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This evaluation has been conducted according to ILO's evaluation policies and procedures. It has not been professionally edited, but has undergone quality control by the ILO Evaluation Unit.

Some confidential information has been omitted (Aug. 2021).

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1. Executive Summary

Afghanistan has witnessed more than three decades of war and internal conflicts that have adversely affected people's livelihoods, and severely disrupted the entire social fabric of society. The labour law in Afghanistan does not comply with international labour standards. The labour administration is inadequate to effectively implement the law, lacking mechanisms including sufficient labour inspection and dispute settlement procedures. Tripartite constituents have little awareness about social dialogue regarding fundamental principles and rights at work.

Since July 2011, the International Labour Organization has been implementing the project "Strengthening Labour Law Governance in Afghanistan" (SLLGA), a project funded by US Department of Labour with a budget of US\$600,000. The project was designed to seek four outcomes:

- (1) A reformed labour law administrative machinery at the central level and in selected provincial offices
- (2) A set of revised labour laws and regulations in line with international labour standards
- (3) Mechanisms for labour law implementation, such as labour inspection and dispute settlement
- (4) A tripartite consultative structure for effective social dialogue between representatives of government, employers and workers.

This is an independent final evaluation of the project. The primary clients of the evaluation are ILO Afghanistan Office, RO-Bangkok, key constituents, donor, DWT-New Delhi and LAB ADMIN at ILO HQ. Its purpose is to document key achievements, challenges, lessons learned and good practices for future programmes and projects. The evaluation was carried out over 24 working days from mid September to end January 2015. It looked at project activities implemented from July 2011 to October 2014. The geographical scope of the evaluation is generally limited to Kabul, although some project activities were carried out in the provinces. Due to fiscal constraints, the decentralised perspective has not been included. The evaluation methodology involved a desk review of project documents and reports, as well as in depth interviews and focus group discussions with a range of stakeholders in Afghanistan, Delhi, Bangkok, and Geneva. Primary and secondary data were analysed and compiled into a draft report into which various stakeholders provided input.

The evaluation found that the project was relevant and well suited to the policies and priorities of the ILO and its counterparts in Afghanistan. It has been especially relevant for addressing the needs of the social partners, for national priorities identified in the Afghanistan National Development Strategy, for ILO priorities identified in the Decent Work Country Programme, and for UN priorities identified in the UNDAF.

Furthermore, the project has been effective in many ways. The project has empowered the tripartite constituents to engage in ongoing social dialogue with respect to labour issues, including the drafting of the new labour law and regulations. Moreover, the project helped to raise awareness of the general public, the government and the social partners about fundamental rights and labour issues. In addition, it laid the groundwork for the tripartite constituents to train their staff and members in Kabul and beyond in what they learned in the

labour standards workshops. It drafted a new labour code and three regulations relating to the tripartite consultative body, labour inspection and dispute settlement.

Regarding efficiency, the project did its best to economically convert resources into results in challenging circumstances. Examples of this include the creative solutions regarding human resources/security, seeking a no cost extension of time, and following up on delayed project activities with ILO funds. Difficulties with respect to implementing all project activities in a timely manner may be explained by the over ambitious project design regarding the number and types of activities that could be implemented in a fragile state context in a project lifetime, and by the delays related to the election cycle.

Regarding impact, there have been several positive effects which can be causally linked to the project's interventions, namely the increase in complaints lodged at the MOLSAMD – demonstrating the increased awareness of labour rights and obligations; and the ongoing workshops for tripartite constituents in the provinces - which shows the positive impact of the training of trainer workshops and the sustainability of the capacity building activities.

As for sustainability, the benefits of several activities under the project are likely to continue after donor funding has been withdrawn. Strengths include the continuation of social dialogue between the tripartite constituents through the Working Group for Labour Law Reform and ongoing training of social partners in the provinces. Weaknesses include the relevant approvals beyond the Ministry of Labour required for the passing of the revised labour code and regulations. Sustainability of the law reform aspects of the project should be addressed by a phase two of the project, or by continuing support and advocacy on the part of the ILO and the MOLSAMD in the absence of a phase two of the project.

Three good practices emerged from the project: (1) the use of labour law reform as a vehicle to support tripartite social dialogue in order to consolidate peace in fragile states (2) provision of ILO technical expertise in fragile states; and (3) South South capacity building for labour inspectors.

Several lessons may be learned from the project. First, good project design is essential for the implementation, monitoring and evaluation stages of the project cycle. Second, ILO operations in fragile states need to be backed up with adequate security, logistics, and quick decision making and action. Third, women's participation needs to be emphasised in male dominated societies in order to overcome deep-rooted cultural obstacles. Fourth, fragile states need legislative reform as well as employment generation. Fifth, ILO projects in fragile states would benefit from an International Project Manager as well as a National Officer.

The following recommendations have been made to various ILO stakeholders, the tripartite constituents and donor.

Recommendations regarding project design:

1. Continue to design labour law reform and labour administration reform projects in fragile states where appropriate. Also consider simultaneous employment generation projects.
2. When designing fragile state employment creation projects, emphasise the priorities and needs of national stakeholders and beneficiaries rather than donors,

and be guided by the UN Policy for Post-Conflict Employment Creation, Income Generation, and Reintegration 2009.

3. Design prodocs with baselines to measure progress, or include a baseline study as an activity of the project. Avoid committing things beyond the project lifetime and to be clear in the logframe what is controllable. Donors may consider including this as a requirement for future funding of ILO programmes.
4. When designing ILO law reform projects, adequately analyse whether objectives and timeframes are attainable and realistic. Consider the timing of the political cycle and its impact on the likely processing or stalling of law reform.
5. Ensure that project design documents adequately analyse risks associated with implementing in a fragile state environment (security, political cycle, conflict, etc.) and include a risk management strategy.
6. Design adequate monitoring plans with baseline data, data disaggregated by sex and other categories, and greater integration of indicators.

Recommendations regarding project implementation

7. Seek no cost extensions of time if there are delays in implementation. Follow up on delayed project activities with ILO funds if project has come to a close.
8. ILO management should consider taking measures to reduce bureaucratic inertia of technical cooperation support structures through faster procedures, greater flexibility, and more decentralized management.
9. Sustainability of the law reform aspects of the SLLGA project should be addressed by a phase two of the project, or by continuing support and advocacy on the part of the ILO and the MOLSAMD in the absence of a phase two of the project.
10. Consider forming voluntary codes of practice which are consistent with the labour law reform, as an interim measure pending enactment of new labour instruments

Recommendations for ILO working in fragile states

11. Consider using labour law reform as a vehicle to support social dialogue as a means of consolidating peace in fragile states. Sustainability will mostly need to be ensured by a second phase of a project.
12. ILO operations in fragile states need to be backed up with adequate security and logistics, as well as quick decision-making and action. (1) Avoid incorporating activities that would require prolonged stay of international experts in-country. Otherwise, try to target relatively safe provinces outside of conflict zones to conduct training of trainers workshops and rely on local counterparts to replicate in other places. (2) Be aware of the seasonality of armed conflicts, which are more plentiful from spring to autumn but calm down under the snow in winter. Try to bring more missions during winter time. (3) When security risk precludes incoming missions, conduct meetings or training workshops in nearby countries or through Skype and video conferencing. (4) Consider the timing of the political cycle and its potential impact on project implementation.

Recommendations regarding gender equality:

13. Project design should mainstream gender in the situation analysis, the project goals, outputs, indicators, and monitoring and evaluation framework. Sex disaggregated data should be included in the situation analysis, baseline data, and indicators so that gender equality outcomes may be monitored throughout the project and properly evaluated in the midterm review and final project evaluation. Consider including these elements in a project document template.
14. Women's participation can be encouraged (1) through a quota (2) by advocacy at senior management levels in tripartite organisations (3) by inviting members of the women's movement to participate (4) by requiring women's representation in tripartite bodies (5) by raising awareness about women's labour rights and non-discrimination thereby highlighting the reasons for encouraging women's participation.

2. Project Background

Afghanistan has witnessed more than three decades of war and internal conflicts that have adversely affected people's livelihoods, and severely disrupted the entire social fabric of society.¹

The labour law in Afghanistan does not comply with international labour standards. The labour administration is inadequate to effectively implement the law, lacking mechanisms including sufficient labour inspection and dispute settlement procedures. Employers and workers have little awareness about social dialogue regarding fundamental principles and rights at work.²

Since July 2011, the International Labour Organization has been implementing the Project "Strengthening Labour Law Governance in Afghanistan", a project funded by US Department of Labour (USDOL) with a budget of US\$ 600,000. The project was designed to seek four outcomes:

- (1) A reformed labour law administrative machinery at the central level and in selected provincial offices for more effective provision of services
- (2) A set of revised labour laws and regulations in line with international labour standards, which ensure an equitable balance between the need to foster productivity and employment creation and protect workers' rights and employment security
- (3) Mechanisms for labour law implementation, such as labour inspection and dispute settlement
- (4) A tripartite consultative structure for effective social dialogue between representatives of government, employers and workers.

In effect, the project has revolved around the first two outcomes, with the third and fourth being subsumed into the first outcome.

The major activities of the project include the following:

- Output 1 – improved labour administration
 - A needs assessment of the MoLSAMD
 - Establishing the practice of institutionalised national social dialogue
 - Strengthening the Department for Improving Working Conditions in the MoLSAMD
 - Revising the system for dispute settlement
 - Revising the system for labour inspection
- Output 2 – revised labour laws
 - Comprehensive assessment of labour laws and regulations
 - Building the capacity of tripartite social partners to effectively participate in labour law reform

¹ International Labour Organisation, Decent Work Country Programme 2010-2015, p 1.

² International Labour Organisation, Decent Work Country Programme 2010-2015, p 6. In the design phase of the project, the ILO conducted a workshop for the social partners regarding their short and long term priorities. Labour law reform, labour administration and dispute settlement were the top three priorities to be addressed as identified by the social partners.

- Agreement with social partners on the major principles for labour law reform
- Drafting a new legal framework, including a new labour law, in consultation with the tripartite social partners
- Regulations for three administrative units submitted to MOJ (tripartite High Labour Council, Labour Inspectorate, Dispute Settlement Unit)
- Developing a Handbook on Islamic Labour Law Principles and International Labour Standards
- A publicity awareness raising campaign and training for the labour law, the Islamic labour law principles and International Labour Standards
- Development of a list of hazards for child labour
- Training on labour law and international labour standards.

The ILO is the executing agency. ILO's partners in this collaboration are the Afghan Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD), the Afghanistan Chamber of Commerce and Industry (ACCI), the Workers' Organizations and civil society.

3. Evaluation Background

This is an independent final evaluation of the project "Strengthening Labour Law Governance in Afghanistan". Its purpose is to document key achievements, challenges, lessons learned and good practices for future applicable programmes and projects. It aims to:

- Review the performance of the project towards achieving its target objectives and outputs, considering relevance, effectiveness, efficiency, impact, and sustainability of the project
 - Determine whether the project has achieved its stated objectives and explain why/why not
 - Consider the extent to which it has contributed to the priorities of Afghanistan DWCP and national development goals
 - Review the extent to which the project has addressed the midterm evaluation's recommendations
- Determine the impact of the project in terms of sustained improvements achieved and long term benefits to target groups
- Provide recommendations on how to build on the achievements of the Project and ensure that is sustained by the relevant stakeholders as well as identify results that could be emulated in other projects
- Document lessons learned, success stories, and good practice in order to maximize the experiences gained.

This evaluation was carried out over 24 working days from mid September to end January 2015.

The evaluation looked at all project activities implemented from July 2011 to October 2014. In particular the evaluation examined the impact of project activities on establishing a more effective labour inspection system, establishing a national tripartite body and a new system of labour dispute settlement. The evaluation took into consideration the project duration, existing resources and political environmental constraints. The evaluation is framed by ILO's corporate

strategy³, and initiatives that promote fundamental principles and rights at work. It bore in mind the especially difficult operational context that applies in Afghanistan.

There are several limitations in this evaluation. The geographical scope of the evaluation is generally limited to Kabul, although some project activities were carried out in the provinces. Due to fiscal constraints, the decentralised perspective has not been included. The Terms of Reference explicitly excluded interviews with stakeholders outside Kabul. In consideration of the heightened security concerns surrounding the Presidential elections in 2014, which coincided with the timing of the evaluation, it was decided that a field mission to conduct interviews with stakeholders in Afghanistan would not be possible. Due to the lack of videoconference facilities in the provinces outside Kabul, it was not possible to remotely interview stakeholders in those areas. However video conference facilities in Kabul allowed for remote interviews with stakeholders in the capital. The limited geographical scope of the evaluation was considered unavoidable due to security concerns.

Moreover, because all interviews have been conducted via Skype and video conference, the evaluation has not benefitted from the types of observation inherent in field missions, and one must bear this limitation in mind. Other limitations of the evaluation include an apparent lack of sex-disaggregated data and very limited gender analysis in project documents, which may inhibit a comprehensive gender evaluation as required by ILO templates for final evaluations. Finally, language was a barrier with most local stakeholders and an interpreter was used.

The evaluation had three phases.

Phase 1: Desk reviews and preparation of inception report - 15-26 September 2014

A desk review was carried out based on project documents and materials provided by the ILO Office in Afghanistan. The desk review process included email and phone contact with the project backstopping official/s in the DWT and DIALOGUE, LAB/ADMIN and with the ILO Afghanistan and the SLLGA Project team.

The overall aim of Phase 1 was to draw tentative conclusions on the key issues and to identify matters for particular attention during Phase 2.

Phase 2: Interview (phone/skype) with ILO constituents, donor, and key project partners – 29 September-15 November 2014

Phase 2 involved phone and skype one-on-one and group discussions with ILO and locally based project staff, consultants who have worked on the project, project partners, and key project stakeholders.

³ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_102572.pdf ILO (2009), *Strategic Policy Framework 2010-15: Making decent work happen*. The strategic framework has four objectives: (i) create greater opportunities for women and men to secure decent employment and income; (ii) strengthen tripartism and social dialogue; (iii) enhance the coverage and effectiveness of social protection for all; (iv) promote and realise standards and fundamental principles and rights at work.

Phase 3: Report drafting and finalization – 17 November-22 December 2014

This phase was primarily concerned with drafting and finalising the evaluation report. It also included on-going email and phone contact with the project backstopping official/s in the DWT and DIALOGUE, LAB/ADMIN and with the ILO Afghanistan and the project team and others as necessary.

The primary clients of the evaluation are ILO Afghanistan Office, RO-Bangkok, key constituents, donor, DWT-New Delhi and LAB ADMIN at ILO HQ.

4. Methodology

a) Evaluation criteria

The evaluation has addressed the following evaluation criteria:

- **Development Effectiveness:** The extent to which the project's objectives and intended results were achieved
- **Resource Efficiency:** The extent with which resources were economically converted into results, including mention of alternative more cost-effective strategies when applicable
- **Impact:** Positive and negative, intended and unintended long-term effects
- **Relevance:** The extent to which project interventions met beneficiary requirements, country needs, global priorities and partners' and donors' policies
- **Sustainability:** The immediate benefits and probability of continued long-term benefits after the project has ended
- **Tripartism and Partnerships:** The extent to which the capacity of the ILO tripartite constituents and key partners has been improved and able to address labour administration challenges, what has been their roles in the project implementation
- **Gender:** the evaluation has integrated gender equality as a cross-cutting concern throughout its methodology and all deliverables, including the final report.

b) Evaluation methods and data collection instruments

To strengthen the credibility and usefulness of evaluation results, the evaluation has used a mix of data sources collected through multiple methods. This has included primary data, which was collected directly from stakeholders about their first hand experience with the intervention. This data was collected through interviews, focus group discussions, and some observation. It also included secondary data consisting of documentary evidence that has direct relevance for the evaluation, such as nationally and internationally published reports, project documents, monitoring reports, previous reviews, country strategic plans, and research reports. This data was collected through a desk review of project documents and other relevant materials. The desk review forms part of the inception report, which is annexed to this document. Qualitative data gathered directly from stakeholders was used to verify the secondary data.

The evaluation methodology included multiple methods with analysis of both quantitative and qualitative data, where possible. It included the following:

- A desk review of project documents and relevant materials;

- Presentations /inductions with available staff who worked under the project, key stakeholders and partners to the project explaining the process, methodology, objectives and principles of the participatory evaluation;
- Interviews with project staff, project partners, constituents and key project stakeholders;
- Interviews with the backstopping officials in the DWT and DIALOGUE, LAB/ADMIN;
- Analysis of data, including sex disaggregated data, and gender analysis
- ILO constituents and key stakeholders including the donor were involved in the implementation of the evaluation including providing inputs to the TOR and the finalization of the report.

Stakeholder participation was sought through the following:

- formal consultations at the outset of the evaluation
- their review of the draft report
- their input into the final report
- consultations included all tripartite representatives
- consultations with women and men stakeholders
- interviews with direct recipients of project services, including the Ministry of Labour, and social partners
- interviews with key project staff and backstopping staff at regional and headquarters levels.

The security situation in Kabul surrounding the elections in 2014 limited the possibility of a field mission to conduct interviews. Therefore, interviews were conducted via Skype and video conference. The evaluator therefore has not benefited from the types of observation inherent in field missions, and one must bear this limitation in mind. Moreover, the Terms of Reference explicitly excluded interviews with stakeholders outside Kabul, so this perspective has been omitted. Other limitations of the evaluation include an apparent lack of sex-disaggregated data and very limited gender analysis in project documents, which inhibited a comprehensive gender evaluation as required by ILO templates for final evaluations.

The evaluation was carried out in line with the norms, standards and ethical safeguards as elaborated upon in the document “Standards for Evaluation in the UN System”, United Nations Evaluation Group, 2005.

c) Key evaluation questions

The following are key evaluation questions, as drawn from the Terms of Reference:

1. What are the main achievements of the proposed revision of the legal framework, and in particular the Labour Code and the regulations and what further work is needed to achieve the reform of the labour laws?
2. How consistent was the Afghanistan Ministry of Labour in implementing the project action plan and achieving institutional reforms?
3. Has tripartite social dialogue been strengthened?

4. Did the project assist in reviewing the dispute settlement system as well as the labour inspection system?
5. What are the possible impacts and the sustainability of activities undertaken and where possible, identify indicators of long-term impact.
6. What are important lessons learned or any possible good practices?

5. Findings

The Strengthening Labour Law Governance in Afghanistan project has been assessed for its relevance, effectiveness, efficiency, impact and sustainability, in addition to the key evaluation questions indicated above.

A. Relevance

*The extent to which project interventions met beneficiary requirements, country needs, global priorities and partners' and donors' policies.*⁴

The Strengthening Labour Law Governance in Afghanistan (SLLGA) project was relevant and well suited to the policies and priorities of the donor – the U.S. Department of Labour, the International Labour Organisation (ILO), and its counterparts in Afghanistan.

The project was relevant because it contributed to national priorities as identified in the United Nations Development Assistance Framework (UNDAF). The Afghanistan National Development Strategy (ANDS) charts how the government and its partners meet the country's development needs. The UNDAF in support of the ANDS focuses on three priority areas including governance, peace and security; sustainable livelihoods, including income opportunities; and basic social services.⁵ The SLLGA project contributed to the national priority of governance by building effective institutions – in this case the labour administration – and by increasing access to justice, through reforming the labour laws and regulations so as to comply with international labour standards. Through strengthening the rule of law, the project has begun to foster an inclusive participatory culture of human rights, gender equality and peace. Strengthening the rule of law in Afghanistan ultimately seeks to support sustainable employment creation and decent work. A post conflict environment creates a window of opportunity for such social and economic reform. Moreover, the SLLGA project aligned with the UNDAF outcomes allocated to the ILO: (1) Government capacity to deliver services to the poor and vulnerable is enhanced and (2) Opportunities for decent work and income are improved and diversified especially for vulnerable groups.

