

FOREIGN GOVERNMENT POW PROGRAMS

The governments of several foreign countries were contacted for information concerning benefits available to their citizens who have been held as prisoners of war. Although such an analysis was not required by Section 305 of P.L. 95-479, there has been some sentiment in Congress for a comparison of "the treatment accorded former POWs under the veterans benefits programs of other governments."¹ Interest in a comparison of this type has also been expressed by organizations of former prisoners of war during the course of the study. Of the countries contacted, Canada has the most extensive benefit provisions specifically for former prisoners of war, and these programs have generated the most interest within organizations of former prisoners of war in the United States.

The following brief, non-technical narrative describing existing programs in Great Britain, Norway, Denmark, France, West Germany, Australia and Canada is intended to lend at least some perspective on foreign programs. The decision for its inclusion was made despite the possibility that it may invite superficial judgements regarding the adequacy of U.S. programs. It should be noted that thorough comparisons of programs of different sovereign nations require careful consideration of the unique socioeconomic and political contexts in which they exist. The scope of this study does not permit the exhaustive analysis required for a meaningful comparison of this type.

CANADA

As an official of the Canadian government pointed out, in comparison with the United States, "The number of Canadians who were taken as prisoners of war was not only much smaller numerically, but also proportionally,"² The Canadian program for former prisoners of war can be viewed as a two-part program, one for former prisoners of the Japanese in World War II (about 1,000) and the other for former prisoners of war of "other powers" about (6,000). Compensation provisions for former prisoners of the Japanese originated in 1946, while provisions to include former POWs of other powers stem from legislation enacted in 1976.

Pension and Health Care Entitlement 1946-1975

In 1946, the Canadian Pension Commission granted pensions (a term which equates to service-connected VA disability compensation in the United States) to all former POWs of the Japanese. These forces were captured at Hong Kong at about the same time as the Bataan-

Corregidor American POWs, and were held for about as long (an average of 44 months). The pension was based on a presumption of vitamin deficiency (avitaminosis) during internment, which was quite prevalent among the Hong Kong POWs. In addition, former POWs of the Japanese were granted medical and hospital treatment for the diagnosis and treatment of any illness not a compensable condition unless it was specifically stated by the medical authority that it was not related to the service-connected disability.

In 1964, a government study of these POWs was commissioned and was conducted by Dr. H. J. Richardson.³ Richardson compared the health and social status of a sample of 100 Canadian Japanese POWs with a matched control group of their brothers who were non-POW veterans. The study concluded that the former POWs were in a poorer position than their brothers, who also had wartime experience, in social, economic and medical areas.

In 1971, Canada enacted legislation which provided that disabled former POWs of the Japanese who were interned 12 months or more be paid at a minimum of the 50 percent rate. Because the Pension Commission had ruled that these POWs suffered from avitaminosis and were all disabled to a degree of at least 5 percent, in effect they were all entitled to payment at a rate of 50 percent (at a minimum). Former POWs with ratings of over 50 percent were not paid an additional amount by reason of the new law. Under Canadian Pension Law, the wife of any disability pensioner whose pension is paid at 50 percent or more is automatically eligible for widow's pension on the death of her spouse. This legislation resulted not just from the findings of the Richardson study, but from general public pressure to provide special compensation to former POWs of the Japanese.⁴

In 1975, another Canadian government study on POWs was commissioned.⁵ The study, the report of which was written by J. Douglas Hermann, M.D., concerned the Canadian World War II POWs of the European Theater. Many of these Canadian POWs were captured as early as 1942, during the abortive Dieppe invasion. Canadian European Theater POWs were held longer, on the average, than their American counterparts. The Hermann report found that these Canadian POWs suffered from more disabilities than their European Theater non-POW comrades.

In 1976, Canada enacted legislation which extended the compensation paid Canadian Japanese POWs, and provided, for the first time, for compensation to be paid to Canadians held by other powers. This law, which is the policy currently in effect, provides for the following types of payments in addition to any service connected disability compensation otherwise being paid: 50 percent compensation to all of the Canadian POWs of the Japanese who were held captive for twelve months or more, 20 percent compensation to all former POWs of the Japanese who were held from three to twelve months, 10 percent compensation for POWs of other powers held from

three to eighteen months, 15 percent compensation to those POWs of other powers held eighteen to thirty months, and 20 percent compensation to those POWs of other powers held more than thirty months. These rules also apply to Canadians who evaded capture for the above mentioned periods of time, or who served in an allied force at the time of capture. In all cases, additional compensation is payable for dependents. POW and other benefits may be combined in determining widows' pension eligibility.

