



## **Roundtable (6)**

### **Security and Safety at Workplace**

**What is Required to Protect Workers and Save their Lives?**

**2019**

## **1. Introduction and Rationale**

This paper aims at shedding light on the issue of work accidents in the Palestinian and Israeli labour markets. In 2018, there were 318 work injuries among Palestinian workers in the Israeli labor market, 25 of which were fatal. In the same year, the number of work injuries in West Bank reached 776, of which 7 were fatal.<sup>1</sup>

A work accident, according to article No. (1) of the Palestinian Labour Law No. (7) of 2000 is: "The accident which occurs to the worker during or due to the work he/she performs or while on his/her way to or from the workplace. Being infected with one of the occupational diseases defined in the related regulation shall be considered also as a work injury". Work accidents and injuries are the consequence of many interplaying factors, most notably; the lax implementation of health and safety measures by employers at the workplaces, and the weak and inadequate inspection mechanisms carried out by the official authorities at workplaces. Besides, workers' complacent attitude towards following safety precautions and their overconfidence contribute to raising these injuries, in addition to tragically losing the worker's life or causing him a permanent disability. All these issues call for action on this important issue, through discussing its socioeconomic and financial repercussions. The main impact of work injuries is the loss of a source of income of the injured workers or their dependent family (particularly in cases of disability or death). Add to that the large amounts of money paid by employers and insurance companies for treating and compensating injured employees, as well as the cost incurred from losing skilled workers. Add to that the absence of a governmental or civil monitoring Palestinian body that takes the responsibility of working on the issue of Palestinian workers' injuries in the Israeli labor market, necessitating practical solutions and alternatives.

This paper presents the latest statistics on Palestinian workers' injuries in the West Bank, and in the Israeli labour market alongside the reasons behind their surge. It also presents the key official laws and legislations that regulate work injuries and diseases in Palestine, while touching upon the role of the relevant official monitoring bodies and authorities in reducing them.

These pillars will be discussed in a roundtable session with the participation of experts and stakeholders, hoping to come with recommendations that would reduce work accidents in the Palestinian labour market, whether through proposing amendments to the existing laws and regulations and/or amendments to the monitoring and inspection mechanisms carried out by the competent authorities. Hopefully, the discussion would also lead to solutions for reducing injuries of workers in the Israeli labour market.

## **2. Key statistics on work injuries**

Official statistics published on work injuries may not reflect their real number, because employers do not usually report injuries of their employees (particularly un-serious injuries),<sup>2</sup> or due to the multiple bodies that take record of work injuries (such as the MoL, the governmental and non-governmental health sector and trade unions), without having one

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<sup>1</sup> Source: MoL, 2019. Annual Report 2018 - General Directorate of Labour Inspection and Protection. Ramallah, Palestine

<sup>2</sup> The total number of work injuries in the governorates of the West Bank, based on a report issued by the General Federation of Trade Unions of Palestine in 2017, was 2,948. Whereas, according to the Ministry of Health data they were 1,775 injury, including injuries in the West Bank and the Israeli labour markets.

reference body responsible for keeping records of injuries, together with the low percentage of workers insured by their employers, which make referring to the list of insured workers who were compensated by insurance companies inaccurate. According to PCBS's data published in 2018, the ratio of paid and insured workers employed by the private sector who acknowledged their employers' commitment to cover work injuries whether through governmental or private insurance was 13% in Palestine (16.9% in the West Bank against 5% in the Gaza Strip).

The paper at hand will depend on the MoL statistics, with a focus on the West Bank, owing to the absence of the needed data on the Gaza Strip. Table (1) documents the number of work injuries over the last three years. Data show fluctuations in the number of injuries, while the number of deaths followed a downward pattern. While this decline in deaths is a positive indicator, its continuation is largely dependent on the precautionary measures taken by the monitoring authorities, especially the MOL. This issue will be discussed in more detail later. These injuries spread across different economic sectors, yet unevenly; a report issued in 2018 by the General Directorate of Labour Inspection and Protection at the MoL, indicate that the industrial sector has the highest ratio of injuries (26% of total injuries), followed by the services sector (21%), then the construction sector (8% of total). However, fatal injuries are highly concentrated in the construction and industrial sectors (more than two-thirds). The largest ratio of fatal injuries resulted from falling from high altitude. Notably, one-third of fatal injuries were not covered by the insurance policy of the employer, which constitutes a breach of Article 116 of the Palestinian Labour Law.