In addition, the SLLGA project was relevant because it aimed to achieve outcomes central to the

⁴ Terms of reference.

⁵ United Nations Development Assistance Framework: In Support of the Afghanistan National Development Strategy, 2010-2013, p 4.

Kabul Conference (2010), good governance and related objectives, and the Decent Work Country Program (DWCP) objectives of the International Labour Organisation.⁶ Two core priorities of the DWCP in Afghanistan are to promote and apply international labour standards and strengthen labour inspection machinery; and to ensure that strong and representative employers' and workers' organisations contribute to national policy formulation processes and better industrial relations. The project sought to establish a tripartite High Labour Council to provide a platform for social dialogue and participation of the social partners in national policy formulation. It drafted and submitted a regulation to this effect. It also drafted a new Labour Law, which increases compliance with international labour standards. The project also made an assessment of the existing labour inspection system in Afghanistan, made recommendations for its reform, and drafted a labour inspection regulation.

Moreover, the project was relevant because it addressed the needs of key partners, namely the Afghanistan Ministry of Labour, Social Affairs, Martyrs and Disabled (MOLSAMD) and the social partners - workers' and employers' organisations in Afghanistan. At the outset, the project carried out a needs assessment of the MOLSAMD, workers' and employers' organisations to identify the priorities for reform and formulate an action plan, which centred around (1) revising the dispute settlement system, (2) reforming the labour inspection system, (3) establishing national social dialogue, and (4) strengthening the Department for Improving Working Conditions in the MOLSAMD. The stakeholders have taken ownership of the project by taking steps to establish the Tripartite High Labour Council, and involving the tripartite constituents in labour law reform, and various aspects of reform of the labour administration. Moreover, the project addressed a unique need in Afghanistan by developing a handbook on Islamic labour law principles and international labour standards.

B. Effectiveness

*The extent to which the project's objectives and intended results were achieved.*⁷

The SLLGA project was effective because it achieved many of its objectives and intended results. It did this in the face of significant obstacles and in a very difficult working environment. There were delays, which affected planned outcomes such as the passing of laws and regulations. The delays are explained by (1) the underestimation⁸ of the project design with respect to time needed to complete certain activities, especially in a fragile state environment; and (2) the delays related to the election cycle. These are discussed in more detail under "Efficiency" below.

⁶ Midterm Review of the Strengthening Labour Law Governance in Afghanistan Project, Don Fraser, p 6.

⁷ Terms of reference.

⁸ ILO thematic evaluations indicate that the underestimation of project design with respect to time needed to complete certain activities, including law reform and technical cooperation, is a relatively common phenomenon. See for example: *Decent Work Results and Effectiveness of ILO Technical Cooperation: A meta analysis of project evaluations, 2011-2012*; and *Thematic Evaluation Report: strengthening institutions, processes, legal frameworks and capacity of tripartite constituents for tripartism and social dialogue*.

What are the main achievements of the proposed revision of the legal framework, and in particular the Labour Code and the regulations and what further work is needed to achieve the reform of the labour laws?

The SLLGA project succeeded in drafting a new Labour Code and three regulations, namely (1) a labour dispute settlement regulation, (2) a labour inspection regulation, and (3) a regulation on the tripartite High Labour Council. The labour law and regulations were all developed in consultation with the MOLSAMD, and the workers' and employers' organisations. There were various capacity building workshops held to identify priorities, learn about international labour standards, including those relevant for gender equality, and to consult the tripartite constituents regarding their views as to the content of the laws and regulations.

One of the main achievements of the law reform is that it fostered an inclusive process of social dialogue, involving the government and the two social partners, workers' and employers' organisations. The project has therefore helped to create a framework for social dialogue in Afghanistan and to define the rules of employment relations by consensus-building. Labour law reform has thus been supported and vetted by social dialogue between tripartite constituents to promote consensus on legal and institutional reforms. This sets an important precedent for social dialogue going forward.

Another achievement of the law reform is that the tripartite constituents have a better appreciation of international labour standards, having analysed the gaps in the existing labour laws, and agreed upon major principles for labour law reform in line with the international labour standards. Once the laws and regulations were drafted, an awareness raising campaign was conducted so that the labour administration, social partners, judiciary and other stakeholders in Afghanistan have increased knowledge of workers' and employers' rights and obligations. Improved knowledge has translated into increased capacity, as evidenced by systematic involvement of the MOLSAMD of the social partners in relevant activities. This is in stark contrast to the previous unilateral behaviour of the Ministry. This demonstrates that the tripartite constituents understand their respective roles and the importance of participation of the three parties in all labour related areas.

The further work that is needed to achieve labour law reform is to receive the necessary approvals of the labour code and regulations at the Ministry of Justice, Council of Ministers, Parliament and the Special Committee on Social and Labour Affairs. The ILO project office and MOLSAMD has already engaged in repeated advocacy on this point since 2012 with each of these stakeholders. A fresh opportunity for momentum on this issue presents itself with the new government and President who is reportedly partial to labour issues. According to one local stakeholder, it would be helpful for the leadership of ILO (in Geneva) to present a letter to the President of Afghanistan to encourage the labour law reform. In addition, it would be a timely opportunity for the donor to also indicate its support and encouragement to the new President for labour law reform, ideally as a pre-condition for funding any continuation of the programme.

Has tripartite social dialogue been strengthened?

For the International Labour Organization, tripartite social dialogue includes all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers on issues of common interest relating

to economic and social policy. Social dialogue is the most suitable tool for promoting better living and working conditions and greater social justice. It is an instrument through which governance can be enhanced in many fields.⁹

One of the outcomes sought by the project was to create a tripartite consultative structure within the MOLSAMD for effective social dialogue on labour and employment issues.¹⁰ The project design set some ambitious targets for the life of the project, including the creation of the tripartite High Labour Council which needs to be established according to regulation.¹¹ The tripartite constituents reached an agreement on the creation of the social dialogue body, and with the technical assistance of the International Labour Organisation succeeded in drafting the associated regulation. This was submitted by the MOLSAMD to the Ministry of Justice where it received its due approvals. It has been submitted to the Council of Ministers for approval. However, it remains there – as yet unattended to.¹²

This illustrates the difficulties of setting too ambitious targets for the lifetime of a project. Some of the indicators necessarily required that the regulation be passed in order for them to take place, e.g. a minimum of six tripartite meetings to take place during the course of the project resulting in at least two major agreements on relevant socio-economic issues. It might be more achievable to aim for submission of laws and regulations during a project life cycle rather than for their passing, which will always remain beyond the control of project stakeholders.¹³

Notwithstanding, it is fair to conclude that tripartite social dialogue has been strengthened in Afghanistan. Although it is difficult to assess very accurately the degree of improvement because there is no baseline indicated in the logical framework of the project document, interviewees have shared their views concurring that tripartite social dialogue has been strengthened since the inception of the project. This is also evidenced by the achievement of some of the other indicators, namely the tripartite constituents received at least one training on fundamental principles and rights at work (they received several); and a set of procedures for the functioning of the tripartite social dialogue body was discussed and approved (culminating in the regulation). Moreover, the tripartite partners established a Working Group for Labour Law Reform to draft the new labour law and the accompanying regulations, and this group continues beyond the life of the project. Representatives of government, the workers and employers were involved in every project activity, from training workshops both in Afghanistan and abroad, to drafting various legal instruments.

⁹ <http://www.ilo.org/public/english/dialogue/> accessed on November 18, 2014.

¹⁰ Project document, page 10.

¹¹ Project document, page 10.

¹² For an explanation regarding delays in approvals regarding regulations, please see section entitled “Efficiency”. Regarding the Council of Ministers, there has been a period throughout the elections and in the post election phase where the Council of Ministers was not operational. The Council of Ministers was just nominated in the week of 19 January 2015. This has effectively meant that for the past year, no regulations have passed.

¹³ Perhaps these could be reported as milestones in the future, rather than as discrete targets to be achieved, so that progress can be seen over time even if full adoption and implementation of the law has not yet occurred.

Did the Project has assisted in reviewing the dispute settlement system as well as the labour inspection system?

The project assisted in the review of both the dispute settlement and labour inspection systems.

The SLLGA project reviewed Afghanistan's dispute settlement system. An international consultant carried out an assessment of the existing system and made recommendations for reform. The assessment was limited because it was informed by a desk review and for various reasons did not have an opportunity for direct consultation with the stakeholders in Afghanistan. However, the Working Group for Labour Law Reform with technical assistance from the International Labour Organisation drafted the associated regulation. The MOLSAMD is currently working to implement the recommendations of the assessment which do not need to wait for the regulation to pass, such as increasing dispute settlement staff in the provincial offices of MOLSAMD. Early next year, the consultant will also conduct a capacity building workshop on labour dispute settlement.

The SLLGA project also reviewed the labour inspection system in Afghanistan. At the outset of the project, there was an assessment of the current labour inspection system, which identified gaps and recommended specific reforms. This was followed by the drafting of a labour inspection regulation to implement some of the reforms. Moreover, there was capacity building carried out by Brazilian labour inspectors. This was a successful example of South-South learning, which appealed to the Afghan counterparts because they could relate well to colleagues in another developing country that had been through its share of problems, yet had advanced, and spoke from a down to earth perspective. Despite security incidents in Kabul during the time of the mission from Brazil, which ultimately cut short their stay, the colleagues managed to transfer knowledge, and provide examples of tools and legislation and this was taken up afterwards as the basis for further development of the Afghan labour inspection system, and the accompanying regulation. There was also a one week training course delivered on labour inspection and occupational safety and health for participants from government, workers and employers. Whilst there was a significant improvement in knowledge because of a very low baseline, the knowledge of the Afghan labour inspectors remains at a basic level and their capacity building needs to continue.

C. Efficiency

Resource Efficiency: To what extent were resources were economically converted into results?¹⁴

Were resources allocated efficiently?

The project budget went to pay overhead costs of project staff, namely a national project coordinator and a national project assistant. From 2011-2014, this amounted to \$241,652.61. Indirect costs were on the CTG contracts issued to cover security arrangements for incoming

¹⁴ Terms of reference.

international consultants, amounting to \$1,102 in the project lifetime. Around 40% of the project budget went to overhead or indirect costs, leaving around 60% of the project budget for activity needs.¹⁵

However, project staff found that the \$600,000 budget was too small to carry out the plethora of activities envisaged by the project design document. Therefore, certain activities were funded through ILO's offices in Afghanistan as well as in Geneva and Turin. For example, the workshop in Delhi, the labour law reform, and the public awareness campaign, including printing costs. Moreover, the cost of security did not come out of the project budget; ILO spent its core budget on this. For instance, the project benefited from the ILO's armoured vehicle for movement of staff and consultants. The project office was housed in the ILO compound, paid for from ILO's core budget.

In conclusion, resources were allocated efficiently with the limited means available to execute the ambitious project design. The project was cost-effective because it utilised the project budget to the best of its ability, and was resourceful in seeking funds from other sources where project funds were lacking, i.e. security, project office, workshop, labour law reform activities and the public awareness campaign. This had the effect that the project was able to deliver good value for money by increasing the funds available to the project to carry out its activities.

Have project activities been delivered in a timely manner?

Some of the project activities were delivered in a timely manner, but not all. The midterm review in December 2012 noted that, at that time, a quarter of the activities for one output had been delayed. Accordingly, the project sought a no cost extension of time, which was granted and the project officially came to an end at the close of September 2014. Ultimately, the activities that are taking place outside of the project's official timeline are the second occupational safety and health mission, the dispute resolution training workshop, and the final evaluation. The missions had been delayed due to the change of government and the security situation. Commendably, the ILO's Afghanistan office has committed to complete the project activities with its own resources and the final activity – the workshop – will be taking place in March 2015¹⁶. Whilst the in-country developments were the primary cause of the delay, ILO's staff reshuffling in various offices associated with the project made implementation challenging at times. However, ultimately the activities that are taking place outside of the project lifetime are those that were affected by elections.

Moreover, there were major delays related to the labour law and labour regulations. The reasons for this are twofold. First, the actual drafting – of both amendments to the main law and of supporting regulations – was a much slower process than the project design had rather

¹⁵ It must be borne in mind that overhead costs will naturally be a smaller percentage of large project budgets, and the relative percentage of a small project's overhead costs should be considered in this context.

¹⁶ Due to consultant's availability.

ambitiously hoped for,¹⁷ without perhaps taking into account the fragile state context. Second, the Ministry of Justice has not made adequate progress with the labour instruments which have been submitted to it for approval. The latter delays have been explained by the election cycle and a government directive to put on hold the passing of any laws not falling within the priority area of elections. However, with the new government recently in place, it is unclear how long it will take to move things forward.

Validity of the project design

The above delays demonstrate that the objectives set out in the project document were not realistic or likely to be achieved within the established time schedule and with the allocated resources.

Moreover, there were plenty of external factors that affected the project logic. The SLLGA project made a series of assumptions that were unlikely to hold true and ultimately affected the project's effectiveness and efficiency. To provide just one example, the project assumed that the political and security situation in Afghanistan would not deteriorate and that the government would support the project throughout with the highest level of commitment and participation. In a country that has already faced over three decades of conflict, it would seem unreasonable to assume that the political and security situation in Afghanistan would remain stable during the project duration.¹⁸ However, it must be acknowledged that the overall strategic outlook of partners of Afghanistan at the time of the project design was that the situation would stabilise or indeed improve. As things transpired, the security situation in Afghanistan affected several missions related to key project activities, and prevented some provincial activities from being carried out. Also, the election cycle was such that elections would fall during the project lifetime and as it transpired this had a negative impact on many project activities, delaying technical assistance missions, affecting the whereabouts of capacity building workshops, delaying approvals of law reform instruments, and so on. Furthermore, in a context where various reports acknowledge that corruption is rife and well known¹⁹, it would also seem unreasonable to assume that the government would support the project throughout with the highest level of commitment and participation. As it happened, the Ministry of Justice and the Council of Ministers did not fully support the project's law reform efforts and affected many of the outputs under the law reform outcome.²⁰ Ultimately, the project design lacked a risk management strategy, which could have mitigated the effects of many of the assumptions not coming to bear. This demonstrates that problems and needs were inadequately analysed in the project document.

¹⁷ See Midterm Review.

¹⁸ Please note the recommendation that ILO should continue to implement rule of law and employment generation projects in fragile states. Please also note the recommendations concerning ILO operations in fragile states.

¹⁹ For example www.transparency.org (accessed on January 23, 2015), US Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2013: Afghanistan*. It should be noted that reports also acknowledge efforts by the Government of Afghanistan to combat corruption.

²⁰ As to the reasons for lack of full support for law reform at the Ministry of Justice and Council of Ministers, please see explanations under footnote 12 and under "efficiency". These do not appear to have been identified during the needs assessment.

Extent to which midterm evaluation recommendations were addressed

The midterm evaluation made several recommendations, namely: (1) monitor delays and seek an extension of time to complete project activities; (2) seek higher level intervention to support the ability of MOLSAMD and MOJ to facilitate the full passage of the labour law reforms; (3) enhance ongoing access to good quality and readily available technical expertise for the project. The project did monitor delays and sought an extension of time to complete project activities which was duly granted. Even so, some project activities were completed outside the agreed project time with ILO funds. Moreover, the project did seek higher level intervention regarding the labour law reforms: the Decent Work Team in Delhi engaged in advocacy at the MOLSAMD, MOJ, Council of Ministers, and Parliament's Special Committee on Social and Labour Affairs. This had limited success and one local stakeholder has recommended that now the ILO in Geneva intervene at a higher level. Finally, the project staff made excellent efforts to enhance access to technical expertise, including by availing themselves of the contracting arrangement with a third party agency to bring in international experts, by bringing in more missions in wintertime, and by other strategies discussed next regarding resource allocation.

Have resources been allocated strategically to achieve outcomes?

When challenges arose, the project managed to respond creatively to mitigate the consequences. For instance, several international consultants and visiting Brazilian labour inspectors were either unable to go on mission to Afghanistan or had to cut their mission short by a significant amount, due again to the election cycle and the security situation. The project managed many of these situations by either postponing the missions to a later date, or by conducting consultations via video conference and Skype. In the case of one of the capacity building workshops, the project organised this to take place in Delhi rather than in Kabul. Most of the time these solutions worked well. However, the dispute settlement consultant was unable to carry out consultations via video conference because of technical problems and this lack of direct consultation with tripartite constituents severely limited the work. Also, the delays ultimately meant that some project activities had to be completed beyond the project date using ILO rather than project funds. It is important to recognise the creative solutions used by the project to achieve as far as possible the planned outcomes, recalling the very difficult operating environment in Afghanistan.

How consistent was the Afghanistan Ministry of Labour in implementing the project action plan and achieving institutional reforms?

The Ministry of Labour has been as consistent as possible in implementing the project action plan and achieving institutional reforms, given the difficulties outlined above. The delays obviously impacted greatly upon the timely implementation of the project action plan and project staff acted to offset any negative effects. The institutional reforms are being implemented as quickly as possible, in so far as they are in the control of the Ministry of Labour. Others necessarily await action from stakeholders beyond the control of the tripartite constituents, such as the law reform which implicates the Ministry of Justice and the Council of Ministers. As noted elsewhere, the latter stakeholders have been the subject of repeated advocacy, by ILO's office in Afghanistan, ILO's technical specialists in Delhi and, due to the extraordinary circumstances here, the Special Representative of the Secretary General – the

highest ranking UN official in Afghanistan – and U.S. Secretary of State John Kerry. It needs to be acknowledged that there have been special circumstances in Afghanistan; there has never been a government of national unity in the past, and this was the first peaceful democratic transition for a presidential election.²¹ Political instability, the election, delays in forming a Cabinet and security concerns have slowed down the administration of the entire nation.

D. Impact

*What are the positive and negative, intended and unintended long-term effects of the project?*²²

What observed changes can be causally linked to the project’s interventions?

The SLLGA project has made a positive impact in raising awareness of the general public, the Ministry of Labour staff, union staff and members, and employers about labour rights and obligations. This is significant because the baseline was very low – there was a lack of awareness of labour rights and laws, weak application of labour laws, and almost non-existent enforcement of the law. Regarding the latter, there exists no structural outlet dealing with complaints of labour rights violations and complaining parties typically seek justice through informal ways of dispute resolution. It is the perception of some stakeholders interviewed that in Afghanistan, where justice is delivered on the basis of wealth, paternalistic force and violence, it becomes hence nearly impossible for an average citizen to assert his rights, not to mention rights of and for women.

The project had a significant capacity building component, which included training workshops both in Afghanistan and abroad – in India and Italy – for Ministry of Labour staff and workers’ and employers’ organisations. In general, these workshops trained around 60-100 people per time, and participation of women²³ and all tripartite constituents was encouraged. For the workshop in Delhi, 20 representatives from unions, employers’ organisations and MOLSAMD participated.

Two positive indicators of the impact of the project are an increase in complaints lodged at the MOLSAMD and ongoing workshops for stakeholders in the provinces. Regarding complaints, workers did not generally know their rights before. The training on labour rights carried out in Kabul and the provinces included information as to how to make a complaint at the MOLSAMD and its provincial offices, particularly the provisions of the labour law which establish the complaints procedures. Furthermore, the awareness raising campaign included billboards advertising how to contact the MOLSAMD for breaches of labour law. The MOLSAMD reports that they used to receive around 700 complaints per year. Since the inception of the project, this number has almost doubled, rising to around 1300 per year - mainly from the private sector. Significantly, complaints now come from the provinces as well as from Kabul, indicating the

²¹ Please also see footnote 12 and discussions under “efficiency” related to these stakeholders.