For all Canadian veterans, claims for compensation are sent to the Canadian Pension Commission, which examines the veteran's records to verify his entitlement. If the claim is substantiated, the payment is made. If the claim is not substantiated, the veteran can appear before the Entitlement Board of the Commission, which is similar to a hearing at a Veterans Administration Regional Office, at which time he or his legal counsel can present his case for reconsideration. If the claim is rejected as a result of such a hearing, the veteran has the opportunity to present a final appeal to the Canadian Pension Review Board, which is analogous to the Board of Veterans Appeals in this country.

As in the United States, disability compensation paid to former POWs is not dependent on service rank or level of income, nor is it taxable. The rates of payment for former POWs and other Canadian veterans are higher in Canada than those applicable to POWs and other veterans with the same percentage ratings in the United States. However, dollar rates are not compared in this report because the basis for the percentage ratings which are applied vary between Canada and the United States. The same schedule for rating disabilities is not used in both countries.

GREAT BRITAIN

The British veterans benefit program does not include special provisions for former prisoners of war. Compensation for disabilities incurred as a result of the internment experience is paid at the same rate as compensation awarded for other service connected disabilities. As in the United States and Canada, "reasonable doubt" as to service incurrence is to be resolved in favor of the veteran.

Also as in the United States and Canada, there are appeals bodies, which in Britain are called Appeals Tribunals. A distinctive feature of the British appeals system is the use of an ombudsman who can be consulted by the veteran or by his veterans service organization. The British Ombudsman presides over an independent office which examines complaints of bureaucratic injustice and attempts to resolve them. The Ombudsman is occasionally utilized to assist claimants with their appeals of adverse rulings. Compensation for veterans is paid by the Department of Health and Social Security. No special health care benefits exist for veterans under the British National Health Service system.⁶

NORWAY AND DENMARK

Norway and Denmark have compensation programs for their World War II veterans interned in Nazi concentration camps. These individuals were mostly resistance fighters, who can be considered "prisoners of war" because they were part of irregular military forces engaged in combat against the Germans when captured and interned by the enemy. These two Scandinavian countries - as well as many other European countries (e.g., France, Netherlands) occupied by the Nazis during World War II - have also established programs for civilian internees. These civilians were usually interned either because of their political opposition (e.g., democrats, socialists) or for their religious/ethnic background (e.g., Jews).

Norway

Eitinger and Strom⁷ have described Norway's POW program. Norway's POW population consisted of resistance fighters and seamen whose ships were sunk by the Germans. Norwegian civilian concentration camp internees receive the same benefits as the country's POWs. A common adjudication procedure is followed.

Norway enacted its POW/civilian internee legislation in 1946. That law stipulated that the National Insurance Institute would process disability claims arising out of World War II imprisonment. The claims filing procedure called for the applicant to submit a doctor's certification of a claimed disability to the Institute. If this certification appeared to be valid, the Institute requested a medical specialist's opinion. If the specialist's opinion confirmed the initial certification, then the disability compensation was paid.

In 1968, Norway first enacted legislation which provided for a "reasonable doubt" doctrine to be applied in the case of certain employable former POWs and civilian internees. The new law stated that those POWs or civilian internees who had been interned at least six months and who had experienced the "unusually severe trauma" of Nazi concentration camps or similar German prisons would be eligible for a disability compensation payment if their work capacity had been reduced at least 50 percent, and if the claimed disability could reasonably be attributed to the POW experience. Those POWs and civilian internee applicants whose working capacity was not reduced to such an extent would continue to be processed under the 1946 law, with its requirement for "high probability" of causality rather than "reasonable doubt."

Arve Lonnum's Delayed Disease and Ill Health⁸ clinically described the manifold residuals of the POW concentration camp experience. The publication and dissemination of this work by the Norwegian Association of Disabled Veterans at the same time as the Norwegian POW program was being debated in the country's legislation had a decisive impact on the passage of the 1968 law.

Denmark

Thygesen⁹ describes the Danish Program for former Danish POWs. The Danish POW population was composed mostly of resistance fighters and police officers. As in Norway, compensation payable to these POWs also applies to Danish civilian internees.