**Table (1): The number of injuries and deaths among Palestinian workers in the West Bank, 2016-2018**

Year	Number of Injuries	Number of deaths
2016	682	14
2017	808	11
2018	776	7

Source: MoL, 2018 Annual Report 2018, the General Directorate of Labour Inspection and Protection. Ramallah, Palestine

### **3. Work injuries in the Israeli labour market and colonies**

The number of work injuries among Palestinian workers in the Israeli labour market and colonies reached 318 in 2018, around 25 of which were fatal, reported mostly in the construction sector. Table (2) below shows the number of deaths and injuries among

Palestinian workers in the Israeli labour market and colonies between 2015 and 2018. Although the total number of injuries dropped in 2018 compared with previous years, the number of deaths increased compared with 2017 and 2016.

**Table (2): The number of injuries and deaths among Palestinian workers in the Israeli labour market and colonies, 2015-2018<sup>3</sup>**

Year	Number of injuries	Number of deaths
2015	427	26
2016	492	24
2017	513	15
2018	318	25

Source: MoL, unpublished data.

The rise in work injuries in the Israeli labour market, especially in the construction sector, is ascribed to several reasons; mainly, the poor oversight over construction sites. By the end of 2018, there were 28 inspectors responsible for 11,000 sites in the Israeli market, employed by the Safety Directorate at the Israeli Ministry of Labour.<sup>4</sup> This small number of inspectors, reduces the incidence of inspection visits to these establishments, and the chances of re-visiting the violating establishments to inspect on the execution of instructions and measures ordered by inspectors. In addition, resources allocated for inspection operations (especially transport vehicles) are insufficient.<sup>5</sup> All these factors would create a fertile environment for not complying with the requirements of work safety measures. The lack of monitoring and supervision encourage contractors' non-compliance, especially if this would save them the costs of implementing safety measures, i.e. an increase in their profits.

Furthermore, the lack of serious investigations and accountability for violations (by employers or contractors) in workshops is notable. The Israeli police usually investigates few cases, typically the cases that resulted in the death or a serious injury for the worker. Most of investigation files are closed without filing an indictment, citing that they lack sufficient evidence.<sup>6</sup> However, if the lawsuit is brought to court, the high costs required for obtaining legal assistance to appear before Israeli labour courts is often an obstacle to the Palestinian worker who cannot afford paying these fees. On the other hand, Palestinian workers may not possess the needed documents and proofs that support their affidavit at the police or the court, especially, if they did not receive a salary slip or received slips with falsified information.<sup>7</sup> Therefore, the lawsuit might be dismissed or granted continuance/delayed. According to the PCBS's Labor Force Survey 2018, the ratio of insured Palestinian workers working in the Israeli labour market reached 17%, while their ratio in the constructions sector (the sector with the highest ratio of injuries) was around 16%.

Finally, the low fines imposed against violators of safety measures at these workshops, has exacerbated this phenomenon. Usually, these fines do not exceed a few thousand shekels

<sup>3</sup> The figures in the table include Palestinian workers from the West Bank only.

<sup>4</sup> ILO, 2018. The situation of the Occupied Arab Territories workers, Report of the Director General (Annex). ILO conference 107, 2018. Geneva.

<sup>5</sup> Source: An article published in Palestine Today news agency on December 15, 2015, by Hadas Tigray: Falling Dead – Haaretz.

<sup>6</sup> Source: An article published in Al-Arabi Al-Jadeed Newspaper, May 7, 2019, by Nahed Derbas: Construction workers ... work accidents killing Palestinians inside.

<sup>7</sup> ILO, 2018. The situation of the Occupied Arab Territories workers, Report of the Director General (Annex). ILO conference 107, 2018. Geneva.

(about NIS 5,000). However, early 2018 a new penalty law has been put into force, providing for penalties threshold reaching NIS 35,000 against contractors who fail to provide safe working environment. Yet, the mortality rate which is even higher than before, raised high doubts about the law and the seriousness of the Israeli authorities.

