

the meeting, the witnesses came across a roadblock that was not there before, and fearing arrest or injury, they went back to their homes. Only thanks to back-and-forth phone calls between HaMoked and the military authorities could T.H.'s son make it to the DCO and give a statement. To collect the additional testimonies, the investigator gave his main questions to HaMoked, which had them translated and sent to an attorney in Jenin. The attorney deposed the witnesses accordingly and submitted the depositions to HaMoked, which had them translated into Hebrew and transferred to the investigator. Ten

months after the incident, the investigator asked HaMoked to help find the ambulance team that carried T.H. from the hospital in Jenin and the registration papers of the taxi that T.H. was driving when he was shot. HaMoked collected all the required information, deposed the witnesses and transferred their statements to the military police. However it turned out that the investigator in charge had left and someone else has taken his place. HaMoked contacted the new investigator, who said he could not find the relevant documents and asked HaMoked to resend them. **(Case 25065)**

## The Amended Torts Law

The recent legislation concerning compensation in the Territories,<sup>26</sup> effective since August 2002, has narrowed the access that Palestinians have to the justice system. The new law has changed the administrative procedures and shortened the timetable in which victims can file suit. Furthermore, the new law has redefined the operations of the security forces in the Territories from “policing” to “wartime action”, making the security forces completely immune from tort claims.

The new law, dubbed by the media “the Intifada law”, requires victims and their attorneys to report the incident to the Defense Ministry within 60 days, using a special form. Ostensibly, once notice is given, the Ministry is to start an immediate investigation – but this is not the case. The new law also reduced the

statute of limitations for claims against the security forces regarding incidents in the occupied territories from seven to two years. This change has retroactive force, so that in incidents predating the amendment, the term is up either seven years after the incident or two years after the implementation of the new law (i.e. July 2004), whichever comes first. This compounds victims' distress, since without incentive, the investigating authorities have no reason to hurry. Complainants are entirely dependant on the authorities to investigate, since they themselves cannot collect any information about the unit and soldiers involved in the injury. While the

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<sup>26</sup> Torts Law (State Liability) (Amendment – claims arising from activity of security forces in Judea, Samaria and the Gaza Strip), 2001.

authorities drag their feet, the statute of limitations kicks in and within two years the case will become moot.

HaMoked has prepared to deal with these changes. First, HaMoked tried to thwart the regulations governing the notice that complainants must send the Defense Ministry within 60 days of the incident. HaMoked and ACRI sent a letter to the chairman of the Knesset's Constitution, Law and Justice Committee, stating that the new legislation "is unparalleled in Israeli law" and that "in no other case is a plaintiff required to give prior notice in order to be allowed to sue his tortfeasor." One of the things that the chairman was asked to do is incorporate a provision in the regulations, providing that the notice form be translated to Arabic and distributed to all police stations, DCOs, city halls and other accessible facilities.

Second, HaMoked notified all the Palestinians whose rights would be curtailed by the amendment and all the agencies involved in their defense. At a meeting organized by HaMoked in Ramallah in April 2003, with the Palestinian organizations of Al Haq, A-Damir, DCI/Palestine and the Palestinian Human Rights Center, HaMoked explained all the aspects of the amended law. HaMoked also publicized all the details of the amendment in ads in Palestinian press.

Concurrently, HaMoked prepared for changes in its working methods. Now, whenever a new case is opened, notice is delivered to the Defense Ministry about the extent of the damage involved. HaMoked has also consulted with tort lawyers in order to expedite the filing of 162 violence claims whose limitations period expires at the end of July 2004.

The implications of the law are still not clear and the Defense Ministry has not yet rejected any claim based on the new procedures. The changed legal status of Israel's operations in the Territories – from "policing" to "wartime action", which grants the State immunity against tort claims, has not yet been challenged in court either.

The new reparations legislation has changed the norms and ethical system: the legal legitimacy given to the operations of the security forces, by the changed legal status of these operations, has pulled the rug from under the concept of accountability as practiced so far by the defense establishment. Although the security forces are still accountable under criminal law, they are now immune from civil proceedings. The amended law sets a twisted norm according to which the State can operate with impunity, and by extension so can its soldiers, in all actions against Palestinians in the Territories.

## Closing Cases

HaMoked works with applicants' hand-in-hand from the moment contact is made. HaMoked handles the case vis-à-vis the authorities, monitors the investigation

and pushes to have recommendations submitted and indictments served. In some cases, after the official investigation is completed and recommendations are