity/interests of implementing partners; as well as the risks or opportunities that are likely to limit or facilitate the sustainability of project results.

**EQ.10 To what extent has a sustainability strategy been defined, and what steps have been taken to ensure sustainability?**

Sustainability strategies have been developed in both the project document, and the "Likelihood of Sustainability Matrix". They are mainly related to the institutionalization and ownership of the capacity building interventions, as well as to courses and manuals, the development of materials that will need to be replicated and updated, and to the creation of networks to support stakeholders and promote inter-institutional coordination.

The evaluators have carefully assessed the current Sustainability Strategy. The team concludes that there is room for improvement and further clarification about the specific strategic choices that will need to be made by project management and project partners, to ensure that all activities and interventions that are undertaken are systematically and directly contributing towards the overall sustainability of outcomes and results.

In principle, it can be assumed that the completed training and knowledge transfer resulting from the activities undertaken under the project, can to some extent be considered to be sustainable. Interviews and focus group discussions confirmed that overall, stakeholders consider that the acquired knowledge has been and will be useful and will most likely be used for further action. However, this is mostly sustainable at an individual level, as it does fall upon the trained individuals to decide whether to act upon such individually acquired knowledge.

It would therefore be important for the project to define broader strategies that can in turn produce a process of "institutional knowledge transfer", such as "Training of Trainers" processes and /or the development of institutional training roadmaps. Proportionally speaking, there will be only a low percentage of individuals who will receive training under the project from amongst the labor inspectors, representatives of trade unions and staff and judges of the judicial branch. In order to add to sustainability, it will be important for the project to explore ways to ensure that the

knowledge from these trainings can become an integrated part of the institutional knowledge base.

Moreover, for trade unions, the training of union leaders is the project's priority focus. While this is an important strategy to ensure a potential "multiplier effect", it is also necessary to ensure that project strategies are in place that ensure that this knowledge in union leaders actually results in actions, and more specifically that these actions, following from the knowledge transfer will be effectively transferred/translated into further community/union actions that can generate actual benefits for the workers, in terms of the protection of their rights.

An extra risk to consider and mitigate in this regard is the high level of staff turnover in the different institutions, especially in the MOL, the judicial branch and trade unions.

The training of "judicial facilitators" by the project (currently pending , has the potential to contribute to enhance sustainability, as these facilitators could assume an important role in creating awareness on the regulations related to worker's rights, especially those related to minimum wage, working hours, and OSH, among workers. Facilitators could also assist with counseling workers in cases of violations or disputes; or facilitate mediation processes in order to settle labor disputes.

The limitations that were observed by the evaluators in the project's current design (focus on judicialization, non-inclusion of employers) can be considered as additional factors that affect the likelihood of sustainability of the project's results. However, if these limitations were addressed, this could potentially contribute to improving the project's contribution to the sustainability of its results.

To further improve the project's sustainability, it will be important to define the respective responsibilities of each of the project partners, the timeframe of execution of the respective activities, and the specific activities for each strategy  the who, when, and how . For example, knowledge, regulations and technology can be expected to evolve over time. Therefore, the apps, videos, campaigns and manuals that have been elaborated will likely require further adjustments in the future in order to not become obsolete.

Further, a sound project sustainability strategy  currently in development), including an exit strategy for the project, can help establishing the institutional ownership and also identify specific responsibilities of the different project partners that are related to the project at different levels, to ensure the necessary follow up and updates beyond the project's duration.

**EQ.11 To what extent are the project's plans for sustainability adapted to the local level, national level, and capacity/interests of implementing partners?**

The strategies that have been chosen appear to be aligned with the institutional capacities and priorities of the stakeholders that are currently involved in the project. However, project strategies will need to be further refined, with details as to how they will be applied, and how they will accommodate the different capacities of partners and stakeholders, and how they will address the respective knowledge gaps and needs of the target groups and stakeholders.

For example, there may be untapped potential for increased sustainability if there is more clarity about the process of transferring capabilities as part of a sustainability strategy for trade unions, and/or for other groups of workers in the sector. Adopting a formal training plan specifically for the trade unions, and with their inputs, could help the project management with the planning, implementation, monitoring and measurement of results. Such plans can be adjusted to local

circumstances and needs, and may also identify how the training may be replicated later on and how materials may potentially be re- used by stakeholders for additional training, even outside of the trade unions.

