



# Evaluation Summary



International  
Labour  
Office

Evaluation  
Office

## *ILO's Technical Assistance on Labor Law Reform in Pacific Islands Countries (2012 – 2018) – Thematic Evaluation*

### Quick Facts

**Countries:** Cook Islands, Fiji, Kiribati, Marshall Islands, Palau, Papua New Guinea (PNG), Samoa, the Solomon Islands, Tonga, Tuvalu, and Vanuatu

**Mid-Term or Final Evaluation:** Regional Thematic Evaluation (2012 – 2018)

**Evaluation Mode:** *Independent*

**Administrative Office:** *ILO Suva*

**Technical Office:** *ILO Suva/ DWT-BKK*

**Evaluation Manager:** Pamornrat Pringsulaka

**Evaluation Consultant(s):** *Sadie Xinxin Yang*

**Donor(s) & Budget:** RBSA and RBTC from Biennium 2012-13, 2014-15, 2016-17, and 2018-2019

**Keywords:** Labor Law Reform

### Background & Context

#### Summary of the project purpose, logic and structure

In most Pacific Island countries (PICs), labour laws have been outdated and not aligned with international labour standards. Since its existence in the Pacific, the ILO has programmes to align with the ongoing changes and realities of employment and labour markets in the PICs, while identifying priority directions for shaping decent work in the future. The adoption of labour laws and regulations is an important means of implementing ILO standards, promoting the ILO Declaration and the Fundamental Principles and Rights at Work, and putting

the concept of Decent Work into practice. In late 2010, CO-Suva started providing technical assistance (TA) for labour law reform (LLR) in several PICs, as part of the Australia-funded Labour Governance and Migration Project (LGMP). The LLR programme reflects a broader-based strategy to support local capacities to develop law and policy, as well as to implement new legislation by applying a full policy cycle approach.

#### Present Situation of the Project

Since the closure of the LGMP, the ILO has continued this programme of work and extended it to other countries in the Pacific. The ILO's TA on LLR to PICs focused on three areas: (1) promoting ratification of ILO instruments, such as the eight Fundamental Conventions and four Governance Conventions, as well as building the member states' capacity to comply with the reporting requirements for both ratified and unratified conventions; (2) amending existing laws or adopting new legislation, including labour inspection capacity building, to ensure that national laws and practices are aligned with Fundamental and Governance Conventions; and (3) strengthening tripartite labour advisory bodies. During the period under evaluation, the ILO carried out three Development Cooperation Projects funded by the donor countries to promote the LLR in the Pacific sub-region. It also facilitated several sub-regional training activities

- to strengthen the capacity of member states to ratify and apply international labour standards and to fulfill their reporting obligations, and
- to improve inspectors' fundamental skills.

## Purpose, scope and clients of the evaluation

The purposes of this evaluation are to assess the effectiveness and impact of the ILO in implementing LLR in the PICs and to foster organizational learning. The evaluation has the following specific objectives:

- to assess the overall performance of the ILO in implementing and supporting LLR in PICs;
- to assess the impact and sustainability of the implementation results; and
- to identify challenges, key lessons learned, and good practices, and to provide recommendations to set the future direction of ILO work on labour laws in the Pacific.

This evaluation covers ILO TA in all 11 member states for the period of 2012-2018 (“the period under evaluation”), regardless of funding sources.

The primary audience and key user for this evaluation is the ILO CO-Suva that is responsible for delivering the ILO’s mandates in PICs and Decent Work Technical Teams in Asia and the Pacific region. The secondary audiences include the ILO ROAP, as well as relevant constituents, donors, and academics.

## Methodology of evaluation

This evaluation followed the OECD-DAC evaluation criteria and the UNEG Norms and Standards. In order to ensure the triangulation of information, the evaluator utilized a combination of qualitative and quantitative methods to collect data. During the evaluation, the following activities were carried out:

- extensive review of various programme documents, including a Stocktake Report;
- 42 semi-structured key informant interviews with the representatives of the ILO, its tripartite constituents, CSOs, and other UN agencies;
- two focus group discussions; and
- the distribution of surveys to various agencies that had received training from the ILO.

A prominent challenge in this assignment is the lack of an overarching theory of change to guide the evaluation. In addition, CO-Suva’s preparedness and coordinating capacity to provide useful information and timely support for this assignment was inadequate. As a result, the evaluator experienced great difficulty in identifying and locating the right people to interview. Due to the geographic distance and severe time and financial constraints, the evaluator was able to visit only three PICs: Fiji, Samoa, and Vanuatu. For the rest of the PICs, the evaluator heavily relied on

secondary data obtained from the Stocktake Report, the review of the ILO project documents, and other general literature. Therefore, it was very challenging for the evaluator to collect and validate information.

