

17 לעובד  
Worker's Hotline  
عنوان العامل

# Violations of the Right to Medical Care for Palestinian Workers Employed in Israel

Research and writing: Noga Kadman

Translated by: Nadav Amir Edited by: Chris Whitman



# Violations of the Right to Medical Care for Palestinian Workers Employed in Israel

Research and writing: Noga Kadman

Translated by: Nadav Amir Edited by: Chris Whitman



"This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of Kav LaOved and can in no way be taken to reflect the views of the European Union."

Photo credit: Hanna Zohar (cover), Activestills (back cover)

All rights reserved KavLaOved ©2105

# Contents

<b>Introduction</b>	4
<b>Background</b>	5
Data and Developments	5
Denial of Rights and Pay	7
<b>Lack of Health Insurance in Israel</b>	10
<b>Sick Leave Payment Collected but not Given to Workers</b>	13
<b>Workplace Accidents</b>	14
Background and Data	14
Evacuation of Injured Palestinian Workers to Hospitals	18
Recognition of Workplace Accidents and Receipt of Injury Benefit	19
Medical Attention and Covering Costs Following the Accident	22
Recognition of Disability and Provision of a Disability Benefit	24
Denial of General Disability Benefits	25
<b>The Equalization Surcharge – Collected but not Implemented</b>	27
Occupational Health	30
<b>Conclusions and Recommendations</b>	32

# Introduction

The number of Palestinian workers employed in Israel has doubled in recent years, and is now estimated at around 100,000. Palestinian workers employed in Israel are not eligible for the health insurance in Israel, except in regards to work accidents (but at lesser conditions than those of Israeli and foreign workers). This is the case despite most of them have work permits, and despite the fact that payments for national insurance and health coverage are deducted from their salaries every month. Few receive sick pay. Most are exposed to hazards in their line of work, but if injured they must cover all medical costs, excluding primary care, and wait many months for reimbursement. Yet, every month, a sum designated for receiving health and welfare services in the Palestinian Authority (PA) is deducted from their salaries. Israel withholds these funds, does not transfer them to the PA, and hardly ever makes use of them for the well-being of the workers. These are all manifestations of restrictions on the right to medical care of Palestinian workers in Israel, upon which this report will focus.

In a report published in 2012, Kav LaOved reviewed the numerous obstacles faced by Palestinians attempting to seek a living in Israel, as well as the difficulties that follow thereafter for those who do find work. The first such obstacle is the tying of the worker to a specific employer.<sup>1</sup> Consequences of this restriction include the need to pay sub-contractors in order to find an employer, the weakening of the worker in relation to the employer (with the former entirely dependent on the latter for his livelihood), difficulty in moving to another employer when the need arises, and the potential cancellation of work permits due to violations committed by the employer. Further hindrances include the cumbersome and lengthy bureaucratic procedure facing Israeli employers wishing to employ Palestinians and the corruption inherent to this process, the nature of security measures imposed on many Palestinians which deny them the right to work in Israel (usually in the absence of genuine security concerns), the difficulty of transit to and from work, and the exploitation and violation of the rights of Palestinian workers in settlements in the occupied West Bank.

1 Kav LaOved, *Employing Palestinians in Israel and the Settlements: Limitations, Bindings and Infringements* August 2012 (henceforth: KavLaoved 2010) <https://docs.google.com/file/d/0B7QADw8e4Uf-dHdOVzV0ZVV3Wlk/edit> (in Hebrew)

The obstacles and difficulties described in the last report are still widely present. The State Comptroller report from 2014 extensively covered additional violations of the social rights of Palestinian workers by the National Insurance Institute (NII) of Israel's Payroll Department. This report will describe any changes which have occurred with respect to these issues, including the latest data regarding Palestinian workers in Israel and in the settlements, with extensive analysis on the issue of the medical care provision. Among other topics, the report's findings are based on the cases of more than 140 Palestinian workers who have sought the assistance of Kav LaOved in their dealings with the authorities, after they had been injured at work.

# Background

## Data and Developments

In 2014, 92,000 Palestinian workers were employed in Israel; 59,000 with permits and 33,000 without.<sup>2</sup> This is a sharp increase in the number of Palestinian workers in Israel, as during the first half of 2013 the figure was around 23,600 with permits, up from 15,791 in 2011.<sup>3</sup> In addition, 25,757 Palestinians worked in settlements and Israeli industrial zones in the West Bank at the end of 2014<sup>4</sup>.

In March 2015, the quota for employment of Palestinians in Israel was 53,850 workers - most of whom in the construction sector - including

- 2 Bank of Israel, 2014 Report, March 2015 (henceforth Bank of Israel 2014) page 136 <http://www.boi.org.il/he/NewsAndPublications/RegularPublications/DocLib3/BankIsraelAnnualReport/2014 דיווח בנק ישראל/chap-5.pdf>
- 3 State Comptroller, Annual Report 65a, 2014 (henceforth, State Comptroller 2014), page 515. [www.mevaker.gov.il/he/Reports/Report\\_266/fb860755-1b0b-4206-b1ab-c76ccf254fe0/210-ver-4.pdf](http://www.mevaker.gov.il/he/Reports/Report_266/fb860755-1b0b-4206-b1ab-c76ccf254fe0/210-ver-4.pdf).
- 4 Reported by Colonel Yair Mamman, Head of the Finance Department at the Coordinator of Government Activities in the Territories, during a meeting of the special Knesset committee on the foreign workers problem, 26.11.2014.

4,500 in East Jerusalem. A work permit is only given to married Palestinians aged 22 and over, if they are not barred for security reasons. There is no numerical quota for the employment of Palestinians in settlements and Israeli industrial zones in the West Bank, and Palestinians aged 18 and over are allowed to work there (and in the seam-zone (those areas between the separation barrier and the Green Line – for those married and aged 26 and over)).<sup>5</sup>

According to the State Comptroller, the allocation of permits to contractors is carried out in an arbitrary, negligent manner, with some employers obtaining permits without even being registered in the contractors' registry, and even sometimes issue double the amount of permits, according to quotas, to contractors for the same projects.<sup>6</sup> Due to the difficulty of obtaining a work permit from an employer directly, many Palestinian workers pay middlemen to connect them to an employer. According to a Kav LaOved survey of 100 workers, more than a quarter paid middlemen a monthly sum of 1,350-2,300 NIS<sup>7</sup> in 2013, when the average monthly wage of permit-holding Palestinian workers in Israel was around 3,500 NIS.<sup>8</sup> Kav LaOved has regularly assisted workers who reported having worked for sub-contractors rather than the employer listed on their work permit, with the sub-contractor not always paying them as required and the parent company shirking its responsibility.

Fourteen thousand of the Palestinian workers who received a permit to work in Israel, received overnight permits in 2014.<sup>9</sup> The accommodation is provided by the employer, and since the State has not implemented standards regarding the accommodation of Palestinian workers (unlike in the case of migrant workers), these accommodations do not always meet the standards of suitable housing, with tenants suffering from overcrowded conditions and the lack of a kitchen or shower.

5 The Coordinator of Government Activities in the Territories, operations department, COGAT ordinance – Status of Permits for Palestinians Entering Israel, Leaving Israel and moving between Judea and Samaria and the Gaza strip, 21.3.2015.