²² Terms of reference.

²³ Please see Gender Issues Assessment for elaboration on how female participation was encouraged.

effectiveness of programmes in the provinces to raise awareness on labour rights and obligations, including the availability of complaints procedures.

As for the training of trainers workshops, these were a great success for all the tripartite constituents. Now the Ministry of Labour is planning to carry out similar workshops to train its staff in each province of Afghanistan. The unions have already carried out training workshops for their colleagues in 22 provinces. They report that their membership system has improved as a result, they have increased membership numbers, and they have established a bank account for the provincial union offices to collect membership fees and transfer these to the central union bank account to use for union activities. The employers are also working with people in the provinces and spreading expertise beyond Kabul. When they returned from the workshop in India, they organized five-day seminars for colleagues in eight provinces.

The investment in capacity building will be well maintained as far as trained personnel remain within the sector. It is noted that there is good retention of staff at MOLSAMD. All stakeholders really appreciated ILO's technical input, enthusiastically received training and requested more in future.

E. Sustainability

*What are the immediate benefits and probability of continued long-term benefits after the project has ended?*²⁴

How effectively has the project built national ownership?

The SLLGA project built national ownership effectively with the tripartite constituents. The Ministry of Labour took ownership of the project concept and approach by being involved in all areas of implementation, from awareness raising and the training programmes, to law reform activities. Ownership is also demonstrated by the fact that the MOLSAMD is now implementing components of the project by itself, now that the project has come to a close. For instance, this is shown by the provincial training workshops for staff outside of Kabul, participation in the Working Group for Labour Law Reform (revising more labour laws and regulations), implementing the recommendations of the labour inspection assessment (e.g. hiring more labour inspectors, training more labour inspectors using project training materials). The same can be said for the social partners. The unions and employers' organisations took ownership of the project by being involved in all aspects of project activities, as well as by carrying out training workshops for provincial members and staff based on project training materials. Reportedly the unions were more involved and enthusiastic than the employers. Yet according to two stakeholders, the employers have notably shown more genuine interest and participated more actively than their counterparts in other countries.²⁵ On the whole the tripartite constituents have successfully taken ownership of the project.

²⁴ Terms of reference.

²⁵ These stakeholders have worked in ILO regional offices in Delhi, Bangkok and Suva so bring perspectives from working with tripartite constituents in other subregions of Asia Pacific.

However, the stakeholder who has demonstrated the least ownership in project activities was the Ministry of Justice. The labour law and two of the labour regulations drafted by the tripartite constituents continue to face delays at the Ministry of Justice, for reasons previously referred to. Moreover, once the laws and regulations do pass through the Ministry of Justice, they will go to the Council of Ministers, and then to Parliament and the Special Committee on Social and Labour Affairs where they will also reportedly experience delays, despite repeated advocacy on the part of the ILO and the MOLSAMD. This demonstrates the difficulty of sustainable action in legislative reform in one project lifetime. The ILO can prepare the ground for such change, but if not all the national constituents are on board, things may not change.

Has the project successfully built or strengthened an enabling environment?

The SLLGA project has strengthened the enabling environment by laying the foundations for labour law reform and by building the capacity of the tripartite constituents in social dialogue. Not only did the project involve the government, workers and employers in consultation regarding labour law reform in order to better comply with international labour standards, a new labour code and three labour regulations were drafted, approved at the MOLSAMD level, and submitted to the Ministry of Justice for further processing. It is difficult to predict how long it will take to complete the necessary approvals for these instruments to become law in Afghanistan. However, once passed the regulatory reforms will have a long-term impact. Importantly, recognising the need for international labour standards to achieve greater legitimacy and ownership within the formal and informal judicial mechanisms in Afghanistan, the project commissioned a Handbook on Islamic Labour Law Principles and International Labour Standards. This is likely to foster more acceptance of the new labour law and regulations once they enter into force.

The project also strengthened the enabling environment by facilitating social dialogue at all levels of labour law administration. Although the establishment of the tripartite High Labour Council must necessarily wait for the associated regulation to be passed, the tripartite constituents continue to participate in the Working Group for Labour Law Reform and revise and reform further labour regulations. This is an example of continuing benefits of the project beyond withdrawal of donor funding. The establishment of social dialogue mechanisms has contributed to the establishment of a culture of cooperation between the tripartite constituents. ILO's programming niche is technical cooperation and social dialogue; its role is to facilitate national dialogue. This project is an example of this and it has worked well in a challenging environment.

However, sustainability needs to be ensured by resources beyond the project life. The new labour law and regulations better comply with international labour standards and Afghanistan is fully integrated into the ILO family. Nevertheless, two aspects remain a huge challenge given the ongoing conflict: practical application of standards and labour laws, as well as the capacity of the labour administration system. Promotional application and awareness activities remain very basic and have to be embedded in the special culture of the country. Ongoing support will be required to move the new legislation and regulations through the necessary processes to enactment. It would be advisable to have a follow up or second phase to further build on what was done and help translate the legislative change on the ground.

Several stakeholders expressed discontent that the project has been donor driven²⁶ from the outset and that much more work is needed to ensure sustainability. It is important to appreciate the long-term nature of legislative reform related to sustainable employment creation and decent work. As recognised in the United Nations Policy for Post Conflict Employment Creation, Income Generation and Reintegration²⁷, such reform generally requires a longer lead in time before being effective, since building national systems usually takes time. The UN Secretary General requested that the ILO and UNDP, in collaboration with other partners, provide leadership in implementing this policy²⁸. As key ILO partners, it is hoped that donors will recognise the long term nature of the project activities and give proper consideration to ensuring sustainability through a second phase. In the words of the UN Secretary General – “promoting employment creation is challenging in the best of circumstances, and far more so in post-conflict situations.”²⁹ It is difficult for fragile state governments – such as Afghanistan – and social partners to carry things forward by themselves. The Government of Afghanistan has demonstrated good buy-in through the MOLSAMD, who has fulfilled its obligations under the project. It must be recognised that the project has made significant achievements to the best of its ability in a very difficult operating environment and has implemented activities as far as possible on the part of the tripartite constituents.

6. Gender Issues Assessment

The 1999 ILO Policy on Gender Equality and Mainstreaming states that ILO should take a leading role in international efforts to promote and realise gender equality. This means that all technical cooperation projects must aim to systematically and formally address the specific and often different concerns of both women and men, including women’s practical and strategic gender needs.

It has been difficult to engage in gender analysis for this evaluation because there is a dearth of sex disaggregated data. The project document did not provide any sex disaggregated data, nor did the Technical Progress Reports, and interviewees have been unable to provide much either, expressing frustration at, among other things, the difficulties faced throughout the project in encouraging women’s participation in the capacity building and other project activities. They state that women were encouraged to participate in all training workshops but that significantly less than 50% of participants were women, although they were unable to provide exact numbers.³⁰ There was at least some female representation on the tripartite Working Group for Labour Law Reform and there have been female Deputy Ministers of Labour in Afghanistan during the project lifetime. Moreover, women’s rights were addressed in the reform of the labour code and regulations. The gender expert providing technical backstopping from Geneva

²⁶ As noted elsewhere, on the one hand, stakeholders felt that the project was very donor driven (ILO and USDOL), that it focused on labour law reform at the expense of employment generation. In the other camp, stakeholders thought that law reform and labour administration reform was essential for sustainable employment creation and decent work.

²⁷ United Nations (2009), *United Nations Policy for Post Conflict Employment Creation, Income Generation and Reintegration*.

²⁸ *Ibid*, p 6.

²⁹ *Ibid*, p 3.

³⁰ Please see comments related to women’s participation in Lesson Learned 3.

has made considerable efforts to ensure female representation and participation, but faced difficulty because not all project staff and tripartite constituents appreciated the importance of this.

This evaluation has assessed gender in the evaluation criteria: relevance, effectiveness, efficiency, impact and sustainability. With regard to relevance, the project design made no explicit reference to nor did it align with ILO's mainstreaming strategy on gender equality, nor was there any gender analysis. The prodoc did make mention of women in relation to the Decent Work Country Programme, the MDGs, the Afghanistan Labour Code, the relative absence of females in management roles at MOLSAMD, the fact that programme beneficiaries include both female and male workers and employers, and one indicator of success in the logframe refers to 20% of representative organisations of the tripartite body being female. Overall, the project design did not adequately consider the gender dimension of the planned interventions. With respect to effectiveness, the project was successful in integrating women's rights concerns into the revised labour code³¹, and encouraging female participation in tripartite social dialogue through women's groups. There was some awareness raising about women's labour rights but Afghanistan has such a low baseline that progress is hard won and slow. Although ILO staff tried to increase women's participation in project activities and indeed this evaluation, this was challenging and reflects a deeply patriarchal culture. Regarding efficiency, it is not possible to determine how many resources were spent on male and female beneficiaries as there is no data in this respect. Stakeholders seemed to concur that there was very little impact and sustainability regarding gender equality.

7. Tripartite Issues Assessment

An important component of the SLLGA project has been capacity building of tripartite constituents in social dialogue, international labour standards, labour law reform, and labour administration reform. In most cases, this has consisted of tripartite training, including training of trainers, which favours the emergence of a climate of trust among the participants and quickly enables them to appreciate the advantages of tripartism and social dialogue.

Stakeholder participation in the evaluation has been ensured through various ways. The evaluator has consulted with tripartite stakeholders through in-depth interviews with representatives of government, workers and employers in order to gather necessary data. The evaluator also observed the final steering committee meeting, which comprised these representatives also. The draft evaluation report was shared with the tripartite constituents, but they did not provide any inputs, possibly due to language constraints. Tripartite stakeholders will be involved in follow up to the evaluation recommendations, insofar as specific recommendations relate to them.

³¹ For example, the revised labour code removes the prohibition on night work for women.

8. International Labour Standards Assessment

International labour standards (ILS) have been central to the SLLGA project. ILS have served as guiding principles in framing a comprehensive labour code and associated regulations, as well as in directing administrative reforms and establishing mechanisms for labour administration, inspection and tripartite consultation. ILO C144 on Tripartite Consultation has guided project activities on social dialogue. Moreover, ILS have been the topic of training workshops for tripartite constituents and other stakeholders in a range of areas, including labour inspection, dispute resolution, fundamental labour rights and rights and work. ILS on child labour have guided the drafting of a new list of hazardous work for minors.

The SLLGA project has contributed to the DWCP for Afghanistan (2010-2015), which includes the promotion and application of international labour standards with a focus on ILO core conventions as a country priority.

9. Conclusions

Based on the evaluation findings the following conclusions may be drawn.

The SLLGA project has been relevant and well suited to the policies and priorities of the ILO and its counterparts in Afghanistan. It has been especially relevant for addressing the needs of the social partners, for national priorities identified in the Afghanistan National Development Strategy, for ILO priorities identified in the Decent Work Country Programme, and for UN priorities identified in the UNDAF.

Furthermore, the project has been effective in many ways. The project has empowered the tripartite constituents to engage in ongoing social dialogue with respect to labour issues, including the drafting of the new labour law and regulations. Moreover, the project helped to raise awareness of the general public, the government and the social partners about fundamental rights and labour issues. In addition, it laid the groundwork for the tripartite constituents to train their staff and members in Kabul and beyond in what they learned in the labour standards workshops. It drafted a new labour code and three regulations relating to the tripartite consultative body, labour inspection and dispute settlement.

Regarding efficiency, the project did its best to economically convert resources into results in challenging circumstances. Examples of this include the creative solutions regarding human resources/security, seeking a no cost extension of time, and following up on delayed project activities with ILO funds. Difficulties with respect to implementing all project activities in a timely manner may be explained by the over ambitious project design regarding the number and types of activities that could be implemented in a fragile state context in a project lifetime, and by the delays related to the election cycle.

Regarding impact, there have been several positive effects which can be causally linked to the project's interventions, namely the increase in complaints lodged at the MOLSAMD – demonstrating the increased awareness of labour rights and obligations³²; and the ongoing workshops for tripartite constituents in the provinces - which shows the positive impact of the training of trainer workshops and the sustainability of the capacity building activities.

As for sustainability, the benefits of several activities under the project are likely to continue after donor funding has been withdrawn. Strengths include the continuation of social dialogue between the tripartite constituents through the Working Group for Labour Law Reform and ongoing training of social partners in the provinces. Weaknesses include the relevant approvals beyond the Ministry of Labour required for the passing of the revised labour code and regulations. Sustainability of the law reform aspects of the project should be addressed by a phase two of the project, or by continuing support and advocacy on the part of the ILO and the MOLSAMD in the absence of a phase two of the project.

10. Emerging good practices and lessons learned

(a) Emerging good practices

(i) The use of labour law reform as a vehicle to support tripartite social dialogue in order to consolidate peace in fragile states

An emerging good practice is the use of labour law reform as a vehicle for teaching social dialogue in order to consolidate peace in fragile states. The SLLGA project helped to establish a tripartite Working Group on Labour Law Reform involving representatives of the government (MOLSAMD), workers and employers. Through this body, the tripartite constituents learned first hand how to consult with one another through analysing the gaps in the existing labour laws with respect to international labour standards, and by agreeing on major principles for labour law reform. The outcome of this process thus far is a new labour code and three associated labour regulations, all of which have been submitted to the appropriate channels for approval. One of these regulations seeks to establish the tripartite High Labour Council, the tripartite consultative structure for social dialogue. The Working Group on Labour Law Reform survives the project, and continues to develop further labour regulations using an inclusive process of tripartite social dialogue. Overall, the project has assisted in the creation of a framework for social dialogue in Afghanistan and helped to define the rules of employment relations by consensus-building. This sets an important precedent for social dialogue going forward.

The context for this practice was that Afghanistan lacked an overall industrial relations framework and there was an absence of dialogue between the social partners. The tripartite

³² Evidence to support a causal link between the intervention and the outcome includes (1) The training on labour rights carried out in Kabul and the provinces included information as to how to make a complaint at the MOLSAMD and its provincial offices, particularly the provisions of the labour law which establish the complaints procedures. (2) The awareness raising campaign included billboards advertising how to contact the MOLSAMD for breaches of labour law.

constituents requested support in tripartite social dialogue and labour law reform. Therefore, the project sought to address this through two project goals, namely (1) review and reform labour laws and regulations to provide a legal framework in full compliance with ILO standards; and (2) improve social dialogue by creating a tripartite consultative structure within the MoLSAMD. This in turn linked to Afghanistan's Decent Work Country Programme goal of strong and representative employers' and workers' organisations contributing to national policy formulation processes and better industrial relations at all levels, and ILO's Strategic Policy Framework objective to strengthen tripartism and social dialogue.

Stakeholders noted that there was good participation from the tripartite constituents, particularly the workers' organisations. The challenge was to adequately prepare the different actors to hold informed discussions on labour law issues. ILO staff emphasized to tripartite constituents the need for background reading before meetings so that they would be able to participate in technical discussions. Ultimately, a lot of capacity building was needed because these participants had weak technical knowledge. However, despite the difficult context, the project was successful in bringing a lot of technical expertise to the table, by way of ILO staff in Kabul, Delhi and Geneva, and international and national consultants. This went a long way in supporting high quality social dialogue in labour law reform. The tripartite constituents all expressed their appreciation for the high level technical assistance that ILO provided.

This good practice has the potential to be replicated in other fragile states with outdated labour legislation by tripartite constituents – representatives of government, workers and employers. ILO has Decent Work Country Programmes in 15 fragile states. Fragile, post-conflict, and disaster-affected environments are characterized by instability, insecurity, poverty and inequality. Lack of employment opportunities and livelihoods, youth unemployment and underemployment, inequalities and lack of participation can be catalysts for conflict. Conflict, natural disasters and fragility aggravate poverty, unemployment and informality, creating a vicious circle leading to even greater fragility. Decent work can be a critical factor in breaking this circle and can lay the foundations for the construction of stable communities.³³ The ILO has long standing expertise in tripartite social dialogue and labour law reform. The ILO has long contributed to state building through social reform, by promoting democratic participation, social dialogue and fundamental rights. It should consider using labour law reform as a vehicle to support social dialogue as a means of consolidating peace in fragile states.

(ii) Provision of technical expertise in fragile states

Another emerging good practice is the ILO's provision of technical expertise in fragile states. Tripartite constituents in Afghanistan valued the ILO's provision of technical expertise in the SLLGA project and competencies in transferring knowledge. The project aimed to strengthen the labour administration in Afghanistan, including through technical assistance to improve upon labour inspection and labour dispute resolution practices, establishing a tripartite consultative structure, and reforming the labour law. The project's capacity building component included

³³ *ILO Technical Cooperation in Fragile States*, ILO Governing Body, 2014, GB 320/POL/9.

training workshops both in Afghanistan and abroad – in India and Italy – for Ministry of Labour staff and workers’ and employers’ organisations. This entailed bringing in expert consultants and technical backstopping staff from the Decent Work Team in Delhi and from Headquarters in Geneva to conduct assessments, make recommendations for reform, and to train the social partners on a wide variety of topics such as international labour standards, labour law drafting, the role and functions of the labour inspectorate, dispute resolution for labour officers, and dispute resolution, international labour standards and Islamic law for the judiciary. It also involved technical support to the work of the tripartite social dialogue body: the Working Group on Labour Law Reform. This encompassed the provision of technical assistance during discussions of priority issues by social partners especially around labour law reform, and conducting training workshops on the social dialogue process.

The context for this practice is a fragile state environment characterised by inequality, lack of decent work opportunities and social exclusion. In Afghanistan, this was borne out by a weak rule of law culture, notable for the lack of awareness of labour rights and laws, and non-existent enforcement of these laws. Use of the formal justice system is bypassed in favour of informal mechanisms of dispute resolution, often by way of customary justice. The current labour law falls far short of providing comprehensive protections in line with international labour standards, such as non-discrimination, freedom of association and the right to collective bargaining, freedom from forced and child labour. Therefore, the project sought to address this through provision of technical expertise related to labour law reform and labour administration reform. This linked to Decent Work Country Programme goals, namely (1) promotion and application of international labour standards with a focus on ILO core conventions; and (2) ensuring that employers’ and workers’ organizations contribute to national policy formulation processes and better industrial relations at all levels. Furthermore, the ILO’s Strategic Policy Framework (2010–15) identifies crisis response as a priority.

The SLLGA project has made a positive impact in raising awareness of the general public, the Ministry of Labour staff, union staff and members, and employers about labour rights and obligations. Indicators are an increase in complaints lodged at the MOLSAMD (from 700 to 1300 per year) and ongoing workshops for tripartite stakeholders in the provinces following the project’s training of trainers workshops. Moreover, unions report that their membership system has improved as a result of the capacity building. They have also increased membership numbers, and have established a bank account for the provincial union offices to collect membership fees and transfer these to the central union bank account to use for union activities. There is general high regard amongst tripartite constituents for the ILO’s technical capacity in international labour standards, legislative reform, and brokering using its unique tripartite mandate to liaise with government, employers’ and workers’ representatives.

