

France continues to avoid responsibility for nuclear compensation

By Nic Maclellan

For many years, the survivors of France's nuclear testing program in Algeria and the South Pacific have been calling on the French government to assume its responsibilities. French military veterans and former workers from the nuclear test sites have been calling for compensation for people who face increased risk of cancer and other diseases following exposure to ionising radiation.

After years of denial by the French authorities, there was a breakthrough in November 2008. French Defence Minister Hervé Morin announced that the French government will introduce legislation to the National Assembly in January 2009, to compensate people affected by radiation at the nuclear test sites — a significant change in policy.

Speaking to *Le Parisien* newspaper on 26 November 2008, Defence Minister Morin stated: "If the Bill is passed at the National Assembly during the first quarter of 2009, we will grant compensation to civilian and military personnel exposed during the nuclear tests. We have drawn up a list of illnesses linked to the effects of radioactivity."

But the announcement has been greeted with scorn by civilian and military personnel who staffed the nuclear tests sites from 1960 until 1996. They argue that the proposed legislation ignores a number of key concerns that have been central to their lobbying over the last decade, and has been designed to replace more comprehensive laws.

For many years, there have been repeated statements by government ministers and officials that no one was adversely affected by radiation exposure during the era of French nuclear testing. In Algeria, France conducted four atmospheric tests at Reggane and 13 underground tests at In Eker (1960 - 1965). In French Polynesia, 46 atmospheric and 147 underground tests were held at Moruroa and Fangataufa atolls (1966 - 1996).

The French government hoped that the end of nuclear testing in 1996 would halt international criticism of the country's nuclear program. But while the issue has dropped from the headlines, there are active lobby groups in France, French Polynesia and Algeria who won't let the issue of compensation die.

The Association of Nuclear Test Veterans (AVEN) unites former military personnel in France, while *Moruroa e Tatou* is a community association in Tahiti with a membership of more than 4,000 Maohi (Polynesian) workers who staffed the military bases at Moruroa and Fangataufa atolls during the thirty years of nuclear testing in the South Pacific. For over a decade, there has been extensive lobbying by these survivors of the tests, many of whom attribute current health problems to their work at the nuclear test sites.

Parliamentary manoeuvres

At first glance, the offer of compensation legislation is a positive step, but the announcement of the proposed Morin bill has sparked controversy. Nicolas Sarkozy's conservative UMP Party has used their parliamentary majority to scuttle a more comprehensive bill prepared by a group of politicians from all parties.

On 18 October, a draft bill was released in France by the lobby group *Vérité et Justice* (Truth and Justice), outlining a process to address the health impacts of the nuclear tests and provide compensation to former workers and military personnel. The draft bill, supported by AVEN and *Moruroa e Tatou*, was unique in having support from members of all political parties in the National Assembly.

The all-party draft bill included three key elements:

- a) the “presumption principle”, which changes the burden of proof so that workers and military personnel from the test sites suffering designated diseases and illnesses will be compensated without long drawn out court hearings;
- b) the creation of a special fund for compensation; and
- c) the establishment of a monitoring committee made up of parliamentarians, independent experts and representatives of the government, veterans’ and workers’ associations.

But just days before this draft legislation was to be tabled and debated in the French National Assembly, Morin’s interview in *Le Parisien* announced the government’s own initiative. The veterans’ and workers’ groups believe that the French government was willing to scuttle the joint party initiative, because the new Morin bill removes the three central pillars of the all-party bill: the principle of presumption, the compensation fund and the monitoring committee.

John Taroanui Doom of *Moruroa e Tatou* explains: “Deputies from all parliamentary groups, including those supporting the government, had been in favour of the draft bill. In order to speed up the process, a deputy from the Socialist Party Madame Taubira had filed her own text, reflecting the position of her party. When the parliamentary debate began, she withdrew her bill and asked members of the National Assembly to support the text developed by members of all parties.

“However the Minister of Defence Hervé Morin destroyed the unified support for this draft by announcing he would file a bill on the same subject. At this point, the deputies from the governing majority voted against the draft legislation before them, and will now vote on the government’s bill in 2009.”

Weaknesses in the draft legislation

The government bill was published in the Tahiti media on 29 November, causing anger amongst former workers who staffed the Moruroa and Fangataufa test sites. *Moruroa e Tatou* researcher Bruno Barrillot — author of a series of books on France’s nuclear testing program — has highlighted a number of problems with the proposed compensation process set out in the draft Morin law:

Presumption: French law on occupational health and safety includes the basic “presumption principle” – that a worker who can show that they were present in the workplace can be presumed to be exposed to hazardous materials in that workplace. This test has been abandoned in the draft legislation, meaning that military veterans and former workers from the nuclear test sites have a much harder burden of proof to show that their illnesses were caused by exposure to radiation in the course of their work at the test sites.

Over the last few years, a number of French military personnel with serious health problems related to radiation exposure have received pensions after local courts recognise that their illness was related to their presence at the nuclear test sites in Algeria or the South Pacific. In every case, the French government has appealed the decision of these pension tribunals, forcing the veterans

or their widows into further lengthy litigation. One positive outcome of a policy change is that the French government would no longer appeal the ruling of tribunals which grant these military pensions.