6 State Comptroller 2014, pp 486-7, 514.

7 See also Bank Of Israel 2014, pp. 136-7

8 Ibid p. 136

9 COGAT ordinance 21.3.2015, (see footnote 5 above).

## Denial of Rights and Pay

Palestinian workers employed in Israel are entitled to wages and conditions identical to those of Israeli workers.<sup>10</sup>

The employers are required to pay the workers a net salary, report the salary to the Payroll Department at the Ministry of Interior (aka Matash), and transfer to Matash the payments and deductions from the workers' wages, including:

- **Payment for Insurance and Health Care** - Matash must transfer this sum to the National Insurance Institute of Israel, to the Kupot Holim (Israel's health maintenance organizations - HMO), and to the Ministry of Finance (which should then in turn transfer the funds to the Palestinian Authority)
- **Equalization Surcharge (Heitel HaShva'ah)** – This tax is intended to cover difference between the full insurance payment and the partial insurance covering Palestinian workers. The sum is transferred to the Ministry of Finance and is supposed to be transferred to the Palestinian Authority and to the Kupot Holim (HMO)
- **Sick Pay and Vacation Pay** – This should be paid by Matash to the workers during their period of employment
- **Severance Pay and Pension** - Starting four months from the end of their work, workers are entitled to receive the funds accumulated during their years of work

In 2011 and 2012, employer payments to Matash for the wages of Palestinian workers amounted to 868 million NIS and 1.138 billion NIS respectively. Between January and August 2013 they amounted to around 1 billion NIS.<sup>11</sup> The total sums transferred by Matash to the Ministry of Finance amounted to 2.524 billion NIS at the end of 2013.<sup>12</sup>

10 Decision of the Defense Ministerial Committee, #B/1 8.10.1970.

11 State Comptroller 2014, page 485.

12 Ibid, page 533

However, much of these funds do not reach the Palestinian workers at all and are not being used to implement their social rights.<sup>13</sup> One reason for this is that Israel does not transfer the funds to the Palestinian Authority which are supposed to be paid to the latter (see below). Another reason is the conduct of Matash, which as noted by the state Comptroller in 2014, "has failed to fulfill its duty to protect the rights of Palestinian workers," by failing to equate the wage conditions and employment rights of Palestinian workers to those of Israelis, as required by law.<sup>14</sup> The Comptroller wrote that he "regards the conduct of Matash as gravely wrong," and that "the Government should review the duties of [Matash] and the continuation of its operation in the future with respect to this issue."<sup>15</sup> The Comptroller also elaborated as to pension funds collected from the workers which do not reach them (see below).

Palestinian workers are not exposed to sufficient information about their rights, which also harms the fulfillment of these rights. The Bank of Israel addressed this in its Annual Report for 2014, citing Palestinian surveys indicating that only a small percentage of the Palestinians working in Israel are aware of their eligibility for pension deposits (by the employer), sick pay, and vacation.<sup>16</sup>

In January 2011, Gisha and Kav LaOved petitioned the Ministry of Interior and COGAT, through the courts, with a demand to publish information, data, and procedures regarding Israel's policy on the matter of employment of Palestinians in Israel, in Hebrew and Arabic, so that every worker and employer is able to find the necessary information easily.<sup>17</sup> In the two years following the submission of the request, the State has gradually provided information on this issue, and in May 2013 the court ruled that the petition should be deleted, since "according to the state, all the information which had been requested and was available to it has been passed to the petitioners," and since the authorities have taken it upon themselves to publish procedures in Arabic on their Internet sites.<sup>18</sup>

13 See KavLaoved and the Center for Alternative Information, **The State Robbery: Israel Owns Billions of Shekels to Palestinian Workers**, January 2010.

14 State Comptroller 2014, page 490.

15 Ibid, page 540, for details regarding the violation of various rights of workers in Israel see also pp. 516-530.

16 Bank of Israel 2014, 136-7.

17 Administrative Petition 27605-01-11, Gisha & Kav LaOved vs COGAT and Others, see [www.gisha.org](http://www.gisha.org) and Kav LaOved 2012, pp. 14-15.

18 Administrative Petition 27605-01-11, verdict given on 19.5.2013, pp. 7, 9-10, [www.gisha.org/UserFiles/File/LegalDocuments/27605-01-11/27605-01-11-verdict.pdf](http://www.gisha.org/UserFiles/File/LegalDocuments/27605-01-11/27605-01-11-verdict.pdf)

However, until now, fundamental issues regarding the employment of Palestinians in Israel have remained unclear, and not all the information appears in an accessible manner on the authorities' websites.<sup>19</sup> The State Comptroller also noted in 2014 that the operation of Matash is not regulated by orderly and up to date procedures. Matash stated that the issue of communicating working procedures would be part of the work plan for 2014 and these procedures would be published on the Population, Immigration, and Border Authority's (PIBA) website. As of June 2015, this has not been done.

The denial of Palestinian workers' rights is especially common in the case of those employed in settlements and industrial zones in the occupied territories. The High Court of Justice ruled in 2007 that Israeli employers in the West Bank must abide by Israeli labor laws with respect to all their workers - Israelis and Palestinians alike.<sup>20</sup> In spite of this, until now, the Government has not applied the vast majority of Israeli employment laws in the occupied territories through orders of the military commander. The Ministry of Economy is only authorized to enforce the Minimum Wage Law for Palestinian workers in the occupied territories, and current enforcement is minimal. Israeli employers in the settlements and industrial zones of the West Bank continue to deny rights to their Palestinian workers on a daily basis.<sup>21</sup>

## Lack of Health Insurance in Israel

Tens of thousands of Palestinians who work for Israeli employers spend the day in Israel. In addition, there are about 14,000 Palestinian workers with overnight permits who stay in Israel all week long. Some of them have been employed in Israel for many years and are no longer in their youth at their

19 State Comptroller 2014, page 510.

20 Supreme Court Ruling, 5666/03, Kav LaOved and others vs. State Labor Court in Jerusalem and others, ruling from 10.10.07, [law.haifa.ac.il/lawatch/lawatch\\_files/2007labor566603.htm](http://law.haifa.ac.il/lawatch/lawatch_files/2007labor566603.htm)

21 See Kav LaOved 2012, pp. 30-41, Meeting Protocol of the Public Petitions Committee in the Knesset, 3.12.2013, <http://www.knesset.gov.il/protocols/data/rtf/zibur/2013-12-03.rtf>

healthiest. If, unfortunately, they have a medical emergency, services must be provided locally and should not be delayed by referral to the Palestinian Authority. However, despite the fact that they are charged 93 NIS a month for health insurance and are legally entitled to the same rights as Israeli workers, they do not have access to Israeli medical services except in the event of a work injury, in which case medical services are provided but with less favorable conditions than for Israeli or foreign workers. (see below)

This situation arose following the signing of the Oslo Accords. The Paris Protocol states that Israeli employers are to deduct the medical insurance fee (also called the insurance stamp) from the Palestinian workers' salaries. The funds are to be collected by the State of Israel which will then transfer them to the Palestinian Authority.<sup>22</sup> The total sum collected from employers during the years 2006-2013 stands at about 216 million NIS. However, none of this has been transferred to the Palestinian Authority. Rather, it is being held by the Accountant General of the Finance Ministry.<sup>23</sup> Yet, medical care is provided to Palestinian workers with an insurance stamp certifying that the fee has been paid to the Palestinian Authority rather than to the Israeli government.<sup>24</sup>