**EQ.12 Are there any risks or opportunities that are likely to limit or facilitate the sustainability (technical, financial, economic, social, institutional, and environmental of project results?**

Further changes in the leadership of the Ministry and Judicial Branch may potentially hinder the quick pace that is required to implement the remaining activities of the project. This is a factor that is beyond the control of the project.

Also, additional cuts in institutional budgets could prevent or threaten the continuation and sustainability of some of the project activities after the project is finished. This is why promoting inter-institutional ownership by means of a Steering Committee with stakeholders from across multiple institutions with a clear mandate and institutional leadership is crucial. Another serious risk is posed by proposed legislative changes such as a bill (21182).

The implementation of the Case Management System (SACIT by its Spanish Acronym poses both a risk as well as an opportunity at the same time. Initially, SACIT was designed to include different modules both online and offline for the collection, management and reporting of data from labor inspectors and legal advisors from the Labor Ministry. It also was expected to be linked to apps and modules that can be used by workers and the judicial system. However, this will require structural changes in the National Directorate of Inspection DNI), which can reasonably be expected to required time that will exceed the projects' timeline before it can be expected to be completely functional.

The main constraints to sustainability are insufficient human and financial resources in the MOL and the Judicial Branch, which are both considered understaffed and underfunded. In addition, in the case of some trade unions, the scarcity of technical capacities is also a concern.

Moreover, the project is operating in an environment that cannot be said to be fully conducive to achieve the intended project outcomes, which are considered very ambitious, especially considering the reluctance of the current Minister to assume full ownership of the project's objective.

It will thus be dependent on the project's ability to persuade key actors, and to persist with its planned activities, despite the many challenges that have presented themselves, and others that may occur, to continue with the strengthening of relevant institutional capacities in the stakeholders that are involved in the project.

In view of the relatively short implementation time, and the many challenges, it remains yet to be seen whether these capacities will actually lead to fully achieving the desired progress towards improved labor law compliance across the sector. The intended changes would require a generational cultural shift. Eventually, much will be dependent on the political will that exists at the different levels to promote, monitor and enforce the regulations.

# 4. LESSONS LEARNED AND PROMISING PRACTICES

## 4.1. Lessons Learned

*1. Top-down approach in the project design*

Whereas the project currently involves a wide range of national stakeholders in the implementation, the evaluators learned that the project design stage had not been sufficiently participatory and had followed mostly a top-down approach, this is, a donor-led project design. Relevant national stakeholders indicated that they had not been sufficiently consulted by the donor about the initial design of the project. This has resulted in the identified omissions in the design that, if not addressed, can be expected to affect the project's ability to contribute to effective change.

This had contributed to a lack of understanding amongst the multiple project partners during the first stage of the implementation, as stakeholders did not have a clear or complete picture of the overall project objective, nor of the purpose and scope of the different interventions that were foreseen, nor on how the different project strategies were expected to be applied in a complementary manner. To some extent, a lack of understanding was still noticeable during the field work.

There was limited involvement and ownership during the project's inception phase, especially from the part of the MOL and the judicial branch, which had further contributed to a situation where project staff had therefore been required to invest additional time in stepping up their information sharing efforts and networking with partners

In this regard, representatives from the MOL and the Judicial branch underlined that a more inclusive and participatory approach could potentially have resulted in a better and more realistic project design.

*2. A complex Theory of Change:*

The Projects Theory of Change is complex and, in its current format, fails to serve the purpose of allowing stakeholders to clearly and quickly grasp the project's main purpose, and the multiple processes of change to which the program intends to contribute. Similarly, the revised Results Framework remains overly ambitious and complex and also does not clearly identify the interdependence and complementarity between actions, nor does the Results Framework sufficiently identify that there is a hierarchy between actions, indicating which actions are priority actions that need to be undertaken first, before others can be undertaken place and how the intended outcomes can be achieved only as a result of the cumulative effect of such actions.

*3. Gender considerations*

The evaluators learned from the desk review as well as interviews with key stakeholders, especially with union representatives that, compared to their male counterparts, women workers in the Costa Rican agro-export sector are even more vulnerable to violations of their labor rights. However, this is not identified or described in the project documents, nor are they addressed throughout the project activities.

The lesson learned is that, if this gender inequality is clearly recognized in the project design as a cross-cutting issue, projects that address violations of worker's rights, including minimum wage, hours of work and OSH, could potentially be well placed to assume an important role in

challenging existing negative attitudes that may contribute to discrimination and inequality for women at work.