Most probably, the Israeli monitoring authorities' negligence of the sector is due to the large segment of Palestinian workers working in it. Unless deterrent measures were taken to reduce such accidents and to preserve those workers right to protection, this phenomenon would not come to an end, especially that neither the Palestinian MoL nor the International Labour Organization are capable of taking action or following-up or monitoring the conditions of those workers. This situation is the result of Israel's refrain from signing the related international conventions. The situation is further worsened by the large number of Palestinian workers who work in the Israeli labour market without work permits (about 41% according to the PCBS labor force survey). This segment of workers neither has a labor insurance against work-related accidents, nor receive a salary slip that could be used as a proof of work in case a work injury occurs. Additionally, many Palestinian workers who were injured in work accidents are transported to checkpoints or left by the roadside of the Palestinian territories without being given medical treatment, to evade paying the costs of their medical treatment.<sup>8</sup>

#### **4. 4. The legal framework regulating occupational safety and health in Palestine**

Many laws, resolutions, and ministerial instructions and decisions have addressed, inter alia, issues of occupational safety and health, and suitability of the working conditions. Following we present the most important legislations of these:

**Palestinian Labor Law No. 7 of 2000:** Many articles of the Palestinian Labour Law guarantee workers' rights to occupational safety and health at workplace, and regulate inspection of work conditions by the competent authorities, and other areas, as follows:

- Occupational Health and Safety Regulations Articles No. 90, 91, and 92 of the law provided that, the cabinet shall issue the regulations governing the occupational safety and health and work environment (see below). Such regulations shall in particular provide for personal protection and prevention methods for workers from the work hazards and occupational diseases; the necessary health conditions in workplaces; first medical aid means at the establishment; and routine medical examinations of workers. According to the Law, each establishment should issue its in-house health and occupational safety regulations, that should be duly endorsed by the MoL. These regulations should be posted on a pin board visible to the staff of the institution. The law also prohibits cutting any expenses or deductions from the workers' wages in return for the provision of occupational safety and health requirements at the workplace.
- **Labor Inspection:** By Article 107 of the law, The Labour Inspection Commission shall be constituted to assume their inspection duties and enjoy judicial enforcement powers. Labour inspectors shall follow up on the enforcement of the labour related regulations, particularly in relation to work conditions and circumstances. They shall report to the competent authorities about the infractions and violations they detect during the exercise

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<sup>8</sup> ILO, 2018. The situation of the Occupied Arab Territories workers, Report of the Director General (Annex). International Labour Conference 107, 2018. Geneva.

of their duties. Inspectors shall also have the power to take any of the following measures against violators, starting from providing advice and guidance, or giving a verbal notices to correct the infraction within a specified period of time, and ending with submitting a recommendation to the Work Inspection Commission to issue a written warning notice regarding the infraction (refer to Article 113).

- **Penalties** Any employer who violates the provisions of Articles 90-92 of the Labour Law, shall be subject to penalties set forth in Article 131 of the Law, i.e. a fine of no less than JD 100 and no more than JD 300. A fine shall be charged for each violation and will be double the value of the original penalty in case it was repeated. The competent Minister, according to the provisions of Article 133, is entitled to completely or partially close the establishment or stop operation of machines until the employer corrects the violation. According to Article 135 of the Law, any person who opposes or impedes the work of the labour inspector or the Inspection Commission, shall be fined no less than JD 300 and no more than JD 500.

Following the Labour Law, several resolutions and ministerial instructions were issued detailing health conditions and standards related to occupational safety at different workplaces. These include:

- The ministerial decrees No. 15, 17, and 21 of 2003 concerning health conditions and standards at workplaces, medical assistance procedures at the workplace, and safety standards at companies.
- The Decision of the Council of Ministers No. (49) of 2004 concerning the preventive list of work hazards and career diseases and work accidents.
- Instructions by the Minister of Labour no. (1) of 2005 concerning the precautions to protect workers in construction sites.
- Instructions by the Minister of Labour no. 2-6 of 2005, defining the range of chemical exposure limits and standards, exposure to ionizing radiation, noise, and safe levels of brightness of light and temperature at the workplaces.
- Instructions by the Minister of Labour no. (7) of 2005 concerning the protection of workers working in the gas and petroleum sector.

These instructions and decisions detail the rules and occupational safety conditions regulating workers' exposure to hazards at the workplace, such as chemicals, radiations and temperature, as well as regulating work in sectors where workers' exposure to hazards are higher, such as the construction, gas and hydrocarbon, and chemical industries sectors.