When an emergency warrants medical treatment in Israel, a Palestinian worker must choose one of the following options: to pay the hospital directly, to be indebted to the hospital, or to forgo medical attention. If the medical staff conclude that the worker does not require emergency services, he will be referred to the Palestinian Authority for treatment. The Palestinian Authority medical services are generally considered to provide a lower standard of services than in Israel. Research conducted by Doctors Without Borders (MSF) states: "The Palestinian health services are in a chronic crisis making them unable to provide satisfactory health services for the population." This is due to the constant lack of medicines, medical supplies, and medical staff, particularly specialists.<sup>25</sup>

Workers hospitalized in Israel for emergency care may discover that the

22 The Gaza-Jericho Agreement, Appendix IV – Protocol regarding the economic relationship between the Israel Government and the Palestinian Liberation Front, Paris, April 4, 1994, paragraph VI 9.1 (i.e. Paris Protocol) [www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/gaza-jericho\\_agreement\\_annex\\_iv\\_-\\_economic\\_protoco.aspx](http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/gaza-jericho_agreement_annex_iv_-_economic_protoco.aspx)

23 State Comptroller 2014, p.533

24 *Ibid.*, p.534

25 Doctors without Borders, Divide and Conquer: Inequality in Health, January 2015 p. 7 [www.phr.org.il/uploaded/hafred\\_vemshol.pdf](http://www.phr.org.il/uploaded/hafred_vemshol.pdf)

hospital bill – or the allegation of such a bill – can have dire consequences on their financial situation, in addition to the debt itself.

Palestinian workers can suffer a deadly blow to their financial situation due to ineligibility for medical insurance in Israel. Kav LaOved has provided help to Palestinians whose work permit was suddenly canceled without warning based on a charge of an unpaid debt to an Israeli hospital. Without the permit the worker cannot enter Israel. Unfortunately, the work permit is not automatically renewed even when the debt has been cleared to the satisfaction of the authorities, whether by proof of payment or by receipt of notice from the hospital indicating that according to their records no such debt exists. The worker has no option but to turn to his employer to begin the complicated and protracted process of applying for a new permit.

M.A., a resident of the West Bank, is legally employed in Israel. While at work on April 15, 2014 he felt a tightening in his chest and was taken to Ichilov Hospital where he underwent an angioplasty and was hospitalized for three days. He was recuperating at home for one month, and when he felt better he asked to return to work. On June 12, 2014, while crossing into Israel on his way to work he was informed that his permit had been canceled due to an unpaid bill and that he would therefore be unable to go to work. An inquiry discovered that the debt was due to hospitalization at Ichilov. M.A. found it difficult to pay the 20,000 NIS bill, while being refused entry into Israel prevented him from working, making it all the more difficult for him to pay the bill.

In some cases, when a work permit is canceled due to debt, the worker discovers that the bill had in fact been paid some time before the cancellation. However, even where the cancellation was in error, the employer was required submit a request for a new work permit. This worker found himself unjustifiably unemployed for the duration. Nasser Hafi, a resident of Danaba near Tulkarm, reported the following to Kav LaOved on July 13, 2013:

" I have been working for the same employer for many years. All my papers are in order. At the beginning of the month of July in 2013, I arrived, as usual, at the checkpoint on my way to work. This time, to my surprise, I was told I could not cross into Israel because my permit had been canceled. They did not tell me why but referred me

to the District Coordination and Liaison Office (DCO) who referred me to Beit El. There, I was informed that I owed 14,000 NIS to the Hillel Yafe hospital and that I must pay the bill, and only after which, my employer can rehire me.

I turned to the hospital to find out how much I owed and requested a statement with the intention of completing the payment. After a thorough investigation of their records, I was told that I had indeed been a patient there a few years ago but that the bill had been paid in full. I asked them to please fax the explanation to Beit El, which they did.

The next day I returned to the DCO and asked if the fax had arrived. They checked and told me that there was no debt and that I could instruct my employer to request a new work permit for me. The employer applied for the permit but it takes time, so meanwhile I am unemployed with no income or compensation...God only knows when everything will finally be arranged."

Thanks to the efforts of his employer, Nasser received a new work permit a few weeks later. Workers whose employers hire a replacement while they are gone are unable to return to employment so quickly.

Health insurance payments are deducted directly from workers' salaries and transferred to the Payroll Department, making it unreasonable to require the injured worker to cover the cost of medical treatment and hospitalization. The hospital should charge the Payroll Department or make other arrangements that do not involve the worker directly. After all, paying for health insurance should mean that costs are covered. Workers who pay for health insurance should not have to pay the hospital directly or have their work permit revoked.

At the end of May 2015, the Civil Administration informed Gisha that the decision was made to "cancel the requirement of injured workers to pay hospital bills themselves, with the hospital administration instead requesting legal assistance through the Ministry of Justice."<sup>26</sup> Information on when this policy change will be implemented was not provided.

26 Letter from Captain Eliran Sasson, Public Relations Officer in the Civil Administration to Attorney Michal Luft who submitted the information. July 27, 2015

# Sick Leave Payment Collected but Not Given to Workers

According to Israeli law, Palestinian workers employed in Israel have the right to receive paid sick leave just as Israeli workers do. The Payroll Department requires employers to pay into the sick pay fund 2.5% of the monthly salary of each Palestinian worker. The Payroll Department collects the payment despite the fact that, since 2004, the collective agreements in the building and farming sectors no longer make reference to sick leave insurance payment, and it should instead be the case that employers pay sick leave directly to the worker.

Palestinians have the right to receive sick pay from the sick fund, which they pay into during their employment.<sup>27</sup> However, in 2013 for example, Israeli employers paid 41,000 Palestinians' sick fund insurance to the Payroll Department, but only 421 workers actually received paid sick leave. A similar situation in previous years is reported by the authorities.<sup>28</sup> The amount paid to Palestinians in sick pay in 2013 totaled 1.2 million NIS, for a total of 421 workers.<sup>29</sup> The total sick fund insurance payment collection for 2013 is estimated to be 43 million NIS.<sup>30</sup>

According to the State Comptroller, the rest of the fees collected – a total of 168 million NIS – were transferred from the Payroll Department to the Ministry of Finance. This sum was meant to insure payment of the workers' sick leave entitlement.<sup>31</sup> However, it is not used for this purpose nor does it serve any other purpose relating to the health and welfare of workers.

A long and cumbersome process awaits those who do submit requests for sick leave payment. Workers must bring a certificate of illness to the Palestinian employment office nearest their home that is passed on to the

27 In addition, the protocol of the fund includes the payment of 25% of the salary in the case of a workplace injury, the rest of the payment is paid by Bituah Leumi at 75% of the salary. Effectively the payment does not happen.

28 Letters from Molly Davidian, Immigration Authority, to Hanna Zohar from Kav LaOved 20.2.14, 27.7.14.

29 Letters from Molly Davidian, Immigration Authority, to Hanna Zohar from Kav LaOved 27.7.14.

30 The calculation is made on the basis of the number of 41,000 workers in 2013 that received an average salary of 3,500 ILS (Bank of Israel 2014, 136) from which 2.5% are collected as payment for health insurance monthly.