4. *Improving compliance with minimum wage, hours of work and occupational safety and health legislation in Costa Rica is a long-term objective*

Ensuring full compliance with regulations on minimum wage, hours of work and occupational safety would reasonably require not only more time than the limited project lifespan. but would also require additional resources; systemic transformations at all levels in/or related to the agro-export sector; and, not unimportantly, a strong political will and leadership, to create an enabling environment that is conducive to the promotion and strengthening of constructive social dialogue and collective bargaining processes (at the local, regional and national levels .

This in turn, requires the participation of strong unions and employers' organizations that are open for dialogue. The information and testimonies that have been collected by the evaluators during the evaluation field-work phase suggest however that in Costa Rica such conditions are not yet in place, specifically in the selected sector of intervention (agro-export).

5. *Alternative conflict resolution venues*

As already mentioned, one of the main pillars of the reform of the Labor Code was the strengthening of different venues of alternative conflict resolution; including, mediation and arbitration. It is also important to note that, according to the Procedural Labor Code, the outcome of mediation or arbitration process carries the same weight as a legal sentence, in the sense that parties are bound by the outcome and accordingly, they need to abide by it.

The evaluators also learned from stakeholders that there is much potential for many of the current labor disputes to be resolved outside of the courts.

6. *Coordination and collaboration among stakeholders*

So far, the project's interventions have been often conducted without significant coordination or cooperation among the different stakeholders. In this regard, the evaluators have been informed by stakeholders that interventions aiming at improving labor law compliance would demand joint approaches  both at the central and local levels) that would allow for the different agents to support each other's actions and to unite efforts.

7. *Collective labor agreements*

The evaluators learnt from a wide range of informants  including the Office of the Vice-Minister of the MOL as well as representatives from all the Unions consulted) that at a local level, there may be a lot of untapped potential for collective labor agreements in this sector.

Such agreements could be a very effective means to move towards improved compliance with labor regulations in the agro-export sector and across the regions, albeit on the condition that these are negotiated through bi-partite collective bargaining  involving both unions and the company management .

Further, they could largely contribute to enhancing labor law compliance as they can clarify and regulate specific terms and conditions at work. Agreements could be negotiated on, among others, wages and benefits; hours of work; OSH; non-discrimination, as well as a clear definition of duties of the employees and the duties and responsibilities of the employers. Further, such agreements could include specific regulations for dispute resolution processes, in the event that a work-related conflict or disagreement would occur.

In this regard it is worth mentioning that several unions (e.g. SITRAP, SINTRAICA, SITRACHIR and SITRAGAH) already have experience with managing the negotiation of collective agreements with their respective employers in the sector.

## 4.2 Promising Practices

*1. FUNPADEM's flexibility to adapt to change*

FUNPADEM, in collaboration with Partners of the Americas has adapted to the many context changes as well as to the varying needs and demands of stakeholders, which has been instrumental to support project implementation, which is considered a good practice.

FUNPADEM's continued engagement in negotiation processes with key stakeholders, and its willingness to adjust and reformulate the program in view of changing circumstances is a demonstration of its dedication to the project. FUNPADEM also has provided innovative modifications and proposals for alternative routes when initial plans needed to be changed, as new information became available (for example on a pre-existing training plan in the MOL).

Moreover, the Project was able to accommodate  to the extent possible) the needs and demands of the MOL and the judiciary, as well as to adapt to finding suitable solutions for labor inspection training (UISIL .

In addition, FUNPADEM reached out to unions and CSOs that are scattered across the country. After listening to such stakeholders, and upon identifying differences in contexts as well as context- specific needs, FUNPADEM was able to address some of these concerns by adapting the project support to these different needs and contexts.

An innovative approach to reaching the more remote areas was elaboration of videos as a way to complement/improve the traditional outreach and awareness raising activities/awareness rising that are foreseen. This was found to be potentially useful among illiterate or low skilled workers who may otherwise not benefit from the training material. Finally, the addition of judicial facilitators to the project activities in rural areas may result in more outreach in these areas.

*2. Recognizing the varying roles of different partners*

The project has brought into play various government and social actors in supporting progress towards the achievement of the project goals. The local and national actors involved include representation from the MOL, the Judiciary, Unions, Civil Society Organizations, Municipalities, etc. The promising practice identified by the evaluation is that, by recognizing the different and complementary roles of the different partners, the project itself did not aim to design new or additional roles for partners, but instead **focused on supporting them in their respective mandates or on facilitating their actions in order for them to perform their tasks more effectively**. This was done, for example, by providing targeted training for labor inspectors, public defenders, judges and union representatives, providing each of these groups with knowledge that was suitable for their respective roles and mandates.