This good practice has the potential to be replicated in other fragile state contexts. The ILO has accumulated sound experience in fragile state contexts, including a comprehensive range of technical expertise to address both basic needs at local level, as well as enhancing labour market governance at policy level. Moreover, the ILO’s technical cooperation portfolio engages a wide spectrum of societal groups through its tripartite constituency. Working with ILO constituents facilitates national ownership. However, what is expected from tripartite constituents in fragile countries can exceed their capacities. More in- depth and long-term capacity development and involvement of local expertise and knowledge may be needed for a sustainable impact. Therefore, it may be advisable to establish strategic partnerships to involve the social partners

in promoting decent work in fragile States, with a wide range of organizations from the international development community including the g7+, knowledge institutions and the private sector, including through South–South and triangular cooperation.³⁴ The ILO can make a difference in fragile countries by building the legal and institutional infrastructure to move forward.

(iii) South-South capacity building for labour inspectors

An additional emerging good practice was the use of South-South capacity building for labour inspectors. The project included a capacity building activity for Afghan labour inspectors, which was carried out by Brazilian labour inspectors. This linked to Decent Work Country Programme goals in Afghanistan, namely (2) ensuring that employers’ and workers’ organizations contribute to national policy formulation processes and better industrial relations at all levels

The context for this practice is a developing country with a weak labour inspectorate. In Afghanistan, this entailed inadequate numbers of labour inspectors, a lack of female labour inspectors, and little or no decentralisation of labour inspection services outside of the capital. Therefore, the project sought to address this through provision of capacity building by labour inspectors from a developing country with a more advanced labour inspectorate.

This was a successful example of South-South learning, which appealed to the Afghan counterparts because they could relate well to colleagues in another developing country that had been through its share of problems, yet had advanced, and spoke from a down to earth perspective. Despite security incidents in Kabul during the time of the mission from Brazil, which ultimately cut short their stay, the colleagues managed to transfer knowledge, and provide examples of tools and legislation and this was taken up afterwards as the basis for further development of the Afghan labour inspection system, and the accompanying regulation.

This good practice has the potential to be replicated in other developing countries. Indeed the ILO is already carrying this out in other sub-regions of Asia Pacific, such as in the Pacific, where labour inspectors from jurisdictions with more advanced labour inspectorates provide capacity building for other Pacific Island states in the region.

(b) Lessons learned

(i) Good project design is essential for the implementation, monitoring and evaluation stages of the project cycle

One lesson learned in the SLLGA project is that good project design is essential for the implementation, monitoring and evaluation of the project.

The SLLGA project was about technical cooperation and some of the major shortcomings of the design were overambitious objectives, and unrealistic time frames, especially in relation to

³⁴ *ILO Technical Cooperation in Fragile States*, ILO Governing Body, 2014, GB 320/POL/9.

labour law reform. This involved achievements that are beyond the control of the ILO and the tripartite constituents, such as the approval of law reform instruments, which implicated the Ministry of Justice, the Council of Ministers and Parliament and the challenge of overcoming institutional inertia. Moreover, the start up time was underestimated, with the project manager coming on board only after nine months of operation, and there was general unwarranted optimism that everything would go according to plan, as explained below regarding assumptions made. These factors contributed to difficulties in implementing the project, particularly under the law reform outcome.

The management of technical cooperation activities is generally a challenge. However, good logical frameworks can help project managers steer through the complexities of the operational environment. In turn, good management may be able to overcome weaknesses in the design. Indicators should be specific, measurable, attainable, realistic and time-bound. The prodoc should establish baselines to measure progress, or include a baseline study as an activity of the project. It is important to avoid committing things beyond the project lifetime and to be clear in the logframe what is controllable. These factors will contribute to effective implementation, monitoring and evaluation.

When designing ILO projects involving law reform, it is important to adequately analyse whether objectives and timeframes are attainable and realistic. Even in middle-income countries unaffected by conflict or disaster, law reform is difficult to achieve in a project lifetime of 3-5 years. In fragile countries such as Afghanistan that have been affected by decades of conflict and where the rule of law is barely embedded in the culture of the country, law reform objectives and time frames need to be even further scaled back. Sustainability will mostly need to be ensured by a second phase of a project. As the project demonstrated, it is also important to consider the timing of the political cycle and its impact on the likely processing or stalling of law reform.

The project design would have benefited from a proper risk assessment and risk management strategy. As noted previously, some of the assumptions in the project document were unlikely to hold true and ultimately affected the project's effectiveness and efficiency. Problems that flowed from this could have been more easily dealt with if the prodoc had included adequate analysis of the risks associated with implementing a project in a fragile state such as Afghanistan, which necessarily implies risks associated with security, political cycle, conflict and so on. A risk management strategy could have assessed the severity of each risk and provided strategies to mitigate the negative effects. Fortunately for the project, very able project staff and ILO management on the ground in Afghanistan were able to react in a flexible and practical way to deal with problems as they arose. These included using ILO funds to complete project activities delayed beyond the project lifetime and carrying out activities abroad or via video conference when required by the security situation in Afghanistan. Increased attention to risk management is especially needed in fragile states.

It is important to incorporate particular considerations when designing projects in fragile states with on-going security challenges. (1) Try to avoid incorporating activities that would require prolonged stay of international experts in-country. If required however, try to target relatively safe provinces outside of conflict zones to conduct training of trainers workshops and rely on local counterparts to replicate in other places. (2) Be aware of the seasonality of armed conflicts, which are more plentiful from spring to autumn but calm down under the snow in

winter. Try to bring more missions during winter time. (3) When security risk precludes incoming missions, conduct meetings or training workshops in nearby countries or resort to Skype and video conferencing. (4) Consider the timing of the political cycle and its potential impact on project implementation.

Good project design should also pay due attention to gender equality. It should mainstream gender in the situation analysis, the project goals, outputs, indicators, and monitoring and evaluation framework. Sex disaggregated data should be included in the situation analysis, baseline data, and indicators so that gender equality outcomes may be monitored throughout the project and properly evaluated in the midterm review and final project evaluation. One way to address this is to include these elements in a project document template so that project designers know how to mainstream gender into the project. The evaluator notes that the project document template has been updated since the drafting of the SLLGA project to include some gender equality elements. However, this could be further improved by requiring gender mainstreaming in each section of the prodoc, including for example a certain percentage of female participation in project activities or a certain percentage of women's representation in tripartite structures. These improvements would also contribute to enabling proper gender equality evaluation in the final project review. Availability of sex disaggregated data is the cornerstone of gender analysis and its absence in the project design and monitoring instruments makes gender evaluation very difficult.

(ii) ILO operations in fragile states need to be backed up with adequate security, logistics, and quick decision making and action

Another lesson learned in the SLLGA project is that ILO operations in fragile states need to be backed up with adequate security and logistics, as well as quick decision-making and action. ILO stakeholders tended to concur that in a context like Afghanistan, where the security situation was often risky and could change or escalate quickly, it was important to have proper security arrangements on the ground, as well as logistics such as proper and sufficient transport means. For instance, the project office had access to only one armoured vehicle and driver, which was inadequate for the number of staff and projects that were undertaken at the time. This impacted on the amount of time it took to carry out project activities, limited the number and types of activities that could take place in the provinces, and meant that when there were missions in Kabul, the car was unavailable for other activities.

Moreover, the Officer in Charge of the ILO Office in Afghanistan was involved in a serious incident in 2013. Taliban militants launched a large-scale attack involving the ILO in the center of Kabul in May 2013, sparking a five-hour battle with security forces. The Taliban had attacked a nearby rest house used by the U.S. Central Intelligence Agency. As a result of the attack, the Officer in Charge of the ILO and three IOM staff were wounded along with 10 others. An Afghan police officer was killed. Prior to the incident, ILO staff in Afghanistan had repeatedly requested better security, as the ILO was located in a shabby guest house environment surrounded by high buildings prone to shootings. However, the UN was slow to react to the changing security environment in Kabul.

The incident served as a wake up call, underlining the importance of allocating sufficient resources in order to ensure security and protection of staff and beneficiaries. Now the ILO is housed in an office/residential compound where the protection levels are akin to a fortress and is appropriately far from tall buildings. Furthermore, the ILO has increased security elements

both from the project and regular budget side. There is another armoured vehicle and driver and one local security assistant. A P-3 security officer and a further armoured vehicle and driver are in the pipeline with another project. This has contributed to better staff security. The ILO has begun using a human resources agency to bring in consultants and provide them with equivalent security arrangements, and this has been working well.

ILO stakeholders also expressed concern about the bureaucratic inertia of support structures, conveying frustration at the lack of quick decision-making and action on the part of ILO management in Bangkok, Delhi and Geneva. For example, prior to the incident the ILO office in Afghanistan had repeatedly asked for better security. Moreover, not having a residential presence compounded security risks and constraints, as well as access to the provinces, thereby challenging operations and delivery. ILO management should consider taking measures to provide better support structures to project offices in fragile states through faster procedures, greater flexibility, and more decentralized management.

Notwithstanding, the ILO has managed to achieve many things in fragile environments, and the SLLGA project is yet another example. There is obvious demand for ILO operations in fragile states, as shown by its implementation of projects in 15 of the 18 G7+ states³⁵ and an increasing portfolio of projects in Afghanistan itself. The ILO is an active partner in a variety of inter-agency initiatives and international forums related to peace building and reconstruction. And in 2009 the ILO and UNDP developed the United Nations Policy for Post-Conflict Employment Creation, Income Generation and Reintegration to maximize the impact, coherence and efficiency of employment and reintegration support for fragile States provided by UN agencies. The ILO should not shy away from its unique and valued contribution in fragile states. However, it should provide its offices in these environments with the tools to do their job well.

(iii) Women's participation needs to be emphasised in male dominated societies in order to overcome deep-rooted cultural obstacles

Women's participation – where welcomed by women – needs to be emphasised in male dominated societies in order to overcome deep-rooted cultural obstacles.³⁶ This was evident in many project activities, including training workshops - especially those in the provinces and abroad, and tripartite social dialogue fora - such as the Working Group on Labour Law Reform and the Project Steering Committee.³⁷

In Afghanistan, women's participation is limited for a number of reasons. First, women's mobility is restricted, with women having to travel with a male family member. It is more

³⁵ In 2010, a group of fragile and conflict-affected countries meeting in Dili, Timor-Leste, established the "g7+" to share experiences and to advocate for reforms to the international community's engagement in conflict-affected States. Members include Afghanistan and 17 other fragile and conflict affected countries in Asia Pacific, Africa and the Americas.

³⁶ In a workshop carried out in the design phase to identify beneficiary priorities for programming, Afghan women requested emphasis on female participation in all project activities, and inclusion of women's rights in the labour law reform.

³⁷ Need to ensure the safety of women participating or targeted for participation. In this project, Afghan women were accompanied by male family members to workshops. Some families allow females to travel unaccompanied and such females participated in the workshops abroad.

restricted than in neighbouring Muslim countries, such as Pakistan where women can move around the country alone. This impacted upon women's participation in capacity building activities located outside of their home city. This was seen in the low female participation rates both in the provinces and in workshops held abroad. Second, low women's participation in the project activities had to do with the fact of low female representation in the tripartite constituent organisations, including at management levels.³⁸ This was the case for workers' and employers' organisations. And even though the MOLSAMD in Afghanistan has reasonable female representation at management levels compared to other ministries, with female ministers and deputy ministers and high-level policy advisors, overall males outnumber females. Third, there were challenges associated with having women in the same room as men. For instance, during one evaluation focus group discussion, it was difficult to get responses from the one female present because a male would not allow her to speak.

In general throughout the project, ILO staff had to insist upon women's involvement; the initiative did not come from local stakeholders. Moreover, the drive to include women in project activities was present in large part due to the efforts of the gender expert in Geneva; there was little evidence of gender mainstreaming on the part of project staff on the ground in Kabul. After facing repeated difficulties in involving women in project activities, the issue was taken up with senior management of the MOLSAMD. Thereafter, there was some improvement. Other strategies employed were the inclusion of women's organisations in activities such as law reform and capacity building, the requirement of women's representation in tripartite consultative bodies, such as the Working Group on Labour Law Reform and the tripartite High Labour Council, and raising awareness about women's rights through teaching fundamental principles and rights at work, especially non-discrimination and gender equality.

Gender equality is always going to be a challenging issue in the regions of South Asia, the Middle East and North Africa. This is because of the collision between international gender equality standards and the cultural relativism demanded in such countries for religious reasons. Based on the experience of the SLLGA project, women's participation in project activities needs to be required – either through a certain percentage or by advocacy at senior management levels in tripartite organisations. This is with the proviso that local women should first be asked whether they want to participate, as well as the nature of their involvement. If female representation is an issue, members of the women's movement can be invited to participate. Local gender experts can be vocal in difficult situations in Afghanistan and similar contexts. Other strategies can include raising awareness of the importance of women's participation in tripartite consultation and social dialogue by requiring women's representation on the relevant bodies as a means of consolidating democratic processes and participation structures. Raising awareness about women's labour rights and non-discrimination highlights the reasons for encouraging women's participation. Firm but gentle encouragement is needed to advance gender equality.

³⁸ It should be noted that the labour force participation rate in Afghanistan is approximately 80% male and 20% female.

(iv) Fragile states need legislative reform as well as employment generation

An important lesson from the SLLGA project is that fragile states need legislative reform as well as employment generation programmes to help lift them out of the cycle of conflict.³⁹ There was considerable debate amongst ILO stakeholders about the relative importance of law reform compared to employment generation in Afghanistan. On the one hand, stakeholders felt that the project was very donor driven, that it focused on labour law reform at the expense of employment generation. In the other camp, stakeholders thought that law reform and labour administration reform was essential for sustainable employment creation and decent work.

This debate has been the topic of numerous interagency consultations over three years, jointly led by the ILO and UNDP, culminating in the UN Policy for Post-Conflict Employment Creation, Income Generation, and Reintegration 2009. The policy recognises the crucial link between employment and peacebuilding. It is built around a common set of guiding principles and programming guidelines underlining the necessity of comprehensive strategies for post-conflict employment promotion and reintegration. The policy defines three programming tracks: Track A on stabilizing income generation and emergency employment aims to consolidate security and stability, targeting conflict-affected individuals and groups; Track B on local economic recovery for employment and reintegration focuses on promoting employment at the local level, where reintegration ultimately takes place; and Track C on sustainable employment creation and decent work involves support to policies and institutional capacity building at the national level, including a framework for social dialogue.⁴⁰

Essentially, the SLLGA project falls into track C programming: sustainable employment creation and decent work. Reforming the labour law and labour administration to conform with international labour standards, fundamental rights and rights at work lays down the foundations for employment creation in fair conditions. It creates the enabling environment for decent work. Rule of law is a necessary condition for employment creation to be sustainable in the long run. On the other hand, employment creation is more the purview of Track A: stabilising income generation. The unions emphasised the need for more jobs in Afghanistan, especially for conflict-affected groups such as youth and women. Some ILO stakeholders highlighted the need for labour intensive employment programmes, including proper employment opportunities to be created for refugees who are returning to Afghanistan after years in exile to work as day labourers.

Transitions from conflict to peace create windows of opportunity for social and economic change. At the end of the day, fragile states need legislative reform as well as employment

³⁹ The ILO in Afghanistan began with a legislative reform project and is currently about to start up an employment generation project. According to the UN Policy for Post Conflict Employment Generation, these types of projects should ideally be undertaken simultaneously, as early as possible, and with varying degrees of intensity and duration, depending on local circumstances.

⁴⁰ UN Policy for Post-Conflict Employment Creation, Income Generation, and Reintegration 2009. See following discussion - The UN policy recommends that programmes in each of these tracks should be undertaken simultaneously, as early as possible, and with varying degrees of intensity and duration, depending on local circumstances. It should be noted that the local target groups do not tend to be engaged in decisions about which track to pursue and how because this is a high level policy decision which tends to be at Ministerial level.

generation. The UN policy recommends that programmes in each of these tracks should be undertaken simultaneously, as early as possible, and with varying degrees of intensity and duration, depending on local circumstances.⁴¹ In Afghanistan, there is an \$8 million project on employment generation which is about to start up, just on the heels of the labour law reform project. This underlines the principle that shorter-term employment generation programmes need to complement programmes supporting the creation of longer-term sustainable employment. This is also highlighted in the UNDAF for Afghanistan, under its sustainable livelihoods pillar, which aims to expand opportunities for decent work through both employment creation and by developing an enabling environment.

Ultimately, ILO has an important role to play in fragile states, which calls upon its unique expertise in both sustainable employment creation and decent work, and stabilizing income generation. However, it is crucial to emphasise the priorities and needs of national stakeholders and beneficiaries rather than donors, and to be guided by the UN Policy for Post-Conflict Employment Creation, Income Generation, and Reintegration 2009.⁴²

11. Recommendations

Based upon the conclusions, good practices and lessons learned, the following recommendations are made to the ILO stakeholders, namely the ILO Office in Afghanistan, the ILO Regional Office Bangkok, the Decent Work Team in New Delhi, and ILO's Social Dialogue, Labour Law & Labour Administration Department in Geneva. Where the tripartite constituents and donor are implicated this is noted. Following each recommendation is the priority, recommended time frame for follow up, and any resource implications.

⁴¹ Government of Afghanistan currently pays more attention to tracks B and C.

