

Fallout, Denials, and Trials: Recognizing the Health Legacy of Nuclear Test Veterans

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"Small Boy" Nuclear Test, July 14, 1962, Nevada Test Site. [U.S. Government Photo.](#)

On February 6, 2009, a court case with its roots in the Cold War nuclear-arms race drew to a close at the High Court in London. During the trial participants in the United Kingdom's nuclear weapons testing program, or surviving dependents, argued that their health (and in some cases the health of their offspring) had been damaged as a result of exposure to radiation. Mr. Justice Foskett, the presiding judge, is due to give his ruling later this Spring.

The trial marks another chapter in a long saga that has refused to fade away. The U.K. nuclear-test veterans have sought answers before but encountered denials from successive British governments that any personnel were exposed to harmful radiation. Now the Ministry of Defence argues that under U.K. law the veterans should have

brought their case within three years of knowing that they had been harmed by radiation exposure. The veterans argue that they did not know they had been injured by radiation or could not prove it until recently and as such the three year limit has not been exceeded. The most recent trial has sought to settle this limitation argument. The ruling will therefore decide whether or not the veterans can proceed to a full trial.

Such a historical health legacy is not confined to veterans from the U.K. But among the several western democracies that were involved in the testing of nuclear weapons—not only the U.K., but also Canada, France, and the United States—all but the U.K. appear to have eventually forgone the legal avenue of defense against claims for compensation, to propose schemes that recognize a link between participation in nuclear weapons tests and adverse health effects such as cancer. The case thus exposes differences in the ways governments approach the concerns of veterans whose injuries may not be immediately obvious or where causation is difficult to prove. In doing so it raises a moral dilemma: To what extent do governments have an ethical duty to pursue a proactive and presumptive approach to compensation in cases of extraordinary historical circumstance, or should such moral inclinations lay subservient to the letter of the law?

History

The Cold War saw a massive drive to develop nuclear weapons which required extensive testing, including open air or atmospheric detonations. Between 1952 and 1958 the U.K. conducted 21 large-scale nuclear tests inland and off the coast of Australia, and at Christmas Island in the South Pacific. An estimated 25,000 U.K. and Commonwealth troops (including Australians, Canadians, Fijians, and New Zealanders) participated, many of whom were young, conscripted servicemen completing their obligatory national service. After 1958 (and the U.S. decision to resume cooperation with the U.K. in the form of the [1958 bilateral Mutual Defense Agreement](#)) independent operations on such a scale were not to be repeated

(although further minor trials continued into the early 1960s along with a number of clean-up operations to remove residual radioactive material and associated waste and debris).

For its part the U.S. conducted over 1,000 nuclear tests and the two live detonations at Hiroshima and Nagasaki between 1945 and 1992. The majority of the detonations were conducted at a test site in Nevada, with other locations including New Mexico and Christmas Island. Canadian scientists had been in collaboration with the U.K. and U.S. since the [1943 Quebec Agreement](#). In the post-war period Canadian service personnel also participated in the test programs of the U.S. and U.K. France was a relative latecomer to the club, beginning trials in 1960, and going on to conduct around 200 tests in the Algerian Sahara and French Polynesia in a program lasting until 1996.

The nuclear weapon development programs of western allies were conducted against the backdrop of the Cold War and the struggle against communism, a foe that was developing its own nuclear deterrent (the Soviet Union conducted its first successful detonation in 1949 and China in 1964). Although the western democracies were ultimately successful in winning the Cold War ideological struggle, in part through the perceived security afforded by nuclear weapons, the battle over the health legacy of the tests did not dissipate with the crumbling of the Berlin Wall or the dissolution of the Soviet Union. Instead, the arguments concerning the hazards to the health of participants have continued to fester through the late 20th and into the early 21st century.

Radiation Hazards

Until the [Partial Test Ban Treaty of 1963](#) (the principal state authors of which were the Soviet Union, the U.K., and the U.S.; France did not sign) which prohibited the testing of nuclear devices in the atmosphere, outer space and underwater, but not underground, atmospheric testing of nuclear devices posed a significant hazard to health. Radioactive fallout from detonations was carried worldwide. High profile examples of accidental exposure occurred, such as the [1954 Castle Bravo incident](#) during which a group of Japanese fishermen and the inhabitants of the Marshall Islands received high radiation doses during a U.S. test. However, it has been the lower-level doses to bystanders and participants of the weapons-testing programs that continue to be the subject of contention.

During the recent court trial in London, U.K. veterans claimed that they were exposed to radiation, particularly through ingesting or inhaling radioactive substances. The veterans contend that, among other things, they received scant training, were provided with inadequate protective and monitoring equipment, ate contaminated fish, and swam in radioactive water. Other participants received deliberate doses of radiation for scientific purposes. For example, sampling aircraft were flown through atomic mushroom clouds to collect samples and a ship, *HMS Diana*, was deliberately exposed to fallout to test decontamination equipment.

The scientists were pushing new boundaries in a race against the clock. The U.K., fearful of a total ban on testing before it had developed a hydrogen bomb, pushed to re-establish the cooperation with the U.S. that had been halted by the [1946 Atomic Energy Act](#) (McMahon Act). By producing its own megaton range bomb during the various Grapple tests of 1957-58 the U.K. did succeed. However, British veterans argue that this rush to produce the biggest bang possible, often on a shoe-string budget, meant that chances were taken with their safety.