*3. Training needs assessment for Judiciary*

The project undertook a needs assessment in order to identify the extent of gaps in the knowledge on the RPL among judges in the labor courts. The results of this assessment guided the training curricula and the training delivery strategies  in this case through mobile device apps). This is considered a good practice that should be extended to all training processes envisaged by the project (please refer to recommendation #5 .

*4. Adding judicial facilitators to the project*

In a context where there is a scarcity of available financial and human resources for labor inspection, especially in rural areas, with a limited presence of public defenders and a low presence of unions and/or low levels of unionization of workers, the addition of judicial facilitators to the project can be considered a promising practice.

Judicial facilitators 645 across the country are volunteers who are elected in public and democratic assemblies, and their mandate is to contribute to promoting good relations in their communities. Also, working in coordination with and under the supervision of local judges they are responsible for providing information on the judiciary services and court proceedings that are available; and they also can be called upon to act as mediators in labor disputes. There is thus potential for the inclusion of additional judicial facilitators in the project as additional assets to the project.

# 5. CONCLUSIONS AND RECOMMENDATIONS

This section presents the evaluation team's conclusions about the project's performance with regard to each of the evaluation criteria. The team also makes recommendations based on the evaluation findings presented in Section 3 and the lessons learned and promising practices presented in Section 4.

## 5.1 Conclusions

### 5.1.1 Validity of Project Design

While the Project's theory of change appears to be sound, it does seem overly complex, and the evaluators believe that the underlying logic of the intervention does not hold well for a number of reasons: as will be explained, "a higher number of cases before the courts" might not, it in itself, result in in "better outcomes in terms of protection of workers' rights".

Further, two other design related elements that may need further attention, appeared consistently in interviews and focus groups: a) there is an identified gap in terms of prevention of conflicts between workers and employers, and a need to strengthen the preventive and mediation focus in the project; and, b) related to the first point, open lines of dialogue with relevant employers were missing, which implied a need for the project and its partners to establish such lines of dialogue with relevant employers.

The evaluators also concluded that significant improvement of the compliance with regulations on workers' rights requires long-term complex change processes that will, most likely, require significantly more time than the duration of the project.

### 5.1.2 Relevance

Through the analysis of primary and secondary data, the evaluators found that the services provided by the project do indeed accurately respond to the needs of the three main target groups: the individual workers, as well as the two main institutions (MOL and the Judiciary .

The project was also found to be relevant with regard to the current cultural, economic, and political context in Costa Rica; as well as to actual priorities and policies of both the Government and national stakeholders.

However, despite the project's overall high level of relevance, some interviewees (mostly union representatives) pointed to a perceived lack of consideration by the project with regard to the specific challenges faced by female workers in the agricultural sector.

### 5.1.3 Effectiveness and Efficiency

Considering that this is a mid-term evaluation it was found that the project has started to make some contributions towards the strengthening of the MOL's capacity and as well as the capacities of workers to address violations of their labor rights. The project also contributed to some exchanges between the MOL and the judiciary regarding coordination on case management, although, very little has yet been achieved in terms of strengthened *inter-institutional* coordination.

The project supported the MOL with contributing to the development of a protocol on Labor Inspection and Manuals for Labor Inspectors on Minimum Wage and Working Hours. In addition, the project initiated a process aiming at the optimization of the MOL's one-person offices. The project also delivered an OSH workshop for labor Inspectors and is currently in the process of

negotiating a contract with the *San Isidro Labrador International University* (UISIL) to train 45 labor inspectors in OSH; further, FUNPADEM has agreed to provide support to the Labor School in the implementation of its National Training Plan for the Labor Inspection.

The project is also supporting workers by providing training to selected unions and workers to increase their knowledge and abilities to detect labor law violations; how to file complaints; and how to access free legal counsel.

However, as confirmed by key stakeholders through interviews and focus groups, there is still ample room for the improvement of the capacities of the MOL and of workers' organizations *to effectively manage worker complaints on minimum wage, hours of work, and OSH violations and to file these complaints, so that these can be addressed by the judicial system*.

Further, qualitative information conveyed by key stakeholders along with data gathered through the document review that was undertaken, indicate that, despite the positive developments that have occurred during the project's implementation, so far the project's effective contribution to *improving the compliance with minimum wage, hours of work and occupational safety and health legislation in Costa Rica* has yet been limited. Several stakeholders opined, however, that this is a long-term objective, the achievement of which will, most likely, take longer than the project's implementation period. In other words, it was found that the country context is currently not yet conducive to achieve the intended outcomes, which are considered very ambitious, and that the intended change would require a generational cultural shift.