⁴² It is unclear whether or to what degree local stakeholders were engaged in the policy itself. The Government of Afghanistan's policy makers, suffering from the very nature of the fragile state, have focused on very basic foundations for the work in the future, namely labour law reform.

| Recommendation | Responsibility | Priority | Time frame | Resource implications |
|--|-------------------------------|----------|-------------|-----------------------|
| RECOMMENDATIONS REGARDING PROJECT DESIGN: | | | | |
| 1. Continue to design labour law reform and labour administration reform projects in fragile states where appropriate. Also consider simultaneous employment generation projects. | ILO project designers | High | Medium term | Yes |
| 2. When designing fragile state employment creation projects, emphasise the priorities and needs of national stakeholders and beneficiaries rather than donors, and be guided by the UN Policy for Post-Conflict Employment Creation, Income Generation, and Reintegration 2009. | ILO project designers | High | Medium term | Yes |
| 3. Design prodocs with baselines to measure progress, or include a baseline study as an activity of the project. Avoid committing things beyond the project lifetime and to be clear in the logframe what is controllable. Donors may consider including this as a requirement for future funding of ILO programmes. | ILO project designers, donors | Medium | Medium term | Yes |
| 4. When designing ILO law reform projects, adequately analyse whether objectives and timeframes are attainable and realistic. Consider the timing of the political cycle and its impact on the likely processing or stalling of law reform. | ILO project designers | High | Medium term | Yes |
| 5. Ensure that project design documents adequately analyse risks associated with | ILO project designers | High | Medium term | Yes |

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| implementing in a fragile state environment (security, political cycle, conflict, etc.) and include a risk management strategy. | | | | |
| 6. Design adequate monitoring plans with baseline data, data disaggregated by sex and other categories, and greater integration of indicators. | ILO project managers | High | Medium term | Yes |
| RECOMMENDATIONS REGARDING PROJECT IMPLEMENTATION: | | | | |
| 7. Seek no cost extensions of time if there are delays in implementation. Follow up on delayed project activities with ILO funds if project has come to a close. | ILO project managers, ILO project and country offices | High | Short term | Yes |
| 8. ILO management should consider taking measures to reduce bureaucratic inertia of technical cooperation support structures through faster procedures, greater flexibility, and more decentralized management. | ILO management | High | Short term | Yes |
| 9. Sustainability of the law reform aspects of the SLLGA project should be addressed by a phase two of the project, or by continuing support and advocacy on the part of the ILO and the MOLSAMD in the absence of a phase two of the project. | Donor, ILO Office in Afghanistan, MOLSAMD | High | Short term | Yes |
| 10. Consider forming voluntary codes of practice which are consistent with the labour law reform, as an interim measure pending enactment of new labour instruments, and to ensure sustainability of the law reform aspects of the project. | Tripartite constituents, ILO Office in Afghanistan | High | Short term | Yes |

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| RECOMMENDATIONS FOR ILO WORK IN FRAGILE STATES: | | | | |
| 11. Consider using labour law reform as a vehicle to support social dialogue as a means of consolidating peace in fragile states. Sustainability will mostly need to be ensured by a second phase of a project. | Donor, ILO offices in fragile states | Medium | Medium term | Yes |
| 12. ILO operations in fragile states need to be backed up with adequate security and logistics, as well as quick decision-making and action. (1) Avoid incorporating activities that would require prolonged stay of international experts in-country. Otherwise, try to target relatively safe provinces outside of conflict zones to conduct training of trainers workshops and rely on local counterparts to replicate in other places. (2) Be aware of the seasonality of armed conflicts, which are more plentiful from spring to autumn but calm down under the snow in winter. Try to bring more missions during winter time. (3) When security risk precludes incoming missions, conduct meetings or training workshops in nearby countries or through Skype and video conferencing. (4) Consider the timing of the political cycle and its potential impact on project implementation. | ILO offices in fragile states | High | Short term | Yes |
| RECOMMENDATIONS REGARDING GENDER EQUALITY: | | | | |
| 13. Project design should mainstream gender in the situation analysis, the project goals, outputs, indicators, and monitoring and evaluation | ILO project designers | High | Medium term | Yes |

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| <p>framework. Sex disaggregated data should be included in the situation analysis, baseline data, and indicators so that gender equality outcomes may be monitored throughout the project and properly evaluated in the midterm review and final project evaluation. Consider including these elements in a project document template.</p> | | | | |
| <p>14. Women's participation can be encouraged (1) through a quota (2) by advocacy at senior management levels in tripartite organisations (3) by inviting members of the women's movement to participate (4) by requiring women's representation in tripartite bodies (5) by raising awareness about women's labour rights and non-discrimination thereby highlighting the reasons for encouraging women's participation.</p> | <p>Tripartite constituents, ILO offices in patriarchal societies</p> | <p>High</p> | <p>Medium term</p> | <p>Yes</p> |

Appendices

Appendix 1: List of interviewees

For a list of interviewees, contact eval@ilo.org

Appendix 2: Good practices

| ILO Emerging Good Practice 1 | |
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| Project Title: Strengthening Labour Law Governance in Afghanistan Project TC/SYMBOL: AFG/10/01M/USA Name of Evaluator: Chantelle McCabe Date: November 2014 | |
| The following emerging good practice has been identified during the course of the evaluation. Further text explaining the practice may be included in the full evaluation report. | |
| GP Element | Text |
| Brief summary of the good practice | Tripartite social dialogue as a means of consolidating peace in fragile states. Use of labour law reform as a vehicle for teaching social dialogue. |
| Relevant conditions and Context | The context for this practice was that Afghanistan lacked an overall industrial relations framework and there was an absence of dialogue between the social partners. The tripartite constituents requested support in tripartite social dialogue and labour law reform. Therefore, the project sought to address this through two project goals, namely (1) review and reform labour laws and regulations to provide a legal framework in full compliance with ILO standards; and (2) improve social dialogue by creating a tripartite consultative structure within the MoLSAMD. |
| Establish a clear cause-effect relationship | The SLLGA project helped to establish a tripartite Working Group on Labour Law Reform involving representatives of the government (the Ministry of Labour), workers and employers. Through this body, the tripartite constituents learned first hand how to consult with one another through analysing the gaps in the existing labour laws with respect to international labour standards, and by agreeing on major principles for labour law reform. The outcome of this process thus far is a new labour code and three associated labour regulations, all of which have been submitted to the appropriate channels for approval. One of these regulations seeks to establish the tripartite High Labour Council, the tripartite consultative structure for social dialogue. |
| Indicate measurable impact and targeted beneficiaries | <p>Stakeholders noted that there was good participation from the tripartite constituents, particularly the workers' organisations. The Working Group on Labour Law Reform survives the project, and continues to develop further labour regulations using an inclusive process of tripartite social dialogue.</p> <p>Overall, the project has assisted in the creation of a framework for social dialogue in Afghanistan and helped to define the rules of employment relations by consensus-building. This sets an important precedent for social dialogue going forward.</p> |

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| Potential for replication and by whom | This good practice has the potential to be replicated in other fragile states with outdated labour legislation by tripartite constituents – representatives of government, workers and employers. ILO has Decent Work Country Programmes in 15 fragile states. |
| Upward links to higher ILO Goals | This linked to Afghanistan’s Decent Work Country Programme goal of strong and representative employers’ and workers’ organisations contributing to national policy formulation processes and better industrial relations at all levels, and ILO’s Strategic Policy Framework objective to strengthen tripartism and social dialogue. |
| Other documents or relevant comments | <i>ILO Technical Cooperation in Fragile States</i> , ILO Governing Body, 2014, GB 320/POL/9. |

ILO Emerging Good Practice 2

Project Title: Strengthening Labour Law Governance in Afghanistan

Project TC/SYMBOL: AFG/10/01M/USA

Name of Evaluator: Chantelle McCabe

Date: November 2014

The following emerging good practice has been identified during the course of the evaluation. Further text explaining the practice may be included in the full evaluation report.

| GP Element | Text |
|--|--|
| Brief summary of the good practice | ILO's provision of technical expertise in fragile states |
| Relevant conditions and Context | The context for this practice is a fragile state environment characterised by inequality, lack of decent work opportunities and social exclusion. In Afghanistan, this was borne out by a weak rule of law culture, notable for the lack of awareness of labour rights and laws, and non-existent enforcement of these laws. Use of the formal justice system is bypassed in favour of informal mechanisms of dispute resolution, often by way of customary justice. The current labour law falls far short of providing comprehensive protections in line with international labour standards, such as non-discrimination, freedom of association and the right to collective bargaining, freedom from forced and child labour. Therefore, the project sought to address this through provision of technical expertise related to labour law reform and labour administration reform. |
| Establish a clear cause-effect relationship | The project aimed to strengthen the labour administration in Afghanistan, including through technical assistance to improve upon labour inspection and labour dispute resolution practices, establishing a tripartite consultative structure, and reforming the labour law. The project's capacity building component included training workshops both in Afghanistan and abroad – in India and Italy – for Ministry of Labour staff and workers' and employers' organisations. This entailed bringing in expert consultants and technical backstopping staff from the Decent Work Team in Delhi and from Headquarters in Geneva to conduct assessments, make recommendations for reform, and to train the social partners on a wide variety of topics such as international labour standards, labour law drafting, the role and functions of the labour inspectorate, dispute resolution for labour officers, and dispute resolution, international labour standards and Islamic law for the judiciary. It also involved technical support to the work of the tripartite social dialogue body: the Working Group on Labour Law Reform. This encompassed the provision of technical assistance during discussions of priority issues by social partners especially around labour law reform, and conducting training workshops on the social dialogue process. |

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| <p>Indicate measurable impact and targeted beneficiaries</p> | <p>The SLLGA project has made a positive impact in raising awareness of the general public, the Ministry of Labour staff, union staff and members, and employers about labour rights and obligations. Indicators are an increase in complaints lodged at the MOLSAMD (from 700 to 1300 per year) and ongoing workshops for tripartite stakeholders in the provinces following the project’s training of trainers workshops. Moreover, unions report that their membership system has improved as a result of the capacity building. They have also increased membership numbers, and have established a bank account for the provincial union offices to collect membership fees and transfer these to the central union bank account to use for union activities. There is general high regard amongst tripartite constituents for the ILO’s technical capacity in international labour standards, legislative reform, and brokering using its unique tripartite mandate to liaise with government, employers’ and workers’ representatives.</p> |
| <p>Potential for replication and by whom</p> | <p>This good practice has the potential to be replicated in other fragile state contexts. The ILO has accumulated sound experience in fragile state contexts, including a comprehensive range of technical expertise to address both basic needs at local level, as well as enhancing labour market governance at policy level. Moreover, the ILO’s technical cooperation portfolio engages a wide spectrum of societal groups through its tripartite constituency. Working with ILO constituents facilitates national ownership. However, what is expected from tripartite constituents in fragile countries can exceed their capacities. More in- depth and long-term capacity development and involvement of local expertise and knowledge may be needed for a sustainable impact. Therefore, it may be advisable to establish strategic partnerships to involve the social partners in promoting decent work in fragile States, with a wide range of organizations from the international development community including the g7+, knowledge institutions and the private sector, including through South–South and triangular cooperation.⁴³ The ILO can make a difference in fragile countries by building the legal and institutional infrastructure to move forward.</p> |
| <p>Upward links to higher ILO Goals</p> | <p>This project linked to Decent Work Country Programme goals in Afghanistan, namely (1) promotion and application of international labour standards with a focus on ILO core conventions; and (2) ensuring that employers’ and workers’ organizations contribute to national policy formulation processes and better industrial relations at all levels. Furthermore, the ILO’s Strategic Policy Framework (2010–15) identifies crisis response as a priority.</p> |

⁴³ *ILO Technical Cooperation in Fragile States*, ILO Governing Body, 2014, GB 320/POL/9.

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| Other documents or relevant comments | <i>ILO Technical Cooperation in Fragile States</i> , ILO Governing Body, 2014, GB 320/POL/9. |
|---|--|

ILO Emerging Good Practice 3

Project Title: Strengthening Labour Law Governance in Afghanistan

Project TC/SYMBOL: AFG/10/01M/USA

Name of Evaluator: Chantelle McCabe

Date: November 2014

The following emerging good practice has been identified during the course of the evaluation. Further text explaining the practice may be included in the full evaluation report.

| GP Element | Text |
|--|--|
| Brief summary of the good practice | South-South capacity building for labour inspectors. The project included a capacity building activity for Afghan labour inspectors, which was carried out by Brazilian labour inspectors. |
| Relevant conditions and Context | The context for this practice is a developing country with a weak labour inspectorate. In Afghanistan, this entailed inadequate numbers of labour inspectors, a lack of female labour inspectors, and little or no decentralisation of labour inspection services outside of the capital. Therefore the project sought to address this through provision of capacity building by labour inspectors from a developing country with a more advanced labour inspectorate. |
| Establish a clear cause-effect relationship | This was a successful example of South-South learning, which appealed to the Afghan counterparts because they could relate well to colleagues in another developing country that had been through its share of problems, yet had advanced, and spoke from a down to earth perspective. |
| Indicate measurable impact and targeted beneficiaries | Despite security incidents in Kabul during the time of the mission from Brazil, which ultimately cut short their stay, the colleagues managed to transfer knowledge, and provide examples of tools and legislation and this was taken up afterwards as the basis for further development of the Afghan labour inspection system, and the accompanying regulation. |
| Potential for replication and by whom | This good practice has the potential to be replicated in other developing countries. Indeed the ILO is already carrying this out in other sub-regions of Asia Pacific, such as in the Pacific, where labour inspectors from jurisdictions with more advanced labour inspectorates provide capacity building for other Pacific Island states in the region. |

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| Upward links to higher ILO Goals | This project linked to Decent Work Country Programme goals in Afghanistan, namely (2) ensuring that employers' and workers' organizations contribute to national policy formulation processes and better industrial relations at all levels. |
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Appendix 3: Lessons Learned

| <p style="text-align: center;">ILO Lesson Learned 1</p> <p>Project Title: Strengthening Labour Law Governance in Afghanistan Project TC/SYMBOL: AFG/10/01M/USA Name of Evaluator: Chantelle McCabe Date: November 2014</p> <p>The following lesson learned has been identified during the course of the evaluation. Further text explaining the lesson may be included in the full evaluation report.</p> | |
|---|---|
| LL Element | Text |
| Brief description of lesson learned (link to specific action or task) | Good project design is essential for the implementation, monitoring and evaluation of the project |

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| <p>Context and any related preconditions</p> | <p>The SLLGA project made a series of assumptions that were unlikely to hold true and ultimately affected the project’s effectiveness and efficiency. To provide just one example, the project assumed that the political and security situation in Afghanistan would not deteriorate and that the government would support the project throughout with the highest level of commitment and participation. In a country that has already faced over three decades of conflict, it would seem unreasonable to assume that the political and security situation in Afghanistan would remain stable during the project duration. The security situation in Afghanistan affected several missions related to key project activities, and prevented some provincial activities from being carried out. Also, the political cycle was such that elections would fall during the project lifetime and as it transpired this had a negative impact on many project activities, delaying technical assistance missions, affecting the whereabouts of capacity building workshops, delaying approvals of law reform instruments, and so on.</p> <p>Furthermore, in a context where various reports acknowledge that corruption is rife and well known⁴⁴, it would also seem unreasonable to assume that the government would support the project throughout with the highest level of commitment and participation. As it happened, the Ministry of justice and the Council of Ministers did not fully support the project’s law reform efforts and affected many of the outputs under the law reform outcome. Ultimately, the project design lacked a risk management strategy, which could have mitigated the effects of many of the assumptions not coming to bear.</p> |
| <p>Targeted users / Beneficiaries</p> | <p>Project designers in fragile states</p> |

⁴⁴ For example www.transparency.org (accessed on January 23, 2015), US Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2013: Afghanistan*. It should be noted that reports also acknowledge efforts by the Government of Afghanistan to combat corruption.

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| <p>Challenges /negative lessons - Causal factors</p> | <p>The SLLGA project was about technical cooperation and some of the major shortcomings of the design were overambitious objectives, and unrealistic time frames, especially in relation to labour law reform. This involved achievements that are beyond the control of the ILO and the tripartite constituents, such as the approval of law reform instruments, which implicated the Ministry of Justice, the Council of Ministers and Parliament and the challenge of overcoming institutional inertia. Moreover, the start up time was underestimated, with the project manager coming on board only after nine months of operation, and there was general unwarranted optimism that everything would go according to plan, as explained below regarding assumptions made. These factors contributed to difficulties in implementing the project, particularly under the law reform outcome.</p> <p>The project design would have benefited from a proper risk assessment and risk management strategy. As noted previously, some of the assumptions in the project document were unlikely to hold true and ultimately affected the project's effectiveness and efficiency. Problems that flowed from this could have been more easily dealt with if the prodoc had included adequate analysis of the risks associated with implementing a project in a fragile state such as Afghanistan, which necessarily implies risks associated with security, political cycle, conflict and so on. A risk management strategy could have assessed the severity of each risk and provided strategies to mitigate the negative effects. Fortunately for the project, very able project staff and ILO management on the ground in Afghanistan were able to react in a flexible and practical way to deal with problems as they arose. These included using ILO funds to complete project activities delayed beyond the project lifetime and carrying out activities abroad or via video conference when required by the security situation in Afghanistan. Increased attention to risk management is especially needed in fragile states.</p> |
| <p>Success / Positive Issues - Causal factors</p> | <p>Fortunately for the project, very able project staff and ILO management on the ground in Afghanistan were able to react in a flexible and practical way to deal with problems as they arose. These included using ILO funds to complete project activities delayed beyond the project lifetime and carrying out activities abroad or via video conference when required by the security situation in Afghanistan. Increased attention to risk management is especially needed in fragile states.</p> <p>It is important to incorporate particular considerations when designing projects in fragile states with on-going security challenges. (1) Try to avoid incorporating activities that would require prolonged stay of international experts in-country. If required however, try to target relatively safe provinces outside of conflict zones to conduct training of trainers workshops and rely on local counterparts to replicate in other places. (2) Be aware of the seasonality of armed conflicts, which are more plentiful from spring to autumn but calm down under the snow in winter. Try to bring more missions during winter time. (3) When security risk precludes incoming missions, conduct meetings or training workshops in nearby countries or resort to Skype and video conferencing. (4) Consider the timing of the political cycle and its potential impact on project implementation.</p> |

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| <p>ILO Administrative Issues (staff, resources, design, implementation)</p> | <p>The management of technical cooperation activities is generally a challenge. However, good logical frameworks can help project managers steer through the complexities of the operational environment. In turn, good management may be able to overcome weaknesses in the design. Indicators should be specific, measurable, attainable, realistic and time-bound. The prodoc should establish baselines to measure progress, or include a baseline study as an activity of the project. It is important to avoid committing things beyond the project lifetime and to be clear in the logframe what is controllable. These factors will contribute to effective implementation, monitoring and evaluation.</p> <p>When designing ILO projects involving law reform, it is important to adequately analyse whether objectives and timeframes are attainable and realistic. Even in middle-income countries unaffected by conflict or disaster, law reform is difficult to achieve in a project lifetime of 3-5 years. In fragile countries such as Afghanistan that have been affected by decades of conflict and where the rule of law is barely embedded in the culture of the country, law reform objectives and time frames need to be even further scaled back. Sustainability will mostly need to be ensured by a second phase of a project. As the project demonstrated, it is also important to consider the timing of the political cycle and its impact on the likely processing or stalling of law reform.</p> <p>Good project design should also pay due attention to gender equality. It should mainstream gender in the situation analysis, the project goals, outputs, indicators, and monitoring and evaluation framework. Sex disaggregated data should be included in the situation analysis, baseline data, and indicators so that gender equality outcomes may be monitored throughout the project and properly evaluated in the midterm review and final project evaluation. One way to address this is to include these elements in a project document template so that project designers know how to mainstream gender into the project. The evaluator notes that the project document template has been updated since the drafting of the SLLGA project to include some gender equality elements. However, this could be further improved by requiring gender mainstreaming in each section of the prodoc, including for example a certain percentage of female participation in project activities or a certain percentage of women’s representation in tripartite structures. These improvements would also contribute to enabling proper gender equality evaluation in the final project review. Availability of sex disaggregated data is the cornerstone of gender analysis and its absence in the project design and monitoring instruments makes gender evaluation very difficult.</p> |
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ILO Lesson Learned 2

Project Title: Strengthening Labour Law Governance in Afghanistan

Project TC/SYMBOL: AFG/10/01M/USA

Name of Evaluator: Chantelle McCabe

Date: November 2014

The following lesson learned has been identified during the course of the evaluation. Further text explaining the lesson may be included in the full evaluation report.

| LL Element | Text |
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| Brief description of lesson learned (link to specific action or task) | ILO operations in fragile states need to be backed up with adequate security and logistics, as well as quick decision-making and action. |
| Context and any related preconditions | In a fragile state context like Afghanistan, where the security situation was often risky and could change or escalate quickly, it is important to have proper security arrangements on the ground, as well as logistics such as proper and sufficient transport means. In addition, not having a residential presence compounded security risks and constraints, as well as access to the provinces, thereby challenging operations and delivery. |
| Targeted users / Beneficiaries | ILO project and country offices in fragile states |
| Challenges /negative lessons - Causal factors | <p>The project office had access to only one armoured vehicle and driver, which was inadequate for the number of staff and projects that were undertaken at the time. This impacted on the amount of time it took to carry out project activities, limited the number and types of activities that could take place in the provinces, and meant that when there were missions in Kabul, the car was unavailable for other activities.</p> <p>Moreover, the Officer in Charge of the ILO Office in Afghanistan was involved in a serious incident in 2013. Taliban militants launched a large-scale attack involving the ILO in the center of Kabul in May 2013, sparking a five-hour battle with security forces. The Taliban had attacked a nearby rest house used by the U.S. Central Intelligence Agency. As a result of the attack, the Officer in Charge of the ILO and three IOM staff were wounded along with 10 others. An Afghan police officer was killed. Prior to the incident, ILO staff in Afghanistan had repeatedly requested better security, as the ILO was located in a shabby guest house environment surrounded by high buildings prone to shootings. However, the UN was slow to react to the changing security environment in Kabul.</p> <p>There was also concern expressed about the bureaucratic inertia of support structures, conveying frustration at the lack of quick decision-making and action on the part of ILO management in Bangkok, Delhi and Geneva.</p> |

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| <p>Success / Positive Issues - Causal factors</p> | <p>The incident served as a wake up call. Now the ILO is housed in an office/residential compound where the protection levels are akin to a fortress and is appropriately far from tall buildings. Furthermore, the ILO has increased security elements both from the project and regular budget side. There is another armoured vehicle and driver and one local security assistant. A P-3 security officer and a further armoured vehicle and driver are in the pipeline with another project. This has contributed to better staff security. The ILO has begun using a human resources agency to bring in consultants and provide them with equivalent security arrangements, and this has been working well.</p> |
| <p>ILO Administrative Issues (staff, resources, design, implementation)</p> | <p>ILO management should consider taking measures to provide better support structures to project offices in fragile states through adequate security and logistics, faster procedures, greater flexibility, and more decentralized management.</p> <p>Notwithstanding, the ILO has managed to achieve many things in fragile environments, and the SLLGA project is yet another example. There is obvious demand for ILO operations in fragile states, as shown by its implementation of projects in 15 of the 18 G7+ states⁴⁵ and an increasing portfolio of projects in Afghanistan itself. The ILO is an active partner in a variety of inter-agency initiatives and international forums related to peace building and reconstruction. And in 2009 the ILO and UNDP developed the United Nations Policy for Post-Conflict Employment Creation, Income Generation and Reintegration to maximize the impact, coherence and efficiency of employment and reintegration support for fragile States provided by UN agencies. The ILO should not shy away from its unique and valued contribution in fragile states. However, it should provide its offices in these environments with the tools to do their job well.</p> |

⁴⁵ In 2010, a group of fragile and conflict-affected countries meeting in Dili, Timor-Leste, established the “g7+” to share experiences and to advocate for reforms to the international community’s engagement in conflict-affected States. Members include Afghanistan and 17 other fragile and conflict affected countries in Asia Pacific, Africa and the Americas.