31 The State Comptroller, 2014, p.533

medical board of the Palestinian Authority. After it is reviewed and the sick days are certified, it is sent to an Israeli doctor working with the Payroll Department who approves the payment. At best, the money is paid to the worker about four months after submission of the certificate. It is important to note that, according to the labor law, the rules about sick pay are the same as the rules regarding salaries. This means that the delay of sick leave payment in fact constitutes withholding of the worker's salary. The time and effort required to procure sick leave payment from the Payment Section, often at the loss of additional workdays, causes many Palestinians to forfeit the attempt to exercise their right. There are also workers who are not aware of their rights and how to exercise them, and there are workers who are afraid of losing their job if they stay home when they are sick.

# Workplace Accidents

## Background and Data

The building industry is considered prone to serious workplace accidents. In Israel dozens are killed and thousands injured annually.<sup>32</sup> Tens of thousands of Palestinians from the West Bank work in this industry – comprising the majority of the Palestinians who work in Israel – and they are vulnerable to workplace injury. There is no data to be found regarding the number of Palestinians that have been killed, as they fall under the category of “foreign” workers.

32 For more information regarding the reasons for this see: The Knesset Center for Research and information, Work Accidents in the Building Industry, February 27, 2012, pp 3-5 <http://www.knesset.gov.il/mmm/data/pdf/m03014.pdf>

**Table No.1 – Fatal Workplace Accidents** <sup>33</sup>

Year	Number of fatal workplace accidents	Victims of fatal workplace accidents: foreign and Palestinian workers	Number of fatal accidents in the construction industry	Victims of fatal accidents in the construction industry: foreign and Palestinian workers
2011	64	18	38	17
2012	60	24	31	21
2013	62	21	32	17
2014	62	No information	31	14

The main cause of workplace accidents during this period was falling from great heights.<sup>34</sup> The ratio of fatalities among foreign workers and Palestinians in 2014 was 4.7 times that of fatalities among Israeli workers. The ratio of fatal accidents in the construction industry for 2014 was 12 per 100,000, but the ratio of foreign workers and Palestinians killed was 1.6 times more than that of Israeli workers.<sup>35</sup> Most of the fatalities in the construction industry were contractor hires (63%) as opposed to direct hires.<sup>36</sup>

Employers are responsible for the safety of their workers. They are required to train workers in occupational health and safety in the workplace with the support of two authorities: The Administration of Occupational Health and Safety of the Ministry of Economy, which is responsible for enforcing health

33 Sources: National Insurance Institute and the Ministry of Economy Authority for Occupational Safety and Health, **Report on Work Accidents in Israel - a snapshot 2009-2013** pp 14-15; 24 <http://www.moital.gov.il/NR/exeres/F4F052B9-1A0A-4951-B398-80C796B1E0C7.htm> and the Authority for Occupational Safety and Health, "Trends in Workplace Accidents for 2010-2014, April 28, 2015, The Ministry of the Economy, Public Committee for the Advancement of Occupational Security and Health in Israel – Report and Recommendations, March 2014, p.106. <http://www.moital.gov.il/NR/rdonlyres/36C97654-0DF9-4437-8C54-3063F24B013A/0/adamreport010514.pdf>.

34 The National Insurance Institute, the Ministry of the Economy Authority for Occupational Safety and Health, **Report on Work Accidents in Israel - a snapshot 2009-2013** p. 24

35 The Occupational Safety and Health Authority, "Trends in Workplace Accidents for 2010-2014, April 28, 2015, <http://www.moital.gov.il/NR/exeres/F4F052B9-1A0A-4951-B398-80C796B1E0C7.htm>.

36 The National Insurance Institute, the Ministry of the Economy Authority for Occupational Safety and Health, **Report on Work Accidents in Israel - a snapshot 2009-2013** p. 15

and safety in the workplace, and the Institute for Safety and Hygiene which is responsible for training and public awareness of safety among workers, training of foremen and laborers at the workplace, and dissemination of professional information in various languages. However, the number of instructors is low with respect to the number of building sites, causing a shortage of instructors in building industry safety.<sup>37</sup>

Although it is possible to hire private instructors, an investigation by Haaretz concluded that employers rarely conduct security training at their own expense and the phenomenon of contractors bribing inspectors for safety training certificates is commonplace. In addition, cost-saving contractors and subcontractors use substandard banisters and scaffolding on building sites, endangering the lives of workers.<sup>38</sup>

According to Yoram Eliezer, Director of the Administration of Occupational Health and Safety at the Ministry of Economy, there is a pressing need for much investment in security due to the high risk of serious workplace accidents in the construction industry. However, this is not happening. The director recounts a concentrated operation that took place for three months in 2011, in which 495 construction site visits took place resulting in the processing of 287 safety warnings, including work stop orders due to dangerous conditions and orders to bring safety measures up to standard.<sup>39</sup> A large number of substandard security measures were discovered at 58% of sites inspected. The state budget for prevention in the area of health and safety in the workplace totaled about 45 million NIS, which is less than one percent of the damage to the economy caused by workplace accidents and illness.<sup>40</sup>

The main reason for insufficient safety precautions at construction sites is inefficient enforcement by the authorities. Lack of enforcement fails to deter illegal behavior. According to Eliezer, in 2012 there were only 20

37 The Knesset Research and Information Center, Statistics regarding Injury in Workplace Accidents, December 23, 2013, pp. 6,5. Protocol No.39, meeting of the Committee of Inquiry into Foreign Worker Issues. May 20, 2014.

38 Roy Chicky Arad, Haaretz "No Interest in Construction Workers" August 5, 2011, <http://www.haaretz.co.il/news/education/1.1371639>

39 Presented at the Knesset committee meeting investigating foreign worker issues, Protocol no. 81, February 28, 2012.

40 The Ministry of the Economy, Public Committee to Advance Safety and Health in the Workplace in Israel, report and proposals, March 2014, p.9. <http://www.moital.gov.il/NR/rdonlyres/36C97654-0DF9-4437-8C54-3063F24B013A/0/adamreport010514.pdf>.

Ministry of Economy inspectors for 10,000 building sites. New positions were added, however the Ministry has difficulty filling them due to the low wage scale for this job.<sup>41</sup> Despite opening police investigations into fatal workplace accidents, there have been hundreds of fatalities in the construction sector in the past 15 years for which not one of those responsible has been incarcerated,<sup>42</sup> and not one contractor license has been revoked.

If the number of workplace fatalities is high, the number of injuries is much higher. For example, in 2013, the National Insurance Institute (NII) paid out for 74,760 workplace injuries (not including injury on the way to or from work) – one tenth of the total figure for the building industry.<sup>43</sup> Judging by the average number of sick leave days due to injury, construction workers' injuries are more serious than injuries in other sectors. In 2013, as in previous years, the average sick leave days paid to construction workers was 45, as opposed to 36 days of sick leave due to workplace injury in general during the same time period.<sup>44</sup> Palestinian workers were absent for 47.3 days on average, as opposed to 36.6 days for Israelis in 2013,<sup>45</sup> while Palestinian construction workers averaged 51 sick leave days due to workplace injury.<sup>46</sup>

This data relate relates only to workers with permits and includes only accidents which are reported to the NII. Light accidents and accidents that happen to undocumented workers are not always reported. With regards to undocumented workers, Advocate Iris Maayan, appointed to deal with the rights of foreign workers in the Ministry of Economy states: "When a work injury is not reported we are able to collect the data from the hospitals and emergency wards to which a large number of workers with serious injuries are taken."<sup>47</sup>

Theoretically, workplace accidents are to be reported to the Ministry of Economy. In most cases this does not happen, the reasons being that the

41 Roy Chicky Arad, Vacuum, Educational Television, "No Interest in Construction Workers" <http://www.youtube.com/watch?v=WGymB3-2cPE>

42 Zeev Dibask, Senior Manager for Workplace Safety, Ministry of the Economy, related in Roy Chicky Arad's documentary, "No Interest in Construction Workers" (mentioned above).