## Main Findings & Conclusions

### Relevance

LLR has been the primary focus of DWCP across the Pacific for a number of years. Acknowledging that the starting points of LLR in PICs were very different, the ILO started LLR where the countries were and applied a public policy cycle that included the policy development before moving to the legislative process. As a result, the TA was a demand-driven process.

The traditional donors in the sub-region, such as Australia and New Zealand, are interested in bringing about sustained development and predictable situations in PICs. However, their domestic political environments and development cooperation priorities have greatly affected the availability and stability of their funding for the ILO to advance LLR work.

The ILO’s LLR TA was strongly aligned with UNDAF 2013-2017. Its approach reflected the five programming principles of the UNDAF, namely the human rights-based approach; gender equality; environmental sustainability; results-based management; and capacity development. The ILO has been making a great effort to engage its tripartite constituents in general UN discussions. It is expected that all UN organizations could recognize the equal role of the tripartite constituents. It should also be noted that concerning LLR, which is country-specific, UNDAF as a regional framework appears to be vague, and how to show its results at the country level is still under exploration.

The LLR has also served as a platform for the furtherance of several SDGs, including SDG 5 Gender Equality, SDG 8 Decent Work and Economic Growth, and SDG 16 Peace, Justice, and Strong Institutions. In reality, the SDGs are very new to both the ILO and its constituents in the Pacific sub-region. There is still space for the ILO to improve its understanding of the SDGs and to strengthen its linkages with them.

### Effectiveness

LLR is a lengthy process that takes an extended time to show long-term impact. In the period under evaluation, it has yielded mixed results.

In spite of a growing number of ratifications of the ILO Conventions among PICs, the ratification rate in the

Pacific sub-region is still lower than the global and regional average. Efforts to improve reporting under the ILO's supervisory system have not secured a significant improvement in the reporting rate in the Pacific. Currently, nine of 11 ILO member states have overdue reports in different categories under Articles 19 and 22 of the ILO Constitution.

On the legislation development front, there is a spectrum of different cases. Significant progress was made with the passage of new labour legislation in Kiribati, Tuvalu, and Samoa. There was only some or piecemeal progress made in the rest of the sub-region.

In terms of building capacity to implement new legislation, collaborating with Work Safe New Zealand, CO-Suva organized several training sessions on Foundation Skills for Inspection. Due to lack of proper monitoring and documentation, however, it is difficult to assess the effectiveness of these activities. Interviews with the trainers and some participants revealed that at least some training was well prepared and delivered.

There is also some positive evidence showing that the tripartite constituents have benefited from capacity building activities. The employers' organizations are the most self-sufficient constituents within the tripartite. The employees' organizations have been the drivers of reform as workers demand their fundamental rights, but they are the constituents with the weakest capacity to engage in strong social dialogue.

The tripartite mechanism functions differently in the three PICs visited by the evaluator. In Samoa, the SNTF, through effective social dialogue, has collaboratively developed the Samoa National Employment Policy and the third DWCP. In Vanuatu, the TLAC still exists, but is struggling to determine how the three constituents can work together. In Fiji, the tripartite mechanism could not work for some time due to the conflict between the government and the union. Generally speaking, there are still tremendous obstacles to practical and real social dialogue in the Pacific, since in many PICs, the tripartite constituents cannot genuinely participate in policy discussions and other collaborations.

The sheer fact of lack of capacity on the part of ILO's counterparts makes it difficult to transfer knowledge and institutionalize capacity. Due to the fragility and weak governance structures prevalent in the sub-region, one cannot expect results in the short term. This challenge is further compounded by other deterrent factors in many

countries, such as weak political will and stakeholder buy-in to LLR, as well as cultural barriers blocking local people from fully appreciating the value of LLR.

### **Efficiency**

The Pacific sub-region is an extremely resource-intensive part of the world. Limited resources have posed a major challenge to the ILO's ability to do business in the sub-region. Limited human resources have forced staff in CO-Suva to play different professional roles, which can cause problems and lead to burnout. In spite of the challenging working environment, the dedication and professionalism of CO-Suva's staff has been complimented by its tripartite constituents and external experts who were engaged in the LLR activities. Many countries have expected that the ILO could have in-country representatives, which is unfortunately unrealistic.

For most of the time during the period under evaluation, CO-Suva struggled with how to secure funding to continue this type of work. The brevity of the funding cycle made it impossible to make strategic long-term plans for the sub-region as a whole. As a result, the ILO could only react to the individual member states' demands. According to the Stocktake Report, an estimated US\$1,491,554 was spent on LLR and wider labour standards activities (including some salary components) between 2012 and 2017. Forty percent of expenditures were related to donor-funded development cooperation projects. PNG, Fiji, and Vanuatu attracted significantly more resources than other member states.