**Law by Decree No. (3) of 2019 on the committees and supervisors of occupational safety and health at establishments:** This law by decree aims to enhance internal oversight in establishments and workplaces, provide the requirements of occupational health and safety, and reduce work accidents and occupational diseases (Article 2). By this law, each establishment should appoint a supervisor authorized by the MoL to ensure achieving these goals through carrying a specific set of duties. The employer has the right to choose one of his workers to assume these duties after insuring he received the job-specific training enabling him to carry out duties of a supervisor, or by appointing an external supervisor. The nature and number of supervisors varies depending on the size of the establishment and the level of hazard at the workplace. Hence, establishment employing 20 workers or more, or those in hazardous sectors and occupations, must appoint a resident supervisor therein by the law. Any violator of the provisions of this legislation shall be fined between JD 1000 and JD

3000. In case of repeating the same violation or not correcting the violation, the penalty shall be double the original penalty.

Other Palestinian laws have addressed issues related to safe working environment, as follows:<sup>9</sup>

- Public Health Law No. (20) of 2004: Article (31) states that " It is not permissible to practice any profession or craft that may affect the public health or the environmental health unless there was a written consent obtained from the Ministry. Article (32) states that "The Ministry shall coordinate with the relevant bodies in creating the conditions and monitoring techniques that would ensure safety and occupational health in workplaces". In addition, it defines the health conditions that workers who work in specific professions and industries should enjoy, else their health might be affected; the types of routine medical tests to ensure workers in these professions and industries stay in good health (Article 34).
- The Civil Defense Law No. (3) of 1998: Providing for safety and firefighting measures at the different workplaces.
- The Crafts and Industries Law No (16) of 1953: The law includes articles that prohibit employing any person to do any hazardous or harmful craft or industry for his health.
- The Industry Law No. (10) of 2011: According to the law, judicial officers have the right to inspect establishments compliance with industrial, health and public safety measures.
- The Law on Agriculture No. (2) of 2004: The law addressed occupational safety and health measures in cases of storage, transport, circulation of agricultural pesticides and control and inspection mechanisms.
- Law No. (6) of 1999 on Tenders for Government Works: The law obligates contractors engaged in governmental works and projects, to create secure and safe conditions for workers at their workplaces and provide insurance against work accidents.

#### **4.1 Workplaces Inspection by official authorities**

The MoL carries out many inspection visits to establishments as a part of its annual surveillance and inspection plan; In 2018, inspection visits to establishments reached 14,358, covering 10,687 establishment (representing 10.8% of the total operating establishments in the West Bank).<sup>10</sup> These visits included municipalities and governorates in the West Bank as shown in Table (3) below, which also shows the number of inspection visits, and the number of operating establishments in each governorate. As seen in figures, the number of inspection visits to governorates is disproportionate with the number of establishments in each governorate. Visits are concentrated in specific areas such as Halhul, Yatta, and Dora, which have fewer establishments compared to governorates such as Jenin, Nablus, Jerusalem, and Tulkarm. Inspection on the latter governorates is less. The third column in the table shows that the ratio of inspections visits to the total number of establishments in Jenin and Nablus was around 6%, while it was about 8.7% and 9.5% in Jerusalem and Tulkarem, respectively. Whereas, it reached 133% in Halhul (i.e. more than a visit per one establishment), and in Yatta it was 88%.

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<sup>9</sup> Source: Abu Arra, Mohammad. Al Turk, Layali (2014). Work Injuries and Compensations in Palestine. Palestine.

<sup>10</sup> Source: PCBS, 2018. the Population, Housing and Establishments Census, 2017. Summary of the final results of the census Ramallah, Palestine