Bruno Barrillot notes: “Without the principle of presumption, the draft Morin law is a vast fraud designed to confuse public opinion. We welcome the fact that the French State is accepting its responsibilities. But the State hopes that this can be done without any cost.”

Evidence from dosimeters: In his recent interview, Defence Minister Morin stated that “the Defence Ministry has kept in its archives the measurements of radioactivity taken from this period, as well as the names of the personnel.”

However, this assertion contradicts previous statements by other French officials. For example Marcel Jurien de la Graviere, the Defence Ministry’s Special Envoy for Nuclear Safety, has previously announced that dosimeters that recorded radiation exposure have not been kept for the personnel who served at the French nuclear test sites in Algeria.

The vast majority of Maohi workers who staffed the Moruroa and Fangataufa sites, as well as many military personnel, were never issued with dosimeters or other radiation measurement devices.

As well, many workers who have already applied for their medical records have been told by the Ministry of Defence that they were never assigned to tasks where they could have been exposed to ionising radiation – even though there is clear evidence they worked in contaminated areas.

The history of US and British nuclear testing suggests that military record keeping is inaccurate or non-existent: former military personnel seeking compensation after nuclear test programs in Australia, the Marshall Islands, Johnston Atoll and Christmas Island have documented how the recording of radiation levels was often haphazard, and government estimates of exposure to ionising radiation did not reflect the actual risk to those who witnessed the tests.

Beyond the hazards to workers at the sites, there is also the issue of the villagers on islands near the test sites such as Tureia and Mangareva, in the Gambier and eastern Tuamotu archipelagos. A 2006 study of the French nuclear tests conducted by the Territorial Assembly in French Polynesia has documented the way these atolls were exposed to fallout during the era of atmospheric testing. The inhabitants of islands near to Moruroa were not issued with dosimeters or other instruments to measure their radiation exposure.

So, no dosimeter, no proof of exposure; no proof of exposure, no compensation.

Threshold of exposure: In the interview in *Le Parisien*, Defence Minister Morin announced that the government will introduce “a threshold for exposure levels, beyond which demands for compensation will be addressed.”

Morin added: “We will continue to refuse compensation in the case where the illness is tied to other risks, such as tobacco and alcohol. We want to put forward the principle that victims have a right to compensation but only for those who have been exposed during the tests.”

In the past, there have been repeated affirmations by Marcel Jurien de la Graviere and French scientists at the Academy of Science and Medicine that there are no known health effects of radiation beneath an exposure level of 100 millisieverts (mSv) a year.

The government now plans to set the threshold for compensation at 50 mSv per year. However, using data previously released by French defence authorities, with this 50 mSv threshold only three people out of the 100,000 who participated in the test program in French Polynesia would be eligible for compensation!

According to *La dimension radiologique des essais nucléaires en Polynésie* - a 2007 book published by the French Ministry of Defence – only 3 people were exposed to doses between 50 mSv and 200 mSv during the period of French atmospheric testing (1966 – 1974) and no one reached this threshold during the era of underground testing at Moruroa and Fangataufa (1975 – 1996).

By proposing an exposure level of 50 mSv, the draft law proposed by Defence Minister Morin ignores recent research on radiobiology and radiation protection, which suggests that there is no safe threshold for radiation exposure. The threshold proposed by the French Defence Ministry is much higher than the current standards used by other authorities involved in nuclear safety, such as the United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR), the US National Academy of Sciences Committee on the Biological Effects of Ionizing Radiation (BEIR), and the International Commission on Radiological Protection (ICRP).

For example, the ICRP's recommended maximum permissible annual dosage for the public is just 1 mSv per year. This 1 mSv level is used by regulatory authorities in most countries, including the United States, Australia, Japan and New Zealand. For workers in nuclear industries, the level is higher but the proposed 50 mSv threshold is way beyond internationally accepted standards. While there are uncertainties measuring the health impacts of low radiation doses (10 millisieverts or less), the most recent BEIR VII report on radiation safety concludes that every exposure to radiation produces a corresponding increase in cancer risk.

Using a lower threshold, many more people who staffed the Pacific test sites would be eligible for compensation. The Ministry of Defence book cited above includes data for the number of people exposed to radiation while working at Moruroa and Fangataufa, either as civilian workers or as military personnel. Even these French Defence Ministry figures, which underestimate the problem, show that many more people received doses greater than 1 mSv a year: 1,594 people during the period of atmospheric testing (1966 – 1974) and 336 during the era of underground testing (1975 – 1996). Using the lower threshold, 1,930 cases would be eligible for compensation if the people concerned had illnesses or diseases listed in the annex to the legislation.

Consultation with affected communities: Researcher Bruno Barrillot notes: “On top of all these problems, there has been no co-ordination between the victims’ associations, their scientific and legal advisors and the Ministry of Defence, except for one or two meetings with a member of Mr. Morin’s office on the general issue of nuclear testing. So this initiative is once again a denial of democracy and an effort to trick public opinion.”

Indigenous communities in the Pacific are still living with the social, economic, and environmental after effects of fifty years of nuclear testing. The draft law proposed by the French government is an important step, but it must be strengthened to address the concerns raised by those people who have been most deeply affected – the workers, soldiers and scientists who staffed the test sites, and the indigenous communities on neighbouring islands which bore the brunt of decades of radioactive fallout.