In 1945, Denmark passed its first POW/civilian internee related legislation. Disability claims were to be processed by the Directorate of Accident Insurance, an agency whose primary purpose was administration of a workmen's compensation system. The 1945 act required only that a claimed disability be reasonably attributable to the POW experience. However, there was a two-year statute of limitations. Claims filed after 1947 were allowed only in exceptional cases. The number of exceptions became quite large as it became evident that the sequelae of the POW experience were not short term.

Largely as a result of Thygesen's study of the "K-Z syndrome," Denmark amended its legislation in 1957 to provide for more liberal compensation procedures for former POWs and civilian internees. As in Norway, "reasonable doubt" was resolved in favor of the claimant and the burden of proof shifted to the government in cases where there was a reduction in working capacity of 50 percent or more and where there was no intervening cause for a disability claimed to be a result of internment. In 1966, Denmark further amended its legislation to remove the statute of limitations on disability cases arising out of the internment experience.

FRANCE

In France, ministerial decrees of January 18, 1973, and September 20, 1977, established a special presumption of service connection for certain disabilities for former prisoners of war interned in a number of specific camps during World War II and in camps in Indochina. The presumptions apply to certain disabilities arising within four to ten years following separation from service, depending on the type of disability. Disability ratings ranging from 20 percent to 100 percent are assigned, based upon the type of disability. The disabilities named in the decree for which presumptive periods exist are pulmonary tuberculosis, rheumatoid arthritis, gastrointestinal disorders, cardiovascular disorders, endocrine and genitourinary disorders, parasitic and tropical disorders, and nervousness.

On the basis of a law enacted in November 1973, former prisoners of war can be awarded a pension between the ages of 60 and 65 on the basis of the maximum rate normally attained at age 65. The amount of this pension depends upon the length of military service and length of internment of the individual.

WEST GERMANY

West Germany provides a number of disability compensation and health care benefits to certain groups of war victims, including former prisoners of war, and their dependents or survivors.¹⁰ There are no POW-specific provisions, however. These benefits arose from post-war legislation enacted to mitigate the effects of the extensive amount of disability and death among the general German population that occurred during World War II.

Health care services for war victims include physician and hospital care, home nursing, drugs, dental care, orthopedic braces, and therapeutic gymnastics for service connected conditions of former POWs and for certain other disabled war victims. These health care services are also available to the dependents of the severely disabled members of this group. This care can be obtained in private as well as public facilities, with the government sharing the costs.

Disability compensation for war victims is payable for loss of income or unemployability arising from an acute service-connected condition. Compensation is payable only as long as the temporary condition exists, and is usually limited to no more than 18 months. Pension is payable for permanently disabling conditions relating to the period of war. The basic monthly pension is payable to the victim or his survivors. Pension payments are based on loss of income potential or unemployability rather than on current financial position or level of income.

In the case of severely disabled war victims, the basic monthly pension can be supplemented by additional payments for business loss arising from the disability and through an aid and attendance allowance. Death benefits include burial allowance and payments to survivors. A distinguishing feature of the German program is the existence of a tax-free foundation which supplements government payments. This foundation, established to safeguard war victim health and welfare, pays emergency aid and offers loans to this group.

AUSTRALIA

Australia has no special legislation for former prisoners of war. Former POWs are eligible for a broad range of health care benefits and disability compensation on the same basis as other Australian veterans.¹¹

Claims for service connected disability compensation are initially processed and, if approved, paid by Repatriation Boards. As in the United States, Canada, and Great Britain, there are appeals bodies - first the Repatriation Commission and then the Repatriation Review Tribunal. Similar to West Germany, the Australian system provides for resort to the courts if the veteran is not satisfied with his treatment by the administrative appeals bodies.

As in Britain and the United States, Australian ex-POWs are compensated at the same rate for their service-connected disabilities as other veterans. The compensation payments are not related to level of income and are non-taxable. As in the United States, a pension is payable to those former POWs who meet certain age (60) and need (unemployable) requirements. These pensions are taxable. Disability compensation and pension can be paid concurrently.

Veterans receiving compensation or pension are also eligible for government health care benefits. Totally service-connected veterans are eligible for free medical and hospital care for all conditions, payable by the Australian government. Those veterans less than totally disabled are only entitled to receive free treatment for service-connected conditions. Pensioners are also eligible for government-provided free medical care if their income is below a certain level.

INTERNATIONAL CONFERENCES

1961

The International Conference on the Later Effects of Imprisonment and Deportation, organized by the World Veterans Federation, included the participation of the Netherlands Government, the International Committee of the Red Cross, the League of Red Cross Societies, the International Committee of Military Medicine and Pharmacy, and the World Council for the Welfare of the Blind.