43 The National Insurance Institute(NII), Annual Review 2013 [http://www.bt.lgov.il/Publications/Skira\\_shnatit/2013/Documents/avoda.pdf](http://www.bt.lgov.il/Publications/Skira_shnatit/2013/Documents/avoda.pdf), pp.212-213

44 Ibid., p.213

45 Ibid

46 Knesset Research and Information Center, Statistics regarding the vulnerability of construction workers workplace accidents, December 12, 2013, page 5.

47 Knesset Foreign Worker Committee Session, Protocol no. 32, February 26, 2014

employer, who is supposed to report, often is not found at the building site. According to Zeev Dibask of the Workplace Safety Administration, the percentage of reports that they receive represent about one quarter of all accidents.<sup>48</sup>

According to a comparative study made for the Institute for Occupational Safety and Health, the annual rate of accidents in agriculture and construction in Israel, the main industries in which Palestinians are employed, is high when compared with the other countries. In Israel, there are 7.1 injuries for each 100 agricultural workers annually, compared to 3.3 in the USA and 4.6 in the European Union. While in the construction industry, the annual average of accidents per 100 workers in Israel 6.3 compared with 3.4 in the USA and 6.1 in the European Union.<sup>49</sup> According to an investigation done for Haaretz in 2011, a construction worker in Israel is five times more in danger of a fatal accident compared to his colleague in Great Britain when considering the total number of construction workers in the two countries.<sup>50</sup>

## **Evacuation of Injured Palestinian Workers to Hospitals**

When a Palestinian worker is injured in a workplace accident in Israel, he/she has the right to first be treated at a hospital in Israel at the expense of the National Insurance Institute (NII) if the employer has confirmed the accident.<sup>51</sup> A Palestinian working for an Israeli employer on the West Bank who is injured in a workplace accident also has the lawful right to medical attention at the expense of the public health system.<sup>52</sup>

In contrast, both Kav LaOved and Gisha received complaints from Palestinians employed in Israel and in the settlements, stating that when they were injured in a workplace accident they were evacuated for medical treatment— sometimes against their will – to the Palestinian Authority. Relevant information in the 64 files of work accidents that Kav LaOved dealt

48 Knesset Foreign Worker Committee Session, Protocol no. 39, May 20, 2014

49 Avi Gripe, The Rate of Work Accidents in Israel and Abroad: Comparative Research, submitted to the Committee for Health and Safety of the Ministry of Economics, p. 25. Data correct for 2005.

50 Roy Chicky Arad, Haaretz, "Israel has No Interest in Construction Workers", August 5, 2011 <http://www.haaretz.co.il/news/education/1.1371639>

51 Letter from Zvika Cohen, Director of the Work Injury Insurance Bank Leumi to the Adv. Michal Tadjer at Kav LaOved on June 24, 2014.

52 National Insurance Institute Law Section 378(c)(1).

with in the past years shows that in the 15 incidents in which Palestinian workers employed in Israel were injured in a workplace accident were evacuated to hospitals in the occupied territories, resulting in a delay between injury and medical attention which could be vital to the injured worker. In the cases in which Palestinian workers employed in the settlements were injured in the workplace, seven were evacuated to hospitals in the territories and only two received medical attention in Israel.

The government guidelines by which the authorities act in these cases are not clear. In a letter from the Magen David Adom, we learn that the choice of whether an injured worker will be evacuated to a hospital in the Palestinian Authority or to one in Israel is made case by case, sometimes in consultation with the Civil Administration.<sup>53</sup> However, a Palestinian working in a settlement who was injured at work with “a light and not life threatening injury” will be evacuated to a hospital in the Palestinian Authority. Recognizing that the level of medical attention is considered lower in the Palestinian Authority than in Israel, an injured worker evacuated for emergency medical attention that is not suitable nor sufficient may have serious long term effects on the injured worker’s life.

In December 2013, Gisha submitted a freedom of information request to the Civil Administration asking for the guidelines followed by the administration regarding the decision of to where to evacuate a Palestinian working at settlement in the West Bank who has been injured at his workplace during his time at work. The Civil Administration replied was that there are no guidelines.

## **Recognition of Workplace Accidents and Receipt of Injury Benefit**

A worker who is unable to return to work due to a workplace injury has the right to submit a claim to the National Insurance Institute (NII) and to receive injury compensation at 75% of the salary for the period of absence up to 91 days. This is termed the period of incapacity. In the framework of the claim, the employer is required to sign the form in which he confirms that the accident happened at the workplace.

The percentage of Palestinians who receive the injury compensation

53 A letter from Adv. *Oren Blustein*, aide to the Magen David Adom (MDA) Director General, to Kav LaOved, August 20, 2013

benefit is lower than the percentage among Israeli workers. In 2013, 81,900 Palestinian residents of the occupied territories were employed by Israeli companies both in Israel and in the settlements. Only 0.9% of them received the injury compensation benefit (738 workers) as opposed to 2.1% of Israeli workers.<sup>54</sup> This despite the fact that the Palestinians who work in Israel are concentrated in the most dangerous industries – construction and agriculture - and the rates among the injured in fatal accidents is many times higher compared to the rate of fatal injuries among Israelis.

In 2013 there were 46,000 Palestinians employed in the building industry in Israel making up 20% of all the construction workers that year.<sup>55</sup> However, Palestinians that received the injury compensation benefit were less than five percent of all construction workers in comparison to Israeli workers who made up 77% of all workers in the building industry, receiving 94% of the injury compensation benefits.<sup>56</sup>

The low rate is not from rejection of the claims submitted by the injured. According to data from the National Insurance Institute, 79% of all claims submitted for the injury benefit were accepted, 79% of the claims regarding Israeli workers were accepted while 78% of claims submitted by Palestinian workers were accepted.<sup>57</sup> The lower number of workers that received the injury compensation benefit result from the fact that most Palestinians injured at work do not submit a claim for the injury compensation benefit even though it is their right to do so according to the law. In 2014, only 1,159 claims were submitted by Palestinian workers which is only one percent of all the workplace injury compensation benefits that were submitted for Israel workers.<sup>58</sup>

54 The rate at which foreign workers receive the injury benefit is even lower 0.3% of the workers in general. The National Insurance Institute Annual Review 2013. An Unfair Agreement: Exploitation of Workers, Human Rights Watch, p. 212. For more information regarding the vulnerability of foreign workers at the workplace in Israel see: Thai Workers in the Agricultural Industry, January 2015 [www.hrw.org/he/report/2015/01/21/267963](http://www.hrw.org/he/report/2015/01/21/267963)

55 Knesset Center for Research and Information, data regarding the rate of injury among workplace accidents in the construction industry, December 23, 2013, p.1.