### **Effectiveness of management arrangements**

The roles and responsibilities of the management team and the relevant specialists and staff in CO-Suva are more complicated than those in other ILO offices due to the large number of member states. It is expected that equal attention be given to the PICs, though they are very small in size.

The new addition of an international expert on decent work and international labour standards will improve CO-Suva's response to its member states on LLR, but will not bring fundamental change if the current fly-in-and-out business model continues. In fact, the new specialist's time is spread out thinly among the 11 member countries, as she has not been able to devote all of her time to LLR activities during her first year. How to define her function and budget her time between decent work and LLR in order to maximize the utility of

an expert is a management decision that CO-Suva will have to make.

### Impact and Sustainability

**Government.** Many training participants reported that attending ILO training and workshops improved their skills directly related to fulfilling their obligations to the ILO. In addition, the TA provided by the ILO specialists equipped the government staff with a better understanding of international standards on important labour issues and enhanced their awareness of human rights. Some skills adopted from the ILO training are transferrable and also benefit other work performed by the participants.

It should be noted that improved knowledge and skills at the individual level are not necessarily institutionalized in the recipient agencies and transformed into new institutional capacity. First, the capacity to absorb ILO training is uneven among the participants. Second, many labour ministries in PICs do not have long-term organizational planning. Finally, the ILO training was always short-term, and not enough for long-term skill transfer or capacity-building for the labour ministries.

**Employers' organizations.** Generally speaking, the employers' organizations expect to enhance the business sustainability of their member organizations by receiving ILO TA. They are also keen on urging their members to assume more social responsibilities and to ensure fair work conditions. In Samoa, The executive members of the employers' organizations reported that their members' decision-making capacity increased after they attended the training sessions. In Fiji, not only did the ILO provide training to the members of the employers' organizations, but it also provided TA to support the founding of the Women Entrepreneurs and Business Council and the Young Entrepreneurs' Council. At times, the sustainability of training benefits to the employers' organizations is affected by the recipient organizations' changing institutional priorities. The restructuring of the Chamber of Commerce resulted in its loss of all staff who had some exposure to the ILO training.

**Employees' organizations.** Given that the evaluator was only able to meet with employees' organizations in one country, i.e. Samoa, the information from this type of constituent is severely limited. However, Samoa represents a good example of the ILO's engagement with the employees' organizations in the PICs. The ILO played a major role in the establishment of the umbrella

body of the Samoa Workers' Congress in 2014, as well as in the development of its strategic plans.

### Conclusion

The regional demand for LLR is still strong, as some countries have already commenced the second-round review of their labour legislation. To achieve long-term impact and sustainability, the ILO should look at building member states' capacity to develop local expertise on LLR. The current arrangements for implementing LLR requires a bit more affirmative action on the part of CO-Suva and the labour ministries in its member states.

As a normative organization, the ILO's competitive advantage lies in international labour standards. The path to achieving a good score on the observance and implementation of international labour standards in the Pacific sub-region may have been daunting but worthwhile. This aspect of the ILO's work needs more resourcing. As a small, specialized agency in the UN system, how to position itself strategically in the overall UN reform and provide sustainable and proactive responses to the need for LLR in the Pacific is a common challenge for the ILO's offices at different levels, from Suva to Bangkok to Geneva. There have to be sustained efforts by all stakeholders to achieve results. There is the potential to improve and have an impact. What matters is consistency and presence.

### Recommendations

1. **Developing an overall sub-regional strategy** to ensure that the ILO allocates the right resources to the right work at the right time (high-priority, to be followed up immediately by CO-Suva and ROAP)
2. **Strengthening donor coordination** to benefit from development cooperation opportunities (medium-priority, to be followed up in the medium term by CO-Suva)
3. **Coordinating resources within the UN system** to achieve collaborative efforts (medium-priority, to be followed up in the medium term by CO-Suva)
4. **Tapping into existing sub-regional resources through South-South cooperation** to enhance connectivity and peer learning among the member states (medium-priority, to be followed up in the medium term by CO-Suva and member states)
5. **Building a stronger presence on the ground** to provide proximity support to the constituents

(high-priority, to be followed up in medium term by CO-Suva)

6. **Cultivating an M&E culture for better knowledge management** (high-priority, to be followed up immediately by CO-Suva and ROAP)
7. **Strengthening social dialogue by working in noncontroversial areas** (medium-priority, to be followed up in the medium term by CO-Suva)