### 5.1.4 Sustainability

Sustainability strategies have been developed in both the new project document and the Sustainability Matrix. These appear to be aligned with the institutional capacities and priorities of the stakeholders that are currently involved in the project. However, there is yet ample room for improvement and further clarification of specific strategic choices that project management and project partners will need to make, in order to be able to contribute towards the overall sustainability of outcomes and results.

The evaluation identified some risks that are likely to limit or facilitate the sustainability of project results: changes in the leadership of the Ministry and Judicial Branch; additional cuts in institutional budgets; a financial crisis or slowdown of the global economy (such as for instance the current coronavirus pandemic); proposed changes in labor legislation that may potentially negatively affect the protective legislation framework.

The implementation of the SACIT poses both a risk as well as an opportunity at the same time, as it will (eventually) largely improve the case management process; but, at the same time, it will require structural changes in the National Directorate of Inspection (DNI), which can reasonably be expected to require time beyond the duration of the project.

The main constraints to sustainability are insufficient human and financial resources in the MOL and the Judicial Branch, which are both considered to be understaffed and underfunded. In addition, in the case of some trade unions, the scarcity of technical capacities is also a concern.

In view of the relatively short implementation time, and the many challenges encountered, it remains yet to be seen whether strengthening of relevant institutional capacities in the stakeholders that are involved in the project will actually lead to fully achieving the desired progress towards improved labor law compliance across the sector. Eventually, much will be

dependent on the political will that exists at the different levels to promote, monitor and enforce these regulations.

## 5.2 Recommendations

### *1. Participatory project design processes*

**Addressed to: USDOL-ILAB**

Project design processes should be based on participatory national consultation with all key stakeholders and the process should involve ILAB and the Grantees  where appropriate). The design should also take into account the different  national/local  contexts and specific (country/local) needs, the specific risks and limitations, including technical and financial resource constraints in a particular region or/and intervention context and at all levels.

Undertaking early consultation through participatory processes with national stakeholders  even those not involved in the actual project implementation) is crucial, and so is the continued participation of all partners during the implementation stage. The Ministries of Labor, the employers' and workers' organizations; CSOs  among others) typically have key roles in ILAB funded projects as they usually are jointly responsible for project implementation and monitoring.

Increased participation of relevant national stakeholders in the project´s design would most likely increase the degree of their understanding and ownership of the project. In turn, this would potentially contribute to increased relevance, effectiveness, impact and sustainability.

### *2. Realistic Theories of Change and Results Frameworks*

**Addressed to: USDOL-ILAB**

Project designers should consider elaborating clear, intelligible and realistic Theories of Change and Result Frameworks so that both accurately reflect the actual intended change processes to which a project would be able to effectively contribute. Result Frameworks should include those activities, outputs and outcomes that can reasonably be expected to be realized within the project´s context, time frame and resources.

### *3. Grant the project a no-cost 6-month extension implementation period*

**Addressed to: USDOL-FUNPADEM**

The evaluators recommend that USDOL consider, in consultation with FUNPADEM, granting the project a no-cost extension implementation period of six months, in order to compensate for the delays  caused by factors out of the project's control  during the inception phase, and to ensure that the Project will have sufficient time to conduct all the planned activities, as per the newly approved PRODOC; to culminate all intended processes, as well as to maximize the effectiveness, impact and sustainability prospects.

### *4. Initiate a dialogue with employers and explore possibilities for their inclusion in the project*

**Addressed to: USDOL, FUNPADEM and Project Partners**

Initiate a dialogue (where and when appropriate) with relevant employers in the sector and explore options for their inclusion in the project. Some stakeholders who were consulted opined that the project may consider reaching employers for instance, by promoting awareness about the role of the MOL; by training employers in OSH-related aspects and regulations; or by sponsoring local-

level, bi-partite (unions and employers) initiatives and processes that can encourage the initiation and/or reinforcement of social dialogue and collective labor agreements  where appropriate .