56 Ibid., p.5

57 Given to Hanna Zohar from Kav LaOved from Natalia Gitelson, Director of Research and Planning in the NII, April 26, 2015

58 Ibid.

The reason for the low number of injury reports is multifaceted. They include the lack of information provided to Palestinian workers regarding their rights, their fear of losing their job due to absence, and a preference by undocumented workers not to involve the authorities. Alternatively, the reasons could be due to the behavior of the employer. There are cases in which the employer required the injured worker to sign the submission form and promised that he would send it to the National Insurance Institute, but did not do so. In some cases, the employer refused to sign the form and to provide the necessary details. In the event of refusal of the employer to be involved in the process, the worker must complete and submit the forms within a year from the date of the accident. There are cases in which the employer took the original medical documents from the worker and will not return them claiming that he already sent them to the NII. Unfortunately, there is no way of finding them. In such cases there are workers who will forfeit their claim for the injury compensation benefit because they believe there is no chance that their claim will be accepted. Other injured workers turn to lawyers, who are sometimes able advance their claim for compensation from the employer through the employers insurance company or through a civil suit without taking advantage of the option to submit a claim to the NII as is their right.

In the last few years, Kav LaOved has helped more than 140 Palestinian workers by advising or accompanying them when dealing with the authorities, whether their workplace is in Israel (80%) or in the settlements (20%). More than half of the cases were of construction workers, while one quarter workers were in the manufacturing industry, and the rest in agriculture and service sectors. The accidents were caused mainly by falling from heights, an object falling on the worker, slipping, a cut with a sharp instrument, or lifting a heavy load, which caused broken limbs, cuts, and bruises.

In seven cases, the claim was submitted without the employer's signature due to his refusal to cooperate, and in a number of other cases, the employer delayed transmitting the form which would confirm the work accident for one or two months. In just a few cases, the NII rejected the claim for injury benefits because the injured party did not appear for the interview, or due to an extended period of time between the accident and the receipt of medical treatment particularly in cases where the average period of time was 70 days, or in 60% of the cases, a months delay. The injury compensation benefit payments were transferred to the injured party on the average of 57 days from the submission of the claim and in

67% of the cases in less than a month. The sum of the injury compensation benefit ranged from 470 NIS to 10,000 NIS, or an average of 4,340 NIS, with the calculation based on the salary and the number of days in which the worker absent. The NII provides the benefit for a period of one week and up to 91 days – the maximum number of days allowed - averaging at 46 days.

The injury compensation benefit paid to workers by the NII is calculated at 75% of the worker's salary. The Payroll Department collects 2.5% of each worker's salary as sick leave insurance. Regulations require that the employer pay sick leave and complete the injury benefit by paying 25% of the worker's salary. However, the Payroll Department has not paid any Palestinian worker employed in Israel the completion of the injury benefit that is his right.

## **Medical Attention and Covering Costs Following the Accident**

A Palestinian worker who is injured in the workplace has a right to emergency treatment in a hospital, which is covered by the National Insurance Institute. To benefit from the coverage, the worker needs to submit the "form for providing medical attention for a workplace accident" which must be signed by the employer. After receiving first aid, the worker has the right to continue medical treatment through the Kupot Holim (HMO) in Israel. However, because he/she has no health insurance in Israel, they will have to pay out of pocket for continued care if their claim for the injury benefit through the National Insurance Institute has not been submitted in their name. Actually, only when the worker confirms a workplace accident has occurred, can they expect continued medical care at no charge in the Kupat Holim. Workers who paid out of pocket for continued care in Israel and in the occupied territories can request reimbursement for their expenses after a few months. The information about the process to receive reimbursement is not being provided to Palestinian workers. The process which is explained on the NII website relates to Israeli citizens only. It does not provide information in Arabic, nor does it explain the process required of the Palestinian worker from the West Bank.

Once the claim has been submitted, the NII provides the worker with a form confirming the worker's status as having been injured in a workplace accident. They are told that they must present the confirmation form to the medical center where they were treated in order to be reimbursed for their

medical expenses. Until 2014, it was not clear that the injured party must keep original copies of all the medical referrals, exams, and treatments, plus the receipts of payment for all these processes, the medical prescriptions given to him by the doctor and the receipts for transportation to and from treatments. This year, the information was added to the form (although inconsistently) informing the worker that in order to be reimbursed by the Kupat Holim, they must retain "the original medical documents and original receipts." However, the worker is not provided with the information where and to whom they must give these forms for reimbursement.

Among Palestinian workers, a small number of workers were confirmed as having a workplace injury, and a smaller number went through the process to receive reimbursement for medical expenses. Among the 927 Palestinian workers who were confirmed as injured in the workplace in 2014, 333 Palestinian received reimbursement for related medical expenses. In 2013, the numbers were 163 and 856 respectively.<sup>59</sup> A good reason for the small number of workers who confirmed having an injury in the workplace and who request reimbursement for their medical expenses is the worker's financial state, which makes it impossible to pay for the medical services without immediate reimbursement.

In the 19 cases in which Kav LaOved helped workers secure reimbursement for medical expenses, it took 3.5 months, on the average, between the time that the claim was submitted and the reimbursement received. This is in addition to a month or two during which the worker is waiting to have their injury confirmed as a workplace injury, without which they cannot apply for reimbursement. The sums reimbursed with the help of Kav LaOved were, on average, 1,130 NIS per worker. Data for 2014 shows that the average sum of 1,216 NIS was reimbursed per worker, while in 2013 the average reimbursement was 3,890 NIS.<sup>60</sup> Expenses such as these are a challenge for a Palestinian worker, particularly while unemployed and while, at best, the worker is receiving the injury compensation benefit at 75% of the his or her salary.

Due to financial pressure, workers tend to choose medical care in the Palestinian Authority where costs are lower. Referral to medical care in the PA puts them into a bind. If they say that they were injured in a work accident

59 Provided to Kav LaOved by mail from Galit Gabai, NIL, March 30, 2015

60 Ibid.

in Israel they will be required to pay for their medical care and to request reimbursement from Israel after confirmation by the NII. If they do not say anything, they will receive free medical care, but they will jeopardize the option to receive the injury compensation benefit from Israel because their documents will not include confirmation that the injury took place at work.

Palestinian workers who receive care through the Palestinian Authority need to appear before a medical board for confirmation of the number of workdays they were absent. The NII bases the calculation of the injury benefit on this information. However, the Kupat Holim does not reimburse the worker for the visit to the medical board, which can cost hundreds of NIS.

In addition to the financial issues, Palestinian workers have sometimes found it difficult to re-enter Israel for medical attention, which they have a right under the law. Their work permit may be revoked because the employer needs to replace the injured worker. Kupat Holim medical centers at which the workers receive continued medical care, do not set appointments for visits. The workers are free to come at their own convenience during office hours. However, the worker needs to have an appointment with a time and date to enter Israel. Workers who turned for help to Kav LaOved are given a letter stating the time and date at which the worker will go to the Kupat Holim for continued medical care at the worker's convenience. With the help of this letter, the worker can get the permit that they need to enter Israel. Many workers who have not turned to Kav LaOved for help may be experiencing difficulties entering Israel due to the fact that there the infirmaries do not provide appointments.