ILO Lesson Learned 3

Project Title: Strengthening Labour Law Governance in Afghanistan

Project TC/SYMBOL: AFG/10/01M/USA

Name of Evaluator: Chantelle McCabe

Date: November 2014

The following lesson learned has been identified during the course of the evaluation. Further text explaining the lesson may be included in the full evaluation report.

| LL Element | Text |
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| Brief description of lesson learned (link to specific action or task) | Women's participation needs to be emphasised in male dominated societies in order to overcome deep-rooted cultural obstacles. |
| Context and any related preconditions | In Afghanistan, women's participation is limited for a number of reasons. First, women's mobility is restricted, with women having to travel with a male family member. It is more restricted than in neighbouring Muslim countries, such as Pakistan where women can move around the country alone. This impacted upon women's participation in capacity building activities located outside of their home city. This was seen in the low female participation rates both in the provinces and in workshops held abroad. Second, low women's participation in the project activities had to do with the fact of low female representation in the tripartite constituent organisations, including at management levels. This was the case for workers' and employers' organisations. And even though the MOLSAMD in Afghanistan has reasonable female representation at management levels compared to other ministries, with female ministers and deputy ministers and high-level policy advisors, overall males outnumber females. Third, there were challenges associated with having women in the same room as men. For instance, during one evaluation focus group discussion, it was difficult to get responses from the one female present because a male would not allow her to speak. |
| Targeted users / Beneficiaries | ILO project and country offices in male dominated societies |
| Challenges /negative lessons - Causal factors | In general throughout the project, ILO staff had to insist upon women's involvement; the initiative did not come from local stakeholders. Moreover, the drive to include women in project activities was present in large part due to the efforts of the gender expert in Geneva; there was little evidence of gender mainstreaming on the part of project staff on the ground in Kabul. After facing repeated difficulties in involving women in project activities, the issue was taken up with senior management of the MOLSAMD. Thereafter, there was some improvement. |

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| <p>Success / Positive Issues - Causal factors</p> | <p>Other strategies employed were the inclusion of women’s organisations in activities such as law reform and capacity building, the requirement of women’s representation in tripartite consultative bodies, such as the Working Group on Labour Law Reform and the tripartite High Labour Council, and raising awareness about women’s rights through teaching fundamental principles and rights at work, especially non-discrimination and gender equality.</p> |
| <p>ILO Administrative Issues (staff, resources, design, implementation)</p> | <p>Gender equality is always going to be a challenging issue in the regions of South Asia, the Middle East and North Africa. This is because of the collision between international gender equality standards and the cultural relativism demanded in such countries for religious reasons. Based on the experience of the SLLGA project, women’s participation in project activities needs to be required – either through a certain percentage or by advocacy at senior management levels in tripartite organisations. If female representation is an issue, members of the women’s movement can be invited to participate. Local gender experts can be vocal in difficult situations in Afghanistan and similar contexts. Other strategies can include raising awareness of the importance of women’s participation in tripartite consultation and social dialogue by requiring women’s representation on the relevant bodies as a means of consolidating democratic processes and participation structures. Raising awareness about women’s labour rights and non-discrimination highlights the reasons for encouraging women’s participation. Firm but gentle encouragement is needed to advance gender equality.</p> |

ILO Lesson Learned 4

Project Title: Strengthening Labour Law Governance in Afghanistan

Project TC/SYMBOL: AFG/10/01M/USA

Name of Evaluator: Chantelle McCabe

Date: November 2014

The following lesson learned has been identified during the course of the evaluation. Further text explaining the lesson may be included in the full evaluation report.

| LL Element | Text |
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| Brief description of lesson learned | Fragile states need legislative reform as well as employment generation programmes to help lift them out of the cycle of conflict. |
| Context and any related preconditions | <p>The unions emphasised the need for more jobs in Afghanistan, especially for conflict-affected groups such as youth and women. Some ILO stakeholders highlighted the need for labour intensive employment programmes, including proper employment opportunities to be created for refugees who are returning to Afghanistan after years in exile to work as day labourers.</p> <p>Others emphasised the need for sustainable employment creation and decent work. Reforming the labour law and labour administration to conform with international labour standards, fundamental rights and rights at work lays down the foundations for employment creation in fair conditions. It creates the enabling environment for decent work. Rule of law is a necessary condition for employment creation to be sustainable in the long run.</p> |
| Targeted users / Beneficiaries | <p>ILO project and country offices in fragile states</p> <p>Conflict affected groups, such as returnees, youth and women</p> |
| Challenges /negative lessons - Causal factors | On the one hand, stakeholders felt that the project was very donor driven, that it focused on labour law reform at the expense of employment generation, despite an obvious need and requests for this by various stakeholders. In the other camp, stakeholders thought that law reform and labour administration reform was essential for sustainable employment creation and decent work and that this vacuum had not been filled in far too long. |

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| <p>Success / Positive Issues - Causal factors</p> | <p>Transitions from conflict to peace create windows of opportunity for social and economic change. At the end of the day, fragile states need legislative reform as well as employment generation. The UN Policy for Post-Conflict Employment Creation, Income Generation, and Reintegration 2009 recommends that programmes in each of these tracks should be undertaken simultaneously, as early as possible, and with varying degrees of intensity and duration, depending on local circumstances. In Afghanistan, there is an \$8 million project on employment generation which is about to start up, just on the heels of the labour law reform project. This underlines the principle that shorter term employment generation programmes need to complement programmes supporting the creation of longer term sustainable employment. This is also highlighted in the UNDAF for Afghanistan, under its sustainable livelihoods pillar, which aims to expand opportunities for decent work through both employment creation and by developing an enabling environment. Ultimately, ILO has an important role to play in fragile states, which calls upon its unique expertise in both sustainable employment creation and decent work, and stabilizing income generation.</p> |
| <p>ILO Administrative Issues (staff, resources, design, implementation)</p> | <p>Emphasise the priorities and needs of national stakeholders and beneficiaries rather than donors. Aim to be guided by the UN Policy for Post-Conflict Employment Creation, Income Generation, and Reintegration 2009 in programming priorities.</p> |

Appendix 4: Terms of Reference for the Evaluation



Terms of Reference

Final Independent Evaluation:

Strengthening Labour Law Governance in Afghanistan (SLLG)

AFG/10/01M/USA

Administrative Unit: ILO Regional Office for Asia and the Pacific

Technical Unit: DWT-New Delhi (LAB/ADMIN)

Timing: September/October 2014

Background

Since July 2011, the International Labour Organization has been implementing the Project “Strengthening Labour Law Governance in Afghanistan”, a project funded by US Department of Labour (USDOL). The purpose of the Project, with a budget of US\$ 600,000, is to support in *reforming labour administration machinery at the central and selected provincial offices for a more effective provision of services as well as to support in setting up revised labour laws and regulations in line with international labour standards which ensure an equitable balance between the need to foster productivity and employment creation and protect workers’ rights and employment security.*

In line with ILO policies and procedures on evaluations, an internal midterm evaluation was undertaken in late 2012 and the project is coming to an end in September 2014, a final evaluation is required. As per MPGs FY 2010, the final evaluation will be an independent evaluation to be managed by a Regional Evaluation Officer who is based at the ILO Regional Office for Asia Pacific (RO-Bangkok) and will be conducted by an external independent evaluator. The ILO and USDOL will jointly develop a TOR, and the ILO will subsequently finalize it in a consultative process involving key stakeholders of the project.

The evaluation will comply with UN norms and standards and that ethical safeguards will be followed.

1. Background of the project

In line with Afghanistan’s national priorities and following extensive consultations with the Government of Afghanistan and workers’ and employers’ organizations the ILO Decent Work Country Program for Afghanistan (2010 – 2015) has identified as a country priority the promotion and application of international labour standards with a focus on ILO core conventions which this project directly contributes to. To this end, in keeping with the 2008 Social Justice Declaration, the ILO has provided technical expertise to strengthen capacity of the country to ratify and to work collaboratively with social partners in applying international labour standards and fulfilling reporting obligations. The DWCP has also established as one of its main outcomes that men and women workers benefit from improved conditions of work as a result of better

labour policy, labour code, and labour administration and inspection services. The project also sets forth as one of its outputs creating a tripartite consultative mechanism for social dialogue on the labour law reform process, which furthers the DWCP priority of ensuring that employers' and workers' organizations contribute to national policy formulation processes and better industrial relations at all levels. The DWCP outcome to which the Project has its link is AFG 104 ("Enhanced capacity of Government to implement International Labour Standards especially core conventions").

The Project objectives also align with the UNDAF priority areas for Afghanistan (2010–2013) (1) good governance, peace and stability and (2) Sustainable livelihoods: agriculture, food security and income opportunities. More specifically, it aligns with the following UNDAF outcomes identified as the ILO's responsibility including (1) Government capacity to deliver services to the poor and vulnerable is enhanced and (2) Opportunities for decent work and income are improved and diversified especially for vulnerable groups. In addition, this project proposal links with MDG Goal 1: Eradicate extreme poverty and hunger Target: Achieving full and productive employment and decent work for all including women and young people.

The Labour Code enacted in 2008 appears to fall short in providing comprehensive protections in line with the ILOs core international labour standards including the right to freedom from forced labour, child labour, freedom of association and the right to collective bargaining and non-discrimination.

The Labour Code does not address, among other issues, implementation of labour law provisions –this is the focus of a separate law, as well as labour inspection and labour dispute settlement. The law is also silent on collective relations, and covers both the public and the private sector. The main outcome of the project in this area is: *A set of revised labour laws and regulations in line with the ILS which ensure an equitable balance between the need to foster productivity, employment creation and protection of workers' rights and employment security.*

The Government of Afghanistan through the Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD) started the revision of the Labour Law of 2008 and separate Labour Regulations in 2011, in cooperation with the International Labour Office (ILO). The purpose of this reform is to evaluate the Afghan labour law for its conformity with international labour standards (ILS), including with ILO conventions ratified by Afghanistan, and adapt it to the new market economy context in the country.

The Labour Law reform process started with holding tripartite workshops in order to identify key areas of reform. Also two national consultants were recruited to draft the initial amendments of the Labour Law for discussions.

The labour administration system in Afghanistan is fraught with several challenges. Some relate to the absence of a coordinated system of competent labour administration bodies and an institutional structure that integrates the active participation of workers' and employers' and their organizations.

The main goal of the project is to strengthen the labour administration in Afghanistan so as to provide better services of workers and employers and improve governance in the field of work, thus contributing to the social and economic development in the country. There are two main outcomes: -

Outcome 1: A reformed labour law administrative machinery at the central and selected provincial offices for a more effective provision of services

Outcome 2: A set of revised labour laws and regulations in line with international labour standards which ensure an equitable balance between the need to foster productivity and employment creation and protect workers' rights and employment security

The midterm review at the end of 2012 noted two outstanding areas of concern. One, is the apparent inability of the ILO, as executing agency, to be able to ensure a supply of labour administration expertise suitable to the effective achievement of Outcome 1 in this very difficult context. The second major concern is the emerging possibility that the government may

not have the hoped for capacity and/or degree of urgency needed to facilitate the passage of the proposed changes in the law through the processes needed to bring them into effect. Again, the context needs to be taken into account: an environment in which the legal system is endemically weak is not ideal as a means to facilitate the kind of action which is needed to strengthen a particular aspect of the law. The level of these concerns is sufficiently strong to suggest that there may be a need to start thinking in terms of alternative implementation strategies for possibly less comprehensive but nonetheless valuable Outcomes.

The midterm review also suggests that there is a very clear need to closely monitor the implications of any actual delay or likely delays in the implementation of the 2013 work plan. In particular, there is a need to watch closely for any signs which indicate that the activities, outputs and, hence, outcomes will not be able to be completed to a fully sustainable level within the currently approved time frame. Management needs, therefore, to be prepared well in advance to implement any or all of the following actions, if they become necessary; preferably with an emphasis on acting before any delay becomes irretrievable:

- Action to continually monitor and assesses whether or not it may, at some point, become appropriate to seek some higher level intervention to support the ability of the MoLSAMD and MoJ to facilitate the full passage of the required regulations and reforms into approved law.
- Action to enhance on-going access to good quality and readily available technical expertise for all Project activity. The new contracting arrangement organized by the ILO, Kabul, should be utilized wherever appropriate as one means to facilitate the availability of the required expertise.
- Action to seek a time frame extension of the project – including the possibility of both no cost and added cost extensions. It may, perhaps, be appropriate to seek to negotiate with the donor to have some or all the remaining Project funds transferred into the DWCP

ILO's partners in this collaboration are the Afghan Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD), the Afghanistan Chamber of Commerce and Industry (ACCI), the Workers' Organizations and the civil society.

2. Purpose and objective of the evaluation:

The purpose of the final evaluation is to document key achievements, challenges, lessons learnt and good practices for future applicable programmes and projects. The objectives of the evaluation are

- Determine if the Project has achieved its stated objectives and explain why/why not; also to what extent it has contributed to the priorities of Afghanistan DWCP and national development goals
- Review the extent to which the project has addressed the midterm evaluation's recommendations
- Identify needs that may not have been addressed or fully met and the reasons why
- Determine the impact of the Project in terms of sustained improvements achieved and long term benefits to target groups,
- Provide recommendations on how to build on the achievements of the Project and ensure that is sustained by the relevant stakeholders as well as identify results that could be emulated in other projects
- Document lessons learned, success stories, and good practice in order to maximize the experiences gained.

The evaluation should take into consideration the project duration, existing resources and political environmental constraints;

Evaluation Scope and client

The evaluation will look at all activities implemented from **July 2011 to September 2014**. In particular the evaluation will examine the impact of project activities on establishing a more effective Labour Inspection system, establishing a national tripartite body and a new system of labour dispute settlement. The evaluation should be framed by ILO's corporate strategy, and initiatives that promote fundamental principles and rights at work. It is also essential to keep in mind the especially difficult operational context which applies in Afghanistan.

The followings are key evaluation questions:-

7. **What are the main achievements of the proposed revision of the legal framework, and in particular the labour Code and the regulations and what further work is needed to achieve the reform of the labour laws?**
8. **The consistency of the Ministry of Labour in Afghanistan in implementing the Project action plan and achieve institutional reforms.**
9. **Has tripartite social dialogue been strengthened?**
10. **Whether the Project has assisted in reviewing the dispute settlement system as well as the labour inspection system.**
11. **The evaluation recommendations should correlate to the five focus areas of the evaluation (effectiveness, efficiency, relevance, impact and sustainability) and the related key questions. What are the possible impacts and the sustainability of activities undertaken and where possible, identify indicators of long-term impact. What are important lessons learnt or any possible good practices?**

Client: **primary clients of the evaluation are ILO Afghanistan Office, RO-Bangkok, key constituents, donor, DWT-New Delhi and LAB ADMIN at ILO HQ**

Evaluation Criteria and Questions

The evaluation will adhere to UN System Evaluation Norms and Standards and applies OECD/DAC Evaluation Quality Standards. The evaluation should address the key evaluation questions and the OECD/DAC evaluation quality criteria such as relevance, effectiveness, efficiency and sustainability. The evaluation will also be guided by ILO Policy Guidelines for results-based evaluation, 2012. (http://www.ilo.org/eval/Evaluationguidance/WCMS_176814/lang--en/index.htm)

The evaluation should address key evaluation questions above and also address all evaluation criteria (relevance, effectiveness, efficiency, impact and sustainability).

- **Development Effectiveness:** The extent to which the Project's objectives and intended results were achieved
- **Resource Efficiency:** The extent with which resources were economically converted into results, including mention of alternative more cost-effective strategies when applicable
- **Impact:** Positive and negative, intended and unintended long-term effects
- **Relevance:** The extent to which Project interventions met beneficiary requirements, country needs, global priorities and partners' and donors' policies
- **Sustainability:** The immediate benefits and probability of continued long-term benefits after the Project has ended
- **Tripartism and Partnerships:** The extent to which the capacity of the ILO tripartite constituents and key partners has been improved and able to address labour administration challenges, what has been their roles in the project implementation
- **Gender:** the evaluation will integrate gender equality as a cross-cutting concern throughout its methodology and all deliverables, including the final report

12. Suggested Analytical Framework

The evaluation shall adhere to the UN Evaluation Norms and Standards and OECD/DAC quality standards.

6.1 Relevance and strategic fit

- a. How did the Project contribute to national priorities as identified in the United Nations Development Assistance Framework (UNDAF)?
- b. How have the stakeholders taken ownership of the Project concept and approach since the project started? Did the project address the need of key partners?
- c. How well did the Project complement and fit with ILO DWCP?

6.2. Validity of the design

- a. Were there needs assessments carried out and if so, how and to what extent they were used in the design of the project and the interventions selected.
- b. Was the intervention logic coherent and realistic? Do outputs causally link to outcomes, which in turn contribute to the broader development objective of the Project?
- c. Were the objectives of the Project clear, realistic and likely to be achieved within the established time schedule and with the allocated resources (including human resources)? Were the problems and needs adequately analyzed?
- d. Are the indicators of project immediate objectives sound and valid?
- e. Has there been any external factors that affect the project logic (please review the assumptions of the project logframe)?

6.3. Project effectiveness

- a. Has the Project achieved its planned outcomes? And whether all the planned outputs and activities have been delivered/implemented? Do the benefits accrue equally to men and women? If not, why?
- b. What alternatives strategies would have been more effective in achieving the Project's outcomes/objectives?