Other factors too were said to have increased the chances of exposure. The height of the blast impacted upon the level of fallout produced and its distribution; a blast which touched the surface would suck up material that would then fall back to earth. During this process the weather introduced a further variable into the equation of where and how much radioactive material would be deposited.

The variety of possible sources and levels of exposure to radioactive materials encountered by service personnel and civilians have obscured the debate about compensation. While evidence of a cancer is tangible, causation is more difficult to prove. Veterans ascribe a wide range of illnesses and conditions to

their exposure to radiation including hair-loss, sterility, blood disorders, skin defects, and other conditions in addition to cancers. The situation is further complicated by the passage of time during which radiation exposure in the intervening period or personal habits such as smoking might arguably constitute the dominant cause of a condition. Conversely, diseases caused by radiation exposure may have a long gestation period. In such incidences, should a government continue to adhere to existing legislation that limits the time in which a claim may be made? Do blanket denials from governments, the withholding of information over decades in the name of national security, and the comparative wealth of resources at the disposal of a state against efforts of veterans' groups, combine to introduce a moral obligation on governments to proactively redress grievances? Some nations have concluded that such an obligation does exist.

Recognition and Compensation

Despite the shared heritage and values that conspired to motivate and sustain a program of nuclear testing, the response to resolving the health issues raised by veterans has been fragmented. The U.S. leads the way in recognizing the health effects of radiation exposure and compensates their veterans. In 1988, the U.S. Congress established a presumption of service connection for 13 cancers in veterans exposed to ionizing radiation, with later changes bringing the number to 21. The U.S. also runs a non-presumptive scheme for claims due to disability or death other than the 21 cancers. There is also recognition for some civilians—for example, a number of people meeting stated criteria who lived downwind of the Nevada test site have been deemed eligible for compensation.

In September 2008 the Canadian Government offered C\$24,000 to the estimated 1,000 veterans exposed to Cold War-era nuclear blasts. However, skepticism exists about the possible political motives for this announcement (made before an election) and the amount being offered. As such, litigation remains ongoing. Meanwhile, the French government recently announced that it intended to introduce a compensation scheme. It was reported in March 2009 that French Defense Minister [Hervé Morin](#) envisaged a limited scheme for which the government had set aside US\$13.5m. In making the announcement Morin revealed the moral driver behind the move by stating that "it is time for France to be true to its conscience."

The western powers' erstwhile foes also have compensation packages in place. In January 2008 China began making payments to personnel involved in nuclear tests as part of its effort to improve benefits for former military veterans. All witnesses to Russian atomic tests were awarded the Order of Courage, one of their country's highest military honors. Furthermore, veterans receive discounts on rent and public transport.

These developments leave the U.K. isolated. The mantra from the British government is that personnel can apply for a war pension through the normal channels, if they can prove causation. However, the government does not recognize the causal link between participation in the nuclear test program and ill-health among the veterans. Thus the latest court case is indicative of the political opposition from the current Labour government which confronts the nuclear test veterans. The international precedents set by the U.K.'s allies and former rivals have done nothing to stimulate a decision on moral grounds to compensate, let alone reconsider its stance on the scientific evidence (the U.K. relies on epidemiological studies to show that incidences of death are not higher in veteran cohorts, while emerging science suggests a causal link can be proved). Even the decision in January 2008 of the self-governing dependency of the U.K., the Isle of Man (which sits off the British coast in the Irish Sea), to pay between £8,000 and £10,000 compensation for its veterans, has not prompted a reaction.

Conclusion

The shockwaves emanating from the Cold War nuclear test programs are set to rumble on. The U.S. provisions are the most established, comprehensive, and, importantly, the most presumptive. In France the proposed scheme has yet to fully take shape and the levels of compensation could prove to be

insufficient. However, the language of Defense Minister Morin suggests that a moral decision has been taken to reverse decades of denial about the possibility of harm arising from the French test program. In Canada the announcement of a compensation scheme has not provided a resolution as litigation presses on. It does however mark an effort to seek a resolution outside of the court process. Furthermore, schemes in Russia and China show that recognition in other formats is possible when the political will is present. The progression towards a resolution in the U.K. however, remains mired in the legal process.

In January 2009 plans for a day to honor the U.K.'s service personnel were announced by Veterans Minister, [Kevan Jones](#). When this inaugural Armed Forces Day arrives on June 27, 2009, the question is will the U.K. Government still be facing calls to resolve this chapter in its Cold War history? The answer is almost certainly yes. Whether the limitation trial is won or lost, the issue is unlikely to disappear. If veterans win they will proceed with more legal action and another court case. Their numbers are also likely to swell beyond the initial cohort. Lose, and they will continue to feel that their case has not been heard, nor their grievances addressed. The fact that some veterans believe their radiation exposure has led to health problems for their children further underlines why the issue will continue to resonate.

On February 6, 2009 in his closing remarks Mr. Justice Fosskett stated that "the buck stops with me." But the question remains whether it should be a judge's responsibility to resolve the problem or whether, as the actions of some nations have shown, such historical grievances are for governments to provide the moral initiative.

Postscript: On June 5, 2009, the British nuclear test veterans won the right to sue the U.K. government for compensation. See "[Nuclear Test Veterans Can Sue MoD](#)," BBC News, June 5, 2009.

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