5. ***Greater emphasis on alternative dispute resolution to mitigate labor-related conflicts between employers and workers.***

**Addressed to: USDOL, FUNPADEM and Project Partners**

Based on the recommendations from the RPL, and with the agreement of the Ministry of Labor, and the judicial branch  including judges, magistrates, lawyers from the Public Defense, and CONAMAJ) the project should consider taking decisive steps to strengthen measures that are geared towards prevention and alternative conflict resolution  such as mediation and arbitration) in order to mitigate and address potential conflicts related to violations of workers' rights, that may occur between workers and employers

6. ***Capacity development strategies for Unions***

**Addressed to: FUNPADEM and Unions**

There is a large demand for (project- related) capacity development for the participating unions. However, the actual capacity gaps may vary across the institutions. For example, in some cases these are related specifically to social dialogue and collective bargaining; while in other cases, the union's basic technical capacities may need to be reinforced.

In this regard, based on sound needs assessments, FUNPADEM should continue with the further development of differentiated capacity development strategies to unions by determining  i) a realistic prioritization of capacities that need strengthening in order to achieve the planned results under the remainder of the project (ii) for what specific purpose is such training required and how does this contribute to the overall project objective,  iii) which capacities should and can be developed in the remaining time frame; and (iv  how can this capacity development most effectively be delivered.

This also would include tracking who has been trained under the project, as well as, what "refreshing" sessions may need to be undertaken, if relevant and feasible. Also, it is recommended that FUNPADEM track the capacity development efforts of other institutions, e.g. ILO or the Solidarity Centre, in order to avoid overlap and ensure efficiency and complementarity.

7. ***Train MTSS regional staff on how to resolve worker complaints***:

**Addressed to: USDOL, FUNPADEM and the MTSS**

In order to further protecting workers in a timely and fair process, it is recommended to train MTSS regional office administrators or chief inspectors on how to resolve worker complaints at the lowest regional level with worker and employer participation. This mechanism promises the most potential to protecting workers in a timely and fair process.

8. ***Capacity transfer within the MOL and the Judiciary***

**Addressed to: FUNPADEM, the Office of the Vice Minister of Labor and the Judiciary**

The Project, in close coordination with the MOL and the Judicial Branch should plan capacity transfer strategies to be potentially implemented by these institutions themselves for their own staff and partners. For instance, applying training of trainers  TOT  approaches with labor Inspectors to be trained at UISIL; or by revising their existing institutional capacity development

plans and complementing them by introducing and/or updating their contents with subjects already developed by the project.

***9. Redoubled efforts to promote enhanced coordination among implementing partners and other key stakeholders***

**Addressed to: FUNPADEM and Project Partners**

FUNPADEM should redouble its efforts to promote enhanced coordination among implementing partners and other key stakeholders.

Also, FUNPADEM should adopt efforts to promote, coordinate and capitalize on synergies with other relevant institutions that have competences in labor issues, for instance the *Caja Costarricense de Seguridad Social* CCSS) – Social Security-; the *Instituto Nacional de Salud* (INS – National Health department; or the *Registro Civil* -Civil Registry.

***10. Institutional Implementation of the Case Management System SACIT***

**Addressed to: FUNDPADEM and the Office of the Vice Minister**

The donor has been working with FUNDPADEM and the Vice Minister's office to provide support for modernizing the SACIT. The project team is working to develop more of a technological innovation strategy comprising more tools and actions for case management, including tools for employers and workers. FUNDPADEM should help the MTSS visualize SACIT not as the solution to all problems, but as a tool to aid them in the management of their work, and as a tool for institutional change.

***11. Sustainability Plan***

**Addressed to: FUNPADEM and USDOL**

In an effort to strengthen and complement the current Sustainability Matrix, it is recommended that FUNPADEM should continue with its efforts to finalize a systematic and detailed Project Sustainability Plan, and that the plan take into consideration what results and outcomes have already been achieved thus far, as well as the anticipated challenges, the status of the "enabling environment" in the country, including institutional capacities, available resources and political commitment.

The plan could describe what exactly should be expected to be sustained, who will sustain it and how it will be sustained beyond the duration of the life of the project, with a well-defined timeline. This would include specific project interventions and their expected results, systems or procedures that are to be developed and implemented during project implementation; and an identification of which specific institutions will be expected to be responsible for sustaining such results; as well as an explanation as to where the financial and human resources that are required to ensure sustainability will be expected to be coming from.

Of particular importance in this regard, as part of the sustainability plan, is the *exit strategy,* which is currently being developed by the project team. Exit strategies typically identify how the gradual transfer of responsibilities/capacities from a project to national local institutions or networks would be conducted/embedded in these local structures from early on, with support from the project during its implementation, but with the clear understanding that there may be no continued support beyond the duration of the current project.