6.4. Efficiency of resource use

- a. Have resources (funds, human resources, time, expertise etc.) been allocated strategically to achieve outcomes?
- b. Have resources been used efficiently? Has the implementation of activities been cost-effective? Will the results achieved justify the costs? Could the same results have been attained with fewer resources?
- c. Have project funds and activities been delivered in a timely manner? Were there any major delays? What were the reasons?

6.5 Effectiveness of management arrangements

- a. Were management capacities adequate? Did the project governance structure facilitate good results and efficient delivery?
- b. How effective was the communication?

- c. How effectively did the Project management monitor performance and results? Has the project monitoring plan been prepared and used as monitoring tool?
- d. Did the Project receive adequate political, technical and administrative support from its national partners? If not why and what should be done to improve the situation.

6.6. Impact orientation and sustainability

- a. What observed changes (attitudes, capacities, institutions etc) can be causally linked to the Project's interventions?
- b. How effectively has the Project built national ownership?
- c. Has the Project successfully built or strengthened an enabling environment? (laws, policies, people's attitude etc.) and how sustainable are they?

13. Methodology:

The evaluation methodology will include multiple methods with analysis of both quantitative and qualitative data, where possible. It will include but will not be restricted to the followings:

- A desk review of project documents and relevant materials;
- Presentations /inductions with available staff who worked under the Project, key stakeholders and partners to the Project explaining the process, methodology, objectives and principles of the participatory evaluation;
- Interviews with staff who worked under the Project, project partners, constituents and key project stakeholders;
- Interviews with the backstopping official/s in the DWT and DIALOGUE, LAB/ADMIN;
- Analyze the data (with explicitly address gender issues) and draft evaluation report for submission to the evaluation manager
- ILO constituents and key stakeholders including donor will be involved in the implementation of the evaluation including providing inputs to the TOR and the finalization of the report.

All data gathering and methods used should be disaggregated by gender.

Main source of information

- Project document
- Midterm review report
- Technical Progress report
- Relevant project minutes
- Etc.

The methodology may be adapted by the evaluator but any fundamental changes should be agreed between the evaluation manager and the evaluator, and reflected in the inception report.

14. Main Deliverables: The expected outputs to be delivered by the international evaluator are:

- a. **A short inception report**, including the work plan and details on methods, data sources, interviews, draft mission schedule and draft report format. This report should also provide a review of the available documents. It should set out the evaluation instruments (which include the key questions and data gathering/and analysis methods) and any changes proposed to the methodology or any other issues of importance.
- b. **A draft evaluation report** of no longer than 30 pages, excluding annexes. It will contain an executive summary, a section with project achievements to date, findings and recommendations for short and medium term action. The report should be set-up in line with the ILO's 'Quality Checklists 4, 5 and 6 for Evaluation Reports which will be provided to the evaluator and of which the report will be assessed against. Evaluation report will be in English.
- c. **A final evaluation report with executive summary**, which integrates comments from ILO and project stakeholders. The evaluation summary according to ILO template will also be drafted by the evaluator together with the finalised evaluation report. Findings and recommendations will be presented to the ILO for comment upon completion of the draft Evaluation Report.

15. Management Arrangement and Work Plan

Evaluation Manager: Ms. Pamornrat Pringsulaka, LO Regional Evaluation Officer will manage this evaluation and will liaise with all parties to ensure full consultations with donors and key stakeholders throughout the evaluation process. Final evaluation report needs to have ILO Evaluation Unit's approval before it is considered final.

Evaluator: The evaluation will be conducted by an independent external evaluator who will be recruited by the evaluation manager in consultation with the donor. The evaluator will conduct the evaluation as per this TOR and will be responsible for delivering the above evaluation outputs using a combination of methods as mentioned above. Evaluator will report to the evaluation manager. Evaluator should have the following qualification and experience.

- Relevant background in Social Dialogue, industrial relations and labour law and be familiar with ILO principles and rights at work;
- At least 5 years experience in the design, management and evaluation of development projects;
- Experience in evaluations in the UN system;
- Relevant regional experience preferably working in Afghanistan;
- Fluency in spoken and written English and strong editorial skills in English are necessary

Project and the ILO Office for Afghanistan will be responsible for providing all relevant documentations to the evaluator, logistical and security support to facilitate the evaluation process. The project will provide budget for the final evaluation. The ILO office in Kabul (with support from RO-Bangkok) will also handle all contractual arrangements with the evaluator and provide any logistical and other assistance as may be required.

Key stakeholders –will be consulted throughout the evaluation process from TOR development to the finalization of the report.

Work Plan

The timeframe for this evaluation is set for 24 working days during September 15, 2014 to December 30, 2014.

| Task | Responsible person | Timeframe |
|------|--------------------|-----------|
|------|--------------------|-----------|

| | | |
|--|---|---|
| Inputs to the TOR | Project team, Donor, RO-Bangkok, Evaluation Manager | By September 1 |
| Preparation of the list of stakeholders with email address | Project team | By September 1 |
| Sharing TOR with constituents | Evaluation Manager | September 11-17 |
| Approval of a selection of consultant | Donor, EVAL | September 5 |
| Finalization of TOR | Evaluation Manager | September 10 |
| Approval of TOR | EVAL | September 10 |
| Preparation of excol contract and signed | Project and RO-Bangkok | Excol to start around September 15 |
| Brief evaluator | Evaluation Manager | September 15 |
| Inception report | Evaluator | By September 26 |
| Interviews with key stakeholders and constituents | Evaluator | Mid September to October (dates to be arranged) |
| Draft evaluation report | Evaluator | By December 3 |
| Sharing the report with key stakeholders, comment consolidated and sent to evaluator | Evaluation Manager | December 4-18 |
| Revised report submitted | Evaluator | December 22 |
| Review the revised report and submission to EVAL for approval | Evaluation Manager and EVAL | By end December |
| Follow up to evaluation recommendations | Project, RO-Bangkok | January onwards. |

For the evaluator

Phase 1: Desk reviews and preparation of inception report (6 work days)

A desk review based on project documents and materials provided by the ILO Office in Afghanistan. The desk review process may, as appropriate, include email and phone contact with the project backstopping official/s in the DWT and DIALOGUE, LAB/ADMIN and with the ILO Afghanistan and the SLLGA Project team as necessary.

The overall aim of Phase 1 will be to draw tentative conclusions on the key issues and to identify matters for particular attention during Phase 2. This may include modification to the evaluation methodology and Analytical Framework, if appropriate – it should be addressed in the inception report.

Phase 2: Interview (phone/skype) with ILO constituents, donor, and key project partners, from mid September to end of October (8 work days).

Subject to the findings of Phase 1, it is anticipated that Phase 2 will take the form of phone/skype both one-on-one and group discussions with ILO and project locally based staff, consultants who have worked on the Project, project partners, and key project stakeholders; During this Phase, on-going telephone and email contact will also be conducted with the project backstopping official/s in the DWT and DIALOGUE, LAB/ADMIN.

Phase 3: Report drafting and finalization (10 work days) – this phase will be primarily concerned with drafting and finalising the evaluation report. It may also include on-going email and phone contact with the project backstopping official/s in the DWT and DIALOGUE, LAB/ADMIN and with the ILO Afghanistan and the Project team and others as necessary.

16. Legal and ethical matters

Evaluation will comply with UN Norms and Standards. UNEG ethical guidelines will be followed. The consultant need to ensure that he/she does not have any links to project management, or any other conflict of interest that would interfere with the independence of the evaluation. The code of conduct for carrying out the evaluation is to be signed by the consultant.

17. Annexes

All relevant ILO evaluation guidelines and standard templates

- Code of conduct form (To be signed by the evaluators)
http://www.ilo.org/eval/Evaluationguidance/WCMS_206205/lang--en/index.htm
- Checklist No. 3 Writing the inception report http://www.ilo.org/eval/Evaluationguidance/WCMS_165972/lang--en/index.htm
- Checklist 5 Preparing the evaluation report
http://www.ilo.org/eval/Evaluationguidance/WCMS_165967/lang--en/index.htm
- Checklist 6 Rating the quality of evaluation report
http://www.ilo.org/eval/Evaluationguidance/WCMS_165968/lang--en/index.htm
- Template for lessons learnt and Emerging Good Practices
http://www.ilo.org/eval/Evaluationguidance/WCMS_206158/lang--en/index.htm
http://www.ilo.org/eval/Evaluationguidance/WCMS_206159/lang--en/index.htm
- Guidance note 7 Stakeholders participation in the ILO evaluation
http://www.ilo.org/eval/Evaluationguidance/WCMS_165986/lang--en/index.htm
- Guidance note 4 Integrating gender equality in M&E of projects
http://www.ilo.org/eval/Evaluationguidance/WCMS_165986/lang--en/index.htm
- Template for evaluation title page
http://www.ilo.org/eval/Evaluationguidance/WCMS_166357/lang--en/index.htm
- Template for evaluation summary: <http://www.ilo.org/legacy/english/edmas/eval/template-summary-en.doc>

Appendix 5: Acronyms

Afghanistan Chamber of Commerce and Industry - ACCI

Afghanistan Ministry of Justice - MOJ

Afghanistan Ministry of Labour, Social Affairs, Martyrs and Disabled – MOLSAMD

Afghanistan National Development Strategy - ANDS

Decent Work Country Programme – DWCP

International Labour Organisation Social Dialogue Bureau - DIALOGUE

International Labour Organisation – ILO

International Labour Organisation Decent Work Team, Delhi - DWT-Delhi

International Labour Organisation Headquarters – ILO HQ

International labour standards – ILS

International Organisation for Migration – IOM

Labour Administration Bureau, International Labour Organisation - LAB/ADMIN

Millennium Development Goals – MDGs

Regional Office for Asia Pacific, International Labour Organisation, Bangkok - RO Bangkok

“Strengthening Labour Law Governance in Afghanistan” project – SLLGA

United Nations Development Assistance Framework - UNDAF

United Nations Development Programme – UNDP

United States Department of Labour - USDOL

Appendix 6: Inception Report

i) Background, Objectives and Scope of Evaluation

This inception report details the evaluator's understanding of what is being evaluated and why. It sets out the evaluation instruments, including the work plan, methodology, data sources, key questions for the interviews, data gathering and analysis methods, and the draft report format. It also includes a review of the available documents.

a) Project background

Afghanistan has witnessed more than three decades of war and internal conflicts that have adversely affected people's livelihoods, and severely disrupted the entire social fabric of society.⁴⁶

The labour law in Afghanistan does not comply with international labour standards. The labour administration is inadequate to effectively implement the law, lacking mechanisms including sufficient labour inspection and dispute settlement procedures. Employers and workers have little awareness about social dialogue regarding fundamental principles and rights at work.⁴⁷

Since July 2011, the International Labour Organization has been implementing the Project "Strengthening Labour Law Governance in Afghanistan", a project funded by US Department of Labour (USDOL) with a budget of US\$ 600,000. The project was designed to seek four outcomes:

- (5) A reformed labour law administrative machinery at the central level and in selected provincial offices for more effective provision of services
- (6) A set of revised labour laws and regulations in line with international labour standards, which ensure an equitable balance between the need to foster productivity and employment creation and protect workers' rights and employment security
- (7) Mechanisms for labour law implementation, such as labour inspection and dispute settlement
- (8) A tripartite consultative structure for effective social dialogue between representatives of government, employers and workers.

In effect, the project has revolved around the first two outcomes, with the third and fourth being subsumed into the first outcome.

⁴⁶ International Labour Organisation, Decent Work Country Programme 2010-2015, p 1.

⁴⁷ International Labour Organisation, Decent Work Country Programme 2010-2015, p 6.

The major activities of the project include the following:

- Output 1 – improved labour administration
 - A needs assessment of the MoLSAMD
 - Establishing the practice of institutionalised national social dialogue
 - Strengthening the Department for Improving Working Conditions in the MoLSAMD
 - Revising the system for dispute settlement
 - Revising the system for labour inspection
- Output 2 – revised labour laws
 - Comprehensive assessment of labour laws and regulations
 - Building the capacity of tripartite social partners to effectively participate in labour law reform
 - Agreement with social partners on the major principles for labour law reform
 - Drafting a new legal framework, including a new labour law, in consultation with the tripartite social partners
 - Regulations for three administrative units submitted to MOJ (tripartite High Labour Council, Labour Inspectorate, Dispute Settlement Unit)
 - Developing a Handbook on Islamic Labour Law Principles and International Labour Standards
 - A publicity awareness raising campaign and training for the labour law, the Islamic labour law principles and International Labour Standards
 - Development of a list of hazards for child labour
 - Training on labour law and international labour standards.

The ILO is the executing agency. ILO's partners in this collaboration are the Afghan Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD), the Afghanistan Chamber of Commerce and Industry (ACCI), the Workers' Organizations and civil society.

b) Evaluation background

This is an independent final evaluation of the project "Strengthening Labour Law Governance in Afghanistan". Its purpose is to document key achievements, challenges, lessons learned and good practices for future applicable programmes and projects. It aims to:

- Review the performance of the project towards achieving its target objectives and outputs, considering **relevance, effectiveness, efficiency**, impact, and sustainability of the project
 - Determine whether the Project has achieved its stated objectives and explain why/why not
 - Consider the extent to which it has contributed to the priorities of Afghanistan DWCP and national development goals
 - Review the extent to which the project has addressed the midterm evaluation's recommendations
- Determine the **impact** of the Project in terms of **sustained improvements achieved** and long term benefits to target groups
- Provide **recommendations** on how to build on the achievements of the Project and ensure that is sustained by the relevant stakeholders as well as identify results that could be emulated in other projects

- Document **lessons learned**, success stories, and **good practice** in order to maximize the experiences gained.

This evaluation is carried out over 24 working days from mid September to end December 2014.

The evaluation will look at all project activities implemented from **July 2011 to October 2014**. In particular the evaluation will examine the impact of project activities on establishing a more effective **labour inspection system**, establishing a **national tripartite body** and a new system of **labour dispute settlement**. The evaluation will take into consideration the project duration, existing resources and political environmental constraints. The evaluation will be framed by ILO's corporate strategy, and initiatives that promote fundamental principles and rights at work. It will bear in mind the especially difficult operational context that applies in Afghanistan.

The geographical scope of the evaluation is generally limited to Kabul, although some project activities were carried out in the provinces. Due to fiscal constraints, the decentralised perspective is not able to be included.

The evaluation has three phases.

Phase 1: Desk reviews and preparation of inception report

A desk review based on project documents and materials provided by the ILO Office in Afghanistan. The desk review process may, as appropriate, include email and phone contact with the project backstopping official/s in the DWT and DIALOGUE, LAB/ADMIN and with the ILO Afghanistan and the SLLGA Project team as necessary.

The overall aim of Phase 1 will be to draw tentative conclusions on the key issues and to identify matters for particular attention during Phase 2. This may include modification to the evaluation methodology and Analytical Framework, if appropriate – it would be addressed in the inception report.

Phase 2: Interview (phone/skype) with ILO constituents, donor, and key project partners

Subject to the findings of Phase 1, it is anticipated that Phase 2 will take the form of phone/skype both one-on-one and group discussions with ILO and project locally based staff, consultants who have worked on the Project, project partners, and key project stakeholders. During this Phase, on-going telephone and email contact will also be conducted with the project backstopping official/s in the DWT and DIALOGUE, LAB/ADMIN.

Phase 3: Report drafting and finalization

This phase will be primarily concerned with drafting and finalising the evaluation report. It may also include on-going email and phone contact with the project backstopping official/s in the DWT and DIALOGUE, LAB/ADMIN and with the ILO Afghanistan and the Project team and others as necessary.

The primary clients of the evaluation are ILO Afghanistan Office, RO-Bangkok, key constituents, donor, DWT-New Delhi and LAB ADMIN at ILO HQ.

ii) Methodology

a) Evaluation criteria

The evaluation will address OECD/DAC evaluation criteria, including:

- **Development Effectiveness:** The extent to which the project's objectives and intended results were achieved
- **Resource Efficiency:** The extent with which resources were economically converted into results, including mention of alternative more cost-effective strategies when applicable
- **Impact:** Positive and negative, intended and unintended long-term effects
- **Relevance:** The extent to which project interventions met beneficiary requirements, country needs, global priorities and partners' and donors' policies
- **Sustainability:** The immediate benefits and probability of continued long-term benefits after the project has ended
- **Tripartism and Partnerships:** The extent to which the capacity of the ILO tripartite constituents and key partners has been improved and able to address labour administration challenges, what has been their roles in the project implementation
- **Gender:** the evaluation will integrate gender equality as a cross-cutting concern throughout its methodology and all deliverables, including the final report.

b) Evaluation methods and data collection instruments

To strengthen the credibility and usefulness of evaluation results, the evaluation will use a mix of data sources collected through multiple methods. This will include **primary data** which will be collected directly from stakeholders about their first hand experience with the intervention. This data will be collected through interviews, focus group discussions, and some observation. It will also include **secondary data** consisting of documentary evidence that has direct relevance for the evaluation, such as nationally and internationally published reports, project documents, monitoring reports, previous reviews, country strategic plans, and research reports. This data will be collected through a desk review of project documents and other relevant materials. The desk review is annexed to this inception report. It will be used to verify qualitative data gathered directly from stakeholders.

The evaluation methodology will include multiple methods with analysis of both quantitative and qualitative data, where possible. It will include but will not be restricted to the following:

- A desk review of project documents and relevant materials;
- Presentations /inductions with available staff who worked under the Project, key stakeholders and partners to the Project explaining the process, methodology, objectives and principles of the participatory evaluation;
- Interviews with staff who worked under the Project, project partners, constituents and key project stakeholders;

- Interviews with the backstopping official/s in the DWT and DIALOGUE, LAB/ADMIN;
- Analysis of the data, including data disaggregated by sex, and gender analysis
- ILO constituents and key stakeholders including donor will be involved in the implementation of the evaluation including providing inputs to the TOR and the finalization of the report.

Stakeholder participation will be ensured through the following:

- formal consultations at the outset of the evaluation
- their review of the draft report
- their input on the final report
- consultations include all tripartite representatives
- consultations with women and men stakeholders
- interviews with direct recipients of project services, including the Ministry of Labour, and social partners
- interviews with key project staff and backstopping staff at regional and headquarters levels.

The security situation in Kabul surrounding the elections in 2014 limited the possibility of a field mission to conduct interviews. Therefore, interviews will be conducted via Skype and video conference. The evaluator will not benefit from the types of observation inherent in field missions, and one must bear this limitation in mind. Moreover, the Terms of Reference explicitly exclude interviews with stakeholders outside Kabul, so this perspective will be omitted.

Other limitations of the evaluation include an apparent lack of sex-disaggregated data and very limited gender analysis in project documents, which may inhibit a comprehensive gender evaluation as required by ILO templates for final evaluations.

The evaluation is carried out in line with the norms, standards and ethical safeguards as elaborated upon in the document “Standards for Evaluation in the UN System”, United Nations Evaluation Group, 2005.

c) Key evaluation questions

The following are key evaluation questions, as drawn from the Terms of Reference:

18. What are the **main achievements of the proposed revision of the legal framework**, and in particular the Labour Code and the regulations and what further work is needed to achieve the reform of the labour laws?
19. The consistency of the **Ministry of Labour in Afghanistan in implementing the project action plan** and achieving institutional reforms.

20. Has **tripartite social dialogue** been strengthened?
21. Whether the Project has assisted in **reviewing the dispute settlement system as well as the labour inspection system**.
22. What are the possible **impacts and the sustainability of activities undertaken** and where possible, identify indicators of long-term impact.
23. What are important **lessons learned** or any possible **good practices**?