**Table (3): Number of Establishment and Inspection visits made by MOL inspectors in the West Bank, 2018**

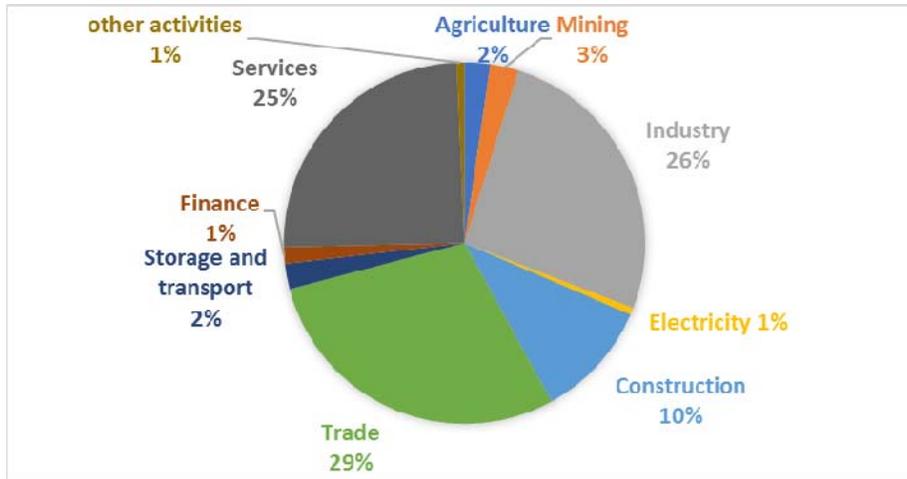
City	No. of Establishments	No. of Inspection visits	Ration of no. of visits to no. of establishment
Ramallah	15,850	1,930	12.18
Al quds	10,227	892	8.72
Jericho	1,509	388	25.71
Bethlehem	9,031	1,633	18.08
Hebron	9,402	1,369	14.56
Jenin	13,729	864	6.29
Nablus	17,113	1,037	6.06
Salfeet	2,986	422	14.13
Qalqilia	4,409	1,106	25.09
Tubas	1,965	622	31.65
Dora	1,578	905	57.35
Yata	1,382	1,220	88.28
Tulkarm	7,953	755	9.49
Halhul	799	1,064	133.17
Tarqomia	493	151	30.63

\* source of data on the number of establishments PCBA, 2018. The Population, Housing and Establishments Census, 2017. Summary of the final results of the census. Ramallah, Palestine

\*Source of data on the number of inspection visits: Ministry of Labour, 2019. The annual report of the General Directorate for Labour Inspection and Protection. Ramallah – Palestine, 2018. Ramallah, Palestine

In terms of sectors that have been inspected, Figure(1) shows the share of each sector of inspection visits during 2018. The figure shows that inspection visits were concentrated in the less hazardous sectors (such as trade and services sectors). On the other hand, inspection visits for the construction sector, which is the sector with the highest rate of fatal and serious injuries, were low. Whereas, visits to the industrial sector reached 26% of total inspection visits. As for legal actions taken against establishments violating occupational health and safety requirements (Articles 90-92 of the Labour Law), around 3,915 verbal notice and 909 written warning were issued, and 42 lawsuits were brought to court. In addition, 81 establishments were closed (73 were completely shut and 8 were partially shut), and two machines were stopped from operation.

**Figure-1: % of Inspected Establishments by Economic Activity**



Source: MOL, 2019. The annual report of the General Directorate for Labour Inspection and Protection. Ramallah – Palestine, 2018. Ramallah, Palestine

#### 4.2 Determinants of Deterrents

There are many determinant factors that can negatively affect mitigation of work injuries, such as improper planning by official authorities, accompanied by obstacles that impact the efficiency of the inspection process, as well as the flaws in the enforcement of the law's penalties, alongside the nondeterrent penalties.

**Unproper Planning:** According to a report issued in July 2018, by the State Audit & Administrative Control Bureau on the government's inspection of occupational safety and health requirements, the MoL inspection planning was inefficient which led to erratic inspection visits that were not probably directed toward hazardous sectors. In addition, the Ministry lacks a clear reporting system or mechanism for obtaining accurate information about work injuries, which has yielded inaccurate information that was published in the Ministry's report. This also affected future planning.<sup>11</sup>

**Determinants of the Inspection Process:** Many obstacles impeded the inspection process and weaken inspectors' mentoring abilities, working to ensure adherence to health and safety requirements at workplaces. These obstacles include the limited number of authorized inspectors in the inspection commission, which is disproportionate with the number needed to cover all governorates (82 inspectors 2018); in conjunction with the severe shortage in vehicles used for inspection visits (one vehicle for each directorate), which increases the chances of canceling and postponing field visits in case vehicles broke down or were

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<sup>11</sup> Source: State Audit & Administrative Control Bureau, 2018. Summary of a report on government inspection of occupational safety and health requirements and their effectiveness in achieving safe working conditions, Palestine.

unavailable.<sup>12</sup> It should be noted that, the disproportionate number of visits to governorates to the number of establishments, as mentioned above, necessarily means that a large ratio of establishments, especially micro ones, are not inspected, which increase the probability of employers' nonadherence to safety requirements at their workshops. On the other hand, the lack of qualified and well-trained inspectors, weak monitoring of inspectors and the weak inspection and archiving processes, especially electronic ones, have significantly weakened the effectiveness of inspection.