## **Recognition of Disability and Provision of a Disability Benefit**

If a worker who was injured in the workplace is not able to return to work after 91 days, during which he received the injury benefit, they can submit a claim for a disability benefit. The worker will be required to appear before a medical board where the percentage of disability and whether the disability is temporary or permanent will be decided. The amount to be paid and the duration will be decided on this basis.<sup>61</sup>

61 For details see the NII Annual Review 2013, page 207

As the work for Palestinians in Israel is in high risk industries, the rate of their involvement in fatal accidents is higher than that of Israeli workers, and it can be assumed that they represent a large percentage of injured workers that are disabled due to workplace accidents, either temporarily or permanently. In 2013, the NII paid 33,529 salaried workers a permanent disability payment, and a onetime award to 9,700 workers.<sup>62</sup> There is no information regarding the rate of Palestinian workers included in the disability pension or one time award, however from the low rate of Palestinian workers receiving the injury benefit, it can be assumed that the situation is similar regarding disability pensions and one time awards.

Reviewing the cases of 18 Palestinian workers who, with the support of Kav LaOved, submitted disability claims to the NII, we discovered that in 11 cases the worker was called to appear before a medical board within, on average, 90 days and the medical board recognized temporary disability and awarded workers with a stipend for the period of disability. Some workers are still waiting for completion of the process, while others did not appear for the medical board review. If the workers right to injury benefit was only minimally accessed, one can presume the same regarding disability payments. It is safe to assume that most injured workers do not even begin the process to submit a claim to the compensation to which they are entitled.

## **Denial of General Disability Benefits**

Pension, or pension insurance, is a long-term benefit provided typically in cases of disability, old age, and death of a provider. Based on a list of collective agreements, funds allocated to a pension are part of the typical Israeli compensation package. This benefit is to be provided to both Israeli and Palestinian workers.<sup>63</sup> In practice, rarely does a Palestinian worker receive pension compensation.

As of the end of 2013, the value of the funds allocated for pension for Palestinian workers was approximately 1.5 billion NIS.<sup>64</sup> However, the pension rights of Palestinians workers are negatively impacted due to

62 NII, 2013 Annual Review, pp. 218-219

63 Menahem Goldberg, Pension Fund Insurance of Workers, Labor Law Annual C', page 95.

64 State Comptroller 2014, page 533.

several reasons. These include:

- Lack of awareness in general about funds that are allocated on their behalf for pensions
- Workers are eligible to withdraw the funds at any time, yet many workers are not aware of the tax implication of early withdrawals
- In practice, most Palestinian do not receive pensions. In 2013 only 147 Palestinians received monthly pension payments,<sup>65</sup> despite the fact that many Palestinians have worked for Israeli employers for decades. Many Palestinians opt to make withdrawal during times of high unemployment, curfews, or other situations in which working a steady job is more difficult. This practice incurs high fines and long mediation processes consulted by lawyers who charge high commissions for themselves<sup>66</sup>
- The funds in the investment firms do not satisfy the definition of pension funds and are considered merely savings.<sup>67</sup> Most of the money, which is not even deposited into investment funds, does not even retain its proper value<sup>68</sup>
- The funds charged for workers' pension are not managed according to updated actuary balance principles and the debt of the state to the workers is in fact much higher than that reported<sup>69</sup>

Furthermore, despite the comprehensive pension fund regulations, which

65 Letter from Mali Davidian of the Population and Immigration Authority to Hanna Zohar of Kav Laoved, 20.2.2014

66 See Administrative Petition 20058-03-14, submitted on the 10.3.2014, and ruling given on the 25.6.2014

67 Letter from Mali Davidian of the Population and Immigration Authority to Hanna Zohar of Kav Laoved, 20.2.2014

68 State Comptroller 2014, page 535

69 Ibid.

provides workers with a disability pension for loss of working ability,<sup>70</sup> the Payroll Department denies Palestinian workers of disability pensions, as well as survivor's benefits from the widows of workers who have passed away.<sup>71</sup> Thus, workers who have lost their ability to work, do not receive to protection they are entitled to by law and for which they have paid for years.

## The Equalization Surcharge – Collected but not Implemented

Based on the Paris Protocols, Palestinian workers in Israel are only protected for work related injuries, employer bankruptcy, and costs associated with childbirth.<sup>72</sup> Israeli workers are further protected as employees and therefore the cost of employing Israeli workers is more expensive. In order to equalize the costs associated with employing Israeli and Palestinian workers, the employers of Palestinian workers are required to pay the difference in a form of an "Equalization Surcharge." According to the Paris Protocols, these funds are supposed to be transferred every month to the Palestinian Authority where they would be used for the health and welfare services, at the PA's discretion, for the benefit of Palestinians working in Israel and their families.<sup>73</sup> The surcharge is in fact analogous to the sums deducted by the NII from the pay of Israeli workers for old age pension, unemployment insurance, general disability, and children allowance – services which are not provided for Palestinian workers in Israel.

The Equalization Surcharge is collected by Matash, which is "permitted" by

70 See e.g. form 33/74 of the Construction and Public Workers' Pension and Insurance Regulations by the Construction Workers' Union, which stipulates specific and beneficial conditions for disability benefits.

71 Except in cases of work related accidents, as mentioned above.

72 Paris Protocols, section VII 2(1)

73 Ibid, section VII 3(1); the law for implementation of the agreement concerning the Gaza strip and the Jericho region (financial agreements and various regulations) (legislative amendments), 1994, section 20.

law to transfer the sums it collects to the PA for the purpose, among others, of health insurance for Palestinians who worked in Israel. From the sums which should be transferred to the PA, Matash will deduce, in accordance with the law, its expenses in collecting the surcharge, as well as a sum which will be transferred to the Kupot Holim in Israel, in order to finance occupational health services for Palestinians working in Israel.<sup>74</sup>

Responding to an appeal submitted by Kav LaOved on the matter in 1994, state representatives (David Brodt – head of the budget department and Aharon Barazani, head of Matash for many years) responded to the court that the funds accumulated from the tariff would be stored in a commercial bank until the Palestinian Authority would set up appropriate welfare services. These funds have been continuously collected from employers but were never transferred to the Palestinian Authority. The General Accountant explained to the State Comptroller that the reason for this is that “the Palestinian Authority did not meet its obligation to submit to the General Accountant proper references indicating that these funds will be used for social benefits for the Palestinian workers. Furthermore, it was said that the issue of transferring these sums was raised in the negotiations between the two sides and is “at the core of the security reasoning of the political leadership.”<sup>75</sup> In 2002, an amendment to the law allowed the funds collected to be distributed to the Civil Administration for the purpose of “financing infrastructure and ongoing employment operations for the benefit of the regional populace.”<sup>76</sup> However, the Civil Administration is only responsible for residents of Area C in the West Bank, whose number does not exceed 300,000 people. In recent years at any rate, if not beforehand as well, none of the surcharge funds were transferred to the administration.<sup>77</sup>

During 2014, Matash collected over 84 million NIS in equalization surcharges. In 2013 and 2012, the sums collected were in excess of 71 million NIS and 55 million NIS respectively. A small proportion of the funds were used to compensate Israeli healthcare services for treatment of

74 Until 1994 the sums for these services were collected from Palestinian workers and their employers as NII payments, but in-fact the vast majority of this money – over 1 billion dollars – went to the Ministry of Finance. See Kav LaOved and the Center for Alternative Information, *The State Robbery*, pp 8-9.

75 State Comptroller 2014, p. 534

76 The law for implementation of the agreement concerning the Gaza strip and the Jericho region (financial agreements and various regulations) (legislative amendments), 1994, section 23(a).