The Conference was held at The Hague from November 20 to 25, 1961 and was attended by 70 participants from 12 countries, including 40 medical and legal experts. The conference reached several conclusions, which are summarized briefly in its report:

In conclusion, the conference was of the opinion that there exist ailments and disabilities which appear long afterwards among persons who were interned or imprisoned in concentration camps.

These effects can become manifest at any time after liberation, and no time limit can be set for their appearance.

Similar effects can be observed among persons who have lived under dangerous and stress conditions as a result of their fight against Nazism.

These effects can also be found among former prisoners of war who lived under exceptional conditions of stress.

The conference recommends, in general, the adoption in the various countries of a system of reparations based on the principles set down above. ¹²

The Fourth International Conference on Legislation Concerning Veterans and War Victims was held in London from April 2 to 6, 1979. The conference was sponsored by the United Kingdom Government, the World Veterans Federation (WVF) and the British Members' Council of the WVF, and was attended by representatives from 32 nations, 4 international organizations, and U.S. representatives from the Disabled American Veterans and the Military Order of the Purple Heart. In relation to former prisoners of war, the conference approved a recommendation that, "... governments should automatically award a pension to former prisoners of war, deportees and internees at a certain age, in order to compensate them for deprivation and/or premature aging arising from their captivity or from similar causes."¹³

CONCLUDING COMMENT

Comparisons based on information in this report regarding benefits and programs administered by foreign governments for former prisoners of war can at best be only tenuous. A full comparison between U.S. and foreign programs would necessarily be an extensive effort, with analyses of economic data, the broad scheme of social welfare legislation in each country, and analysis of the philosophy behind each country's veteran and POW-specific statutory programs.

FOOTNOTES

¹ Senate Report No. 94-1054, Report of the Committee on Veterans Affairs United States Senate, to Accompany S. 2828, 95th Congress, Washington, D.C.: Government Printing Office, July 31, 1978, pp. 35-6.

² A. O. Solomon, Chairman, Canadian Pension Commission, Letter to VA Assistant Administrator for Planning and Program Evaluation, June 14, 1979.

³ H. J. Richardson, Report of a Study of Disabilities and Problems of Hong Kong Veterans, 1964-5, Canadian Pension Commission, 1965, pp. 3-74.

⁴ A. O. Solomon, Chairman, Canadian Pension Commission, speech to National Convention of American Ex-Prisoners of War, Inc., Pittsburgh, July 18, 1979. Information on the Canadian program was presented in this speech and was also summarized in Mr. Solomon's letter to VA Assistant Administrator for Planning and Program Evaluation, June 14, 1979, which forwarded informational material on Canadian benefits.

⁵ J. Douglas Hermann, Report to the Minister of Veterans Affairs of a Study on Canadians Who Were Prisoners of War in Europe During World War II, Ottawa, 1973.

⁶ J. C. Andrews, Chief Librarian, British Ministry of Defense, Letter to VA Assistant Administrator for Planning and Program Evaluation, July 25, 1979.

⁷ Leo Eitinger and Axel Strom, Mortality and Morbidity After Excessive Stress, New York: Humanities Press, 1973, pp. 9-150.

8 Arve Lonnum, Delayed Disease and Ill Health, Norwegian Association of Disabled Veterans, 1969, pp. 9-107.

9 Paul Thygesen, Knud Hermann, and Rolf Willanger, "Concentration Camp Survivors in Denmark: Persecution, Disease, Disability, Compensation," Danish Medical Bulletin, Volume 17, Nos. 3-4, March - April 1970, pp. 65-106.

10 Federal Minister for Labour and Social Affairs. Survey of Social Security in the Federal Republic of Germany, Bonn, 1972, pp. 197-214. Other information on West German program was provided by M. Trometer, Minister for Labor and Social Affairs, Letter to VA Assistant Administrator for Planning and Program Evaluation, September 11, 1979.

11 R. Kingsland, Secretary, Australian Department of Veterans' Affairs, Letter to VA Assistant Administrator for Planning and Program Evaluation, August 13, 1979.

12 World Veterans Federation, International Conference on the Later Effects of Imprisonment and Deportation, report, The Hague, November 21-25, 1961, p. 16.

13 United Kingdom Government, World Veterans Federation, and British Members' Council of the WVF, Fourth International Conference on Legislation Concerning Veterans and War Victims, General Report, London, April 2-6, 1979, Recommendation 8.3 (b).