**Weak enforcement of the law's penalties:** On the ground, enforcement of penalties set forth by the Labour Law is weak. As mentioned above, penalties against violators of occupational health and safety provisions (90-92) range from verbal notices and written warnings to referring to court. Verbal notices composed the highest percentage of penalties (80%), followed by written warnings (18%) of the total penalties. However, the enforcement of other penalties set forth in article 31 of the Law, is weak. According to this article, the violator should pay a fine between JD 100-300 in case of violating occupational safety regulations, and double the original fine in case of repeating the same violation. This applies as well to the provisions of article 133 which provides for the complete or partial closure of the establishment or stopping its machines from operation. Notably, penalties set forth in the Labour Law constitute 2.5% only of the overall penalties that are actually applied. The major flaws in enforcement of the law penalties is the absence of standard guidelines of measures, that defines legal actions that an inspector should take when detecting an occupational safety violation. This led to a discrepancy in punitive measures taken against violators, or the failure of inspectors to impose the suitable legal action against the violators.<sup>13</sup>

**Nondeterrent laws:** Regarding the deterrent effect of penalties/fines set forth in the law, these penalties are certainly not deterrent given its low value. Fines should be high enough to deter violators, and it should be accompanied by corrective actions that prevent the repetition of the incident. At the same time, the fine should not be less than the costs related to the implementation of safety requirements. In addition to violators assurance that fines will not be the first penalty that will be imposed on them in case they were caught, which may be extended in light of the weak inspection process.

**The lack of coordination among relevant authorities:** Despite the many laws that guarantee creating safe working conditions for workers, and that some of these laws gave the capacity of judicial officers to many governmental employees working in the MoL, MoNE, MoH, MoA, and the Civil Defense; however, the problem of work-related injuries still exist. Perhaps this is due to the weak coordination among these authorities, fragmented efforts and failing to reach the expected results of inspection.<sup>14</sup> In addition, the absence of coordination among supervisory authorities and authorities in charge of licensing establishments such as municipalities and local governments units, has resulted in overlooking inspection of many establishments in hazardous sectors because of the insufficient information available to inspection authorities, especially about newly-established establishments.

## **The Role of Trade unions**

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<sup>12</sup> Source: MoL, unpublished data.

<sup>13</sup> State Audit & Administrative Control Bureau 2018, summary report of government control over occupational safety and health requirements and their effectiveness in achieving safe working conditions, Palestine.

<sup>14</sup> Source: Abu Arra, Mohammad. Al Turk, layali, 2014. Work Injuries and Compensation in Palestine. Palestine. Palestine

The primary role of trade unions is to raise awareness and provide guidance to workers regarding safety precautions necessary at the workplaces. This is done through holding workshops and training programs in collaboration with specialized training centers, as well as putting pressure on employers and inspection authorities to enforce the law and protect workers' rights. The amount of this pressure increases directly with the actual representation of workers. In the Palestinian case, this representation seems to be extremely vulnerable in light of the multiplicity of trade unions and their failure to be a legitimate elected trade union. According to labour force surveys issued by PCBS in 2018, the percentage of workers affiliated with trade and specialized unions in the private sector were 16% (9% in the West Bank and 32% in the Gaza Strip), which drops to 12% in the informal sector (2% in the West Bank and 32% in the Gaza Strip).

### **Questions for Discussion**

The following questions are for enriching discussion about work injuries, and bringing forth elicited policy recommendations for reducing this problem:

*With regard to work injuries in the Palestinian Labour Market:*

- What legal and legislative amendments should be introduced to the existing official legislations that would enhance the working conditions and reduce work injuries?
- What inspection measures should be 1- included 2- amended 3- intensified by the monitoring and inspection authorities pertinent to working conditions and safety?

*With regard to work injuries in the Israeli Labour Market:*

- What measures can be taken to reduce work injuries in the Israeli labour market?
- How can we pressure the Israeli government and the relevant Israeli authorities to implement these measures?