77 Letter from Mali Davidian of the Population and Immigration Authority to Hanna Zohar of Kav Laoved, 7.5.2014

Palestinians, but most of them, about 67 million NIS in 2014 and over 130 million NIS between 2011 and 2013, were not transferred to the PA or the Civil Administration, but rather to the General Accountant in the Ministry of Finance, and are not being utilized by the Palestinian workers in any way.<sup>78</sup>

**Table 2: Collection of the Equalization Surcharge and its Utilization, 2011-2013** <sup>79</sup>

Year	Collected Surcharge	Matash Offsetting	Sum Transferred to Occupational Healthcare Services	Sum Transferred to the Civil Administration /Palestinian Authority	Remainder, transferred to the General Accountant at the Ministry of Finance
<b>2011</b>	50,228,872	8,047,990	4,089,879	0	38,091,003
<b>2012</b>	54,812,556	12,735,782	5,103,995	0	36,972,779
<b>2013</b>	71,219,071	8,518,868	6,884,441	0	55,815,762
<b>2014</b>	84,177,932	Not yet completed (except for a deposit of 2,000,000NIS)	8,335,665	0	67,842,267 estimate
<b>Total</b>	<b>260,438,431</b>	<b>31,302,640</b>	<b>24,413,980</b>	<b>0</b>	<b>198,721,811 estimate</b>

As of 2014, the total funds collected as Equalization Surcharges from Palestinian workers between the years 2006-2014, which were supposed to be transferred to the PA, were about 840 million NIS.<sup>80</sup> These funds were not transferred to the PA and are not allocated for the benefit of the workers or their families, but rather lie in the Ministry of Finance.

78 Letters from Mali Davidian of the Population and Immigration Authority to Hanna Zohar of Kav Laoved, 7.5.2014, 27.7.2014

79 Source: Letters from Mali Davidian of the Population and Immigration Authority to Hanna Zohar of Kav Laoved, 7.5.2014, 27.7.2014

80 State Comptroller, 2014, p. 533

## Occupational Health

Only 12% of the funds collected in 2014 were used to compensate health-care providers in Israel for the treatment of Palestinians: 8,335,665 NIS, for Clallit, Maccabi, and Leumit (health insurance organizations).<sup>81</sup> These services are provided, according to Kupat Holim Clallit, for construction and agriculture workers who are referred to them and include: "work acceptance examinations, poor health, and post-illness work ability examinations, periodical checkups, preventive medical care including vaccinations, and first-aid equipment." It was noted that "workers from other branches, whose health has deteriorated as a result of a work related accident, will be tested in the occupational health clinics of Clallit."<sup>82</sup>

During 2013-2014, in Clallit:

- 87 workers were examined in the occupational health clinics (427 activities)
- Six workers underwent work ability examinations (eight activities)
- 81 workers were sent to periodic checkups (419 activities)
- No worker was checked for health deterioration
- No worker was given vaccination<sup>83</sup>

The Ministry of Economy told Kav LaOved that this data shows an under-utilization of the budget which Clallit receives for examination of Palestinian workers.<sup>84</sup> Thus, even the meager part of the Equalization Surcharge which is supposed to benefit the Palestinian workers, is only partly utilized.

81 Letter from Mali Davidian of the Population and Immigration Authority to Hanna Zohar of Kav Laoved, 20.2.2014

82 Provided by Noa Danai, head of Information and Knowledge Management department at Clallit, to Kav LaOved in an email from 17.9.2014.

83 Provided to adv. Yoav Peled of Kav LaOved by Noa Danai, head of Information and Knowledge Management department at Clallit, in a letter from 25.1.2015.

84 Provided to Hanna Zohar of Kav LaOved from Luba Poshnoy, head occupational doctor, Occupational Health and Safety Administration at the Ministry of Economics, in an email from 26.1.2015.

# Conclusions and Recommendations

Close to 100,000 Palestinian are working in Israel, most of whom hold permits. The authorities charge the employers of the latter group with huge sums which are meant to serve the health and welfare needs of the workers: over 100 million NIS were collected in 2014 alone for this purpose. However, most of this sum is lying in the Ministry of Finance and the Palestinian workers have no access to it.

As a result, most Palestinian workers do not receive sick leave, those who suffer work related accidents – mostly do not receive any compensation for the lost work days, they are required to pay for most medical treatments they need within Israel which often forces them to forfeit treatments, such as physiotherapy, which is needed for their recovery.

This situation is a result of several factors: the helplessness of Matash in securing the rights of Palestinian workers, the decision to not provide Palestinian workers with health insurance in Israel, and the Israeli refusal to transfer to the Palestinian Authority the funds collected from the Palestinian workers which are meant to serve their health and welfare needs within the Palestinian Authority's jurisdiction. Finally, there is a lack of awareness or even fear on behalf of the Palestinian workers with respect to their rights and the way in which they can be implemented.

## **Kav LaOved calls upon the State of Israel:**

- 1. To start providing health insurance to Palestinian workers employed in Israel who are in need of medical care while staying in Israel for work purposes**
- 2. To ensure that sums collected from employers of Palestinian workers for sick leave funds, work accident insurance, and Equalization Surcharge will be used in an efficient manner for the purposes for which they were collected, by implementing, among others, the following steps:**

- Simplifying and streamlining the procedures for receiving sick leave and injury allowances to eligible workers
  - Ensuring continuing treatment for work accident victims, beyond the initial treatment and without condition or charging the worker
  - Removing barriers and facilitating access to health committees and medical treatments in Israel for work accident victims
  - Ensuring occupational therapy services for workers (including periodic checkups and vaccinations)
- 3. Deepening the knowledge and awareness of employees with respect to their rights and the ways in which they can be implemented**
  - 4. Reinstating disability insurance as part of the workers' comprehensive pension fund.**

We wish to thank the department for assisting Palestinian workers: Abed Dari, Arafat Amro, Ehud Ein-Gil (volunteer), Tagrid Shbeta, and Hanna Zohar.





**Kav LaOved (Worker's Hotline)** is an independent non-profit, non-governmental organization committed to the defense of workers' rights and the enforcement of Israeli labor law designed to protect every worker in Israel, irrespective of nationality, religion, gender, and legal status.

## **Modes of Action**

**Individual assistance** to workers via public reception hours, the telephone hotline, the website and social media, field visits and more

**Legal and procedural support** by advising and representing workers

**Public advocacy** through development of position papers, attendance in parliamentary committees, ongoing dialogue with various government ministries, and principled petitions to Israeli labor courts

**Cooperative partnership** with state authorities, monitoring current policies, encouraging effective enforcement over employers, and supervising the granting of employment licenses and work permits

**Education and community outreach** by raising awareness of worker's rights to individual workers and society at large through workshops, lectures, research, reports and media

**Partnerships** with a wide range of Israeli and international organizations, unions, and institutions

**Tel Aviv** Phone: 03-6883766  
75 Nahalat Binyamin Fax: 03-6883537

**Haifa** Phone: 04-8643350  
18 Herzl, Room224 Fax: 04-8644238

**Nazareth** Phone: 04-6082228  
Mercaz HaBshorah Fax: 153-4-6082228

**Website:** <http://www.kavlaoved.org.il/en>

**Email:** [email@kavlaoved.org.il](mailto:email@kavlaoved.org.il)