The following is a suggested framework for analysis, also drawn from the Terms of Reference:

7. Relevance and strategic fit

- f. How did the Project contribute to national priorities as identified in the United Nations Development Assistance Framework (UNDAF)?
- g. How have the stakeholders taken ownership of the Project concept and approach since the project started? Did the project address the need of key partners?
- h. How well did the Project complement and fit with ILO DWCP?

8. Validity of the design

- i. Were there needs assessments carried out and if so, how and to what extent they were used in the design of the project and the interventions selected.
- j. Was the intervention logic coherent and realistic? Do outputs causally link to outcomes, which in turn contribute to the broader development objective of the Project?
- k. Were the objectives of the Project clear, realistic and likely to be achieved within the established time schedule and with the allocated resources (including human resources)? Were the problems and needs adequately analysed?
- l. Are the indicators of project immediate objectives sound and valid?
- m. Have there been any external factors that affect the project logic (please review the assumptions of the project logframe)?

9. Project effectiveness

- c. Has the Project achieved its planned outcomes? And whether all the planned outputs and activities have been delivered/implemented? Do the benefits accrue equally to men and women? If not, why?
- d. What alternatives strategies would have been more effective in achieving the Project's outcomes/objectives?

10. Efficiency of resource use

- d. Have resources (funds, human resources, time, expertise etc.) been allocated strategically to achieve outcomes?

- e. Have resources been used efficiently? Has the implementation of activities been cost-effective? Will the results achieved justify the costs? Could the same results have been attained with fewer resources?
- f. Have project funds and activities been delivered in a timely manner? Were there any major delays? What were the reasons?

11. Effectiveness of management arrangements

- e. Were management capacities adequate? Did the project governance structure facilitate good results and efficient delivery?
- f. How effective was the communication?
- g. How effectively did the Project management monitor performance and results? Has the project monitoring plan been prepared and used as monitoring tool?
- h. Did the Project receive adequate political, technical and administrative support from its national partners? If not why and what should be done to improve the situation.

12. Impact orientation and sustainability

- d. What observed changes (attitudes, capacities, institutions etc) can be causally linked to the Project's interventions?
- e. How effectively has the Project built national ownership?
- f. Has the Project successfully built or strengthened an enabling environment? (laws, policies, people's attitude etc.) and how sustainable are they?

d) Interview guidelines for key stakeholders

The following interview guidelines are arranged according to 1.) subject and 2.) stakeholder to be interviewed, and have been developed to elicit responses to the relevant guiding evaluation questions. Where possible, the same interview questions will be posed to multiple stakeholders to allow for triangulation and verification of findings.

1. Revised legal framework

- ILO Afghanistan project manager

- ILO Labour Law officer, Geneva

- ILO ILS officer, Delhi

- Former head, ILO Afghanistan

- Current head, ILO Afghanistan

- Deputy Minister of Labour, Director - Labour Law and Legislation

- Director - Improving Working Conditions

- Workers

- Employers

- What are the main achievements of the proposed revision of the legal framework? (Labour Code and regulations)
 - Did the project achieve its stated objectives? Why not?
 - To what extent did the project address the midterm evaluation's recommendations?
- What further work is needed to achieve labour law reform?
 - Has the project successfully built or strengthened an enabling environment (laws, policies, people's attitude)?
 - How sustainable is it?
- Which alternate strategies might have been more effective in achieving the project's goals?
 - How might projects of this kind in future be designed so that considerable progress is apparent with the changes in law before administrative strengthening specifically related to the new laws, per se, is brought into effect? (NB This approach does not necessarily preclude administrative strengthening on other matters in the meantime, of course). (MTR)
 - In development efforts which rely on significant degrees of independent government action (such as is the case in aiming to introduce new laws), is it preferable for ILO to seek donors who are willing to consider providing support directly to the DWCP approach rather than to require the use of funds only in the context of fixed term projects? (MTR)
 - Was a gender analysis included during the initial needs assessment of the project?

2. Ministry of Labour, implementing project, institutional reforms

- All stakeholders

- Did the project achieve its stated objectives? Why not?
- To what extent did the project address the midterm evaluation's recommendations?
- Did the project address the needs of MoLSAMD?
- How has MoLSAMD taken ownership of the project concept and approach?
- To what extent was the needs assessment of MoLSAMD used in the design of the project and the interventions selected?
- Were project objectives given a realistic time schedule and allocated appropriate resources (including human resources)?
- Were problems and needs adequately analysed?
- How do the institutional reforms affect women? Do the benefits accrue equally to women and men? If not, why not?
- Which alternative strategies towards gender equality would have been possible or are still possible?
- Were resources used efficiently?
- Were management arrangements effective?
- Did the project build national ownership?
- Are there any observable changes due to the project?

3. Tripartite social dialogue

- ILO Afghanistan project manager

- ILO Labour Law officer, Geneva

- ILO ILS officer, Delhi

- Former head, ILO Afghanistan

- Current head, ILO Afghanistan

- All MoLSAMD stakeholders

- Workers

- Employers

- What were the roles of the social partners in implementing the project?
- Did the project achieve its stated objectives? Why/why not?
- What is the status of the tripartite High Labour Council pending regulations?
- To what extent has the capacity of the tripartite constituents been improved?
- Are the tripartite constituents able to address labour administration challenges?
- Any lessons learned with respect to tripartite social dialogue in this type of context?
- Has the project strengthened the enabling environment? Is it sustainable?

4. Dispute settlement system

- ILO Afghanistan project manager

- ILO Labour Law officer, Geneva

- ILO ILS officer, Delhi

- Former head, ILO Afghanistan

- Current head, ILO Afghanistan

- Deputy Minister of Labour,

- Director - Labour Law and Legislation

- Director - Improving Working Conditions

- Workers

- Employers

- Did the project achieve its stated objectives? Why/why not?
- Did the project assist in reviewing the dispute settlement system?

- What is the status of the dispute settlement system pending regulations?
- What alternative strategy may have been more effective in achieving a revised dispute settlement system?
- Any lessons learned or good practice?
- Has the project strengthened the enabling environment? Is it sustainable?

5. Labour inspection system

- ILO Afghanistan project manager

- ILO Labour Law officer, Geneva

- ILO ILS officer, Delhi

- ILO OSH officer, Delhi

- Former head, ILO Afghanistan

- Current head, ILO Afghanistan

- MoLSAMD: Director, Labour Inspection and Senior Labour Inspector

- Did the project achieve its stated objectives? Why/why not?
- Did the project assist in reviewing the labour inspection system?
- What is the status of the labour inspection system pending regulations?
- What alternative strategy may have been more effective in achieving a revised labour inspection system?
- Any lessons learned or good practice?
- Has the project strengthened the enabling environment? Is it sustainable?
- Are women and men likely to benefit differently from the project's labour inspection activities?

6. Impact and sustainability

- All stakeholders

- What observed changes (attitudes, capacities, institutions) can be causally linked to the project's interventions?
- How effectively has the project built national ownership?
- Can you identify any indicators of long term impact?
- What are the possible long term effects on gender equality?
- Are the gender related outcomes likely to be sustainable?

7. Lessons learned

- All stakeholders

- Can you describe a significant lesson learned in the duration of the project?

- What were the reasons for this success/challenge?
- Can you describe the context from which this lesson is derived?
- What do you suggest should be repeated or avoided in future contexts to guide future action?
- How might this lesson be applicable in different contexts?
- Who might be the target users or beneficiaries of this lesson?
- Is this relevant for staff, resources, design or implementation?

Potential lessons from midterm review

- All ILO stakeholders

- Is there a need to have well planned back-up designed to be able to bring a very rapid response to any needs to fill gaps which may emerge if the primary source of technical expertise fails for any reason? This potential lesson is of particular relevance to project design and implementation in countries which are both under stress and seen as very difficult duty stations, both short and long term.

Any lessons relevant for gender?

- All stakeholders

- Can you describe a significant lesson from the project regarding gender?
 - o Were the project's political and implementing partners aware of the ILO's and the project's gender related objectives? Were they sensitized and trained on gender issues?
 - o Does the project have an M&E system in place that collects sex disaggregated data and monitors gender related results?
- What were the reasons for this challenge?
- Can you describe the context from which this lesson is derived?
- What do you suggest should be repeated or avoided in future?
- How might this lesson be applicable in different contexts?
- Who might be the target users or beneficiaries of this lesson?
- Is this relevant for staff, resources, design or implementation?

8. Good practices

- All stakeholders

- Can you briefly summarise any good practices stemming from the project (link to project goal, specific deliverable, background, purpose, etc)
- Describe the relevant conditions and context – limitations or advice in terms of applicability and replicability
 - What were the reasons for this success?
 - What was the measurable impact and who were the targeted beneficiaries?
- How does this link with DWCP, CP outcomes or ILO's Strategic Programme Framework?

e) Proposed evaluation report structure

The evaluation report will include the following components:

1. Title page
2. Table of contents
3. Executive summary
4. Project background
5. Evaluation background
6. Methodology
7. Findings
8. Gender Issues Assessment
9. Tripartite Issues Assessment
10. International Labour Standards Assessment
11. Conclusions
12. Lessons learned and emerging good practices
13. Recommendations
14. Appendices.

iii) Proposed work plan

As elaborated upon in the External Collaborator Agreement and the Terms of Reference, the following deliverables are due at the dates indicated below. The timeframe for this evaluation is 24 working days during September 15, 2014 to December 31, 2014.

| Task | Responsible person | Timeframe |
|---|---------------------------|---|
| Brief evaluator | Evaluation Manager | September 15 |
| Inception report | Evaluator | By September 26 |
| Interviews with key stakeholders and constituents | Evaluator | Mid September to October (dates to be arranged) |
| Draft evaluation report | Evaluator | By December 3 |
| Sharing the report with key stakeholders, comments consolidated and sent to evaluator | Evaluation Manager | December 4-18 |
| Revised report submitted | Evaluator | December 22 |

iv) Document review

This document review compiles secondary data as relevant for the key evaluation questions in the Terms of Reference. It will be used to verify primary data collected from project personnel and stakeholders in Afghanistan. A list of documents referred to appears at the end of this document.

1. What are the main achievements of the proposed revision of the legal framework, and in particular the Labour Code and the regulations and what further work is needed to achieve the reform of the labour laws?

Main achievements:

- Drafted labour law amendments (TPR March 2012)
- Drafted handbook on Islamic Labour Law Principles and ILS (TPR March 2012)
- Translated materials on child labour and forced labour (TPR March 2012)
- Established a list of hazardous sectors for child labour (TPR March 2012)
- Revised labour inspection regulation (TPR June 2012)
- Drafted regulation on High Labour Council (TPR June 2012)
- Awareness raising campaign and training for labour law and ILS (TPR June 2012)
- Translated materials on domestic workers (TPR June 2012)
- Drafted regulation on dispute settlement (TPR June 2012)

The Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD), in collaboration with workers' and employers' organisations, revised the Labour Law and Labour Regulations. The purpose was to evaluate Afghanistan Labour Law for its conformity with international labour standards. The draft amendments to the Labour Law and three draft regulations were extensively discussed by the tripartite working group. **The draft amendments to the Afghan Labour Law were finalised by mid-2013 and sent to the Ministry of Justice (MoJ) for further processing.** (TPR June 2014, page 3)

The discussion on the **draft regulation for High Labour Council** has been completed in MoJ in 2014 and has been further sent to Ministers' Council for final approval.

The two other **regulations on Labour Inspection** and draft amendments to the **Labour Dispute Settlement** are still with MoJ and the discussion will start during the course of 2014.

The amendments to the Labour Law and the three draft regulations were supposed to be enacted in 2013, but the **process had been substantially slowed down due to political and security factors.** The impact of the 2014 presidential election begun in 2013. During the first semester of 2013, there was a high order from the Office of the President to the Ministry of Justice to prioritize the processing of the laws related to the urgent political agenda; most prominently the election law and the civil service law. This resulted in freezing of the MoJ's work on all other laws and regulations till the priority laws have been completed in early 2014. (TPR June 2014, page 2)

All the **publicity materials for awareness raising campaign** which includes leaflets, booklets and posters have been **sent to the Workers' and Employers' Organization and other agencies in all**

the 34 provinces of the country with the cooperation of MoLSAMD. The publicity materials have been distributed to the tripartite partners with the cooperation of provincial departments of MoLSAMD. (TPR June 2014, page 9)

The **remaining awareness raising workshops** on Afghan Labour Law, Islamic Labour Law Principles and ILS has been **delayed** due to aforementioned problems and now are scheduled in the third quarter of 2014 (Annex1). The remaining regional workshops are planned for Balkh, Herat, Kunduz, Kabul (round 2) and Kandahar provinces including participants from neighbouring provinces. (TPR June 2014, page 9-10)

External factors materially impairing the achievement of project objectives include:

- Slow process of regulations in MOJ
- Security situation during presidential election period. (TPR June 2014, page 13)

2. The consistency of the Ministry of Labour in Afghanistan in implementing the Project action plan and achieving institutional reforms.

Main achievements:

- Assessment of labour inspection system (TPR March 2012)
- ILO modules on labour inspection translated (TPR March 2012)
- Assessment of dispute settlement system (TPR March 2012)
- Drafted regulation on High Labour Council (Labour Law and Labour Rights Department) (TPR March 2012)
- Assessment of labour administration system (TPR March 2012)
- Workshop on social dialogue (TPR March 2012)
- Action plan for strengthening labour inspection system (TPR June 2012)
- Training for tripartite constituents in labour law and negotiation (TPR September 2012)
- TA in drafting ILO reports (TPR September 2012)
- Development of OSH profile (TPR September 2012)

3. Has tripartite social dialogue been strengthened?

Main achievements:

- Creation of the tripartite High Labour Council
- Training workshops on social dialogue
- Awareness raising workshops on social dialogue

Of concern is the fact that three of the administrative units listed for capacity building **need new regulations to formalise their functional roles: the tripartite High Labour Council (HLC)**, the Labour Inspectorate and the Dispute Settlement unit. The seriousness of this concern stems firstly from the fact that the while the HLC regulation was drafted and submitted to the Ministry of Justice (MoJ) in February 2012. Despite promises to give it priority, the MoJ has so far made no apparent progress in advancing it through the legislative process. Equally concerning is that the **MoLSAMD has not been able to influence the MoJ to move more quickly**. The regulation has, accordingly, been waiting in the queue for 10 months without any indication of making progress any time soon.

(Mid term review, page 8)

The government allowed several **unions** to operate without interference or political influence. Freedom of association and the right to bargain collectively were generally respected, but most workers were not aware of these rights. This was particularly true of workers in rural areas or the agricultural sector, who had not formed unions. In urban areas the majority of workers participated in the informal sector as day labourers in construction, where there were neither unions nor collective bargaining. (page 49 US State Department Human Rights Report: Afghanistan 2013)

4. Whether the Project has assisted in reviewing the dispute settlement system as well as the labour inspection system.

Main achievements:

- Assessment of labour inspection system (TPR March 2012)
- ILO modules on labour inspection translated (TPR March 2012)
- Assessment of dispute settlement system (TPR March 2012)
- Drafted regulation on High Labour Council (Labour Law and Labour Rights Department) (TPR March 2012)
- Action plan for strengthening labour inspection system (TPR June 2012)

Although the law identifies the **MoLSAMD Labour High Council** as the highest decision-making body on labour-related issues, no implementing regulation to establish the council has been adopted.

There was an **inspection office** within the ministry, but inspectors could only advise and make suggestions. As a result, labour law implementation remained limited because of a **lack of central enforcement authority**, implementing regulations that describe procedures and penalties for violations, funding, personnel, and political will. (page 48 US State Department Human Rights Report: Afghanistan 2013)

The government did not effectively enforce these laws. MoLSAMD had **only 20 inspectors for 34 provinces**, and the inspectors had no legal authority to enter premises or impose sanctions for violations. (page 51 US State Department Human Rights Report: Afghanistan 2013)

5. What are important lessons learned or any possible good practices?

The midterm review suggested that, while it is too early to draw concrete lessons from this Project, there are two or three matters which may benefit from further review in the final evaluation.

“One of these matters is the indication that projects of this kind might in future be **designed so that considerable progress is apparent with the changes in law before administrative strengthening specifically related to the new laws, per se, is brought into effect.** (NB This approach does not necessarily preclude administrative strengthening on other matters in

the meantime, of course).

“The second emerging lesson is of particular relevance to project design and implementation in countries which are both under stress and seen as very difficult duty stations, both short and long term. In short, there may be a need to aim to **have well planned back-up designed to be able to bring a very rapid response to any needs to fill gaps which may emerge if the primary source of technical expertise fails for any reason.**

“A third lesson which might be drawn is that **in development efforts which rely on significant degrees of independent government action (such as is the case in aiming to introduce new laws) it may be preferable for ILO to seek donors who are willing to consider providing support directly to the DWCP approach rather than to require the use of funds only in the context of fixed term projects.** Again, this issue might be more effectively addressed in the final evaluation with the advantage of more experience from this particular project scenario.” (page 4)

The midterm review at the end of 2012 noted two areas of concern:

- One, was the apparent inability of the ILO, as executing agency, to be able to ensure a supply of labour administration expertise suitable to the effective achievement of Outcome 1 in this very difficult context.
- The second major concern was the emerging possibility that the government may not have the hoped for capacity and/or degree of urgency needed to facilitate the passage of the proposed changes in the law through the processes needed to bring them into effect. However, the context needed to be taken into account: **an environment in which the legal system is endemically weak is not ideal as a means to facilitate the kind of action which is needed to strengthen a particular aspect of the law.** The level of these concerns was sufficiently strong to suggest that there may have been a need to start thinking in terms of alternative implementation strategies for possibly less comprehensive but nonetheless valuable Outcomes.

6. Extent to which the project implemented recommendations of midterm review

The midterm review also suggested that there was a very clear **need to closely monitor the implications of any actual delay or likely delays in the implementation** of the 2013 work plan. In particular, there was a need to watch closely for any signs which indicate that the activities, outputs and, hence, outcomes would be unable to be completed to a fully sustainable level within the approved time frame. Management would need, therefore, to be prepared well in advance to implement any or all of the following actions, if they became necessary; preferably with an emphasis on acting before any delay becomes irretrievable:

- Action to continually monitor and assesses whether or not it may, at some point, become appropriate to seek some higher level intervention to support the ability of the MoLSAMD and MoJ to facilitate the full passage of the required regulations and reforms into approved law.

- Action to enhance on-going access to good quality and readily available technical expertise for all Project activity. The new contracting arrangement organized by the ILO, Kabul, should be utilized wherever appropriate as one means to facilitate the availability of the required expertise.
- Action to seek a time frame extension of the project – including the possibility of both no cost and added cost extensions. It may, perhaps, be appropriate to seek to negotiate with the donor to have some or all the remaining Project funds transferred into the DWCP.

Based on the recommendations of the evaluation report, the project requested no cost extension of the project till end June 2014 and the request was approved by the donor.

The project was then extended until October 2014 due to delays in implementation.

The project has also sought higher level interventions from Minister of Labour as well as Minister of Justice to help with passage of regulations.

The project also enhanced on-going access to technical expertise from ILO DWT New Delhi as well as Geneva. (Response to donor questions re TPR September 2013).

v) List of documents reviewed

- The project document
- The midterm review
- Two technical progress quarterly reports for 2014
- Four technical progress quarterly reports for 2013
- Four technical progress quarterly reports for 2012
- ILO Decent Work Country Programme: Afghanistan
- UNDAF: Afghanistan
- ILO CEACR reports: Afghanistan
- UN human rights treaty body reports and UPR: Afghanistan
- US State Department Human Rights Report: Afghanistan 2013.